



CR 90-226

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) ss

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. AM-70-90 was duly approved and adopted by this Department on June 27, 1991. 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.

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3:56 pm
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IN TESTIMONY WHEREOF, I have here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 3rd
day of September, 1991.

Bruce B. Braun
Bruce B. Braun, Deputy Secretary

(SEAL)

11-1-91

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

.....
IN THE MATTER of renumbering s. NR 410.03(1)(b)2.;
amending ss. NR 410.01(1) and (2) and 410.03(intro),
(1)(b)(intro.) and 1.; and creating ss. NR
406.04(1)(n) and 410.03(1)(b)2. and 3., of the
Wisconsin Administrative Code, pertaining to air
permit exemptions and fees for certain asbestos
renovation and demolition operations.
.....

AM-70-90

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 144.31(1)(a), 144.38, 144.391(6), 144.399(1), and 227.11(2)(a), Stats.

Statutes interpreted: s. 144.31(1)(f), Stats. The State Implementation Plan developed under that provision is revised.

There are approximately 2000 asbestos abatement projects taking place annually in Wisconsin and the number is increasing. Additionally, complaints regarding illegal asbestos abatement and allegations of illegal disposal are also increasing. Numerous incidents of asbestos dumped along highways and roads have occurred.

The Department's Air Management program currently performs only a cursory review of the asbestos abatement notifications received. Many of the notices are deficient in the information provided to determine if the asbestos abatement project is going to be conducted in accordance with the regulations. Many notices are late and do not afford the Department an opportunity to inspect the abatement project. Also, EPA decreased our federal grant monies and may continue to decrease our funding because the department has not met federal expectations for the asbestos program.

The asbestos permit exemption fees would add much needed revenue which would allow the Department to perform more detailed review and follow up on asbestos abatement notices. Consequently, compliance with the asbestos abatement regulations should improve.

Another proposed change to Chapter NR 410 is; broadening the applicability section to include sources that receive a determination of exemption from permitting.

SECTION 1. NR 406.04(1)(n) is created to read:

NR 406.04(1)(n)1. Renovation or demolition operations involving friable asbestos containing material provided:

a. The amount of asbestos containing material is less than 260 linear feet on pipes or 160 square feet on other facility components; or

b. If the amount of asbestos containing material is at least 260 linear feet on pipes or at least 160 square feet on other facility components:

1) Notice of intention is provided under s. NR 447.07, and

2) The notice indicates that the project will meet all applicable requirements of ch. NR 447; and

3) The fee required under s. NR 410.03(1)(b)2. or 3., is submitted with the notice.

2. Each asbestos abatement notice of intention is considered an application for permit exemption. The Department may place conditions on any permit exemption granted under this paragraph.

SECTION 2. NR 410.01(1) and (2) are amended to read:

NR 410.01(1) APPLICABILITY. This chapter applies to all persons who ~~are required or authorized to obtain an air pollution control permit for the construction, reconstruction, replacement or modification and operation of an air contaminant source and to all persons who own or operate an air contaminant source for which an air pollution control permit has been issued~~ owners or operators of air contaminant sources and to any other person who may be required to pay a fee under s. 144.399, Stats.

(2) PURPOSE. The purpose of this chapter is to establish, pursuant to s. 144.399, Stats., the requirements and the procedures for the payment of application fees and implementation and enforcement fees by persons who are required or authorized to obtain air pollution control permits for the construction, reconstruction, replacement or modification and operation of air contaminant sources, by persons who request a determination of exemption from

the requirement to obtain an air pollution control permit, and by persons who own or operate an air contaminant source for which an air pollution control permit has been issued.

SECTION 3. NR 410.03(intro), and NR 410.03(1)(b)(intro.) and 1. are amended to read:

NR 410.03(intro) APPLICATION FEE. Except as provided under s. 144.399(3)(a), Stats., any person required or authorized under s. 144.391, Stats., to obtain an air pollution control permit 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 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).

(1)(b)(intro.) Any person requiring a determination of exemption under s. NR 406.04(1)(i) or (n), or petitioning for an alteration to a permit under ch. NR 491, shall pay the following amounts:

1. \$400 for a determination of exemption made under s. NR 406.04(1)(i) and.

SECTION 4. NR 410.03(1)(b)2. is renumbered NR 410.03(1)(b)4.

SECTION 5. NR 410.03(1)(b)2. and 3. are created to read:

NR 410.03(1)(b)2. \$50 for a determination of exemption under s. NR 406.04(1)(n), if the asbestos renovation or demolition operation involves at least 260 linear feet or at least 160 square feet of friable asbestos material and a combined square and linear footage of less than 1000. The combination of square and linear footage shall be determined by adding the square footage

of asbestos containing material on all areas other than pipes to the linear footage of asbestos containing material on pipes.

3. \$125 for a determination of exemption under s. NR 406.04(1)(n), 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 subd. 2.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 27, 1991.

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

September 3, 1991

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

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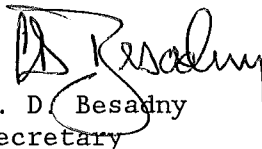
Mr. Gary L. Poulson
Assistant Revisor of Statutes
119 Martin Luther King, Jr., Blvd.

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. AM-70-90. These rules were reviewed by the Assembly Committee on Environmental Resources, Utilities and Mining and the Senate Committee on Urban Affairs, Environmental Resources and Elections pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are 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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