

98-162 NP 410 - INCREASE CNLST,
PERMIT FEES

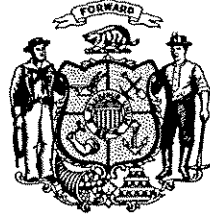
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

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 98-162

AN ORDER to amend NR 410.03 (intro.) and (1) (a), (b) and (d), (2) and (4), relating to an increase in construction permit fees.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

10-27-98 RECEIVED BY LEGISLATIVE COUNCIL.

11-20-98 REPORT SENT TO AGENCY.

RNS:WF:kjf

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

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to **amend** NR 410.03(intro.) and (1)(a), (b), (d), (2) and (4) relating to an increase in construction permit fees.

AM-37-98

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 227.11(2)(a), 285.11(1), and 285.69(1), Stats.

Statutes interpreted: s. 285.11(1) and (6), Stats. The State Implementation Plan developed under that provision is revised.

Section 110(a)(2)(L) of the 1990 Clean Air Act and s. 285.69(1), Wis. Stats., authorize the collection of reasonable fees for the (direct and indirect) costs of reviewing and acting on applications for construction permits and permit exemptions. The revisions proposed in this rule package increase fees for construction permit applications.

SECTION 1. NR 410.03(intro.) and (1)(a), (b), and (d), (2) and (4) are amended to read:

NR 410.03 APPLICATION FEE. (intro.) Any person required under s. 285.60, Stats., to obtain a construction permit for a direct source shall pay an application fee, ~~consisting of which is~~ 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. 285.60, 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)(a)(intro.) Each person who applies for and is issued a construction permit for a direct source shall pay a the following basic fee according to the following amounts:

1. ~~\$2,300~~ \$3,100, if the permit application is not reviewed under ch. NR 405 or 408, and the permit application 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 \$4,400, for a major modification as not defined as major in s. NR 405.02(21) or 408.02(20) and , when the permit application is for an emissions unit to be located at a major source as defined in s. NR 407.02(4).

3. ~~\$6,000~~ if the permit application is \$8,000, for a major modification as defined in s. NR 405.02(21) or 408.02(20) and the permit is for an , unless the emissions unit which does not constitute is 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 \$12,000, 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).

5. ~~\$800~~ \$1,100, for revision of a construction permit when requested by the permit holder or the permit holder's agent.

(b) Any person requiring a determination of exemption under s. NR 406.04 (1)(i) shall pay a fee of ~~\$600~~ \$800.

(d) Any person who applies for a construction permit for ~~an air contaminant~~ a direct source shall submit ~~\$1,000~~ a \$1,350 fee with the application. This ~~\$1000~~ fee 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.

(2) ADDITIONAL DIRECT SOURCE FEES. ~~In addition to the basic direct source fees prescribed in sub. (1)(a) and (c), each~~ Each person who applies for and is issued a construction

permit for a direct source for which an application fee is authorized shall pay all the following additional fees in the amounts indicated which apply:

(a) ~~\$300~~ \$400 per basic emissions unit requiring review and analysis if the permit application requires the review and analysis of 2 or more basic emissions units is required.

(b) ~~\$1,000~~ \$1,350, if the permit application is for a source requiring an analysis of alternatives under s. NR 408.08(2) is required.

(c) ~~\$2,500~~ \$3,350, 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 is required.

(d) ~~\$2,000~~ per \$2,700, for each case-by-case determination of 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~~ does not apply to BACT or LAER determinations made under ch. NR 445.

(e) ~~\$500~~ if the permit application is \$700, 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 \$3,200, for any source which is not other than 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~~ \$650, 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, or if the permit establishes an emission limit for a hazardous air contaminant listed in Table 1, 2, 4 or 5 of ch. NR 445.

(h) ~~\$1000 if the permit application is for a source for which~~ If the construction permit requires emission testing for a single air contaminant. ~~The fee under this paragraph shall be increased by an additional \$500 , \$1,350 for the first air contaminant tested and \$950 for each additional air contaminant for which emission testing is required by the construction permit tested up to a maximum of \$4200. The total fee under this paragraph may not exceed \$3000. In the event that the~~ If the department determines later finds that some or all of the tests are not required and, therefore, are not performed, the corresponding fees under this paragraph shall be refunded for those air contaminants not tested.

(i) ~~\$800~~ \$1,050, if the permit application is for a source which requires an environmental assessment under ch. NR 150 is required.

(j) ~~\$700~~ \$950, if a public hearing is held at the request of the applicant or the applicant's agent.

(k) ~~\$300 per~~ \$400 for each 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~~ \$1,350, for each ch. NR 445 case-by-case determination of 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 required~~ 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~~ \$1,350, if the permit application is for a source which requires specific permit conditions to limit ~~limiting~~ the potential to emit in order are required to make the source or modification a minor source or ~~minor to make the modification a minor modification~~.

(n) ~~\$2,000~~ if the permit application is \$2,650, for a medical waste incinerator which requires requiring review of a needs and siting analysis under s. 285.63(10), Stats.

(o) ~~When~~ If the permit applicant requests, in writing, that the permit be issued in a shorter time interval than the ~~total~~ time interval allowed under s. 285.61, Stats., and the department is able to comply with the request:

1. ~~\$2,000~~ \$2,650, 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~~ \$4,000, for an application for a source which is subject to review reviewed under ch. NR 405 or 408 if the permit is issued within 60 days of receipt of a complete application.

3. ~~\$2,000~~ \$2,650, for an application for a source which is subject to review reviewed under ch. NR 405 or 408 if the permit is issued within 61 to 90 days of receipt of a complete application.

(4) PAYMENT. The department shall ~~mail a billing statement~~ bill the applicant for the ~~required construction permit~~ application fee to the person applying for the permit at the time when 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 is paid in full.

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 _____
George E. Meyer, Secretary

(SEAL)