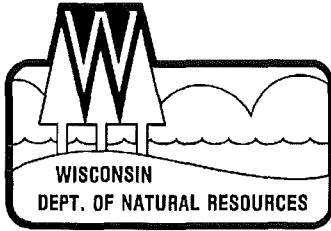


CR 94-179



George E. Meyer  
Secretary

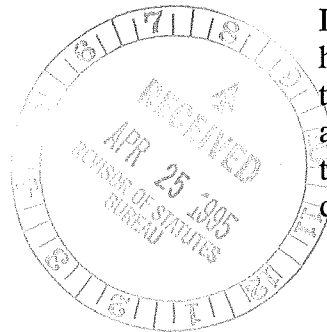
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES )      SS

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-51-94 was duly approved and adopted by this Department on February 23, 1995. 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 12<sup>th</sup> day of April, 1995

*George E Meyer*  
George E. Meyer, Secretary

(SEAL)

7-1-95



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



The Wisconsin Natural Resources Board adopts an order to repeal NR 410.03(2)(j); to renumber NR 410.03(3); to renumber and amend NR 410.03(2)(k), (l) and (m); to amend NR 406.04(1)(a)5., 406.11(1)(f), 407.03(1)(a)5. and 410.03(intro.), (2)(intro.), (2)(a) to (f), (i), (k) and (l); to repeal and recreate NR 410.02(6), 410.03(1), (2)(h); and to create NR 410.02(5), 410.03(2)(l), (m) and (n) and (3) relating to increased fees for air permits and gaseous fuel exemption levels.

AM-51-94

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 144.31(1)(a), 144.399 and 227.11(2)(a), Stats.

Statutes interpreted: ss. 144.31(1)(f) and 144.399(1), Stats. The State Implementation Plan developed under those provisions is revised.

Section 110(a)(2)(L) of the 1990 Clean Air Act mandates that states collect fees from all major stationary sources required to obtain a construction permit. These fees are to be designed to cover all reasonable (direct and indirect) costs of reviewing and acting upon any application for such a permit.

Section 144.399(1)(a), Stats., states that the Department may promulgate rules for the payment and collection of reasonable fees for reviewing and acting upon any application for a construction permit. Section 144.399(1)(c), Stats., states that the Department may promulgate rules for the payment and collection of reasonable fees for reviewing and acting upon any request for an exemption from the requirement to obtain an air pollution control permit. The revisions proposed in this rule package increase fees for construction permit applications.

A revised exemption level for gaseous fuel combustion in chs. NR 406 and 407, based on a revised EPA emission factor is included. References to ch. NR 411 are to this chapter as created by Natural Resources Board Order AM-32-94 (Clearinghouse rule 94-184) which is scheduled for concurrent adoption.

SECTION 1. NR 406.04(1)(a)5. is amended to read:

NR 406.04(1)(a)5. Gaseous fuel at a heat input rate of not more than ~~40~~  
25 million BTU per hour.

SECTION 2. NR 406.11(1)(f) is amended to read:

NR 406.11(1)(f) *Failure to file annual emission inventory reports.* An intentional failure by the permit holder to file annual ~~air~~ emission inventory reports required under ch. NR 438.

SECTION 3. NR 407.03(1)(a)5. is amended to read:

NR 407.03(1)(a)5. Gaseous fuel at a heat input rate of not more than ~~40~~  
25 million BTU per hour.

SECTION 4. NR 410.02(5) is created to read:

NR 410.02(5) "M~~A~~CT" means maximum achievable control technology for hazardous air pollutant emissions as promulgated by the EPA under section 112(d) of the federal clean air act (42 USC 7412(d)) or established by the department under section 112(g) of the act (42 USC 7412(g)).

SECTION 5. NR 410.02 (6) is repealed and recreated to read:

NR 410.02(6) "Minor source" means any direct source which is not a major source as defined in s. NR 407.02(17).

SECTION 6. NR 410.03(intro.) is amended to read:

NR 410.03 APPLICATION FEE. (intro.) Any person required under s. 144.391, Stats., to obtain a construction permit for ~~an air contaminant a~~  
direct source shall pay an application fee, consisting of 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) ~~or (n)~~ to obtain a determination of exemption from the department shall pay the basic fee under sub. (1)(b). Any person required under s. 144.391, 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).

