

Chapter NR 410

AIR PERMIT, EMISSION AND INSPECTION FEES

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NR 410.01 Applicability; purpose. (1) **APPLICABILITY.** This chapter applies to all 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 emission fees by persons who are required to obtain construction or operation permits for air contaminant sources, application fees by persons who request a determination of exemption from the requirement to obtain an air pollution control permit and asbestos inspection fees by persons responsible for nonresidential asbestos demolition and renovation projects.

History: Renum. from NR 410.01 and 410.02, Register, September, 1986, No. 369, eff. 10-1-86; am. Register, October, 1991, No. 430, eff. 11-1-91; am. (2), Register, May, 1993, No. 449, eff. 6-1-93; am. (2), Register, February, 1995, No. 470, eff. 3-1-95.

NR 410.02 Definitions. The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(2) "Emissions offset" means the reduction of emissions from existing sources to compensate for the increase in emissions from the construction, reconstruction, replacement or modification and operation of the source which is the subject of the permit application.

(3) "Environmental assessment" has the meaning given in s. NR 150.02 (9).

(4) "Facility" means all stationary sources emitting air contaminants which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control. Emissions resulting from loading, unloading or stockpiling materials to or from vessels or vehicles while at a facility shall be considered as part of the facility's emissions. Air contaminant sources, other than transportation related activities, shall be considered as part of the same industrial grouping if they are classified under the same 2-digit major group as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in s. NR 484.05.

(5) "MACT" means maximum achievable control technology for hazardous air pollutant emissions as promulgated by the EPA under section 112 (d) of the federal clean air act (42 USC 7412 (d)) or established by the department under section 112 (g) of the act (42 USC 7412 (g)).

(6) "Minor source" means any direct source which is not a major source as defined in s. NR 407.02 (17).

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; renun. from NR 410.03, Register, September, 1986, No. 369, eff. 10-1-86; renun. (1), (4) and (5) to be NR 400.02 (5e), (53e) and (53s), am. (3), r. (7), Register, April, 1988, No. 388, eff. 5-1-88; cr. (4), Register, May, 1993, No. 449, eff. 6-1-93; am. (intro.), Register, February, 1995, No. 470, eff. 3-1-95; cr. (5), r. and recr. (6), Register, June, 1995, No. 474, eff. 7-1-95; am. (4), Register, December, 1995, No. 480, eff. 1-1-96.

NR 410.03 Application fee. Any person required under s. 144.391, Stats., to obtain a construction permit for a direct source 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 requesting revision of a direct source construction permit shall pay the basic fee in sub. (1) (a) 5. Any person required under s. NR 406.04 (1) (i) to obtain a determination of exemption from the department shall pay the basic fee under sub. (1) (b). Any person required under s. 144.391, Stats., to obtain a construction permit for an indirect source or a determination of an exemption under s. NR 411.04 for an indirect source shall pay the appropriate fee under sub. (3).

(1) **BASIC DIRECT SOURCE FEES.** (a) Each person who applies for and is issued a construction permit for a direct source shall pay a basic fee according to the following amounts:

1. \$2,300 if the permit application is not reviewed under ch. NR 405 or 408 and the permit is for a new facility or for an emissions unit to be located at a minor source.

2. \$3,300 if the permit application is not for a major modification as defined in s. NR 405.02 (21) or 408.02 (20) and the permit is for an emissions unit to be located at a major source as defined in s. NR 407.02 (17).

3. \$6,000 if the permit application is for a major modification as defined in s. NR 405.02 (21) or 408.02 (20) and the permit is for an emissions unit which does not constitute a major stationary source as defined in s. NR 405.02 (22) or a major source as defined in s. NR 408.02 (21).

4. \$9,000 if the permit is for a major stationary source as defined in s. NR 405.02 (22) or a major source as defined in s. NR 408.02 (21).

Note: Subdivision 4. applies to both construction of a new facility and to construction of an emissions unit which itself constitutes a major source and is to be located at an existing facility.

5. \$800 for revision of a construction permit when requested by the permit holder or the permit holder's agent.

