



NR170

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

BOX 450
MADISON, WISCONSIN 53701

IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, 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. L-71-76 was duly approved and adopted by this Department on July 22, 1976. 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 Pyare Square Building in the Village of Shorewood Hills, this 25TH day of January, 1977.

Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

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IN THE MATTER of creating chapter NR 170
of the Wisconsin Administrative Code
pertaining to power plant siting
.....

L-71-76

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 30.025, 196.491 and 227.014, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby creates rules as follows:

Chapter NR 170
POWER PLANT SITING

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| NR 170.01 Purpose | NR 170.06 Application for permits and approvals |
| NR 170.02 Policy on designated pre-certificate permits and approvals | NR 170.07 Environmental impact statement |
| NR 170.03 Definitions | NR 170.08 Optional permit procedure under section 30.025, Wis. Stats. |
| NR 170.04 Engineering plan and permits | |
| NR 170.05 Waiver request | |

NR 170.01 Purpose. The purpose of this chapter is to establish a procedure for the implementation of sections 30.025 and 196.491, Wis. 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.

NR 170.02 Policy on designated pre-certificate permits and approvals. The permits and approvals necessary to authorize air emissions, water discharges, solid waste disposal and dam construction associated with the major components of an electric generating facility are required under section 196.491(2m), Wis. Stats., before issuance of the certificate. The department finds that the granting or denial of these permits and approvals could significantly affect the overall design or location of the facility. These permits and approvals are designated pre-certificate permits and approvals.

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

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

(7) "Optional engineering plan" means a plan submitted under section 30.025 (1), Wis. 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.

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 section 196.491(2m), Wis. Stats.

(b) If the department finds that the engineering plan does not meet the requirements of section 196.491(2m), Wis. 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.

(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.

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 section 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 chapter 985, Wis. 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 chapter 227, Wis. 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.

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 section 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 section 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.

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 section 1.11, Wis. Stats.

NR 170.08 Optional permit procedure under section 30.025, Wis. Stats. (1) If the applicant chooses to submit an optional engineering plan, the plan shall be filed within 20 days after an application for a 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 chapters 30 and 31, Wis. Stats., permits and approvals, the department shall hold such hearing in conjunction with the first chapter 30 or 31, Wis. Stats., permit that is processed by the department.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on July 22, 1976 and January 20, 1977.

The rules contained herein shall take effect upon publication in the Wisconsin Administrative Register.

Dated at Madison, Wisconsin 25 January 1977

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)