

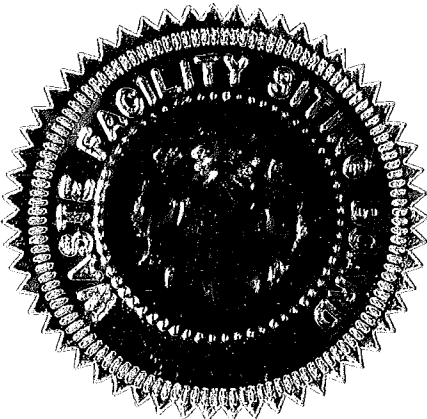
CR 91-14

CERTIFICATE

STATE OF WISCONSIN)
Waste Facility Siting Board) ss.

I, Patti W. Cronin, executive director of the Waste Facility Siting Board and custodian of the official records, do hereby certify that the permanent rule relating to definitions, videotaped evidence and local approvals, committees and negotiating committees was duly adopted by this board on May 21, 1991.

I further certify that this copy has been compared by me with the original on file in the Waste Facility Siting Board 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 Waste Facility Siting Board at 132 East Wilson Street, in the City of Madison, on May 21, 1991.

Patti W. Cronin
PATTI W. CRONIN
Executive Director

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2-1-91

ORDER

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OF

MAY 22 1991

WASTE FACILITY SITING BOARD

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To renumber s. WFSB 1.04(2)(a-e); amend s. WFSB 1.04(2)(g) as renumbered; create s. WFSB 1.04(2)(a); create s. WFSB 1.04(2)(b); create s. WFSB 2.10(8); amend s. WFSB 2.11(6); amend s. WFSB 3.01; create s. WFSB 4.04; create s. WFSB 4.05; amend s. WFSB 10.01(2); and create s. WFSB 12.01.

Analysis

Statutory authority: s. 144.445(4), Stats.
Statute interpreted: s. 144.445, Stats.

This renumbering arranges definitions alphabetically.

SECTION 1. s. WFSB 1.04(2)(a-e) are renumbered to read:

- s. WFSB 1.04(2)(a) (f) "Public informational hearing" means a hearing where the local committee shall afford all interested persons or their representatives an opportunity to present facts, views or arguments relative to a proceeding before the board or local committee.
- s. WFSB 1.04(2)(b) (e) "Public hearing" means a hearing conducted in any proceeding before the board where the parties to the proceeding or their representatives shall be afforded the opportunity to present facts, views or arguments relative to the proceeding.
- s. WFSB 1.04(2)(c) (g) "Public meeting" means a meeting conducted in any arbitration proceeding where the parties and only those parties to the arbitration or their representatives shall be afforded the opportunity to present facts, views or arguments relative to the arbitration.
- s. WFSB 1.04(2)(d) (c) "Examiner" means the board, or any of its members or any member of its staff, or any individual designated by the board to act on its behalf in any board proceeding.

s. WFSB 1.04(2)(e) (d) "Party" means either the applicant or local committee, as defined in s. 144.445(3), Stats., in any board proceeding.

This amendment clarifies the nature of the public meeting under s. 144.445(10)(o), Stats.

SECTION 2. s. WFSB 1.04(2)(g) as renumbered is amended to read:

s. WFSB 1.04(2)(g) "Public meeting" means a meeting conducted in any arbitration proceeding where the parties and only those parties to the arbitration or their representatives shall be afforded the opportunity to present facts, views or arguments relative to the arbitration. The public meeting shall not be a contested case hearing under s. 227.42, Stats.

This addition defines a new term introduced in s. 144.445(7n), Stats.

SECTION 3. s. WFSB 1.04(2)(a) is created to read:

s. WFSB 1.04(2)(a) "Additional municipality" means any town, city, village, or county which does not qualify as an affected municipality but is included in the negotiation-arbitration process by written agreement of the applicant and the participating affected municipalities.

This addition defines a term used throughout the rules and is consistent with s. 144.445(3)(a), Stats.

SECTION 4. s. WFSB 1.04(2)(b) is created to read:

s. WFSB 1.04(2)(b) "Applicant" means a person applying for a license or the owner or operator of a facility.

This addition is created to govern use of videotape depositions used during public meetings under s. 144.445(10)(o), Stats.

