

The statement of scope for this rule, SS 048-23 was approved by the Governor on July 28, 2023, published in Register No. 812A1 on August 7, 2023, and approved by the Natural Resources Board on September 27, 2023. This rule was approved by the Governor on insert date.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, AMENDING, AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 410.03 (1) (c), and (2) (o); to **renumber and amend** NR 410.03 (1) (a) 1., 2., 3., 4., 8., 9., and 10., (ae), (b) 1., 2., 3., 3m. and 4., (2) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (L), (m), and (n); **amend** NR 410.03 (1) (a), and (e), and (2) (intro); and to **create** NR 410.03 (1) (a) 1. a. and b., 2. a. and b., 3. a. and b., 4. a. and b., 8. a. and b., 9. a. and b., 10. a. and b., (ae) 1. and 2., (b) 1. a. and b., 2. b., 3. b., 3m. a. and b., 4. a. and b., (2) (a) 1. and 2., (b) 1. and 2., (c) 1. and 2., (d) 1. and 2., (e) 1. and 2., (f) 1. and 2., (g) 1. and 2., (h) 2., (i) 1. and 2., (j) 1. and 2., (k) 1. and 2., (L) 1. and 2., (m) 1. and 2., (n) 1. and 2., and (p), (4) (c), (5), and (6) relating to revisions to fees for reviewing air pollution control construction permit applications and exemption determination requests and affecting small business.

AM-10-23

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Sections 227.11 (2) (a), 285.11 (1) and (6), 285.14 (1) and 285.69 (1), Stats.

2. Statutory Authority: Sections 227.11 (2) (a), 285.11 (1) and (6), 285.14 (1), and 285.69 (1), Stats.

3. Explanation of Agency Authority:

Section 227.11 (2) (a), Stats., confers rulemaking authority to an agency where such rules are necessary to effectuate the purpose of existing statutory authority. The department is required under s. 285.11 (1), Stats., to promulgate and implement rules consistent with state air pollution statutes in ch. 285, Stats.

Section 285.69 (1), Stats., authorizes the department to collect reasonable fees to fund the review of applications for, and issuance of, a construction permit for air pollution sources and for the review of a request for an exemption from the requirement to obtain an air pollution control permit.

Section 285.11 (6), Stats., requires the department to prepare, develop and revise a state implementation plan (SIP) for the prevention, abatement and control of air pollution in the state. A control measure or strategy submitted by the department for inclusion in the SIP must be promulgated as a rule under s. 285.14 (1), Stats.

4. Related Statutes or Rules:

Pursuant to s. 285.69, Stats., ch. NR 410, Wis. Adm. Code, establishes requirements and procedures for the payment of fees by persons who are required to obtain construction permits for air contaminant sources or who request a determination of exemption from the requirement to obtain an air pollution control permit. Sections 285.61 and 285.66, Stats., and chs. NR 405, 406 and 408, Wis. Adm. Code, establish applicability, review requirements, and duration for construction permits.

5. Plain Language Analysis:

As required by the federal Clean Air Act (CAA), the department operates a new source review (NSR) construction permit program that applies to the construction, reconstruction, replacement, relocation, or modification of stationary sources that emit air contaminants. In most cases when a construction permit is

required, a facility cannot construct or modify a source of air pollution before the construction permit is issued.

Since economic development relies on industry's ability to quickly react to business opportunities and market changes, the department has long prioritized the timely issuance of construction permits and has introduced efficiencies whenever possible. For example, the department developed an online air pollution control permit database and implemented three registration permits, two general permits, several exemptions, and a plantwide applicability limit alternative for major sources. More recently, the department streamlined permit forms, created permit application checklists, automated certain applicable requirement determinations, standardized how federal standards are incorporated into permits, and introduced electronic signature and payment systems.

For the past several years, the construction permit program has experienced a significant deficit between its revenues and the expenses needed to operate the program. Several factors have contributed to this shortfall. Fees for construction permit reviews were last increased in January 2011 and have not kept pace with inflation and other costs. New federal air pollution regulations have increased the complexity of permit reviews over time, resulting in more time-consuming reviews. Additionally, air permit streamlining rules promulgated by the department in 2015 and 2020 in response to stakeholder requests created additional permit exemptions and other flexibilities requiring department action for which inadequate fees are collected.

Wisconsin's construction permit program relies entirely on construction permit fees for its funding. Despite department efforts to downsize the program, cut expenses, and implement efficiencies, the revenue generated by these fees is no longer sufficient for the department to administer an effective construction permit program. The program account balance, which has been used to cover annual deficits, is expected to be exhausted by the end of fiscal year (FY) 2025. Increases in fees, along with other changes in the fee structure, are therefore necessary to ensure adequate funding for this program.

The department's ability to accomplish core construction permitting activities is already significantly diminished, which is reflected in the permit program's performance metrics. For example, permit issuance times, historically 3 to 4 months, were 7 to 9 months as of June 2024 and are expected to exceed 12 months by the end of 2024. More critically, it is increasingly difficult for the department to take timely action on permit requests important to economic development, such as those needed by utilities as they transition to cleaner energy generation while simultaneously facing increased demand. These adverse trends will continue unless the permitting program's financial challenges are addressed.

To bring additional revenue to this account, this rule increases existing construction permit fees, creates several new fees, and adds an automatic adjustment factor to help revenues keep pace with increases in personnel costs over time. To mitigate the financial impact on permittees, the rule implements fee increases in two phases. The current and proposed fee amounts are shown in Appendix A.

This rule will reverse a decade-long decline in revenue, stabilize the construction permit account, and allow the department to gradually increase the construction permit program's critically low staffing levels. Once implemented, the rule will essentially allow the program to operate in FY29 at its FY21 budgetary level, but with fewer staff (due to increases in per-staff costs over that period). This is expected to support a construction permitting program that can meet basic expectations and act on the more pressing permit requests from the regulated community. However, even after the fees in this rule are fully implemented, the permit program will be small, compared both to other states and its historical size, and remain considerably below its spending authority.

Decisions made in this rule to lessen the impact of the fee increases on applicants will constrain the program’s capacity to adapt, modernize and rebuild. The gradual increase in revenue following promulgation of this rule will allow staff to be added, but at a slow pace. This will limit the capacity of the program to undertake improvements, efficiencies, or activities like rulemakings that may be requested to streamline the program or address specific facility needs.

The size of the construction permit program deficit does not offer any alternatives to increases in permit fees. The department has implemented all available efficiencies to decrease program expenses without sacrificing the services most critical to the regulated community. No alternatives to the proposed fee changes are available for the department to address the construction permit program’s revenue deficit.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

Section 110(a)(2)(E) of the CAA requires that each state has “adequate personnel, funding, and authority under State law” to carry out its State Implementation Plan (SIP), which includes the construction permit program. There are no existing or proposed federal regulations that mandate how states must fund their construction permit programs. As described in #8, state approaches to funding construction permit programs vary widely.

7. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

The Joint Committee for Review of Administrative Rules did not direct the department to hold a preliminary hearing or comment period on the statement of scope.

Following Natural Resources Board adoption of the statement of scope for this proposed rulemaking, the department held two informational sessions for stakeholders on November 9, 2023. The department also convened a technical advisory group (TAG) in accordance with s. 227.13, Stats., to serve in an advisory capacity on the proposed rulemaking. The TAG met twice during the department’s rule drafting phase and provided input that informed the initial fee revisions proposed in this rule.

The department received additional feedback on this rule from several stakeholders during the economic impact comment period. That input, along with information gathered by the department in subsequent discussions with those commenters, informed additional changes in this rule. The more significant changes include:

- Adjustments to several of the proposed fee revisions.
- Phasing in the fee increases in two steps.
- Basing future automatic adjustments of fees on general wage adjustments, rather than inflation.
- Adding departmental reporting requirements related to this permit program.

When compared to the rule as initially proposed, these changes decrease the economic impact on applicants, but also result in less revenue and staff for the program.

8. Comparison with Similar Rules in Adjacent States:

Sources of construction permit program funding vary significantly between states. Most states rely on a combination of fees and general funding or state grants to support their construction permit programs. Of the nearby states assessed for comparison, Michigan and Wisconsin are the exceptions, as Michigan does not charge construction permit fees, whereas Wisconsin relies entirely on fees.

Because states use different mechanisms to fund their construction permit programs, a comparison of Wisconsin’s construction permit program fees with nearby states needs to consider not only the fees themselves, but the amount states spend on construction permitting, how much is covered by fee-generated revenue, and the overall size of the construction permit program, including the number of full-time equivalent (FTE) staff.

To inform this comparison, the department contacted the Illinois Environmental Protection Agency (IEPA), the Michigan Department of Environment, Great Lakes, and Energy (EGLE), the Minnesota Pollution Control Agency (MPCA), the Iowa Department of Natural Resources (IDNR), and the Indiana Department of Environmental Management (IDEM). Based on the information received, a summary of which is provided below, it is evident that the revenue and staffing levels the proposed rule is intended to support are comparable to, or substantially lower than, the levels in these nearby states.¹

The current construction permit fee schedules for Illinois, Minnesota, Iowa, and Indiana are included in Appendix B (Michigan does not charge fees, relying instead on other state funding). Fee structures in these states differ considerably, making direct comparisons challenging. For example, one state may offset a low “base fee” with additional fees that reflect the complexity of the permit, while another might charge a higher base fee. As a result, the exact fee a state might charge is highly project dependent.²

At the request of stakeholders, the department has also included in Appendix C a summary of construction permit actions from these other states.

Illinois

The IEPA unit that handles construction permits for higher-emitting sources currently consists of 9 FTE (1 supervisor, 3 lead workers, and 5 permit writers). Illinois is in the process of increasing staffing in this unit to 19 FTE (1 supervisor, 3 lead workers, and 15 permit writers). A separate unit, which handles a mix of construction and operation permits for lower-emitting sources, employs 18 FTE (1 supervisor, 3 lead workers, and 14 permit writers). One additional permit writer hire to this unit is planned.

