

Wisconsin Department of Natural Resources



General Overview of Construction Permit Process

(Comment Period Closing Date 5/25/05)

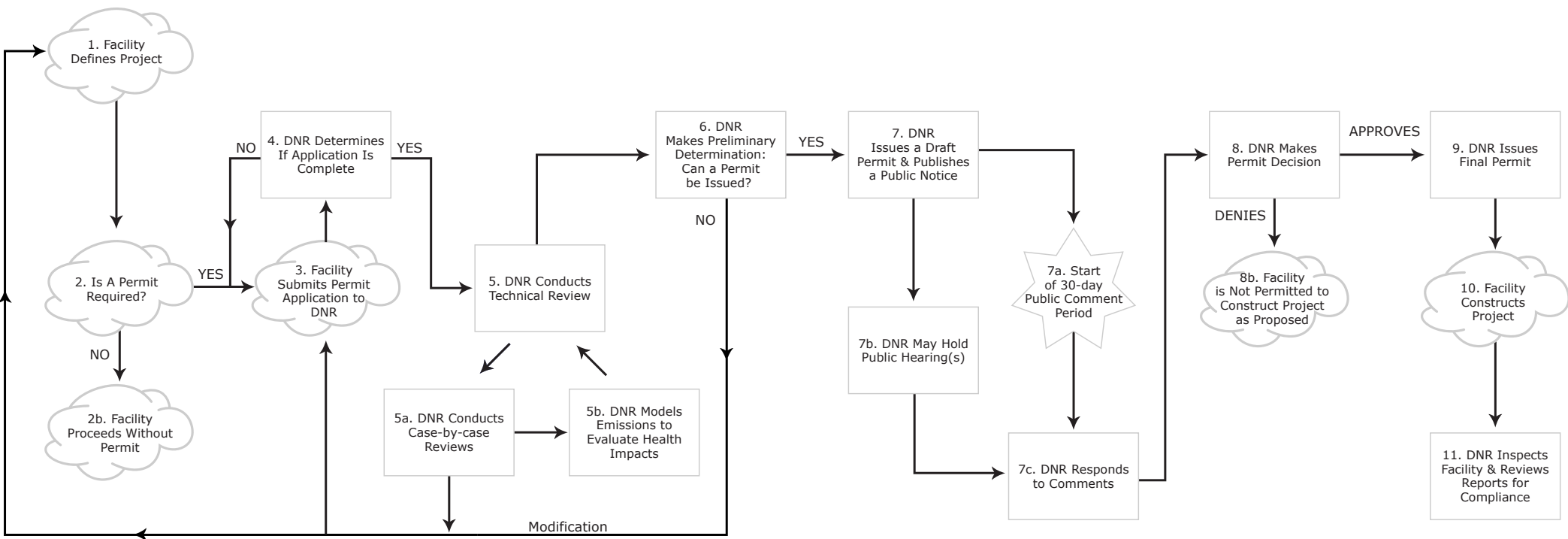
June 2005

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General Overview of Construction Permit Process

All new, modified, reconstructed, relocated, or replaced air pollutant sources (unless exempt) are required to obtain a construction permit from the Department of Natural Resources. The facility, DNR and the public all have a role in the construction permitting process. Diagram 1 is an illustration of the construction permit process. The shape of each step shows who has the key role at that phase of the process: a cloud (oval) represents the facility; a rectangle represents the DNR Bureau of Air Management; a star represents the public. This overview provides only a summary of the construction permit process and requirements. Please refer to the Wisconsin Statutes and Wisconsin Administrative Code for the specific language and requirements for construction permits.



1) **Facility Defines Project:** The facility defines any expansions, new construction, or changes in operation. This includes examining how the equipment, processes or materials may impact the environment.

2) **Is A Permit Required?** The facility needs to answer several questions about their emissions such as:

- What types of pollutants are released?
- How much is emitted?
- Where are these emissions coming from?

From there, they can determine if they are a major source (<http://dnr.wi.gov/org/aw/air/permitting/faq/glossary.html>) or a minor source which will help determine if a permit is needed and which type of permit is required. The Wisconsin Department of Commerce (http://www.commerce.state.wi.us/sitemap/licenses_permits/), The Wisconsin DNR (<http://dnr.wi.gov/permitprimer/>) or consulting firms are resources available to help answer the question, "Do we need a permit?"

2b) **Exemptions** Facilities that emit air pollutants below certain levels are exempt from construction permits. They can check with the DNR and confirm the exemption. The facility doesn't have to get an official exemption letter from the DNR, but they take on the added risk of possible penalties if they don't and the DNR later finds they should have had a permit.

3) **Complete & Submit Permit Application** When the facility has all of the necessary information, they fill out an application for an air pollution control permit and submit it to the DNR. These application forms are found on the DNR website.