SECTION 7. NR 410.03(1) is repealed and recreated to read:

NR 410.03(1) BASIC DIRECT SOURCE FEES. (a) Each person who applies for and is issued a construction permit for a direct source shall pay a 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 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 for a major modification as defined in s. NR 405.02(21) or s. NR 408.02(20) and the permit is for an emissions unit to be located at a major source as defined in s. NR 407.02(17).

3. \$6,000 if the permit application is for a major modification as defined in s. NR 405.02(21) or s. NR 408.02(20) and the permit is for an emissions unit which does not constitute 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 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).

Note: Subd. 4. applies to both construction of a new facility and to construction of an emissions unit which itself constitutes a major source and is to be located at an existing facility.

5. \$800 for revision of a construction permit when requested by the permit holder or the permit holder's agent.

Note: Once a construction permit has expired, it may no longer be revised, and the permit holder must obtain a new construction permit before proceeding.

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

(c) The basic fees in par. (a) shall be reduced by \$150 if the permit applicant publishes the class 1 newspaper notice required under s. 144.392(5)(c), Stats.

(d) Any person who applies for a construction permit for an air contaminant source shall submit \$1,000 with the application. This \$1,000 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.

(e) When a construction permit application is received for a source where the basic emissions unit, which is not a portable source, is to be installed at one specified facility and, in the same application, a request is also made to issue construction permits to allow installation of the same basic emissions unit at other facilities at different locations and all the facilities for which construction permits are requested are under common ownership or control, the permit applicant shall pay the basic fee specified

in par. (a) plus the additional fees in sub. (2). The fee for each additional construction permit at different locations shall be \$400 each, plus the fees in sub. (2) except when the action specified in sub. (2) has been completed for one location and a separate action as set forth in sub. (2) is not required for each additional permit at each different location. When an action covered under sub. (2) must be completed for applications at more than one location, the fee in sub. (2) shall be charged for each time the action is completed.

SECTION 8. NR 410.03(2)(title),(intro.) and (a) to (f) are amended to read:

NR 410.03(2)(title) ADDITIONAL DIRECT SOURCE FEES. (intro.) In addition to the basic direct source fees prescribed in sub. (1)(a) and (e), each person who applies for and is issued ~~an air pollution control~~ a construction permit for a direct source for which an application fee is authorized shall pay the following fees in the amounts indicated:

(a) ~~\$100~~ \$300 per basic emissions unit requiring review and analysis if the permit application requires the review and analysis of 2 or more basic ~~emission~~ emissions units.

(b) ~~\$300~~ \$1,000 if the permit application is for a ~~direct, nonattainment area~~ source requiring an analysis of alternatives under s. NR 408.08(2).

(c) ~~\$1,400~~ \$2,500 if the permit application is for a ~~direct~~ source which requires an emission offset, ~~a growth accommodation credit under s. 144.393(7), Stats.,~~ under ch. NR 408 or the determination of a net emissions increase under ch. NR 405.

(d) ~~\$1,000~~ \$2,000 per maximum achievable control technology (MACT), best available control technology (BACT) or lowest achievable emission rate (LAER) determination if the permit application is for a ~~direct~~ source which requires a case-by-case MACT, BACT or LAER determination. This excludes BACT or LAER determinations made under ch. NR 445.

(e) ~~\$200~~ \$500 if the permit application is for a ~~direct~~ minor source or minor modification to a ~~direct~~ major source whose projected air quality impact requires a detailed air quality modeling analysis.

(f) ~~\$1,400~~ \$2,400 if the permit application is for any ~~direct~~ source which is not a ~~direct~~ minor source or minor modification to a ~~direct~~ major source and whose projected air quality impact requires a detailed air quality modeling analysis.

