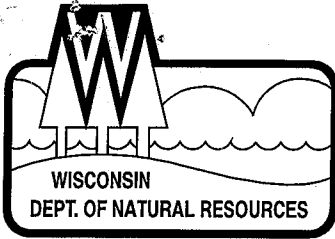


# Clearinghouse Rule 98-162

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES



Tommy G. Thompson, Governor  
George E. Meyer, Secretary

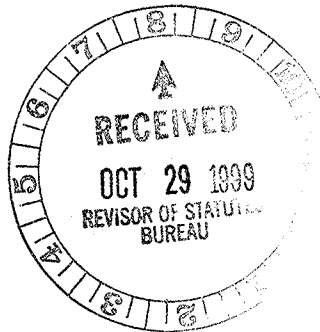
Box 7921  
101 South Webster Street  
Madison, Wisconsin 53707-7921  
TELEPHONE 608-266-2621  
FAX 608-267-3579  
TDD 608-267-6897

STATE OF WISCONSIN )  
 ) ss  
DEPARTMENT OF NATURAL RESOURCES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. AM-37-98 was duly approved and adopted by this Department on January 27, 1999, April 28, 1999 and September 29, 1999. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 25th day of October, 1999



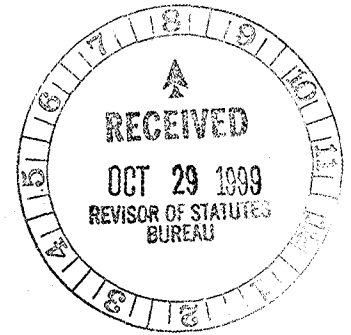
*George E. Meyer*  
George E. Meyer, Secretary

(SEAL)

98-162



ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
AMENDING RULES



The Wisconsin Natural Resources Board adopts an order to **amend** NR 410.03(intro.) and (1)(a), (b), (d), (2) and (4) relating to an increase in construction permit fees.

AM-37-98

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 227.11(2)(a), 285.11(1), and 285.69(1), Stats.

Statutes interpreted: s. 285.11(1) and (6), Stats. The State Implementation Plan developed under that provision is revised.

Section 110(a)(2)(L) of the 1990 Clean Air Act and s. 285.69(1), Wis. Stats., authorize the collection of reasonable fees for the (direct and indirect) costs of reviewing and acting on applications for construction permits and permit exemptions. The revisions proposed in this rule package increase fees for construction permit applications.

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SECTION 1. NR 410.03(intro.) and (1)(a), (b), and (d), (2) and (4) are amended to read:

NR 410.03 APPLICATION FEE. (intro.) Any person required under s. 285.60, Stats., to obtain a construction permit for a direct source shall pay an application fee, ~~consisting of which~~ is the sum of the basic fee under sub. (1) and any additional fees under sub. (2). Any person requesting revision of a direct source construction permit shall pay the basic fee in sub. (1)(a)5. Any person required under s. NR 406.04(1)(i) to obtain a determination of exemption from the department shall pay the basic fee under sub. (1)(b). Any person required under s. 285.60, Stats., to obtain a construction permit for an indirect source or a determination of an exemption under s. NR 411.04 for an indirect source shall pay the appropriate fee under sub. (3).

(1)(a)(intro.) Each person ~~who applies for and is~~ issued a construction permit for a direct source shall pay a the following basic fee according to the following amounts:

1. ~~\$2,300~~ if the ~~permit~~ application is not reviewed under ch. NR 405 or 408, and the ~~permit~~ application is for a new facility or for an emissions unit to be located at a minor source.
2. ~~\$3,300 if the permit application is not~~ \$4,400, for a ~~major~~ modification ~~as not defined~~ as major in s. NR 405.02(21) or 408.02(20) ~~and~~ , when the permit application is for an emissions unit to be located at a major source as defined in s. NR 407.02(4).
3. ~~\$6,000 if the permit application is~~ \$8,000, for a major modification as defined in s. NR 405.02(21) or 408.02(20) ~~and the permit is for an~~ , unless the emissions unit which does not constitute is a major stationary source as defined in s. NR 405.02(22) or a major source as defined in s. NR 408.02(21).
4. ~~\$9,000 if the permit is~~ \$12,000, for a major stationary source as defined in s. NR 405.02(22) or a major source as defined in s. NR 408.02(21).
5. ~~\$800~~ \$1,100, for revision of a construction permit when requested by the permit holder or the permit holder's agent.

(b) Any person requiring a determination of exemption under s. NR 406.04 (1)(i) shall pay a fee of ~~\$600~~ \$800.

(d) Any person who applies for a construction permit for ~~an air contaminant~~ a direct source shall submit ~~\$1,000~~ a \$1,350 fee with the application. This ~~\$1000~~ fee may not be refunded unless the department determines that a permit is not required. When a fee is required under par. (b), only the amount not required to cover the fee will be refunded.

(2) ADDITIONAL DIRECT SOURCE FEES. ~~In addition to the basic direct source fees prescribed in sub. (1)(a) and (e), each~~ Each person who applies for and is issued a construction permit for a direct source for which an application fee is authorized shall pay all the following additional fees in the amounts indicated which apply:

(a) ~~\$300~~ \$400 per basic emissions unit ~~requiring review and analysis if the permit application requires the review and analysis of 2 or more basic emissions units~~ is required.

