

CR 84-191

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

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STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES )

ss

MAR 14 1985  
*Carroll D. Besadny*  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy 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. SW-40-84 was duly approved and adopted by this Department on December 12, 1984. 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 General Executive Facility #2 in the City of Madison, this 11<sup>th</sup> day of March, 1985.

*Bruce B. Braun*  
Bruce B. Braun, Deputy Secretary

(SEAL)

5010J

6-1-85

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

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RENUMBERING, AMENDING AND CREATING RULES

MAR 14 1985

To renumber s. NR 180.13(6)(e); to amend ss. NR 157.03(1)(intro), NR 180.05(1)(a) and (b), 180.13(6)(d), and (8); and to create ss. NR 157.03(1)(f)(note), 157.05(2)(note), 180.06(3), 180.13(6)(e) and 180.13(7)(d) of the Wisconsin Administrative Code, pertaining to review and approval times for PCB handling and storage plans, solid waste site plans and solid waste site operating licenses.

Revisor of Statutes Bureau

SW-40-84

Analysis Prepared by Department of Natural Resources

The proposed revisions to Chapters NR 157 (Management of PCBs) and NR 180 (Solid Waste Management), Wisconsin Administrative Code, pertain to plan and permit review time periods. 1983 Wisconsin Act 91 created s. 227.0105, Stats., mandating that any administrative rule which includes requirements for a business to obtain a permit shall specify the number of business days within which the agency will review and make a determination on the permit application. Act 91 also created s. 560.41, Stats., which defines "permit" broadly, to mean "... any approval of a regulatory agency required as a condition of operating a business in this state."

In response to these new statutory mandates, the rule revisions proposed here: 1) insert the required permit review time periods where not already present, and 2) translate existing calendar day time periods into "business days," via notes at the end of pertinent sections. Calendar day review periods are retained in the text of the rules when review periods are set by ch. 144, Stats., in terms of calendar days.

This rule revision does not represent any change in existing agency review activity. Review times specified are those currently practiced. The apparent change in feasibility plan review time set out in NR 180.13(6)(d), from 30 to 60 days, simply updates the rule to reflect changes brought by Chapter 374, Laws of 1981 --- the solid and hazardous waste siting act.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 144.44, 144.79, 227.0105, 227.014(2)(a) and 227.02(1)(e), Stats., the State of Wisconsin Natural Resources Board hereby rennumbers, amends and creates rules interpreting ss. 144.44 and 144.79, Stats., as follows:

SECTION 1. NR 157.03(1)(intro) is amended to read:

NR 157.03(1) HANDLING AND STORAGE. The generator shall handle and store PCBs and products containing PCBs for disposal in a manner which will prevent losses to the environment. Except for transformers, containers used for the transportation or storage of PCBs or products containing PCBs shall may not be used for the storage or transportation of any other material. The department may require written handling and storage plans when it is determined by the department that the generator disposes of more than 500 pounds of PCBs annually, either in liquid form or incorporated in products. The department may also require written handling and storage plans when the department determines that the handling and storage practices of the generator are inadequate to prevent losses to the environment. The department's preliminary determination and the bases thereof shall be set forth in writing and transmitted to the generator, and the generator shall be allowed 10 business days to comment thereon. After receipt and consideration of the generator's comments, the department shall make its final determination. When the department determines that written handling and storage plans are required, the department shall review and approve, deny or deem the plans incomplete within 65 business days of receipt. Written handling and storage plans may include but shall are not be limited to:

SECTION 2. NR 180.05(1)(a) is amended to read:

NR 180.05(1)(a) Application for initial licensing of new solid waste disposal sites or facilities may be submitted at any time during the license period. Fees for initial licensing are proratable. The license period is divided into 4, 6-month periods, with 1/4 of the 2 year license fee applied to

SECTION 5. NR 180.13(6)(d) is amended to read:

NR 180.13(6)(d) Within ~~30~~ 60 days after a feasibility report is submitted, the department shall either ~~publish notice under s. 144.44(2)(d), Stats.,~~ determine that the report is complete or notify the applicant in writing that the report is not complete, specifying the information which ~~must be submitted~~ the applicant shall submit before the report is deemed complete. The department will determine whether or not the feasibility report is complete by determining whether or not the minimum requirements of this subsection have been met. Additional feasibility information may be required of the applicant after a determination that the feasibility report is complete only if the department establishes that a detailed review of the feasibility report indicates that site feasibility cannot be determined in the absence of such additional information.

SECTION 6. NR 180.13(6)(e) is renumbered to NR 180.13(6)(f).

SECTION 7. NR 180.13(6)(e) is created to read:

NR 180.13(6)(e) If no hearing has been conducted under s. 144.44, Stats., the department shall issue the final determination of feasibility within 60 days after the 30 day notice period required under s. 144.44(2)(L) and (m), Stats., has expired. If an informational hearing is conducted under s. 144.44(2g), Stats., the department shall issue a final determination of feasibility within 60 days after the hearing is adjourned. If a contested case hearing is conducted under s. 144.44(2r), Stats., a final determination of feasibility shall be issued within 90 days after the hearing is adjourned.

SECTION 8. NR 180.13(7)(d) is created to read:

NR 180.13(7)(d) Approval; disapproval. The department may not approve or disapprove a plan of operation until a favorable determination of feasibility has been issued for the facility. Upon submission of a complete plan of operation, the department shall either approve or disapprove the plan in writing within 90 days or within 60 days after a favorable determination of feasibility is issued for the facility, whichever is later.

SECTION 9. NR 180.13(8) is amended to read:

NR 180.13 (8) The department may require that a registered professional engineer document site construction and render an opinion whether the site has been constructed ~~and/or-operated~~ in substantial conformance with the plan of operation. The department shall review and approve, deny or deem incomplete the request for approval of site construction documentation within 65 business days after receiving the request. Operation of the facility may not commence until the site construction documentation report is approved by the department, and, if necessary, a license to operate the facility has been issued by the department.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on December 12, 1984

The rules contained herein shall take effect as provided in s. 227.026(1) (intro.), Stats.

Dated at Madison, Wisconsin March 11, 1985

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

March 11, 1985

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
411 West  
C A P I T O L

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MAR 14 1985

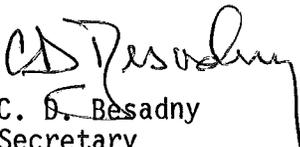
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Bureau

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. SW-40-84. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Energy and Environmental Resources pursuant to s. 227.018, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
C. D. Besadny  
Secretary

Enc.  
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