SECTION 5. s. WFSB 2.10(8) is created to read:

s. WFSB 2.10(8) VIDEOTAPE DEPOSITIONS. Depositions recorded by videotape are governed by ss. 885.40 to 885.47, Stats.

This amendment is necessary to govern use of testimony and other evidence recorded on videotape.

SECTION 6. s. WFSB 2.11(6) is amended to read:

s. WFSB 2.11(6) EVIDENCE. Rules of evidence are governed by ss. 227.45, and 885.40 to 885.47, Stats.

This amendment designates the recipient of the notice for request for specification of local approvals, and should ensure uniformity in the notice procedure.

SECTION 7. s. WFSB 3.01 is amended to read:

s. WFSB 3.01 REQUEST FOR SPECIFICATION OF LOCAL APPROVALS. The written request for specification of all local approvals, pursuant to s. 144.44(1m)(b), shall include the name and address of the applicant, the type of facility proposed, the location of the proposed facility including a map, a complete legal description of the site and a list of all affected municipalities. The request shall be mailed by certified mail, return receipt requested or by personal delivery, with a signed affidavit to the clerk of each affected municipalities municipality.

This addition is created to establish when and upon what basis appointment of local committee members is made.

SECTION 8. s. WFSB 4.04 is created to read:

s. WFSB 4.04. APPOINTMENT OF LOCAL COMMITTEE MEMBERS. Appointment of local committee members under s. 144.445(7)(a), Stats., shall be based on land ownership at the time of the standard notice.

This addition is created to designate the number of representatives from an additional municipality to a local negotiating committee under s. 144.445(7n), Stats.

SECTION 9. s. WFSB 4.05 is created to read:

s. WFSB 4.05. APPOINTMENT OF ADDITIONAL MUNICIPALITY REPRESENTATIVE. An additional municipality under s. 144.445(7n), Stats., shall appoint one member to the local committee.

This addition allows petitions for arbitrability to be filed only after a petition of arbitration has been filed and discourages the filing of frivolous arbitrability petitions.

SECTION 10. s. WFSB 10.01(2) is amended to read:

s. WFSB 10.01(2) WHEN SUBMITTED. A petition for determination of arbitrability under this chapter may be submitted only after a petition for arbitration has been filed and only once by either party or jointly before the submission of final offers. Any determination made when final offers are submitted shall be governed by s. 144.445(10)(g), Stats.

This amendment is added to prevent the possibility that before submitting its final offer one party can review the final filed offer of the other party.

SECTION 11. s. WFSB 12.01 is created to read:

s. WFSB 12.01 DISTRIBUTION OF FINAL OFFERS. Final offers filed under s. 144.445(10), Stats., shall become available to the public 90 days after the date of notice ordering the parties to submit final offers or when both the applicant and the local committee have filed final offers, whichever date is earlier.

Initial Regulatory Flexibility Analysis

This rule does not affect business.

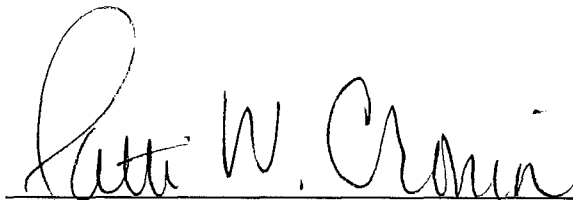
Fiscal Estimate

This rule has no fiscal effect.

Effective Date

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

Dated: March 21, 1991



Patti Cronin
Executive Director
Waste Facility Siting Board

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State of Wisconsin



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132 E. Wilson Street, Madison, WI 53702
(608) 267-7854
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Lynn Nimz
Chairman

Patti Cronin
Executive Director

May 21, 1991

Mr. Gary L. Poulson
Revisor of Statutes Bureau
119 Martin Luther King Jr. Blvd.
2nd Floor
Madison, WI 53703

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Dear Mr. Poulson:

This letter informs you that neither the Senate nor the Assembly took any action within 30 days after receiving Clearinghouse Rule 91-14 relating to definitions, videotaped evidence and local approvals, committees and negotiating committees.

As a result, I am issuing the order to adopt this rule.

The original and a copy of this order are enclosed. Please publish them at your earliest convenience.

If you have any questions, please call me.

Thank you.

Sincerely,
Patti Cronin

Patti Cronin

PC/jf
Enclosure