

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

The Wisconsin Natural Resources Board adopts an order to **create** NR 447.19 relating to citation authority for asbestos program violations.

AM-20-02

Analysis Prepared by the Department of Natural Resources

Authorizing statute: s. 285.86, Stats.  
Interpreting statutes: ss. 23.50 to 23.99, Stats.

The Department has received statutory authority to create a citation system for the asbestos program. The system created allows the Department staff to document clear violations and assess a forfeiture. The citation system includes violations of certain asbestos program requirements that include pre-inspection, notification, and active waste disposal site requirements. Pursuant to s. 285.86(3), Stats., all the provisions of this rule have been approved by the Department of Justice.

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SECTION 1. NR 447.19 is created to read:

**NR 447.19 Penalties.** (1) The department may take appropriate enforcement action against any owner or operator of a demolition or renovation activity or any owner or operator of an active landfill, to which this chapter applies, that violates this chapter. Appropriate enforcement action includes letters of noncompliance, notices of violation, citations, referrals to the Wisconsin department of justice, and deferral or referrals to the United States environmental protection agency. Any enforcement action the department may take shall be based upon factors such as severity, duration, frequency and environmental or health risks of the violation.

(2) Citations may be issued for any of the following:

(a) Failure to conduct any inspection under s. NR 447.06 (1). The department may not issue a citation under this paragraph on the grounds that an inspection was not thorough.

(b) Failure to follow notification requirements of s. NR 447.07 (1) and (3)(a), (b) and (c).

(c) Failure to follow active waste disposal site requirements of s. NR 447.17 (1) to (4), (5)(a), (6) and (10).

(3) A citation may be issued which requires a forfeiture of not less than \$500, nor more than \$5,000, for each violation, except as provided in sub. (4). Each day of continued violation is a separate offense.

(4) When any owner or operator is found in violation of the regulatory requirements listed in sub. (2) by any court of this state, and the violation remains of record and unreversed, for any second or subsequent violation of the regulatory requirements listed in sub. (2) occurring within a 5-year period from the date of the prior adjudication, the minimum and maximum citation forfeitures shall be doubled.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 3. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on January 22, 2003, May 28, 2003 and June 25, 2003.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Scott Hassett, Secretary

(SEAL)