

Chapter NR 410

AIR PERMIT FEES

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NR 410.01 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.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84.

NR 410.02 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.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84.

NR 410.03 Definitions. The following definitions are applicable to the terms used in this chapter:

(1) "Air contaminant source" has the meaning designated in s. 144.30 (2), Stats.

(2) "Air pollution control permit" has the meaning designated in s. 144.30 (3), Stats.

(3) "Basic emissions unit" has the meaning designated in s. NR 154.01 (27m).

(4) "Best available control technology" or "BACT" has the meaning designated in s. 144.30 (9), Stats.

(5) "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.

(6) "Environmental assessment" has the meaning designated in s. NR 150.02 (8).

(7) "Lowest achievable emission rate" or "LAER" has the meaning designated in s. 144.30 (15), Stats.

(8) "Major source" means any stationary source which is a nonattainment area, major source or an attainment area major source under the criteria in s. 144.391 (1) (a) or (2) (a), Stats.

(9) "Minor source" means any stationary source which is not a major source.

(10) "Modification" has the meaning designated in s. 144.30 (20), Stats.

(11) "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.

(12) "Person" has the meaning designated in s. 144.01 (9m), Stats.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84.

Chapter NR 410

AIR PERMIT, EMISSION AND INSPECTION FEES

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NR 410.03 Application fee. Any person required under s. 285.60, Stats., to obtain a construction permit for a direct source shall pay an application fee 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 to obtain a determination of exemption from the department shall pay the basic fee in sub. (1) (b). Any person requesting a waiver to commence construction under s. 285.60 (5m), Stats., or s. NR 406.03 (2) shall pay the basic fee in sub. (1) (bm). 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) BASIC DIRECT SOURCE FEES. (a) Each person issued a construction permit for a direct source shall pay the following basic fee:

5. \$1,100, for revision of a construction permit when requested by the permit holder or the permit holder's agent unless the only reason for the revision is to make the source eligible for a registration operation permit.

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.

6. \$2,300 for coverage under a general construction permit issued to a part 70 source under s. NR 406.16.

7. \$1,100 for coverage under a registration construction permit issued to a part 70 source under s. NR 406.17.

8. \$10,150, per air contaminant regulated under a plant-wide applicability limitation, when establishing a plant-wide applicability limitation under s. NR 406.035 (1).

9. \$4,850 for the increase of a plant-wide applicability limitation under s. NR 405.18 (11) or 408.11 (11).

10. \$4,850 for the distribution of allowable limits upon expiration of a plant-wide applicability limitation under s. NR 406.035 (2).

(b) Each person requesting a determination of exemption under ch. NR 406 shall pay the following applicable fee:

1. \$800, for a determination of exemption under s. NR 406.04 (1) (i).

May not be current adm. code. For current adm. code see: <http://www.legis.state.wi.us/rsb/code>.

2. \$1,100 for a determination of exemption under s. NR 406.04 (1f) for a modification to a stationary source which is regulated by a plant-wide applicability limitation.

3. \$4,400 for a determination of exemption under s. NR 406.04 (1k).

4. \$700, for a detailed air quality modeling analysis of the projected air quality impact of a determination of exemption under s. NR 406.04 (1f) or (1k).

(bm) Any person requesting a waiver of construction permit requirements under s. 285.60 (5m), Stats., or s. NR 406.03 (2) shall submit under s. 285.69 (1d), Stats., a \$300 fee with the request. The fee is non-refundable.

(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. 285.61 (5) (c), Stats.

(d) Any person who applies for a construction permit for a direct source shall submit a \$1,350 fee with the application. This fee may not be refunded unless the department determines that a permit is not required. When a fee is required under par. (b) or (f), 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.

(f) Any person submitting a claim for a construction permit exemption under s. NR 406.04 (1q) shall pay a fee of \$800.

(4) PAYMENT. The department shall bill the applicant for the construction permit application fee when the permit is issued. The application fee shall be paid within 30 days of the date of the billing statement.

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; am. (1) (a) 2., Register, December, 1996, No. 492, eff. 1-1-97; am.(intro.), (1) (a), (b) and (d), (2) and (4), Register, December, 1999, No. 528, eff. 7-1-00; correction in (2) (g) made under s. 13.93 (2m) (b) 7., Stats., Register October 2003 No. 574; CR 02-097: am. (2) (g) Register June 2004 No. 582, eff. 7-1-04; CR 04-107: am. (1) (a) 5., cr. (1) (a) 6. and 7. Register August 2005 No. 596, eff. 9-1-05; CR 06-047: am. (1) (d), cr. (1) (f) Register May 2007 No. 617, eff. 6-1-07; CR 06-079: am. (intro.), cr. (1) (bm) Register May 2007 No. 617, eff. 6-1-07; CR 06-019: am. (intro.), cr. (1) (a) 8. to 10., (b) (intro.) and 2. to 4., renum. (1) (b) to be (1) (b) 1. and am., Register June 2007 No. 618, eff. 7-1-07; CR 07-040: am. (4) Reg-ister April 2008 No. 628, eff. 5-1-08.