Illinois funds its construction permit program through a combination of fees and other sources of revenue. The IEPA did not provide complete funding or budget information for its construction permitting operations, but estimated the salary and fringe costs for its current 27 FTE would be around \$5.1 million. The agency collects approximately \$1.3-1.4 million in construction permit fees.

Michigan

Michigan’s construction permit program is comprised of two units that together employ 21 FTE (2 supervisors and 19 permit writers). These figures do not include support staff or administration. Michigan EGLE is in the process of adding one more permit writer for one of its existing units, as well as adding an additional construction permit unit comprised of 6 FTE (1 supervisor, 3 permit writers and 2 technical writers).

Michigan EGLE does not charge fees for construction permits, relying instead on various state funds

¹ Note that much of this data is not publicly available, and other states are not obligated to provide the department with this information. The department has included in this assessment the information that other states were willing or able to provide about their permit programs in the manner they provided it. Where the department has estimated information, that is noted.

² Iowa’s [2014 Air Quality Bureau Stakeholder Report](#) (section E, “Fee Structure Benchmarking”) provides a good overview of this issue, including an assessment of what permit fees might be charged in different states for specific types of projects.

(especially the state’s general fund, but also other sources).³ Michigan estimates the cost to support salaries for its current 21 FTE to be approximately \$3.4 million.

Minnesota

The MPCA operates a combined air permitting program without a clear delineation between construction and other permitting. The MPCA employs 34 permit writers at an approximate cost of \$5.4 million. This cost does not include program managers and other support staff. The MPCA is in the process of hiring an additional 14 FTE to work on permits.

Minnesota funds its construction permit program through both fees and state general funds. The MPCA was unable to provide the amount of revenue provided by construction permit fees, but noted they have recently received additional general funding from the legislature to support construction permitting.

Iowa

In FY24 the IDNR’s construction permit program employed a total of 15.5 FTE, including 13 permit writers, on a budget of \$2.1 million. These figures do not include support staff or administrative activities, which are covered by IDNR’s core program funding. Also not included are most construction permitting actions undertaken in Des Moines and Cedar Rapids.⁴

The IDNR funds its construction permit program through a combination of fees and other sources of revenue, primarily state general funds. In FY24, construction permit fees and interest generated approximately \$1.1 million in revenue. State general funds and grants are especially important to minor source construction permitting, accounting for over 80% of total minor source construction permit program revenue.⁵

Indiana⁶

The IDEM has 42 air permit writer positions (handling all permit types, including construction permits), of which 2-3 positions may be vacant at any given time. The IDEM did not provide expense information, but based on data provided by other states, the department estimates that IDEM’s 40 permit writers would cost between \$5.3-\$7.6 million.⁷ Additional support staff and expenses would be in addition to this figure.

Indiana funds its construction permit program through a combination of fees and other revenue sources. The IDEM did not provide any additional details regarding construction permit program funding sources, fee revenue, or overall program budget.

Wisconsin

In FY24, Wisconsin’s construction permit program supported 12.5 FTE at a cost of about \$1.7 million. Of those 12.5 FTE, 5 are considered full-time permit writers, with the remainder going towards permit processing, supervision, policy coordination, technology support, financial administration, and other

³ [Michigan EGLE Air Quality Division Annual Program Report – Fiscal Year 2023](#).

⁴ Polk and Linn counties, which contain Iowa’s two largest cities (Des Moines and Cedar Rapids), implement their own minor source permit programs. Linn County also drafts major source permits, with the IDNR issuing the final permit. The IDNR budget figures described here do not address the cost of construction permitting managed by those counties.

⁵ [IDNR Air Quality Fiscal Year 2025 Draft Budget memo](#).

⁶ Although not adjacent to Wisconsin, a summary of Indiana's construction permit program is provided because many businesses operate in both Wisconsin and Indiana. Indiana also is part of the tristate IL-IN-WI Chicago ozone nonattainment area, in which construction permitting requirements apply.

⁷ The per-FTE cost estimates obtained from other states ranged from \$132,000/year to \$190,000/year.

allocable costs required to be covered by this account.⁸ Wisconsin’s construction permit fees in FY24 are projected to generate revenue of about \$878,000, sufficient to cover about half of the program’s expenses.

In FY25, Wisconsin’s program is planned to further downsize, with expenses of approximately \$1.4 million supporting just 9.75 FTE, including 5 full-time permit writers. In FY29, promulgation of these rule revisions is projected to support a \$2.1 million program and 13.25 FTE.

On a comparative basis, Wisconsin’s current program is therefore considerably smaller than nearby states in both budget and staffing, and will remain smaller even after this rule is implemented.

9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

This rule will address the structural deficit in the construction permit account, stabilize program financials, and allow the department to gradually add additional staff to construction permit activities. The following discussion describes the financial state of the program, the process used to develop revised fees, the anticipated impacts of this rule on future program revenue and staffing, and the benefits and limitations of the proposed approach.

Current program status

In 2024-25, the department is authorized under ch. 20, Stats. (hereafter “ch. 20”), a total of \$2,412,700 and 19.5 FTE to administer the construction permit program. However, funding has been insufficient to support a program of that size for some time. The department’s construction permit program has been running a deficit for many years, with the revenue generated by fees falling short of the amount expended to administer the program (see Table 1). This deficit has increased in recent years. Annual deficits have been covered by using surpluses in the construction permit account, finding program efficiencies, and moving expenses to other funding sources when justifiable.

Table 1. Construction permit program expenses, revenue, and account balance, FY19-25.

	FY19	FY20	FY21	FY22	FY23	FY24*	FY25**
Expenses	\$1,633,895	\$1,781,556	\$2,079,501	\$2,019,497	\$1,747,083	\$1,667,954	\$1,402,713
Revenue	\$1,483,350	\$1,736,750	\$1,806,800	\$1,278,000	\$1,127,250	\$878,150	\$911,952
Difference	(\$150,545)	(\$44,806)	(\$272,701)	(\$741,497)	(\$619,833)	(\$789,804)	(\$483,261)
Account balance	\$2,278,976	\$2,234,169	\$1,961,469	\$1,526,244	\$1,273,066	\$483,261	\$0

* Projected for year end, based on actual data through May 31, 2024.

** As budgeted. Expenses will be managed throughout fiscal year so as not to exceed anticipated available funding.

⁸ Unless specifically noted, these types of costs are not included in the other state summaries. Examples of technology support include maintenance of the electronic permit database (WARP) and the e-business portal (DNR Switchboard).

As revenues have decreased, so has the size of the program. As shown in Table 1, at the end of FY24, the program projects revenues of approximately \$878,000, expenses of \$1.67 million (supporting 12.5 FTE), and a cash balance of \$483,000. The program will downsize further in FY25 to \$1.4 million, sufficient to support just 9.75 FTE. Since FY25 revenues are also expected to fall significantly short of expenses, the program account balance is expected to be fully expended by the end of FY25, leaving the account with a zero balance at the start of FY26 when this rule would take effect.

It is important to note that the FTE funded under this account includes not only the staff engineers who review applications and write permits, but other required construction permit-related support, such as permit processors, supervisors, technology support, financial administration, and certain other allocable costs required to be covered by this account. As described below, the department has decreased expenses and implemented efficiencies in these areas over time in response to declining revenues.

Actions taken in response to decreasing revenues

The department has been carefully managing the financial challenge of reduced construction permit revenue by restricting expenses, shifting appropriate expenses to other funding sources, and reallocating staff from construction permitting to activities supported by other accounts whenever possible.

The FTE count working on construction permits has decreased through attrition and decisions made by the department to leave vacancies unfilled.⁹ While this has helped stretch available revenue, it has impacted the department's ability to act on priority permit requests and placed an unsustainable strain on the other accounts supporting air management activities, many of which are similarly underfunded, in some cases significantly. For example, the department's CAA Title V operating permit program, which operates in tandem with construction permitting, is also facing a large operating deficit and does not have the capacity to absorb additional effort.

The department has also decreased expenditures on permit support activities as revenues and permit activity have decreased.¹⁰ Many of these activities are expenditures required to be supported by this account, while others are necessary to ensure permits can be issued (e.g., permit processing). Further reductions in these activities, even if efficiencies could be identified and approved, would only result in marginal additional savings, and would not eliminate the need for significant additional revenue.

The department has also made strategic decisions as to how to employ its increasingly limited resources when implementing the construction permitting program. This has included stopping processing of construction permit revisions and exemptions, other than those that require a department determination by rule.¹¹ The department has also halted efforts on rulemakings and certain state implementation plans (and other CAA planning activities) that necessitate the involvement of experienced permit engineers. Potential program efficiency improvements are also on hold pending the availability of resources.

The department has sought efficiencies in construction permitting program operations, utilized financial flexibilities whenever possible, and deprioritized (or stopped altogether) certain permit-related work activities. However, at this point there are no further actions available that would resolve the significant

⁹ For example, the department has contracted to 3 permit and compliance field supervisors (down from 5 in 2020) and has left construction permit engineer staff vacancies unfilled over the last few years as employees have departed.

¹⁰ For example, the department has consolidated positions in financial and business support operations as staff have departed, and adjusted how unavoidable staff administrative costs (like paid leave time) impact the construction permit account.

¹¹ This has resulted in a backlog of 20 exemption requests and 12 revision requests as of June 1, 2024.

structural deficit in this account.

Workload analysis and estimating future expenses

In support of this rule, the department conducted a comprehensive workload analysis. This analysis concluded that over 20.5 FTE are needed to effectively administer the construction permit program. This is greater than the 19.5 FTE authorized by ch. 20 and over twice the FTE that can be supported in FY25. The analysis supports a finding that fully funding the program to its statutorily authorized levels is both necessary and appropriate.

For the workload analysis, the work directly associated with the review and issuance of construction permits, revisions, and exemptions was estimated based on projections of the number and type of future permit actions and the estimated effort level (hours per action) for each permit action. The effort level per permit was based on time coding data and permit issuance rates for FY18-22. The historical effort level per permit was adjusted to account for the eventual replacement of experienced permit writers with new, less experienced writers. The training needs associated with new permit writers was also captured in the analysis. The workload associated with support activities is expected to be relatively static and was estimated based on the historical number of FTE associated with these activities.