SECTION 9. NR 410.03(2)(h) is repealed and recreated to read:

NR 410.03(2)(h) \$1000 if the permit application is for a source for which the construction permit requires emission testing for a single air contaminant. The fee under this paragraph shall be increased by an additional \$500 for each additional air contaminant for which emission testing is required by the construction permit. The total fee under this paragraph may not exceed \$3000. In the event that the department determines that some or all of the tests are not required and, therefore, are not performed, the fees under this paragraph shall be refunded for those air contaminants not tested.

SECTION 10. NR 410.03(2)(i) is amended to read:

NR 410.03(2)(i) ~~\$400~~ \$800 if the permit application is for a ~~direct~~ source which requires an environmental assessment under ch. NR 150.

SECTION 11. NR 410.03(2)(j) is repealed.

SECTION 12. NR 410.03(2)(k), (l) and (m) are renumbered to NR 410.03(2)(j), (k) and (o) and are amended to read:

NR 410.03(2)(j) ~~\$500~~ \$700 if a public hearing is held at the request of the applicant or ~~their~~ the applicant's agent.

(k) ~~\$100 if the permit application is~~ \$300 per basic emissions unit for each emissions unit at a ~~direct~~ source which requires an emission limit determination under s. NR 424.03(2)(b)2.

(o) When the permit applicant requests in writing that the permit be issued in a shorter time interval than the total time interval ~~set forth in~~ allowed under s. 144.392, Stats., and the department is able to comply with the request, ~~the following fees shall apply:~~

1. ~~\$1,000~~ \$2,000 for an application for a ~~direct~~ 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. ~~\$2,000~~ \$3,000 for an application for ~~an indirect source or for a~~ source which is subject to review under ch. NR 405 or 408 if the permit is issued within 60 days of receipt of a complete application.

3. ~~\$1,000~~ \$2,000 for an application for a source which is subject to review under ch. NR 405 or 408 if the permit is issued within 61 to 90 days of receipt of a complete application.

SECTION 13. NR 410.03(2)(l), (m) and (n) are created to read:

NR 410.03(2)(l) \$1,000 for each ch. NR 445 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 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 if the permit application is for a source which requires specific permit conditions to limit the potential to emit in order to make the source or modification a minor source or minor modification.

(n) \$2,000 if the permit application is for a medical waste incinerator which requires review of a needs and siting analysis under s. 144.393(10), Stats.

SECTION 14. NR 410.03(3) is renumbered to NR 410.03(4).

SECTION 15. NR 410.03(3) is created to read:

NR 410.03(3) INDIRECT SOURCE FEES. (a) Each person who applies for and is issued a construction permit for an indirect source shall pay the following amounts:

1. \$5,750 if the permit application is for an indirect source.

2. An additional \$2,500 if the permit application is for an indirect source which requires an environmental assessment under ch. NR 150.

(b) When the permit applicant requests in writing that the permit be issued in a shorter time interval than the total time interval allowed under s. 144.392, Stats., and the department is able to comply with the request, one of the following additional fees shall apply:

1. \$3,000 for an application for an indirect source if the permit is issued within 60 days of receipt of a complete application.

2. \$1,500 for an application for an indirect source if the permit is issued within 61 to 90 days of receipt of a complete application.

(c) Any person requiring a determination of exemption under s. NR 411.04(2)(c) shall pay a fee of \$275.

(d) The fee under par. (a) shall be reduced by \$150 if the permit applicant publishes the class 1 newspaper notice required under s. 144.392(5)(c), Stats.

(e) Any person who applies for a construction permit for an indirect source shall submit \$1,000 with the application. This \$1,000 may not be refunded unless the department determines that a permit is not required. When a fee is required under par. (c), only the amount not required under par. (c) will be refunded.

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The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on February 23, 1995.

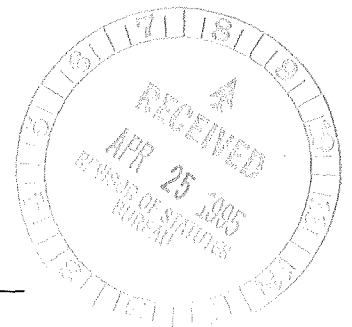
The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin

4/12/95  
STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By

George E. Meyer  
George E. Meyer, Secretary



(SEAL)