NR 410.04 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).

(1) **BASIC FEES.** (a) Except as provided in par. (b), 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. \$1,050 if the permit is for the construction or replacement of a minor source;

2. \$800 if the permit is for the modification of a minor source;

3. \$2,550 if the permit is for the construction, reconstruction or replacement of a major source; or

4. \$1,400 if the permit is for the modification of a major source.

(b) The basic fees prescribed in par. (a) shall be reduced by the following amounts:

1. \$100 if the permit applicant publishes the class 1 newspaper notice required under s. 144.392 (6) (c), Stats., and

2. That portion of the amount of any environmental impact statement fee assessed under s. NR 150.11 which related to an air quality analysis as required under s. 144.399 (2), Stats.

(2) **ADDITIONAL FEES.** In addition to the basic fee prescribed in sub. (1), each person who applies for and is issued an air pollution control permit for which an application fee is authorized shall pay the following applicable additional fees in the amounts indicated:

(a) \$250 if the permit application requires the review and analysis of 2 or more basic emissions units;

(b) \$200 if the permit application is for a nonattainment area source;

(c) \$800 if the permit application is for a source which requires an emissions offset;

(d) \$1,500 if the permit application is for a source which requires a BACT or LAER determination;

(e) \$500 if the permit application is for a source whose projected air quality impact requires a detailed air quality modeling analysis;

(f) \$500 if the permit application is for a source which may emit a toxic or hazardous substance listed in s. NR 154.04 (2) (b)5. or 154.19;

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

(h) \$500 if the permit application is for a source which requires a stack test prior to the department's issuance of a release for permanent operation; and

(i) \$250 if the permit application is for the modification of a 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 (H_2S): 10 tons per year
14. Total reduced sulfur (including H_2S): 10 tons per year
15. Reduced sulfur compounds (including H_2S): 10 tons per year

(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 release for permanent operation of the source until the department receives full payment of the application fee.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84.

NR 410.05 Implementation and enforcement fee. (1) **FEE REQUIRED.** Any person who owns or operates an air contaminant source for which an air pollution control permit has been issued shall pay an annual fee for the implementation and enforcement of the permit conditions according to the amount established in sub. (2).

(2) **AMOUNT OF FEE.** The amount of the annual implementation and enforcement fee shall be:

- (a) \$500 per year for a major source; or

(b) \$200 per year for a minor source.

(3) PAYMENT. Annually the department shall mail billing statements to persons owning or operating air contaminant sources for which the payment of an implementation and enforcement fee is required. Persons required to pay an enforcement and implementation fee shall pay the fee within 30 days of the date of the billing statement.

History: Cr. Register, April, 1984, No. 340, eff. 5-1-84.

NR 410.06 Severe ozone nonattainment area major source fee. (1) **FEE REQUIRED.** Except as provided in sub. (3), any person who owns or operates a stationary source which emits or has the potential to emit 25 tons per year of volatile organic compounds (VOCs) and which is located in Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha county shall pay a fee, computed in accordance with sub. (2), beginning in 2008 and in each calendar year thereafter until the county in which the stationary source is located is redesignated as an attainment area for the 1-hour ozone standard. The fee required under this section shall be paid at the time that the annual emission fee under s. NR 410.04 is paid.

(2) **COMPUTATION OF FEE.** (a) *Fee amount.* The fee required under sub. (1) shall equal \$5,000, adjusted in accordance with par. (c), per ton of VOCs emitted by the source during the previous calendar year in excess of 80% of the baseline amount, computed under par. (b).

(b) *Baseline amount.* For purposes of this section, the baseline amount shall be computed, in accordance with any guidance which the administrator may provide, as the lower of the amount of actual VOC emissions or the VOC emissions allowed under either a permit or emission limitations applicable to the source, during calendar year 2007.

(c) *Annual adjustment.* The fee amount under par. (a) shall be adjusted annually, beginning in 1990, by the percentage, if any, by which the consumer price index, as defined in section 502(b)(3)(B)(v) of the act (42 USC 7661a (b)(3)(B)(v)), has been adjusted.

(3) **EXCEPTION.** No person who owns or operates a stationary source is required to pay any fee under sub. (1) with respect to emissions during any year that is treated as an extension year under section 181(a)(5) of the act (42 USC 7511(a)(5)).

History: Cr. Register, January, 2001, No. 541, eff. 2-1-01.