The department also estimated the workload associated with completing the individual activities that correspond with each construction permit fee (e.g., NR 445 control technology analysis, public hearing, air dispersion modeling). During this exercise, a number of activity fees were identified for which the cost of the activity is significantly higher than the fee charged. The department also identified a number of construction permit-related activities for which no fees are currently collected. The proposed fees for these activities are based on the estimated cost to complete these activities.

Methodology used to estimate future revenue

Construction permit program revenue was estimated using projections of the number and type of future construction permit actions (i.e., minor construction permits, major construction permits, permit revisions, exemptions), the average frequency with which each fee is expected to be charged per permit action, and the current and proposed fee amounts. The projected number and type of construction permit actions for future years were based on trends in the number of actions for FY12-23. The average frequency with which each construction permit fee is expected to be charged per permit action was based on the actual average frequency with which these fees were charged from FY12-22.

Setting revised fees

Although the workload analysis indicated over 20 FTE are required to implement the construction permit program, the department is limited to its ch. 20 authorization of 19.5 FTE. This rule is intended to generate additional revenue so that the department can add to the 9.75 FTE expected to be available under this account at the start of FY26 and build towards the program's authorized FTE ceiling.

To determine the fee changes necessary to generate this revenue, the department assumed that it could act on all permit actions projected to be received in FY26, and therefore receive all the associated revenue, in that same year. Using that assumption, the department revised the fee schedule as follows:

- Adjusted fees upwards to more accurately reflect the effort associated with specific construction permitting activities (as informed by the workload analysis), as well as to reflect inflation and other increases in program costs since 2011.
- Added fees for activities for which no fees are currently collected.
- Removed the expedited review fee, since changes to state employee overtime rules severely limit

the ability of employees to work the overtime hours this fee was intended to support.

- Increased the initial permit application fee.
- Phased in fee increases in two steps, with 70% of the increase applied starting in FY26 and the remaining 30% applied starting in FY28.
- Incorporated a method to automatically adjust fees in the future based on approved general wage adjustments.

The revised fee schedule will theoretically generate revenue in FY26 sufficient to meet the program's estimated FY26 ch. 20 authorization. However, this would only occur if all permit actions received in FY26 are able to be acted on and completed in that same year. Since this will not be the case (due to low staffing levels, as discussed below), the program will only receive a fraction of this theoretical revenue in the early years of this rule.

Factors delaying the impact of fee increases on program revenues and staffing

Due to how and when fees are assessed, along with the limited staff available to issue permits, the department will not receive as much revenue through FY29 as these fee increases might suggest. The factors limiting the generation of revenue in the near term include:

- The majority of fees are not paid by air pollution sources until after the department issues the construction permit. However, FTE numbers in the program are currently so low that many applications cannot be acted upon in a timely manner. Therefore, while the department will eventually receive the revenue from these applications, this will occur with a significant lag. This is especially true in years immediately following this rule, when a substantial percentage of revenue is not expected to be realized by the department in the same fiscal year applications are received.
- The department can only add staff when sufficient revenue has accumulated to support filling additional positions.
- The department currently relies heavily on a few experienced permit writers to review and act upon construction permit applications. Due to the significant learning curve associated with construction permitting work, new staff will not be as productive in their first few years and therefore will not initially generate as much revenue for the program as experienced writers.

Addressing the revenue lag

In response to the limitations described above, this rule increases the permit initial application fee from \$7,500 to \$15,000. This will allow the department to receive more of the revenue associated with these applications up front, which in turn will allow staff effort to be added to construction permitting sooner than it otherwise would. This increase in "down payment" does not affect the total fee an applicant would ultimately be charged, as this initial application fee is credited towards the final permit fee.

The department also intends to add additional staff effort to the construction permitting program as it receives revenues sufficient to do so. This can take the form of not only hiring additional personnel, but also redirecting current staff to construction permitting from other work (such as operation air pollution control permitting), if and as resources allow.

Impact of the rule on program revenue

As noted above, several factors will prevent the department from seeing large revenue increases in the near term as a result of these fee revisions. To quantify the impacts of these limitations and generate a more realistic estimate of future revenues, the department calculated how quickly applications could be

processed given the current backlog, estimates of future applications, and the staff resources available to process them.

The results of this analysis are provided in Table 2. Through this rule, revenue is expected to total about \$1.9 million in FY26, increasing to \$2.1 million in FY29. While this is significantly higher than the \$850,000 in revenue expected in FY24, it is far short of the program’s projected FY26 ch. 20 figure of \$2.7 million.¹²

In terms of construction permit program growth, surplus revenues (i.e., the amount of revenue over and above baseline expenses) will range between \$458,000 and \$598,000 a year. As described below, this will allow the department to gradually add staff between FY26 and FY29.

Table 2. Projected impact of rule on construction permit program revenue, FY26-29.

	Projected with rule			
	FY26	FY27	FY28	FY29
Revenue (a)	\$1,885,683	\$1,772,938	\$2,073,948	\$2,114,915
Baseline expenses (b)	\$1,428,606	\$1,457,178	\$1,486,322	\$1,516,048
Surplus revenue (c=a-b)	\$457,077	\$315,760	\$587,627	\$598,867
<i>Chapter 20 (est.)</i>	<i>\$2,724,100</i>	<i>\$2,724,100</i>	<i>\$2,842,500</i>	<i>\$2,842,500</i>

Notes: “Baseline expenses” (b) are expenses associated with maintaining program at FY24-25 levels, with the increase each year due to assumed wage adjustments for existing staff. “Surplus revenue” (c) are the amounts available to hire additional FTE. However, no expenditures on additional staff are reflected in this table. How surplus revenue would be spent on FTE is discussed below and shown in Table 3. The impact of these hires on the construction permit account balance is shown in Figure 1.

Impact of the rule on program staffing

Table 3 shows how the additional revenue from this rule could translate into increased FTE. For example, the \$457,077 of surplus revenue the department expects to receive in FY26 is enough to support adding 2.0 FTE by the end of that fiscal year. As additional revenue accumulates, the program account balance would potentially support adding an additional 1.5 FTE in FY28 (for a total of 3.5 additional FTE). This would raise total construction permit program staffing from approximately 9.75 FTE in FY25 to 13.25 FTE at the start of FY29.

This rule will therefore allow the department to increase its critically low staff numbers, but not add the additional 9.75 FTE needed to reach its authorized ch. 20 level in the horizon evaluated in this rule.¹³ For context, the 13.25 FTE the program is projected to have in FY29 is less than the 14.5 FTE the program had in FY23, just before this rulemaking was initiated.

¹² Note that the proposal to automatically revise fees in the future based on general wage adjustments would first be applied in FY31 and therefore does not impact the figures in Table 2.

¹³ The analysis for this rule indicates that, if the department ever does reach its ch. 20 authorized staffing, that would not occur until the 2030s.

Table 3. Potential impact of the rule on program staffing, FY26-29.

	Budgeted	Projected with rule*			
	FY25	FY26	FY27	FY28	FY29
(a) FTE at start of FY	12.5	9.75	11.75	11.75	13.25
(b) Add'l FTE added using surplus revenue**	-	2.0	0	1.5	0
(c) FTE at end of FY (a+b)	9.75	11.75	11.75	13.25	13.25

* Assumes a baseline of 9.75 FTE at the end of FY25 and surplus revenue as projected in Table 2.

** FTE would be added at or near end of FY, since excess revenue is being accumulated throughout the FY.

Factors affecting revenue and staffing forecasts

While revenue and staffing forecasts are based on reasonable assumptions about future demand for permits, expenses, and the availability and capacity of staff to administer the permitting program, the ability of the department to add FTE will depend entirely on the actual revenues received, changes in program costs, and any available account balance. These figures will be heavily impacted by factors beyond the department’s control, including the state economic environment, business decisions made by individual facilities, and the quantity and type of applications submitted. Changes in these variables will greatly impact the fiscal health of the program and, consequently, the rate of potential hiring.

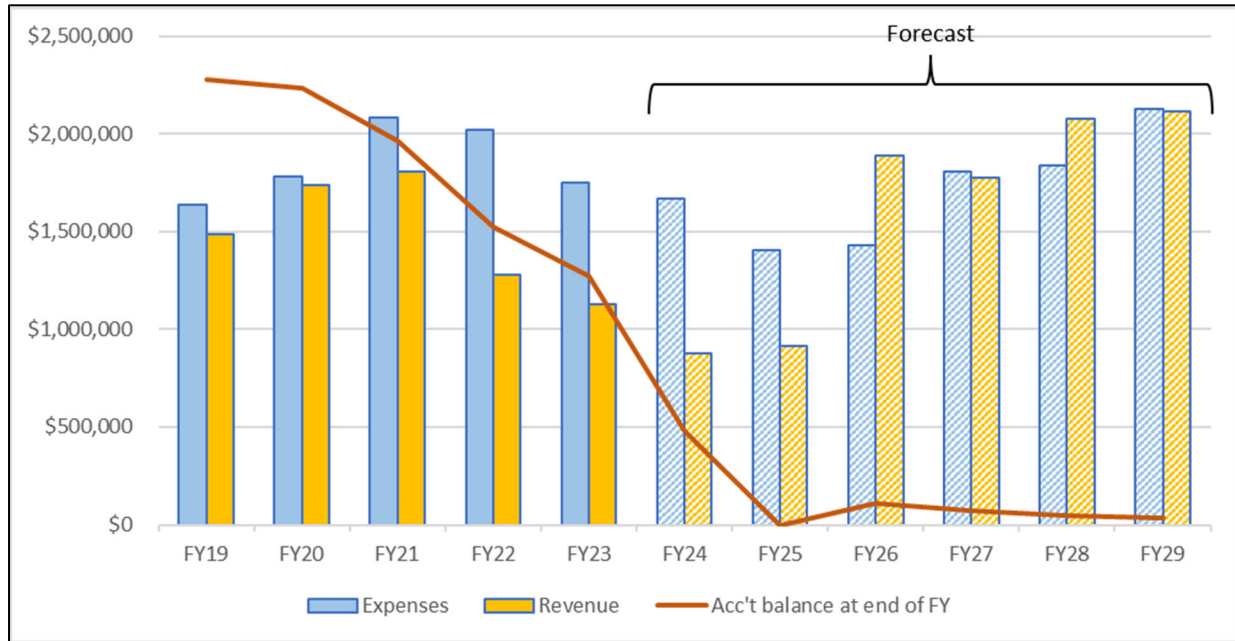
In addition, these projections assume that the department will expend most of the revenue it receives every year. In the hiring scenario outlined above, the construction permit account would build and maintain only a small cash balance (less than \$100,000) through FY29 (see Figure 1). The department will need to balance its desire to add staff with the responsibility to ensure a sufficient account balance is available to cover any short-term revenue shortfall that might result from the inevitable variability of permit activity. Depending on actual revenues received, hiring may therefore occur on a slower pace than described above.

