

Senate Public Hearing – Committee on Environment

Wednesday, September 29, 2010

411 South – State Capitol

Clearinghouse Rule 10-047

Relating to fees for reviewing applications for construction of air pollution sources.

I am Andrew Stewart, Chief of the Permits and Dispersion Modeling Section in the Department of Natural Resources, Bureau of Air Management. I am here today to speak in support of our new source review program and related state rules. The Natural Resources Board adopted the Air Management rule being considered at this hearing in August, 2010.

The Department of Natural Resources Air Management's new source review program reviews and issues permits for sources of air pollution at new and expanding businesses in Wisconsin. All activities under this program are funded solely by fees paid by the permit applicants themselves. The majority of these fees have not been raised since 1999.

Over the past four years the Department has carried out a number of efficiency and streamlining efforts:

- We have downsized the number of staff working on construction permits, creating a smaller group of people dedicate to reviewing construction permit applications.
- We have created and implemented new types of permits called General and Registration permits that significantly reduces the permitting burden for business that qualify. Over 800 companies, many being small businesses, have taken advantage of these permits since they were introduced.
- We have added additional exemptions so that changes that once required a air permit now no longer do so.
- And we have created and put into production information technology systems to supplement and support these improvements.

These efforts have resulted in significant improvement in the Department's ability to review and issue construction permits that is most evident in the reduction in time it takes to get one, going from 132 days in 2007 to 73 days in 2010.

However, despite these efforts, the Department stills faces a deficit because over the last 11 years since the last fee increase, staff cost have gradually increased and the fees charged today are not sufficient to pay for the work that needs to be done to review and issue these permits in a timely manner.

The fee increases contained in this rule revision will enable the Air Program to maintain the current levels of service and activities at a time when it is critical for businesses to be able to adapt quickly in order to take advantage of opportunities.

Summary of the Proposed Rule

I have summarized the rule in bullet point, but let me just say that the fee increases being requested are what have been determined to be necessary to adequately support the new source review program in meeting its statutory obligations and deadlines. It is based on a workload analysis and takes into account all of the streamlining efforts mentioned.

The revised rule

- increases existing fees for construction permit applications;
- increases the existing non-refundable initial application fee;
- increases existing fee for determinations of being exempt from the need for a construction permit;

- establishes fees for other determinations of being exempt from the need for a construction permit where currently there is no charge;
- establishes the ability to collect fees for permit applications that are withdrawn or abandoned prior to final permit determination.
- expands the ability to refund fees in situations where the final cost of the permit is less than the initial application fee.

Public Comment

The department conducted 3 hearings on the revisions in June in Madison, Milwaukee and in Wausau. No comments were made at those hearings. Written comments were received on the revisions from Wisconsin Manufactures & Commerce, the Wisconsin Paper Council and jointly from the Wisconsin Transportation Builders and the Aggregate Producers of Wisconsin. Basically, comments were made on the size of the fee increase and questions were raised as to whether the department has availed itself of all of the streamlining and efficiencies opportunities available to it.

The requested fee increase is based on an analysis of what is needed to continue to be able to get construction permits issued in the time it takes today. Without it, available resources will be a fraction of what was available in previous years, resulting in an immediate and direct impact on the time it takes to review and issue a construction permit. The department feels that this is an unacceptable situation that would be detrimental to Wisconsin's economic recovery.

One comment stated that the proposed fees are higher than those in surrounding states, making doing business in Wisconsin more expensive.

The proposed fees are in line with fees charged for similar work in surrounding states. This is based on communications with new source review staff in Minnesota, Illinois, Michigan and Indiana. Direct comparison on a fee-by-fee basis is difficult due to the different ways that states collect fees to support this work.

Another comment was directed at the increase in the initial application fee, which is being proposed to go from \$1350 to \$7500.

Raising the initial application fee does not raise the final cost of obtaining an air permit as the entire amount is applied towards the final fees assessed. In other words, this fee serves as a down payment on the final cost of the permit. Accompanying the request to raise the initial application fee is also a request to expand the air program's ability to provide refunds to permit applicants when the final cost of the permit is less than that fee.

In closing, the majority of permit review fees have not been raised since 1999. Inflation alone has increased over 30% since then. The new source review program has been operating under a structural deficit for a number of years and has completely exhausted surplus funds that had been built up in previous years. Furthermore, and more importantly, air regulations continue to get more complex, and it is happening at a time when it has never been more critical for a business to be able to adapt quickly in order to take advantage of opportunities. Without adequate resources the air program will not be able to respond to these changes, putting both these opportunities and public protection at risk.

Thank you for your time and attention. I will be glad to answer any questions about the proposed rule revisions.