

Clearinghouse Rule 99-109  
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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

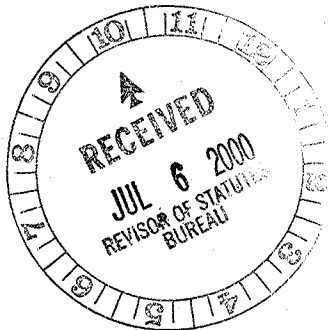
Box 7921  
101 South Webster Street  
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STATE OF WISCONSIN )  
 ) ss  
DEPARTMENT OF NATURAL RESOURCES )

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-30-99 was duly approved and adopted by this Department on May 23, 2000. 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 3<sup>rd</sup> day of July, 2000



George E. Meyer  
George E. Meyer, Secretary

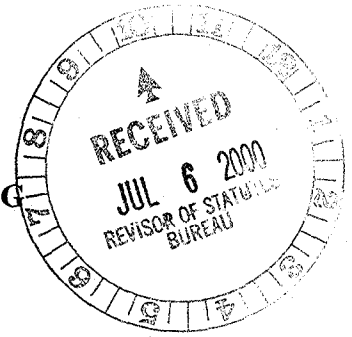
(SEAL)

99-109

9-1-00



**ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
RENUMBERING, AMENDING, REPEALING AND RECREATING  
AND CREATING RULES**



The Wisconsin Natural Resources Board adopts an order renumber s. NR 216.45; to amend ss. NR 216.45 (title), 300.01, 300.02, 300.04(4), 300.06 (4), 405.15 (2)(intro.) and (h) Note and 408.09 (2)(intro.); to repeal and recreate ss. NR 406.08 and 411.07; and to create ss. NR 216.45 (2) and 400(36m), relating to the fee refund or "permit guarantee" program required by s. 299.05, Stats.

AM-30-99

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 30.28, 227.11(2), 227.116, 281.22, 283.33(8), 285.11(1), 285.61 and 299.05, Stats.

Statutes interpreted: ss. 30.10 to 30.205, 30.21 to 30.27, 227.16, 281.22, 283.33(9), 285.61 and 299.05, Stats.

This action will create rules requiring the Department to refund permit application fees if it does not take action on permit applications within specified time limits. The rules are required by s. 299.05, Stats., which was amended when the Legislature enacted 1997 Act 301. Permit fees which will be refunded if the Department does not act on applications within specified times are: (1) Construction site storm water discharge permit application fees submitted under ch. NR 216; (2) Fees submitted for waterway and wetland permit applications under ch. NR 300; and (3) Application fees for air pollution construction permits submitted under chs. NR 405, 406, 408 and 411. The time limits are defined in "business days" as required by s. 227.116(1), Stats. and a definition of this term is set forth in NR 216, NR 300 and NR 400 to clarify these deadlines.

SECTION 1. NR 216.45 (title) is amended to read:

**NR 216.45 Incomplete notice of intent and time limit for department decision.**

SECTION 2. NR 216.45 is renumbered NR 216.45(1).

SECTION 3. NR 216.45(2) is created to read:

SECTION 9. NR 405.15 (2)(intro.) and (h) Note are amended to read:

NR 405.15 (2)(intro.) Within ~~120~~205 business days after receipt of a complete application, the department shall:

(h) Note: The requirement that a ~~preliminary-final permit determination and notice of an application~~ be accomplished within one year of receipt of a permit application in the federal regulations has been changed to within ~~120~~205 business days of receipt of application in ~~sub. (2)~~ this subsection.

SECTION 10. NR 406.08 is repealed and recreated to read:

**NR 406.08 Action on permit applications.** (1) This section applies to actions on permits for which applications are received on or after the effective date of this section .... [revisor inserts date]. This section does not apply to actions on applications for permits where the source commences construction prior to issuance of a construction permit. This section does not apply to construction permits which are subject to the notice, comment and hearing provisions of s. 293.43, Stats.

(2) (a) The department shall make a determination under s. 285.61(8), Stats., on a permit application within 205 business days of receipt of a complete application for construction or modification of a major stationary source as defined in s. NR 405.02(22) or a major source as defined in s. NR 408.02(21), unless compliance with s. 1.11, Stats., requires a longer time. For a major source that is located in an attainment area, the department shall complete its responsibilities under s. 1.11, Stats., within one year.

(b) The department shall make a determination under s. 285.61(8), Stats., on a permit application within 145 business days of receipt of a complete application for construction or modification of any stationary source not described in par. (a), unless compliance with s. 1.11,

Stats., requires a longer time.

(3) If the department does not make a determination within the applicable time period specified in sub. (2), the department may not impose an application fee for the permit under s. NR 410.03, and shall refund any application fee submitted with the application.

SECTION 11. NR 408.09(2)(intro.) is amended to read:

NR 408.09(2)(intro.) Within ~~120~~205 business days after receipt of a complete application, the department shall:

SECTION 12. NR 411.07 is repealed and recreated to read:

**NR 411.07 Action on permit applications.** (1)(a) This subsection applies to actions on construction permits for which applications are received on or after the effective date of this section .... [revisor inserts date]. This section does not apply to actions on applications for construction permits where the source commences construction prior to issuance of a construction permit. This section does not apply to construction permits which are subject to the notice, comment and hearing provisions of s. 293.43, Stats.

(b) The department shall make a determination under s. 285.61(8), Stats., on a construction permit application within 145 business days of receipt of a complete application, unless compliance with s. 1.11, Stats., requires a longer time. For a major source that is located in an attainment area, the department shall complete its responsibilities under s. 1.11, Stats., within one year.

(c) If the department does not make a determination within the time period specified in par. (b), the department may not impose an application fee for the construction permit under s.

NR 410.03, and shall refund any application fee submitted with the application.

(2) Upon completion of construction and verification by the department that the indirect source was completed according to plans submitted in the construction permit application and meets s. NR 411.01(1), an operation permit shall be issued by the department to the indirect source.

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The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on May 23, 2000.

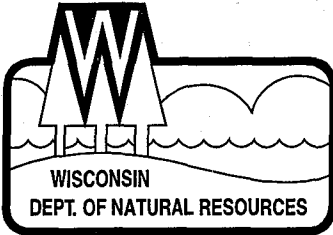
The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2)(intro.), Stats.

Dated at Madison, Wisconsin July 3, 2000

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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July 3, 2000

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-30-99. These rules were reviewed by the Assembly Committee on Environment 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*  
George E. Meyer  
Secretary

Enc.