These projections also assume fees are collected as described in the proposed rule:

- For construction permits, the initial application fee is the one in effect at the time the application is received, while all other construction permit fees are those in effect at the time the permit is issued.
- For exemptions and revisions, the fees are those in effect at the time the exemption or revision application is received.

Should the rule be implemented differently, the projected revenue and staffing figures could both be lower than those presented above.

Figure 1. Actual and projected revenues, expenses, and account balance, FY19-29. Figure reflects fiscal and FTE data presented in Tables 1-3, including impacts of adding 2 FTE at end of FY26 and 1.5 FTE at end of FY28 (reflected in increase in expenses in FY27 and FY29).



Notes: FY24 is estimated based on actual data through May 31, 2024. FY26-29 projections assume the rule is implemented as proposed and the account balance at the end of FY25 is zero.

Future fee adjustments based on general wage increases

To help construction permit program revenues keep pace with personnel-related expenses over time, the rule includes a provision to adjust fees every four years to reflect any non-represented general wage adjustments (GWAs) made by the Department of Administration in an approved state compensation plan during the prior four-year period (two state budget biennia).

Table 4 provides an example of how these fees would adjust. The first adjustment would occur in FY31 to reflect any GWAs approved in the 2027-2029 and 2029-2031 state compensation plans. This adjustment would be in effect at the start of FY31 (i.e., July 1, 2030). This adjustment would occur again in FY35 and every four fiscal years thereafter.

Using GWAs as the basis for adjusting fees recognizes that increases in construction permitting personnel costs, including wages, are a large driver of program expenses over time. This regular adjustment will help maintain program revenues over time and lessen the need for future fee adjustments through rule.

However, these recurring GWA-based fee revisions will only cover a portion of future increases in program costs, as they would not address increases due to other changes in staff compensation¹⁴, fringe costs (such as employee health insurance), or other department charges or inflationary increases. In addition, the frequency of this adjustment (every four years) will result in a structural lag between actual increases in program staff expenses and the additional revenue this adjustment provides to offset those

¹⁴ This includes increases associated with reclassifications, equity/market/parity adjustments, and merit increases. For example, the 10% increase in per-hour pay rates for air management engineers included in the 2023-2025 compensation plan (a wage parity adjustment), which increased expenses about \$300,000, is the type of increase that would not be accounted for by this recurring, GWA-based fee adjustment.

costs. That the first automatic adjustment will occur five years after this rule is effective will further exacerbate this delay.

Table 4. Example of future fee revisions based on general wage adjustments.*

Selected Fees	Amount in FY28	Amount in FY31
Initial application fee	\$15,000	\$15,600
Construction permit base fee – major source	\$18,000	\$18,750
Construction permit base fee – minor source	\$6,500	\$6,800
Construction permit revision	\$3,000	\$3,150
Review of two of more basic emissions units (fee per unit)	\$2,500	\$2,600

* Assumes a 2% GWA in both the 2027-2029 and 2029-2031 state compensation plans (i.e., a total GWA of 4% over two biennia), impacting fees assessed starting in FY31. Figures for FY31 are rounded up to the nearest \$50.

Automatically adjusting permit fees to accommodate increasing expenses is not uncommon in air permitting programs. For example, both Indiana and Minnesota rules adjust construction permit fees to reflect inflationary increases.¹⁵ EPA similarly revises its Title V permit presumptive minimum per-ton fee each year based on changes in the consumer price index.

Required departmental reporting

In addition to the proposed fee revisions, to promote transparency and ensure sound financial stewardship of these funds, this rule adds requirements for the department to:

- Prepare and release an annual financial report on the state of the construction permit program account, including a five-year projection of future revenues, expenses, and account balance.
- Prepare and release a report, to be completed no later than September 30, 2026, describing the efforts the department will take to streamline permitting processes and implement program efficiencies based on the additional revenue provided by this rule.

Benefits and limitations of the rule

The primary benefits of the rule are that it would halt the decade-long decline in program revenues, stabilize the construction permitting account, and allow the department to gradually add to the critically low staff numbers in this program. In essence, the rule will allow the program to operate in FY29 at its FY21 budgetary level, but with fewer staff (because per-staff costs will have increased considerably over that time period). This can be expected to support a construction permitting program that can meet basic expectations and act on the more pressing permit requests from the regulated community. Staff added under this rule will have the primary focus of ensuring permits are acted on in a timely manner.

However, decisions made in this rule to minimize the impact of fee increases means that program revenue and FTE will remain short of what both the program’s ch. 20 authorization and workload analysis indicate are necessary to administer this program. The construction permit program will remain small, compared

¹⁵ Indiana Admin. Code [Section 326 IAC 2-1.1-7.\(b\)](#) and Minnesota Admin. Rules [Part 7002.0017](#).

to both nearby states and its historical size. This places limits on what the program will be able to accomplish.

For example, given the limited staff being added, this rule will only result in modest improvements in program performance, with FY21-23 permit issuance rates representing the likely ceiling. This rule will also not provide sufficient resources to undertake major changes in rules, work on streamlining efforts, or explore the application of new technologies or other efficiencies. Department efforts here would be selective, strategic and heavily contingent on revenue being larger than this rule predicts.

The technical staff funded by this account also provide valuable expertise to other program activities related to, but not directly associated with, construction permitting. For example, they provide important assistance with state plans developed under CAA Section 111, assist with rulemakings needed to address source-specific operating requirements, and help the department satisfy regulatory requirements for nonattainment areas to be redesignated to attainment. Shortfalls in trained, experienced construction permit writers not only slow permit review and issuance, but more broadly hinder the ability of the department to effectively undertake these other important activities. The limited revenue provided by this rule will constrain what the program can accomplish in these areas in the FY26-29 timeframe.

As has been described, the department is unlikely to realize the full fiscal benefit of these fee revisions until the 2030s, with the major obstacle being the near-term shortage of permit staff to undertake revenue-generating activities. Hiring more permit writers, and faster, is only possible if the department has access to additional revenue sooner. This process could be accelerated if funding from non-fee revenue sources can be identified that could increase the construction permitting account balance in or before FY26. Otherwise, certain changes in the rule (such as applying the full fee increase at the outset instead of using a phased approach, or increasing the fees further) would, to varying degrees, bring forward additional revenue and support adding more FTE on a faster timeline.

10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

The department reviewed the construction permits, revisions and exemptions issued in FY22-23 to identify the percentage of each type of permit action that was issued to small businesses. The department's air database contains self-reported information on the number of employees for each facility, and this information was quality checked for this analysis.

The percentage of construction permits, revisions and exemptions issued to small businesses was used in conjunction with projections of the number and type of permit actions expected for FY26 to estimate the number of each type of permit action that is expected to be issued to a small business.

The overall economic impact of the proposed fees on small businesses was then estimated using the number of each type of permit action expected to be issued to small businesses and the difference between the average fee for each permit action type under the current and proposed fee schedules.

11. Effect on Small Business (initial regulatory flexibility analysis):

Because many small businesses emit low amounts of air pollutants, they are often able to qualify for coverage under a registration permit in lieu of needing to obtain a minor construction permit. A facility covered under a registration permit is exempt from construction permitting. No changes are proposed that would either affect small business eligibility for coverage under registration permits or that would impose a fee for issuance of coverage.

Many projects at small businesses may qualify for exemptions from construction permitting. Most exemptions do not have associated fees unless a facility chooses to request an exemption determination from the department. For the specific exemptions that do require a determination or when a facility chooses to request an exemption determination from the department for a project, the fee would increase under the proposed rule as shown in Appendix A.

Table 5 summarizes the projected number of permit actions for small businesses in FY26 and the estimated fee for each permit action under both the current and proposed fee schedules. Based on this analysis, the annual impact on small businesses as a whole is estimated to be about \$69,000 per year in FY26. This is about 25% less than as initially proposed in March 2024.¹⁶

Table 5. Estimated impact of rule on small businesses (FY26).

	Number issued to small businesses	Current average fee	Proposed average fee	Difference per action	Total increase
Construction permits	6	\$12,490	\$23,020	\$10,530	\$63,180
Permit revisions	1	\$1,500	\$4,731	\$3,231	\$3,231
Exemptions	4	\$825	\$1,466	\$641	\$2,564
Total					\$68,975

12. Agency Contact Person: Gail Good; Gail.Good@wisconsin.gov; (608) 219-2690

13. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearings, by regular mail, or email to:

Ron Binzley – AM/7
 Bureau of Air Management
 Wisconsin Department of Natural Resources
 PO Box 7921
 Madison, WI 53703
Ronald.Binzley@wisconsin.gov

Comments may be submitted to the department contact person listed above or to DNRAAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department’s website, at <https://dnr.wisconsin.gov/calendar>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

¹⁶ The estimated impact on small businesses in the rule as initially proposed was \$92,351.