Note: Once a construction permit has expired, it may no longer be revised, and the permit holder must obtain a new construction permit before proceeding.

(b) Any person requiring a determination of exemption under s. NR 406.04 (1) (i) shall pay a fee of \$600.

(c) The basic fees in par. (a) shall be reduced by \$150 if the permit applicant publishes the class 1 newspaper notice required under s. 144.392 (5) (c), Stats.

(d) Any person who applies for a construction permit for an air contaminant source shall submit \$1,000 with the application. This \$1,000 may not be refunded unless the department determines that a permit is not required. When a fee is required under par. (b), only the amount not required to cover the fee will be refunded.

(e) When a construction permit application is received for a source where the basic emissions unit, which is not a portable source, is to be installed at one specified facility and, in the same application, a request is also made to issue construction permits to allow installation of the same basic emissions unit at other facilities at different locations and all the facilities for which construction permits are requested are under common ownership or control, the permit applicant shall pay the basic fee specified in par. (a) plus the additional fees in sub. (2). The fee for each additional construction permit at different locations shall be \$400 each, plus the fees in sub. (2) except when the action specified in sub. (2) has been completed for one location and a separate action as set forth in sub. (2) is not required for each additional permit at each different location. When an action covered under sub. (2) must be completed for applications at more than one location, the fee in sub. (2) shall be charged for each time the action is completed.

(2) ADDITIONAL DIRECT SOURCE FEES. In addition to the basic direct source fees prescribed in sub. (1) (a) and (e), each person who applies for and is issued a construction permit for a direct source for which an application fee is authorized shall pay the following fees in the amounts indicated:

(a) \$300 per basic emissions unit requiring review and analysis if the permit application requires the review and analysis of 2 or more basic emissions units.

(b) \$1,000 if the permit application is for a source requiring an analysis of alternatives under s. NR 408.08 (2).

(c) \$2,500 if the permit application is for a source which requires an emission offset under ch. NR 408 or the determination of a net emissions increase under ch. NR 405.

(d) \$2,000 per maximum achievable control technology (MACT), best available control technology (BACT) or lowest achievable emission rate (LAER) determination if the permit application is for a source which requires a case-by-case MACT, BACT or LAER determination. This excludes BACT or LAER determinations made under ch. NR 445.

(e) \$500 if the permit application is for a minor source or minor modification to a major source whose projected air quality impact requires a detailed air quality modeling analysis.

(f) \$2,400 if the permit application is for any source which is not a minor source or minor modification to a major source and whose projected air quality impact requires a detailed air quality modeling analysis.

(g) \$500 if the permit application is for a direct source which may emit a hazardous air contaminant listed in s. NR 406.04 (2) (f) and which receives a permit which establishes a specific emission limitation for one or more of such hazardous air contaminants, or the source is subject to an emission limitation under chs. NR 446 to 483.

(h) \$1,000 if the permit application is for a source for which the construction permit requires emission testing for a single air contaminant. The fee under this paragraph shall be increased by an additional \$500 for each additional air contaminant for which emission testing is required by the construction permit. The total fee under this paragraph may not exceed \$3,000. In the event that the department determines that some or all of the tests are not required and, therefore, are not performed, the fees under this paragraph shall be refunded for those air contaminants not tested.

(i) \$800 if the permit application is for a source which requires an environmental assessment under ch. NR 150.

(j) \$700 if a public hearing is held at the request of the applicant or the applicant's agent.

(k) \$300 per basic emissions unit for each emissions unit at a source which requires an emission limit determination under s. NR 424.03 (2) (c).

(l) \$1,000 for each ch. NR 445 best available control technology (BACT) or lowest achievable emission rate (LAER) determination if the permit application is for a source which requires a case-by-case BACT or LAER determination under ch. NR 445. If the department makes a single BACT or LAER determination addressing the control of multiple air contaminants, the source shall be billed for only one BACT or LAER determination under this paragraph.

(m) \$1,000 if the permit application is for a source which requires specific permit conditions to limit the potential to emit in order to make the source or modification a minor source or minor modification.

