

Chapter NR 410

AIR PERMIT 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 and by persons who request a determination of exemption from the requirement to obtain an air pollution control permit.

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.

NR 410.02 Definitions. In addition to the definitions in this section, the definitions contained in ch. NR 400 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 ch. NR 484.

(6) "Nonattainment area source" means any source which is located in a nonattainment area or which may affect significantly the air quality in a nonattainment area and which, considering air pollution control equipment, is capable of emitting an air contaminant for which the area is classified as a nonattainment area.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84; renum. from NR 410.03, Register, September, 1986, No. 369, eff. 10-1-86; renum. (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.

NR 410.03 Application fee. Any person required under s. 144.391, Stats., to obtain a construction permit for an air contaminant source shall pay an application fee, consisting of the sum of the basic fee under sub. (1)

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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) **BASIC FEES.** (a) Except as provided in pars. (c) and (d), each person who applies for and is issued an air pollution control permit for which an application fee is authorized shall pay a basic fee according to the following amounts:

1. \$1,300 if the permit is for the construction or replacement of a direct minor source or for the construction of a new indirect minor source.

3. \$1,000 if the permit is for the modification of a direct or indirect minor source.

4. \$3,000 if the permit is for the modification of a direct or indirect major source.

5. \$4,500 if the permit is for the construction, reconstruction or replacement of a direct major source.

6. \$5,000 if the permit is for the construction of a new indirect major source.

(b) Any person requiring a determination of exemption under s. NR 406.04 (1) (i) or (n) shall pay the following amounts:

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

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.

(c) The basic fees in par. (a) shall be reduced by \$100 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 the construction, replacement, modification, or reconstruction of an air contaminant source shall submit \$500 with the application. This \$500 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 the construction, replacement, reconstruction or modification of a direct source where the basic emission 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 modify air pollution control permits for other sources at

different locations to include the same basic emission units, and all the sources for which modification is 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 modifying each additional permit at different locations shall be \$200 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 modification 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 FEES.** In addition to the basic fees prescribed in sub. (1) (a) and (e), each person who applies for and is issued an air pollution control permit for which an application fee is authorized shall pay the following fees in the amounts indicated:

(a) \$100 per basic emissions unit requiring review and analysis if the permit application requires the review and analysis of 2 or more basic emission units.

(b) \$300 if the permit application is for a direct, nonattainment area source.

(c) \$1,400 if the permit application is for a direct source which requires an emission offset, a growth accommodation credit under s. 144.393 (7), Stats., or the determination of a net emissions increase under ch. NR 405.

(d) \$1,000 per best available control technology (BACT) or lowest achievable emission rate (LAER) determination if the permit application is for a direct source which requires a BACT or LAER determination.

(e) \$200 if the permit application is for a direct minor source or minor modification to a direct major source whose projected air quality impact requires a detailed air quality modeling analysis.

(f) \$1,400 if the permit application is for any direct source which is not a direct minor source or minor modification to a direct 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) \$750 if the permit application is for a direct source for which the department requires a stack test prior to the department's issuance of a release for permanent operation. The \$750 shall be refunded in the event the department determines that the tests are not required and, therefore, are not performed.

(i) \$400 if the permit application is for a direct source which requires an environmental assessment under ch. NR 150.

(j) \$500 if the permit application is for the modification of a direct major source whose net increase in emissions of any of the following pollutants would equal or exceed any of the following rates:

1. Carbon monoxide: 100 tons per year.
2. Nitrogen oxides: 40 tons per year.
3. Sulfur dioxide: 40 tons per year.
4. Particulate matter: 25 tons per year.
5. Volatile organic compounds: 40 tons per year.
6. Lead: 0.6 tons per year.
7. Asbestos: 0.007 tons per year.
8. Beryllium: 0.0004 tons per year.
9. Mercury: 0.1 tons per year.
10. Vinyl chloride: 1 ton per year.
11. Fluorides: 3 tons per year.
12. Sulfuric acid mist: 7 tons per year.
13. Hydrogen sulfide (H₂S): 10 tons per year.
14. Total reduced sulfur (including H₂S): 10 tons per year.
15. Reduced sulfur compounds (including H₂S): 10 tons per year.

(k) \$500 if a public hearing is held at the request of the applicant or their agent.

(l) \$100 if the permit application is for a direct source which requires an emission limit determination under s. NR 424.03 (2) (b) 2.

(m) When the permit applicant requests in writing that the permit be issued in a shorter time interval than the time interval set forth in s. 144.392, Stats., and the department is able to comply with the request, the following fees shall apply:

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

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

3. \$1,000 for an application which is subject to review under ch. NR 405 if the permit is issued within 90 days of receipt of a complete application.

(3) 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 op-

eration 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.

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; and

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.** (a) Any facility whose total annual emissions of all air contaminants listed in Table 1 of s. NR 438.03 is less than 5 tons is exempt from the requirement to pay an annual emissions fee.

(b) Indirect sources of air pollution are exempt from the requirement to pay an annual emissions fee.

(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, April, 1988, No. 388, eff. 5-1-88; r. and recr. Register, May, 1993, No. 449, eff. 6-1-93.