RULE TEXT

SECTION 1. NR 410.03 (1) (a) is amended to read:

NR 410.03 (1) (a) Each person submitting an application for an individual construction permit for a direct source shall pay the applicable basic fee in this paragraph and shall submit a ~~\$7,500~~\$15,000 initial fee with the application. The initial fee shall be subtracted from the final fee required under this section and may not be refunded, except as provided in sub. (4). If the department determines that a permit is not required, the individual permit application shall be treated as an application or request under par. (b), and the appropriate fee under par. (b) shall be charged. In the event that an applicant chooses to apply for coverage under either a general or registration construction permit, the individual permit application or request under par. (am) or (as) and the appropriate fee under par. (am) or (as) shall be charged. The basic fees are as follows:

SECTION 2. NR 410.03 (1) (a) 1. is renumbered NR 410.03 (1) (a) 1. (intro.) and amended to read:

NR 410.03 (1) (a) 1. ~~\$3,000 if~~ If the application is not reviewed under ch. NR 405 or 408, and the application is for a new facility or for an emissions unit to be located at a minor source;

SECTION 3. NR 410.03 (1) (a) 1. a. and b. are created to read:

NR 410.03 (1) (a) 1. a. \$5,450 before July 1, 2027.

b. \$6,500 on or after July 1, 2027.

SECTION 4. NR 410.03 (1) (a) 2. is renumbered NR 410.03 (1) (a) 2. (intro.) and amended to read:

NR 410.03 (1) (a) 2. ~~\$7,500, for~~ For a modification not defined as major in s. NR 405.02 (21) or 408.02 (20), when the application is for an emissions unit to be located at a major source as defined in s. NR 407.02 (4);

SECTION 5. NR 410.03 (1) (a) 2. a. and b. are created to read:

NR 410.03 (1) (a) 2. a. \$14,850 before July 1, 2027.

b. \$18,000 on or after July 1, 2027.

SECTION 6. NR 410.03 (1) (a) 3. is renumbered NR 410.03 (1) (a) 3. (intro.) and amended to read:

NR 410.03 (1) (a) 3. ~~\$12,000, for~~ For a major modification as defined in s. NR 405.02 (21) or 408.02 (20), unless the emissions unit 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);

SECTION 7. NR 410.03 (1) (a) 3. a. and b. are created to read:

NR 410.03 (1) (a) 3. a. \$21,800 before July 1, 2027.

b. \$26,000 on or after July 1, 2027.

SECTION 8. NR 410.03 (1) (a) 4. is renumbered NR 410.03 (1) (a) 4. (intro.) and amended to read:

NR 410.03 (1) (a) 4. ~~\$16,000, for~~ 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);

SECTION 9. NR 410.03 (1) (a) 4. a. and b. are created to read:

NR 410.03 (1) (a) 4. a. \$29,300 before July 1, 2027.

b. \$35,000 on or after July 1, 2027.

SECTION 10. NR 410.03 (1) (a) 8. is renumbered NR 410.03 (1) (a) 8. (intro.) and amended to read:

NR 410.03 (1) (a) 8. ~~\$12,000, per~~ Per air contaminant regulated under a plant-wide applicability limitation, when establishing a plant-wide applicability limitation under s. NR 406.035 (1);

SECTION 11. NR 410.03 (1) (a) 8. a. and b. are created to read:

NR 410.03 (1) (a) 8. a. \$18,300 before July 1, 2027.

b. \$21,000 on or after July 1, 2027.

SECTION 12. NR 410.03 (1) (a) 9. is renumbered NR 410.03 (1) (a) 9. (intro.) and amended to read:

NR 410.03 (1) (a) 9. ~~\$6,000 for~~ For the increase of a plant-wide applicability limitation under s. NR 405.18 (11) or 408.11 (11);

SECTION 13. NR 410.03 (1) (a) 9. a. and b. are created to read:

NR 410.03 (1) (a) 9. a. \$9,150 before July 1, 2027.

b. \$10,500 on or after July 1, 2027.

SECTION 14. NR 410.03 (1) (a) 10. is renumbered NR 410.03 (1) (a) 10. (intro.) and amended to read:

NR 410.03 (1) (a) 10. ~~\$6,000 for~~ For the distribution of allowable limits upon expiration of a plant-wide applicability limitation under s. NR 406.035 (2);

SECTION 15. NR 410.03 (1) (a) 10. a. and b. are created to read:

NR 410.03 (1) (a) 10. a. \$9,150 before July 1, 2027.

b. \$10,500 on or after July 1, 2027.

SECTION 16. NR 410.03 (1) (ae) is renumbered NR 410.03 (1) (ae) (intro.) and amended to read:

NR 410.03 (1) (ae) Each person requesting a revision of a construction permit shall pay a fee of ~~\$1,500~~ the amount specified in subd. (ae) 1. or 2., as applicable, which shall be submitted with the request, unless the only reason for the revision is to make the source eligible for a registration operation permit;

SECTION 17. NR 410.03 (1) (ae) 1. and 2. are created to read:

NR 410.03 (1) (ae) 1. \$2,550 before July 1, 2027.

2. \$3,000 on or after July 1, 2027.

SECTION 18. NR 410.03 (1) (b) 1. is renumbered NR 410.03 (1) (b) 1. (intro.) and amended to read:

NR 410.03 (1) (b) 1. ~~\$1,250, for~~ For a determination of exemption under s. NR 406.04 (1) (i);

SECTION 19. NR 410.03 (1) (b) 1. a. and b. are created to read:

NR 410.03 (1) (b) 1. a. \$1,950 before July 1, 2027.

b. \$2,200 on or after July 1, 2027.

SECTION 20. NR 410.03 (1) (b) 2. is renumbered NR 410.03 (1) (b) 2. (intro.) and amended to read:

NR 410.03 (1) (b) 2. ~~\$1,500 for~~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:

a. ~~\$2,300 before July 1, 2027,~~ except that if the department completes a detailed air quality modeling analysis of the projected air quality impact ~~is completed,~~ the fee shall be ~~\$2,400~~\$3,700.

SECTION 21. NR 410.03 (1) (b) 2. b. is created to read:

NR 410.03 (1) (b) 2. b. \$2,650 on or after July 1, 2027, except that if the department completes a detailed air quality modeling analysis of the projected air quality impact, the fee shall be \$4,200.

SECTION 22. NR 410.03 (1) (b) 3. is renumbered NR 410.03 (1) (b) 3. (intro.) and amended to read:

NR 410.03 (1) (b) 3. ~~\$5,500 for~~For a determination of exemption under s. NR 406.04 (1k):

a. ~~\$8,400 before July 1, 2027,~~ except that if the department completes a detailed air quality modeling analysis of the projected air quality impact ~~is completed,~~ the fee shall be ~~\$6,500~~\$9,950.

SECTION 23. NR 410.03 (1) (b) 3. b. is created to read:

NR 410.03 (1) (b) 3. b. \$9,650 on or after July 1, 2027, except that if the department completes a detailed air quality modeling analysis of the projected air quality impact, the fee shall be \$11,400.

SECTION 24. NR 410.03 (1) (b) 3m. is renumbered NR 410.03 (1) (b) 3m. (intro.) and amended to read:

NR 410.03 (1) (b) 3m. Any person submitting a claim for a construction permit exemption under s. NR 406.04 (1q) shall pay a fee of ~~\$1,250~~the amount specified in subd. 3m. a. or b., as applicable, which shall be submitted with the claim:

SECTION 25. NR 410.03 (1) (b) 3m. a. and b. are created to read:

NR 410.03 (1) (b) 3m. a. \$1,950 before July 1, 2027.

b. \$2,200 on or after July 1, 2027.

SECTION 26. NR 410.03 (1) (b) 4. is renumbered NR 410.03 (1) (b) 4. (intro.) and amended to read:

NR 410.03 (1) (b) 4. ~~\$500 fee~~For a determination of exemption under s. NR 406.04 not included in subd. 1. to 3m.:

SECTION 27. NR 410.03 (1) (b) 4. a. and b. are created to read:

NR 410.03 (1) (b) 4. a. \$1,150 before July 1, 2027.

b. \$1,400 on or after July 1, 2027.

SECTION 28. NR 410.03 (1) (c) is repealed.

SECTION 29. NR 410.03 (1) (e) and (2) (intro.) are amended to read:

NR 410.03 (1) (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 ~~\$1,000~~\$1,550 each before July 1, 2027 or \$1,750 each on or after July 1, 2027, 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. Each person submitting an application for an individual construction permit or construction permit revision for a direct source shall pay all the following additional fees which apply:

SECTION 30. NR 410.03 (2) (a) is renumbered NR 410.03 (2) (a) (intro.) and amended to read:

~~NR 410.03 (2) (a) \$800 per~~ Per basic emissions unit if review and analysis of 2 or more basic emissions units is required.:

SECTION 31. NR 410.03 (2) (a) 1. and 2. are created to read:

NR 410.03 (2) (a) 1. \$2,000 before July 1, 2027.

2. \$2,500 on or after July 1, 2027.

SECTION 32. NR 410.03 (2) (b) is renumbered NR 410.03 (2) (b) (intro.) and amended to read:

~~NR 410.03 (2) (b) \$2,500, if~~ If an analysis of alternatives under s. NR 408.08 (2) is required.:

SECTION 33. NR 410.03 (2) (b) 1. and 2. are created to read:

NR 410.03 (2) (b) 1. \$3,850 before July 1, 2027.

2. \$4,400 on or after July 1, 2027.

SECTION 34. NR 410.03 (2) (c) is renumbered NR 410.03 (2) (c) (intro.) and amended to read:

~~NR 410.03 (2) (c) \$5,000, if~~ If an emission offset under ch. NR 408 or the determination of a net emissions increase under ch. NR 405 is required.:

SECTION 35. NR 410.03 (2) (c) 1. and 2. are created to read:

NR 410.03 (2) (c) 1. \$7,650 before July 1, 2027.

2. \$8,750 on or after July 1, 2027.

SECTION 36. NR 410.03 (2) (d) is renumbered NR 410.03 (2) (d) (intro.) and amended to read:

~~NR 410.03 (2) (d) \$4,500, for~~ For each case-by-case determination of ~~maximum achievable control technology (MACT), best available control technology (BACT), or lowest achievable emission rate (LAER). This does not apply to~~ MACT, BACT, or LAER, except for BACT or LAER determinations made under ch. NR 445.:

SECTION 37. NR 410.03 (2) (d) 1. and 2. are created to read:

NR 410.03 (2) (d) 1. \$5,200 before July 1, 2027.