(b) ~~\$1,000~~ \$1,350, if ~~the permit application is for a source requiring~~ an analysis of alternatives under s. NR 408.08(2) is required.

(c) ~~\$2,500~~ \$3,350, if ~~the permit application is for a source which requires~~ an emission offset under ch. NR 408 or the determination of a net emissions increase under ch. NR 405 is required.

(d) ~~\$2,000 per~~ \$2,700, for each case-by-case determination of maximum achievable control technology (MACT), best available control technology (BACT) or lowest achievable emission rate (LAER) determination if the permit application is for a source which requires a case-by-case MACT, BACT or LAER determination. This excludes does not apply to BACT or LAER determinations made under ch. NR 445.

(e) ~~\$500 if the permit application is~~ \$700, for a minor source or minor modification to a major source whose projected air quality impact requires a detailed air quality modeling analysis.

(f) ~~\$2,400 if the permit application is~~ \$3,200, for any source ~~which is not~~ , other than a minor source or minor modification to a major source ~~and,~~ whose projected air quality impact requires a detailed air quality modeling analysis.

(g) ~~\$500~~ \$650, if the permit application is for a direct source which may emit a hazardous air contaminant listed in s. NR 406.04(2)(f) and which receives a permit which establishes a specific emission limitation for one or more of such hazardous air contaminants, or the source is subject to an emission limitation under chs. NR 446 to 483, or if the permit establishes an emission limit for a hazardous air contaminant listed in Table 1, 2, 4 or 5 of ch. NR 445.

(h) ~~\$1000 if the permit application is for a source for which~~ If the construction permit requires emission testing for a single air contaminant. The fee under this paragraph shall be increased by an additional \$500, \$1,350 for the first air contaminant tested and \$950 for each additional air contaminant for which emission testing is required by the construction permit tested up to a maximum of \$4200. The total fee under this paragraph may not exceed \$3000. In the event that the ~~If the department determines later finds~~ that some or all of the tests are not required and, therefore, are not performed, the corresponding fees under this paragraph shall be refunded for those air contaminants not tested.

(i) ~~\$800~~ \$1,050, if the permit application is for a source which requires an environmental assessment under ch. NR 150 is required.

(j) ~~\$700~~ \$950, if a public hearing is held at the request of the applicant or the applicant's agent.

(k) ~~\$300 per~~ \$400 for each basic emissions unit ~~for each emissions unit~~ at a source which requires an emission limit determination under s. NR 424.03(2)(c).

(L) ~~\$1,000~~ \$1,350, for each ~~ch. NR 445~~ case-by-case determination of best available control technology (BACT) or lowest achievable emission rate (LAER) determination if the

~~permit application is for a source which requires a case-by-case BACT or LAER determination~~  
required under ch. NR 445. If the department makes a single BACT or LAER determination  
addressing the control of multiple air contaminants, the source shall be billed for only one BACT  
or LAER determination under this paragraph.

(m) ~~\$1,000~~ \$2,150, if ~~the permit application is for a source which requires specific permit~~  
~~conditions to limit~~ limiting the potential to emit ~~in order~~ are required to make the source ~~or~~  
~~modification~~ a minor source or ~~minor~~ to make the modification a minor modification.

(n) ~~\$2,000~~ if ~~the permit application is~~ \$2,650, for a medical waste incinerator ~~which~~  
~~requires~~ requiring review of a needs and siting analysis under s. 285.63(10), Stats.

(o) ~~When~~ If the permit applicant requests, in writing, that the permit be issued in a  
shorter time interval than the ~~total~~ time interval allowed under s. 285.61, Stats., and the  
department is able to comply with the request:

1. ~~\$2,000~~ \$2,650, for an application ~~for a source which is not subject to review~~ under ch.  
NR 405 or 408 if the permit is issued within 50 days of receipt of a complete application.

2. ~~\$3,000~~ \$4,000, for an application ~~for a source which is subject to review~~ reviewed  
under ch. NR 405 or 408 if the permit is issued within 60 days of receipt of a complete  
application.

3. ~~\$2,000~~ \$2,650, for an application ~~for a source which is subject to review~~ reviewed  
under ch. NR 405 or 408 if the permit is issued within 61 to 90 days of receipt of a complete  
application.

(4) PAYMENT. The department shall ~~mail a billing statement~~ bill the applicant for the  
~~required~~ construction permit application fee ~~to the person applying for the permit at the time~~

when the permit is issued. The application fee shall be paid within 30 days of the date of the billing statement. The department may not issue the operation permit to the facility until the ~~department receives full payment of the application fee~~ is paid in full.

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The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on January 29, 1999, April 28, 1999 and September 29, 1999..

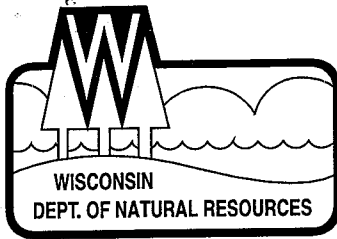
The rule shall take effect July 1, 2000.

Dated at Madison, Wisconsin October 25, 1999.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)



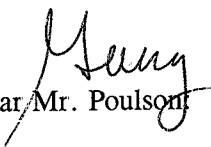
**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

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October 25, 1999


Mr. Gary L. Poulson  
Assistant Revisor of Statutes  
131 West Wilson Street - Suite 800  
Madison, WI

  
Dear Mr. Poulson

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. AM-37-98. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
George E. Meyer  
Secretary

Enc.