(n) \$2,000 if the permit application is for a medical waste incinerator which requires review of a needs and siting analysis under s. 144.393 (10), Stats.

(o) When the permit applicant requests in writing that the permit be issued in a shorter time interval than the total time interval allowed under s. 144.392, Stats., and the department is able to comply with the request:

1. \$2,000 for an application for a source which is not subject to review under ch. NR 405 or 408 if the permit is issued within 50 days of receipt of a complete application.

2. \$3,000 for an application for a source which is subject to review under ch. NR 405 or 408 if the permit is issued within 60 days of receipt of a complete application.

3. \$2,000 for an application for a source which is subject to review under ch. NR 405 or 408 if the permit is issued within 61 to 90 days of receipt of a complete application.

(3) INDIRECT SOURCE FEES. (a) Each person who applies for and is issued a construction permit for an indirect source shall pay the following amounts:

1. \$5,750 if the permit application is for an indirect source.

2. An additional \$2,500 if the permit application is for an indirect source which requires an environmental assessment under ch. NR 150.

(b) When the permit applicant requests in writing that the permit be issued in a shorter time interval than the total time interval allowed under s. 144.392, Stats., and the department is able to comply with the request, one of the following additional fees shall apply:

1. \$3,000 for an application for an indirect source if the permit is issued within 60 days of receipt of a complete application.

2. \$1,500 for an application for an indirect source if the permit is issued within 61 to 90 days of receipt of a complete application.

(c) Any person requiring a determination of exemption under s. NR 411.04 (2) (c) shall pay a fee of \$275.

(d) The fee under par. (a) shall be reduced by \$150 if the permit applicant publishes the class 1 newspaper notice required under s. 144.392 (5) (c), Stats.

(e) Any person who applies for a construction permit for an indirect source shall submit \$1,000 with the application. This \$1,000 may not be refunded unless the department determines that a permit is not required. When a fee is required under par. (c), only the amount not required under par. (c) will be refunded.

(4) **PAYMENT.** The department shall mail a billing statement for the required application fee to the person applying for the permit at the time the permit is issued. The application fee shall be paid within 30 days of the date of the billing statement. The department may not issue the operation permit to the facility until the department receives full payment of the application fee.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; renum. from NR 410.04, Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. Register, April, 1988, No. 388, eff. 5-1-88; am. (2) (g), Register, September, 1988, No. 393, eff. 10-1-88; am. (2) (l), Register, April, 1989, No. 400, eff. 5-1-89; corrections in (intro.), (1) (b) (intro.) and 1., (2) (intro.) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1989; am. (intro.), (1) (b) (intro.) and 1., renum. (1) (b) 2 to be 4., cr. (1) (b) 2. and 3., Register, October, 1991, No. 430, eff. 11-1-91; am. (intro.), (1) (b) (intro.), (d), (e) and (3), r. (1) (a) 2. and (1) (b) 4., Register, May, 1993, No. 449, eff. 6-1-93; am. (intro.), (1) (b) (intro.), r. (1) (b) 1. to 3., Register, February, 1995, No. 470, eff. 3-1-95; am. (intro.), (2) (intro.), (a) to (f), (i), r. and recr. (1) and (2) (h), r. (2) (j), renum. (2) (k) to (m) and (3) to be (2) (j), (k) and (o) and (4) and am. (2) (j), (k) and (o), cr. (2) (l) to (n) and (3), Register, June, 1995, No. 474, eff. 7-1-95; correction in (2) (k) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1995, No. 480, eff. 1-1-96.

NR 410.04 Annual emission fee. (1) FEE REQUIRED. Except as provided under sub. (3), any person who owns or operates a facility for which an operation permit is required under s. 144.391, Stats., shall pay an annual emission fee to the department at the rate specified in s. 144.399 (2), Stats.

(2) **AIR CONTAMINANTS SUBJECT TO FEE.** (a) Except as provided under par. (b), the annual emission fee shall be based on the annual actual emissions of the air contaminants listed in Table 1 of s. NR 438.03, as those annual actual emissions are recorded in the annual emission inventory prepared by the department under s. NR 438.03 (5).