2. \$5,500 on or after July 1, 2027.

SECTION 38. NR 410.03 (2) (e) is renumbered NR 410.03 (2) (e) (intro.) and amended to read:

NR 410.03 (2) (e) ~~\$1,000, for~~For a minor source or minor modification to a major source whose projected air quality impact requires a detailed air quality modeling analysis;

SECTION 39. NR 410.03 (2) (e) 1. and 2. are created to read:

NR 410.03 (2) (e) 1. \$2,400 before July 1, 2027.

2. \$3,000 on or after July 1, 2027.

SECTION 40. NR 410.03 (2) (f) is renumbered NR 410.03 (2) (f) (intro.) and amended to read:

NR 410.03 (2) (f) ~~\$4,500, for~~For any source, other than a minor source or minor modification to a major source, whose projected air quality impact requires a detailed air quality modeling analysis;

SECTION 41. NR 410.03 (2) (f) 1. and 2. are created to read:

NR 410.03 (2) (f) 1. \$6,900 before July 1, 2027.

2. \$7,900 on or after July 1, 2027.

SECTION 42. NR 410.03 (2) (g) is renumbered NR 410.03 (2) (g) (intro.) and amended to read:

NR 410.03 (2) (g) ~~\$1,000, if~~If the source is subject to an emission limitation under chs. NR 446 to 469, or if the permit establishes an emission limit for a hazardous air contaminant listed in Table A, B or C of s. NR 445.07;

SECTION 43. NR 410.03 (2) (g) 1. and 2. are created to read:

NR 410.03 (2) (g) 1. \$1,550 before July 1, 2027.

2. \$1,750 on or after July 1, 2027.

SECTION 44. NR 410.03 (2) (h) is renumbered NR 410.03 (2) (h) (intro.) and amended to read:

NR 410.03 (2) (h) If the construction permit requires emission testing;

1. ~~\$2,500~~\$3,850 for the first air contaminant tested and ~~\$1,250~~\$1,950 for each additional air contaminant tested up to a maximum of ~~\$6,000~~\$9,200 before July 1, 2027. If the department later finds that some or all of the tests are not required, the department shall refund the corresponding fees ~~shall be refunded~~.

SECTION 44. NR 410.03 (2) (h) 2. is created to read:

NR 410.03 (2) (h) 2. \$4,400 for the first air contaminant tested and \$2,200 for each additional air contaminant tested up to a maximum of \$10,500 on or after July 1, 2027. If the department later finds that some or all of the tests are not required, the department shall refund the corresponding fees.

SECTION 45. NR 410.03 (2) (i) is renumbered NR 410.03 (2) (i) (intro.) and amended to read:

NR 410.03 (2) (i) ~~\$1,500, if~~ an environmental analysis under ch. NR 150 is required.:

SECTION 46. NR 410.03 (2) (i) 1. and 2. are created to read:

NR 410.03 (2) (i) 1. \$2,300 before July 1, 2027.

2. \$2,650 on or after July 1, 2027.

SECTION 47. NR 410.03 (2) (j) is renumbered NR 410.03 (2) (j) (intro.) and amended to read:

NR 410.03 (2) (j) ~~\$1,500, if~~ a public hearing is held ~~at the request of the applicant or the applicant's agent.~~;

SECTION 48. NR 410.03 (2) (j) 1. and 2. are created to read:

NR 410.03 (2) (j) 1. \$2,300 before July 1, 2027.

2. \$2,650 on or after July 1, 2027.

SECTION 49. NR 410.03 (2) (k) is renumbered NR 410.03 (2) (k) (intro.) and amended to read:

NR 410.03 (2) (k) ~~\$600 for~~For each basic emissions unit at a source which requires an emission limit determination under s. NR 424.03 (2) (c).:

SECTION 50. NR 410.03 (2) (k) 1. and 2. are created to read:

NR 410.03 (2) (k) 1. \$1,400 before July 1, 2027.

2. \$1,700 on or after July 1, 2027.

SECTION 51. NR 410.03 (2) (L) is renumbered NR 410.03 (2) (L) (intro.) and amended to read:

~~NR 410.03 (2) (L) \$2,000 for~~ For each case-by-case determination of ~~best available control technology (BACT) or lowest achievable emission rate (LAER)~~ BACT or LAER required under ch. NR 445, the amount specified in subd. (L) 1. or 2., as applicable. 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 subd. (L) 1. or 2., as applicable:~~this paragraph.~~

SECTION 52. NR 410.03 (2) (L) 1. and 2. are created to read:

NR 410.03 (2) (L) 1. \$3,050 before July 1, 2027.

2. \$3,500 on or after July 1, 2027.

SECTION 53. NR 410.03 (2) (m) is renumbered NR 410.03 (2) (m) (intro.) and amended to read:

NR 410.03 (2) (m) ~~\$3,500, if~~ If specific permit conditions limiting the potential to emit are required to make the source a minor source or to make the modification a minor modification:

SECTION 54. NR 410.03 (2) (m) 1. and 2. are created to read:

NR 410.03 (2) (m) 1. \$5,350 before July 1, 2027.

2. \$6,150 on or after July 1, 2027.

SECTION 55. NR 410.03 (2) (n) is renumbered NR 410.03 (2) (n) (intro.) and amended to read:

NR 410.03 (2) (n) ~~\$3,500, for~~ For a medical waste incinerator requiring review of a needs and siting analysis under s. 285.63 (10), Stats.:

SECTION 56. NR 410.03 (2) (n) 1. and 2. are created to read:

NR 410.03 (2) (n) 1. \$5,350 before July 1, 2027.

2. \$6,150 on or after July 1, 2027.

SECTION 57. NR 410.03 (2) (o) is repealed:

SECTION 58. NR 410.03 (2) (p), (4) (c), (5), and (6) are created to read:

NR 410.03 (2) (p) For the requirements of a consent decree to be incorporated into a construction permit or construction permit revision:

1. \$2,450 before July 1, 2027.
2. \$3,500 on or after July 1, 2027.

(4) (c) When determining the basic direct source fees under sub. (1) and additional direct source fees to be charged under sub. (2):

1. For construction permits, the initial application fee shall be the fee in effect at the time the application is received, and all other applicable fees shall be the fees in effect at the time a final permit decision or determination of no further action is made.

2. For construction permit revisions and exemptions, the applicable fees shall be the fees in effect at the time the application is received.

(5) FEE ADJUSTMENT. (a) The department shall increase the fee amounts required under subs. (1) (a), (ae), (b), and (e), and (2) every four years by a percentage equal to the total percent increase in nonrepresented general wage adjustments included in the two most recently approved biannual state compensation plans.

(b) The initial adjustment of fees under par. (a) shall take effect on July 1, 2030, based on general wage adjustments included in the 2027-2029 and 2029-2031 state compensation plans, and on July 1 every four years thereafter.

(c) Fees revised under par. (a) shall be rounded up to the nearest 50 dollars.

(6) REPORTS. (a) Beginning in 2026, the department shall annually prepare and make public a report describing the condition of the financial account funded by the fees assessed under this section. This report shall be completed by July 1 of each calendar year and include a five-year projection of future revenues, expenses, and account balances.

(b) By September 30, 2026, the department shall prepare and make public a report describing the actions the department intends to undertake to streamline activities supported by the fees assessed under this section.

SECTION 60. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 61. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

