



## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky  
Clearinghouse Director

Richard Sweet  
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### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 01-055

AN ORDER to amend NR 410.05 (3) (c), relating to asbestos inspection fees.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

05-10-01 RECEIVED BY LEGISLATIVE COUNCIL.  
05-31-01 REPORT SENT TO AGENCY.

RS:DLS:jal

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES  NO



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## CLEARINGHOUSE RULE 01-055

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In the analysis, the statement of statutory authority should include a reference to s. 285.69 (3), Stats.

ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 410.05(3)(c) of the Wisconsin Administrative Code relating to asbestos inspection fees.

AM-20-01

Analysis Prepared by the Department of Natural Resources

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

Interpreting statutes: ss. 285.11(6), Stats. The State Implementation Plan developed under that provision is revised.

The Department has received statutory authority and budget approval to increase asbestos inspection fees by \$10 per large project. A large project is one where the amount of asbestos containing materials (ACM) to be abated is equal to or greater than 1000 in combined linear footage and square footage of ACM. The combination of square and linear footage is determined by adding the square footage of ACM on all areas other than pipes to the linear footage of ACM on pipes.

The increased revenues will be used to help fund the asbestos program. It is expected that \$4,000 will be generated annually.

SECTION 1. NR 410.05(3)(c) is amended to read:

NR 410.05(3)(c) ~~\$200~~ \$210 if the asbestos renovation or demolition operation involves friable asbestos material with a combined square and linear footage of equal to or greater than 1000. The combination of square and linear footage shall be determined by the method given in sub.(2)(a).

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

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 \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Darrell Bazzell, Secretary

(SEAL)

State of Wisconsin  
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. AM-20-01

Legislative Council Rules Clearinghouse Number 01-055

Subject of Rules Asbestos inspection fees

Date of Transmittal to Presiding Officers October 9, 2001

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator  
DNR Bureau of Legal Services  
LS/5, 101 South Webster

Telephone: 266-1959  
e-mail: [turnec@dnr.state.wi.us](mailto:turnec@dnr.state.wi.us)

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

REPORT TO LEGISLATURE  
NR 410.05(3)(c), Wis. Adm. Code  
Asbestos inspection fees

Board Order No. AM-20-01  
Clearinghouse Rule No. AM-20-01

Statement of Need

Asbestos is a known and well documented public health issue, and the Department currently receives 2,000 original notifications annually for asbestos abatement projects. The Department had proposed during the last state budget cycle a process to provide for additional funding for the asbestos program as existing funds are less than adequate to support to existing program efforts. The use of emission inventory funds to support the asbestos program staffing cannot continue with Air Management program taking drastic steps to reduce emission inventory expenses and balance the emission inventory funding budget. Also, the Department proposed to change the statutory language for asbestos inspection fees to allow them to be set by administrative rule rather than capping them in the statutes.

The proposal was made to increase the number of inspections in order to assure compliance with the requirements for asbestos abatement. Compliance with the regulations has been poor because of the lack of a Department presence at asbestos abatement sites. Asbestos abatement activities are very labor intensive. Survey studies have shown that an asbestos abatement project can be done faster if the work is not done in compliance with the regulations. This provides the contractor with an economic incentive not to follow the regulations. It is estimated by the Department that at least 30% of the projects have significant violations that could have public health consequences.

The final result of this proposal was that s. 285.69(3), Stats., was changed to cap inspection fees at \$210 which is a \$10 increase. This rule change is incorporating the fee change allowed under the statutes.

Modifications as a Result of Public Hearing

There were no modifications.

Appearances at the Public Hearing and Their Position

There were no appearances.

Response to Rules Clearinghouse Comments

The recommendation was accepted.

Final Regulatory Flexibility Analysis

The proposed rule revision will affect asbestos abatement contractors and their customers for large asbestos abatement projects, and will not have a significant effect on small business. The \$10 fee would increase the total cost of a project by less than one percent at a maximum.

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AMENDING RULES

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AM-20-01

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Interpreting statutes: ss. 285.11(6), Stats. The State Implementation Plan developed under that provision is revised.

The Department has received statutory authority and budget approval to increase asbestos inspection fees by \$10 per large project. A large project is one where the amount of asbestos containing materials (ACM) to be abated is equal to or greater than 1000 in combined linear footage and square footage of ACM. The combination of square and linear footage is determined by adding the square footage of ACM on all areas other than pipes to the linear footage of ACM on pipes.

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The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 26, 2001.

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 \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Darrell Bazzell, Secretary

(SEAL)