(b) The following emissions are exempt from the emission fees required under this section:

1. Emissions from any acid rain phase I affected unit for the years 1995 through 1999.

2. Except as provided under sub. (4), emissions in excess of 4,000 tons per year of any air contaminant from any one facility.

3. Emissions of carbon monoxide and carbon dioxide.

4. Emission reduction credits reported as actual emissions.

(c) For the purpose of charging fees, the following groups of air contaminants shall be considered single air contaminants:

1. Particulate matter and PM₁₀.

2. Reduced sulfur compounds, mercaptans, hydrogen sulfide and total reduced sulfur.

3. Air contaminants reported as both a hazardous air contaminant and as either a particulate or volatile organic compound. The air contaminants which are not eligible for this exemption are identified by footnote number 3 in Table 1 of s. NR 438.03.

(3) **FACILITIES EXEMPT FROM ANNUAL EMISSIONS FEES.** The following facilities are exempt from the requirement to pay annual emissions fees under s. 144.399 (2), Stats., and this section:

(a) Any facility whose total annual actual emissions of all air contaminants listed in Table 1 of s. NR 438.03, and annotated with footnote 3, are less than 5 tons.

(b) Indirect sources of air pollution.

(4) **UTILITIES WITH ACID RAIN PHASE I AFFECTED UNITS.** Notwithstanding sub. (2) (b) 2., the department shall charge fees on emissions in excess of 4,000 tons per year of any air contaminant from any facility operated by a utility that owns or operates an acid rain phase I affected unit to the extent necessary to recover the fees that would have been charged to that utility if the exemption under sub. (2) (b) 1. did not exist.

(5) **PAYMENT.** Annual emission fees shall be paid to the department within 30 days of receipt of the bill.

(6) **DISPUTED PAYMENT.** (a) The owner or operator of a facility who disputes its annual emissions fee may request, in writing, that the department review the fee. Such a request shall be filed within 30 days of receipt of the bill. The department shall review and supply to the facility, within 14 calendar days of receipt of the written request, all information used to calculate the annual emissions fee. If the facility continues to dispute the fee, it shall supply to the department, within 14 calendar days after receipt of this information, the reasons it disputes the fee. The facility shall be notified by the department, within 7 calendar days of receipt of this information, whether the fee will be adjusted. If the facility continues to dispute the fee, it may appeal the department's final decision pursuant to s. 144.403, Stats.

(b) The facility shall pay the amount of fee not in dispute within 30 days of receipt of the bill.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; renum. from NR 410.05, Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. Register, December, 1995, No. 480

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ter, April, 1988, No. 388, eff. 5-1-88; r. and recr. Register, May, 1993, No. 449, eff. 6-1-93; am. (3), Register, February, 1995, No. 470, eff. 3-1-95.

NR 410.05 Asbestos abatement project permit exemption review and inspection fees. (1) **FEEs REQUIRED.** Any person who submits an asbestos abatement notification under ch. NR 447 shall pay the fees in subs. (2) and (3). The fees shall be submitted with the completed notification required under ch. NR 447 and are non-refundable.

(2) **PERMIT EXEMPTION REVIEW FEE.** Any person requiring a determination of exemption under s. NR 406.04 (1) (a) shall pay one of the following amounts:

(a) \$50 for a determination of exemption if the asbestos renovation or demolition operation involves at least 260 linear feet or at least 160 square feet of friable asbestos containing 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.

(b) \$125 for a determination of exemption 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 par. (a).

(3) **INSPECTION FEE.** The amount of the asbestos abatement project inspection fee shall be:

(a) \$50 if, in a facility being demolished, the amount of friable asbestos containing material is less than 260 linear feet on pipes and less than 160 square feet on other facility components.

(b) \$100 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 the method given in sub. (2) (a).

(c) \$200 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).

History: Cr. Register, February, 1995, No. 470, eff. 3-1-95.