BY _____

Steven Little, Deputy Secretary

Appendix A

Wisconsin's Current and Proposed Construction Permit Fees

Wisconsin’s Current and Proposed Construction Permit Fees

Fee Description	Code Cite (NR)	Current Fee	Proposed Fee: Phase I	Proposed Fee: Phase II
Construction Permit Basic Direct Source Fees				
Initial fee submitted with application (credited towards final fee)	410.03(1)(a)	\$7,500	\$15,000	\$15,000
Minor source construction at a Part 70 minor source	410.03(1)(a)1.	\$3,000	\$5,450	\$6,500
Minor modification at a Part 70 major source	410.03(1)(a)2.	\$7,500	\$14,850	\$18,000
Major modification under PSD or nonattainment area permitting	410.03(1)(a)3.	\$12,000	\$21,800	\$26,000
Construction of a PSD or nonattainment area major source or a major modification where the modification itself is a major source	410.03(1)(a)4.	\$16,000	\$29,300	\$35,000
Establishing a plant-wide applicability limit - fee charged per pollutant	410.03(1)(a)8.	\$12,000	\$18,300	\$21,000
Increase of a plant-wide applicability limitation (PAL)	410.03(1)(a)9.	\$6,000	\$9,150	\$10,500
Distribution of allowable limitations upon expiration of a PAL	410.03(1)(a)10.	\$6,000	\$9,150	\$10,500
Revision of a construction permit	410.03(1)(ac)	\$1,500	\$2,550	\$3,000
Waiver of construction permit requirements under NR 406.03(2)	410.03(1)(bm)	\$300	\$300	\$300
Construction Permit Additional Direct Source Fees				
Basic emission unit fee - per unit for analysis of 2 or more basic units	410.03(2)(a)	\$800	\$1,990	\$2,500
Analysis of alternatives under s. NR 408.08(2)	410.03(2)(b)	\$2,500	\$3,850	\$4,400
Emission offset under NR 408 or netting emission increase under NR 405	410.03(2)(c)	\$5,000	\$7,650	\$8,750
MACT, BACT, LAER (case-by-case analysis) (per unit per pollutant)	410.03(2)(d)	\$4,500	\$5,200	\$5,500
Air quality modeling analysis at minor source or minor modification	410.03(2)(e)	\$1,000	\$2,400	\$3,000
Air quality modeling analysis for major source/modification	410.03(2)(f)	\$4,500	\$6,900	\$7,900
Toxic emission limitations established under chs. NR 446-449 or 445.07	410.03(2)(g)	\$1,000	\$1,550	\$1,750
Emission testing (\$2,500 for first air contaminant plus \$1,250 for each additional air contaminant up to a maximum of \$6,000)	410.03(2)(h)	See Fee Description	See Note 1	See Note 2
Environmental Analysis under NR 150	410.03(2)(i)	\$1,500	\$2,300	\$2,650
LACT determination under s. NR 424.03(2) per basic emissions unit	410.03(2)(k)	\$600	\$1,400	\$1,700
BACT or LAER under ch. NR 445 - each determination	410.03(2)(L)	\$2,000	\$3,050	\$3,500
PTE Limit to make the source/modification a minor source/modification	410.03(2)(m)	\$3,500	\$5,350	\$6,150
Public hearing requested by the applicant	410.03(2)(j)	\$1,500	\$2,300	\$2,650
NEW FEE - Apply additional fees listed in NR 410.03(2) to revisions	Proposed under 410.03(2)	--	See above	See above
NEW FEE - Public hearing requested by someone other than applicant	Proposed under 410.03(2)(j)	--	\$2,300	\$2,650
NEW FEE - Incorporation of requirements of a consent decree	Proposed under 410.03(2)(p)	--	\$2,450	\$3,500
Construction Permit Exemption Fees				
Research and testing exemption (406.04(1)(i))	410.03(1)(b)1.	\$1,250	\$1,950	\$2,200
Modification to a PAL (NR 406.04(1f))	410.03(1)(b)2.	\$1,500	\$2,300	\$2,650
Modification to a PAL with modeling (NR 406.04(1f))	410.03(1)(b)2.	\$2,400	\$3,700	\$4,200
Modification exempt from major PSD or NNSR (406.04(1k))	410.03(1)(b)3.	\$5,500	\$8,400	\$9,650
Modification exempt from major PSD or NNSR (406.04(1k)) w/modeling	410.03(1)(b)3.	\$6,500	\$9,950	\$11,400
Controlled actual emissions 10 ton/yr exemption (406.04(1q))	410.03(1)(b)3m	\$1,250	\$1,950	\$2,200
Any other construction permit exemption not listed above	410.03(1)(b)4.	\$500	\$1,150	\$1,400
Miscellaneous Construction Permit Fees/Credits				
Multiple application discount (same project at multiple possible locations)	410.03(1)(e)	\$1,000	\$1,550	\$1,750
Siting analysis under 285.63(10) for medical waste incinerator	410.03(2)(n)	\$3,500	\$5,350	\$6,150
Expedited review requested (non PSD-under 50 days)	410.03(2)(o)1.	\$5,000	Remove	Remove
Expedited review of a PSD or major NNSR source (under 60 days)	410.03(2)(o)2.	\$7,500	Remove	Remove
Expedited review of a PSD or major NNSR source (under 61-90 days)	410.03(2)(o)3.	\$4,000	Remove	Remove
Fee reduction if source publishes the newspaper notice (no longer used)	410.03(1)(c)	(\$150)	Remove	Remove

Note 1 - \$3,850 for first air contaminant plus \$1,950 for each additional air contaminant up to a maximum of \$9,200.

Note 2 - \$4,400 for first air contaminant plus \$2,200 for each additional air contaminant up to a maximum of \$10,500.

Appendix B

Construction Permit Fee Schedules for Illinois, Minnesota, Iowa, and Indiana

Construction Permit Fees – Illinois Environmental Protection Agency (IEPA)

Sources: IEPA staff and <https://epa.illinois.gov/topics/forms/fees/construction.html> (Jan. 2024)

Fee	Fee Amount	Note
CAAPP/FESOP Sources		
Base Fee – New Emission Unit	\$4,000 first new emission unit, \$1,000/additional new or modified emission unit, max \$10,000	
Base Fee – Modified Emission Unit	\$2,000 first modified emission unit, \$1,000/additional modified emission unit, max \$5,000	
Supplemental Fees – CAAPP Entry Fee	\$5,000	
Supplemental Fees –Complex Sources	\$25,000	1
Supplemental Fees – Netting/Contemporaneous Decrease	\$3,000/pollutant	
Supplemental Fees – New Major PSD Source Fee	\$12,000	
Supplemental Fees – New Major NANSR Source Fee	\$20,000	
Supplemental Fees – Major PSD Modification Fee	\$6,000	
Supplemental Fees – Major NANSR Modification Fee	\$12,000	
Supplemental Fees – MACT Determination Fee	\$5,000/unit	2
Supplemental Fees – Public Hearing Administrative Fee	\$10,000	
Supplemental Fees - No Other Applicable Fee Filing Fee	\$500	3
Source Not Subject to CAAPP/FESOP		
Base Fee – New Emission Unit	\$500 single new emission unit	
Base Fee – New Emission Unit	\$1,000 more than one new emission unit	
Base Fee – Modified Emission Unit	\$500 no more than two modified emission units	
Base Fee – Modified Emission Unit	\$1,000 more than two modified emission units	
Supplemental Fees – New Source (unpermitted) Entry Fee	\$500	
Supplemental Fees – Complex Sources	\$15,000	1
Supplemental Fees – Public Hearing Administrative Fee	\$10,000	
Supplemental Fees - No Other Applicable Fee Filing Fee	\$500	3
Permit By Rule (PBR)		
Base Fee – CAAPP New Boiler	\$4,000/boiler	
Base Fee – CAAPP Modified Boiler	\$2,000/boiler	
Other		
Expedited Permit Fee	4 times the standard fee, max \$100,000	

Note 1 - If the construction permit application involves (i) a new source or emission unit subject to siting requirements of Section 39.2 of the Act, (ii) a commercial incinerator or a municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) one or more other emission units designated as a complex source by Agency rulemaking.

Note 2 - The project is not otherwise subject to BACT or LAER for a related pollutant under PSD or NANSR.

Note 3 - Applies to: (1) A construction permit application to add or replace a control device on a permitted emission unit; (2) A construction permit application to conduct a pilot project or trial burn for a permitted emission unit; (3) A construction permit application for a land remediation project; (4) A construction permit application for an insignificant activity as described in 35 IAC 201.210; (5) A construction permit application to revise an emissions testing methodology or the timing of required emissions testing; (6) A construction permit application that provides for a change in the name, address, or phone number of any person identified in the permit, or for a change in the stated ownership or control, or for a similar minor administrative permit change at the source.

Permit Fees – Minnesota Pollution Control Agency (MPCA)

Sources: MPCA staff, <https://www.pca.state.mn.us/business-with-us/air-permit-fees>, and <https://www.revisor.mn.gov/rules/7002.0019/> (Jan. 2024)

Minnesota uses a points system to determine permit fees. The points assessed for permit application types and specific additional activities are multiplied by the dollar per point value as determined in part [7002.0018](#) to calculate the application fee. As of January 2024, this per point value is \$285.

Application points

Application Type		Points
A.	Administrative amendment or administrative change of name, ownership, or control	1
B.	Registration permit	2
C.	State general permit	3
D.	Part 70 general permit	4
E.	Minor amendment	4
F.	Capped permit	4
G.	Applicability requests. <i>These points are applied to each request received for determining the applicability of rules in advance of receiving a permit application. If multiple requests for reviews are submitted to the Pollution Control Agency over time, each request is subject to the fee.</i>	10
H.	Moderate amendment	15
I.	Major amendment	25
J.	Individual state permit	50
K.	Individual Part 70 permit	75

Additional points

Activity		Points
A.	Modeling review. <i>The points for modeling review are not assessed for screening modeling or CAPS modeling.</i>	15
B.	Best available control technology (BACT) review. <i>BACT points are applied for each prevention of significant deterioration (PSD) pollutant analyzed.</i>	15
C.	Lowest achievable emission rate (LAER) review. <i>LAER points are applied for each nonattainment new source review (NSR) pollutant analyzed.</i>	15
D.	Clean Air Act, section 110(a)(2)(D)(i)(I) review. <i>Points are applied for a review of any standard or other requirement related to interstate transport of pollutants established under section 110(a)(2)(D)(i)(I).</i>	10
E.	Part 75 continuous emission monitoring analysis	10
F.	New source performance standard (NSPS) review. <i>Points are applied for each applicable standard but do not apply to registration, capped, or general permit applications.</i>	10

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G.	National emission standards for hazardous air pollutants (NESHAP) review. <i>Points are applied for each applicable standard but do not apply to registration, capped, or general permit applications.</i>	10
H.	Case-by-case maximum achievable control technology (MACT) review. <i>Points are applied for each applicable source category reviewed.</i>	20
I.	Netting. <i>Points are applied for each prevention of significant deterioration (PSD) pollutant for which a netting analysis is performed.</i>	10
J.	Limit to remain below programmatic regulatory threshold. <i>Points are applied, if applicable, to each of the following regulatory programs: Part 70, NESHAP, EAW, AERA, NSPS, PSD, and nonattainment NSR.</i>	10
K.	Plantwide applicability limit (PAL). <i>Points are applied for each prevention of significant deterioration (PSD) pollutant for which a plantwide applicability limit is established.</i>	20
L.	Air emission risk analysis (AERA) review	15
M.	Variance request under part 7000.7000	35
N.	Confidentiality request under part 7000.1300	2
O.	Environmental assessment worksheet (EAW) review. Points are assigned as follows:	
	Part 4410.4300 , subparts 18, items A and B; and 29	15
	Part 4410.4300 , subparts 8, items A and B; 10, items A, B, C, and D; 16, items A and D; 17, items A to C and E to G; and 18, items C, D, E, and F	35
	Part 4410.4300 , subparts 4; 5, item A, subitems (1) and (2); 13; 15; 16, items B and C; and 17, item D	70
	<i>A fee for EAW review is charged only if the project falls into a mandatory category specified in part 4410.4300, the agency is the designated responsible governmental unit (RGU), and an air or water permit is required for the project. If a facility requires both an air and water permit, the points for an EAW review are charged only once and multiplied by the lower of the dollar per point value for an air or water permit.</i>	

Construction Permit Fees – Iowa Department of Natural Resources (IDNR)

Sources: IDNR staff and [Air Quality Fees \(iowadnr.gov\)](http://iowadnr.gov) (Jan. 2024).

