

## Chapter NR 170

## POWER PLANT SITING

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**Note:** See chapter PSC 111 for additional rules relating to power plant siting.

**NR 170.01 Purpose.** The purpose of this chapter is to establish a procedure for the implementation of ss. 30.025 and 196.491, Stats., as created by chapter 68, laws of 1975, regarding the issuance of permits and approvals by the department for the location, construction and operation of electric generating facilities.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**NR 170.02 Pre-certificate permits and approvals.** (1) Upon acceptance of an engineering plan under s. NR 170.04, the permits and approvals listed in subs. (2) and (3) are to be designated as permits and approvals which must be obtained prior to the issuance of the certificate of public convenience and necessity as required under s. 196.491 (2m), Stats., subject to any waiver approved by the department under s. NR 170.05.

(2) The permits and approvals which shall in all cases be designated pre-certificate permits and approvals are:

(a) Operational phase air pollution control permits for the main boiler or boilers issued under ss. 144.391 to 144.399, Stats., for bulk electric generating facilities utilizing fossil or solid fuels as the primary energy source;

(b) Operational phase solid waste approvals issued under s. 144.44, Stats., for bulk electric generating facilities utilizing coal or other solid fuels as the primary energy source;

(c) Operational phase wastewater discharge permits for once through cooling systems under s. 147.02, Stats., and

(d) Permits or approvals for the intake and discharge structures of the facility under s. 30.12 or 30.025, Stats.

(3) The department shall, in consultation with the commission, and within 60 days of the acceptance of the engineering plan, designate any permits and approvals or portions thereof, which must be obtained prior to the issuance of the certificate of public convenience and necessity, in addition to those listed in sub. (2). This designation shall be based upon a determination that the granting or denial of the permits or approvals, or portions thereof, could significantly affect the overall facility design or location.

(4) The necessity of obtaining, prior to the issuance of the certificate, any permit or approval, or portion thereof,

which has been designated pre-certificate under this section may be waived pursuant to s. NR 170.05.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77; r. and recr., Register, December, 1978, No. 276, eff. 1-1-79; am. (2) (a), Register, May, 1992, No. 437, eff. 6-1-92.

**NR 170.03 Definitions.** (1) "Approval" includes, but is not limited to, the issuance of a license and the approval of plans and specification.

(2) "Certificate" means a certificate of public convenience and necessity issued by the commission under s. 196.491 (3), Stats.

(3) "Commission" means the public service commission.

(4) "Department" means the department of natural resources.

(5) "Electric generating facility" or "facility" means electric generating equipment and associated facilities designed for nominal operation at a capacity of 12,000 kilowatts or more.

(6) "Engineering plan" means the plan required by s. 196.491 (2m), Stats.

(7) "Optional engineering plan" means a plan submitted under s. 30.025 (1), Stats.

(8) "Municipality" means a city, town, village or county.

(9) "Person" means an individual, corporation, partnership, cooperative, association, municipality, or a state agency or department.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**NR 170.04 Engineering plan and permits.** (1) (a) At least 120 days before filing an application for a certificate for an electric generating facility, the applicant shall provide the department with an engineering plan meeting the requirements of s. 196.491 (2m), Stats.

(b) If the department finds that the engineering plan does not meet the requirements of s. 196.491 (2m), Stats., the department shall notify the applicant in writing of such deficiency within 10 working days, specifying that information which is necessary for the plan to meet such requirements.

(c) The department shall notify the applicant in writing of the date that the engineering plan is accepted, which date shall be the date of receipt if no further information is requested, and, if further information is requested, the date of receipt of such further information.

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(2) Within 60 days after the acceptance of the engineering plan, the department shall provide the applicant with a list of department permits and approvals required for the construction or operation of the facility. After consultation with the commission, the department shall designate the permits and approvals which must be obtained before the certificate is issued that could significantly affect the overall facility design or location.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**NR 170.05 Waiver request.** Within 10 days of the receipt of a request to waive the timeliness of obtaining a permit or approval designated under s. NR 170.04 (2), the department shall mail notice thereof to the clerk of any municipality directly affected by the facility and any person who has filed a written request therefor, and publish a class 1 notice in the official state newspaper under ch. 985, Stats. If, within 20 days of such publication, a hearing is demanded by the applicant an affected municipality or any person whose substantial interests are adversely affected by the facility, a hearing shall be conducted within 30 days thereafter as a class 1 proceeding under ch. 227, Stats. Within 10 days after the close of the hearing if one is demanded and otherwise within 10 days after the close of the period for demanding a hearing, the department shall either:

(1) Deny the waiver if the permit or approval significantly affects the overall facility design or location; or

(2) Grant the waiver after consultation with the commission if the permit or approval does not significantly affect the overall facility design or location.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**NR 170.06 Application for permits and approvals.** (1) The applicant shall, within 20 days after filing an application

for a certificate with the commission, make application for all permits and approvals listed by the department under s. NR 170.04 (2) and designated as required prior to issuance of the certificate. The applicant shall also make preliminary application for any permit or approval listed by the department pursuant to s. NR 170.04 (2) and not designated as required before the certificate is issued.

(2) Before the department is deemed to have received an application for any permit or approval, the department may require the applicant to submit such further information as is required to make complete the application for such permit or approval.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**NR 170.07 Environmental impact statement.** (1) The department may not grant or deny any permit or approval until the department has discharged its duties under s. 1.11, Stats.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**NR 170.08 Optional permit procedure under s. 30.025, Stats.** (1) If the applicant chooses to submit an optional engineering plan, the plan shall be filed within 20 days after an application for certificate is filed with the commission. The department may require the applicant to submit such additional information as the department deems necessary to make complete the plan.

(2) If the applicant chooses to submit an optional engineering plan and request a single hearing on chs. 30 and 31, Stats., permits and approvals, the department shall hold such hearing in conjunction with the first ch. 30 or 31, Stats., permit that is processed by the department.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.