Minor Source Construction Permit Application Fees (567 IAC 30.2)	
	Fee Per Application
Each application for a construction permit*	\$385
Each application for a registration permit	\$100
Each application for a permit by rule	\$100
Each application for a permit template	\$100

Major Source Construction Permit and Prevention of Significant Deterioration (PSD) Application Fees (567 IAC 30.2)		
<i>Applicants will be billed for the actual hours worked to complete the issued permit</i>		
	Hourly Fee	Estimated Time
Review of each new source review permit application - Typically reviewed by Environmental Engineer, with final review by an Environmental Engineer Senior.	\$115	8 - 200 hours
Review of each Prevention of Significant Deterioration (PSD) permit application. - Typically reviewed by an Environmental Engineer Senior.	\$115	40 - 600 hours
Review of each plant-wide applicability limit request, renewal, or reopening - Typically reviewed by an Environmental Engineer Senior.	\$115	50 - 250 hours
Review of each regulatory applicability determination - Engineer assignment depends on complexity of request.	\$115	2 - 20 hours
Reviewing or conducting of air quality modeling - Typically reviewed by an Environmental Specialist, with final review by an Environmental Specialist Senior.	\$90	16 - 200 hours

*Application fees (minus \$100 to cover department administrative costs) may be refunded for minor source construction permit applications that are withdrawn before commencement of technical review.

Construction Permit Fees – Indiana Department of Environmental Management (IDEM)

Sources: IDEM staff and [IDEM: Air Permitting: Timeframes and Fees](#) (Jan. 2024)

IDEM operates an integrated NSR/Title V program; as such, the construction permit fee schedule is in part organized based on a source’s operating permit type.

Title V program	
New Source Minor PSD or Emission Offset	\$5,556
New Source Major PSD or Emission Offset	\$9,525
Significant Source Modification Minor PSD or Emission Offset	\$5,556
Significant Source Modification Major PSD or Emission Offset	\$9,525
Minor Source Modification	\$793
Interim Minor Source Modification Minor PSD or Emission Offset	\$793
Interim Significant Source Modification Minor PSD or Emission Offset	\$793

FESOP program	
FESOP with Significant New Source Review	\$5,556
FESOP with Minor New Source Review	\$793
New Source FESOP Minor PSD or Emission Offset	\$5,556
New Source FESOP Major PSD or Emission Offset	\$9,525
Significant Permit Revision Minor PSD or Emission Offset	\$5,556
Significant Permit Revision Major PSD or Emission Offset	\$9,525
Minor Permit Revision	\$793
Renewal with Significant New Source Review	\$5,556
Renewal with Minor New Source Review	\$793
Interim Minor Source Modification Minor PSD or Emission Offset	\$793
Interim Significant Source Modification Minor PSD or Emission Offset	\$793

MSOP (natural minor source operating permit) program	
MSOP with Significant New Source Review	\$3,500
MSOP with Minor New Source Review	\$600
New Construction MSOP Minor PSD or Emission Offset	\$3,500
New Construction MSOP Major PSD or Emission Offset	\$6,000
Significant Permit Revision Minor PSD or Emission Offset	\$3,500
Significant Permit Revision Major PSD or Emission Offset	\$6,000
Minor Permit Revision	\$600
Renewal with Significant New Source Review	\$3,500

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Renewal with Minor New Source Review	\$600
Interim Minor Permit Revision Minor PSD or Emission Offset	\$500
Interim Significant Permit Revision Minor PSD or Emission Offset	\$500

SSOA (source specific operating agreement) program	
SSOA New Source Review	\$5,556

Other application fees*	
Experimental Trial Approval	\$100 – \$158
Public hearing	\$500 - \$793
For each NSPS Review	\$500 - \$793
For each NESHAP Review	\$500 - \$793
For each 326 IAC 8-1-6 BACT Review	\$600 - \$952
For each 326 IAC 2-4.1 MACT Review	\$600 - \$952

PSD BACT or LAER review*	
2 to 5 Review Analyses	\$3,000 - \$4,762
6 to 10 Review Analyses	\$6,000 - \$9,525
11 or more Review Analyses	\$10,000 - \$15,875

Air Quality Impact Study review*	
If applicant does analysis	\$3,500 - \$5,556
Per pollutant if OAQ does analysis	\$6,000 - \$9,525

PAL (plantwide applicability limit)*	
Fee per ton of allowable emissions per PAL pollutant	\$40 - \$63
Maximum combined for all PAL pollutants	\$63,500

*The assessed fee varies depending on the type of applicable operating permit.

Appendix C
State Construction Permit Actions

State Construction Permit Actions (FY19-23)

See notes following table for additional explanations. The number of Title V sources provided for context only. Source: WDNR discussions with state air agencies (May-June 2024)

	FY19	FY20	FY21	FY22	FY23
Illinois (Title V sources: 430) – calendar year data					
CAAPP permits	--	139	165	155	137
FESOP and Lifetime permits	--	154	183	184	160
Michigan (Title V sources: 335)					
Permits to install - approved	373	298	320	337	289
Permits to install - denied	2	4	0	1	2
Applications and permits voided	477	363	221	376	232
Minnesota (Title V sources: 261)					
Permits including an authorization to construct	--	20	27	22	33
Iowa (Title V sources: 280) – calendar year data					
Projects requiring permits	--	--	--	--	371
Determinations	--	--	--	--	24
Indiana (Title V sources: 505)					
<i>Title V permit</i>					
Minor source modifications	29	30	31	18	56
Significant source modifications - Minor PSD	61	68	64	67	65
Significant source modifications - Major PSD	5	3	4	0	6
New source construction - Minor PSD	5	1	1	2	3
New source construction - Major PSD	1	0	0	1	1
<i>FESOP permit</i>					
Minor permit revisions	9	7	9	5	6
Significant permit revisions	49	57	52	57	54
FESOP new source construction	13	6	12	14	12
Renewals with NSR	12	5	6	16	4
FESOP with NSR	14	8	9	17	14
<i>MSOP permit</i>					
Minor permit revisions	19	23	26	17	15
Significant permit revisions	10	6	12	16	8
MSOP new source construction	26	26	26	24	16
Renewals with NSR	6	6	5	4	5
MSOP with NSR	22	12	6	7	11
<i>Exemptions - All permit types</i>					
Determinations	44	30	29	19	37
Wisconsin (Title V sources: 316)					
Minor construction permits	78	56	72	62	56
Major construction permits (PSD)	11	8	12	6	8
Exemptions	44	45	54	72	42
Revisions	26	23	24	30	31

The following notes apply to the data provided in the table above. Each state organizes, categories, and operates its construction permitting program differently. The information included in this appendix is presented as it was provided to the department.

Illinois

Notes on permit categories:

- CAAPP Permits – Clean Air Act Permit Program (CAAPP) permits are construction permits issued to sources of air pollution operating under a Title V permit.
- FESOP Permits – Construction permits issued to sources of air pollution operating under a federally enforceable state operation permit (FESOP)
- Lifetime Permits – Construction permits issued to sources of air pollution with emissions low enough not to require a Title V or FESOP

Additional notes:

- In each of the calendar years, CY20 through CY23, IEPA issued 1 PSD permit. The PSD permits are included in the CAAPP permit totals.
- The CAAPP permit totals include Permits By Rule (PBR), a type of standardized construction permit. The PBR totals for each calendar year are as follows: CY20: 2 permits, CY21 6 permits, CY22 12 permits, CY23 3 permits.
- As of June 2024, IEPA had a construction permit backlog of 55 permit applications, including 13 PSD permit applications.
- IEPA's construction permit units do not make formal determinations on whether a project is exempt from construction permitting.

Michigan

Notes on permit categories:

- Permits to install – Permits that authorize construction or modification
- Applications and permits voided – This category includes applications and permits that are voided for any number of reasons, including the permit to install is incorporated into a Title V permit, the equipment authorized under a permit has been removed from service, the authorized equipment has become exempt from construction permitting, the facility holding the permit has shutdown.

Additional notes:

- Approximately 15% of the “permits to install” approved each year are general construction permits, a type of standardized construction permit. All other “permits to install” are site-specific permits.
- The “permit to install” authorized totals include major construction permits, including both PSD and Nonattainment NSR (NNSR) permits. The PSD and NNSR permit totals for each fiscal year are the following:
 - FY19: 6 PSD, 3 NNSR
 - FY20: 2 PSD
 - FY21: 3 PSD, 2 NNSR
 - FY22: 4 PSD, 1 NNSR
 - FY23; 4 PSD
- EGLE's construction permit units do not make formal determinations on whether a project is exempt from construction permitting.

Minnesota

Notes on permit categories:

- All the permits issued by Minnesota, including an authorization to construct, were part of integrated construction and operation permit actions.

Additional notes:

- In fiscal years FY20 through FY24, Minnesota issued a total of 6 authorizations to construct under the PSD regulations. The PSD authorizations are included in the authorization to construct totals.

Iowa

Notes on permit categories:

- Projects requiring permits – Projects involving construction or modification that required one or more permits to be authorized
- Determinations – Formal determinations by IDNR of the approvability of a permit amendment or that a particular project is exempt from construction permitting

Additional notes:

- Unless a project is exempt, each individual smokestack or emissions point of a project requires its own permit. IDNR issued 1,628 permits to projects requiring permits in CY23.
- In CY23, IDNR approved 24 projects that required a permit by rule. All other approved projects required site-specific permits. These projects are included in the totals for projects requiring permits.
- In CY23, IDNR approved 17 projects that required permits under either the PSD or NNSR regulations. These projects are included in the totals for projects requiring permits.

Indiana

Notes on permit categories:

- IDEM tracks its construction authorizations (i.e., authorizations to construct or modify) according to the type of operation permit under which a facility operates. Each construction authorization was part of an integrated construction and operation permit action.
- Title V permit – permits issued to sources of air pollution operating under a Title V permit.
- FESOP permit – permits issued to sources of air pollution operating under a FESOP.
- MSOP permit – permits issued to sources of air pollution operating under a Minor State Operating Permit (MSOP)

Additional notes:

- All permits enumerated under the Part 70 Permits category include construction authorizations.
- Some of the permits enumerated under FESOP permits and MSOP permits may not include construction authorizations. Specifically, minor permit revisions, significant permit revisions and renewals might not include construction authorizations.