(<http://dnr.wi.gov/org/aw/air/permits/downloads.htm#forms>) A facility may contact the DNR, the Department of Commerce's Small Business Clean Air Assistance Program (SBCAAP), or a consulting firm for assistance with filling out the application. If the facility can show that they would incur undue economic hardship by having to wait to start construction, they can apply for a waiver that would allow them to start construction right away. However, they cannot begin operating their equipment until the permit is actually issued. Remember, there are no guarantees that a permit will be issued. Facilities applying for waivers should understand that they take on added risk that the equipment they install might not be able to be operated as constructed. Even if they have a waiver they still need to get a permit.

4) **DNR Determines Completeness** The DNR has 20 days to determine if the application is complete. The completeness determination simply means that the application is ready for technical review. If an application is not complete, the DNR will contact the facility to let them know what information is needed. If the DNR does not ask for more information within the 20 days, the application is automatically considered complete. For a minor source DNR has 120 days from this date to issue a permit. For a major source DNR has 180 days from this date to issue a permit. Both of these timeframes assume that no public hearing is held. Holding a public hearing may delay this timeframe by days.

5) DNR Technical Review The application goes through a technical review period within the DNR and a preliminary draft permit will be written. During the review process emission rates are calculated for all of the air pollutants and a review of the Wisconsin Administrative Code and federal regulations is performed to determine applicable requirements.

5a) Case-by-Case Reviews Certain types of air pollutants require a case-by-case study. For example, if a facility emits more than a certain amount of a cancer causing substance, the facility would be required to evaluate different types of control technology and other pollution reduction measures. The department would review this evaluation and choose the best available control technology (BACT) or lowest achievable emission rate (LAER) for that system. The BACT or LAER determination is written up in an analysis and preliminary determination document that accompanies the permit.

5b) Emission Modeling Before a permit is issued, the department must determine if the emissions from the facility meet ambient air quality standards and all applicable emission limitations. This is done by calculating the worst case emission rates and where appropriate, using computer models to predict the concentration of air pollution around the facility. If the project cannot meet a standard or a limitation, the facility has an opportunity to propose equipment changes, emission reductions, or material substitutions that would ensure that the standards and limitations will be met. Examples include changing the height of a stack or adding air pollution control equipment.

6) A Preliminary Determination The DNR's preliminary determination means that the agency review indicates that the project, when constructed or modified and operated consistent with the application and other information submitted, will be able to meet specified emission limits. Emission limits and conditions are put into a Draft Permit. The proposed emission limits and other proposed conditions in the Draft Permit are written in the same form that they will appear in the construction permit and, where applicable, the operation permit. A final decision regarding these emission limits and conditions will be made after the Department has reviewed and evaluated all comments received during the comment period. The Department could change the proposed conditions as a result of public comments or further evaluation.

7) The Draft Permit & Public Notice The public now has the opportunity to look at all the preliminary work and the draft permit. The DNR prepares a public notice and publishes it in the newspaper in the region of the facility. A copy of the draft permit and analysis can be found at the public library or downloaded from the DNR website http://dnr.wi.gov/org/aw/air/permits/APM_toc.htm. This step gives the public a chance to comment on the permit. It is important to note, if a facility meets all the applicable air pollution limitations in the Natural Resources Code, and its emissions do not violate ambient air quality standards, then the DNR is obligated to issue the permit. The types of comments that the DNR can consider are limited to things such as the quality of the technical review, what pollutants might or might not be emitted, previous air issues at a facility, and problems that occurred at similar facilities. However, the public does not have the authority to stop a project.

7a) Comments on Draft Permit The public has 30 days to send in their written comments about this draft permit. Comments can also be taken by regular mail, E-mail, or phone. Contact information is in the public notice. A copy of the public notice is available on the DNR's Website or at your public library. The facility itself can also send in their comments about the draft permit during the same 30-day period. The EPA also has the opportunity to supply comments at this time.

7b) Public Hearing Some proposed permit actions require that the DNR hold a public hearing in addition to the public comment period. A facility may also request a public hearing to proactively address concerns. The hearing notice, listing the time, date and location of the hearing, is published with the public notice. The public can also request a public hearing by contacting the DNR permit reviewer listed in the public notice and stating why they feel a hearing is warranted, how they are affected by this project, and if they are representing a group or firm. The request must be submitted in written form within 30 days of publication of the public notice.

7c) DNR Responds to Comments After the 30 day public comment period is over, all comments are considered and necessary changes are made. DNR prepares a memo that describes any changes that were made to the permit based on public comments received. People who commented can request that the DNR send a copy of the memo explaining changes made to the draft permit. If a hearing was held, a hearing summary is prepared. This would also be made available to interested members of the public. If any of the changes made to the Draft Permit result in relaxation of permit conditions, then a new public notice might be needed for a revised Draft Permit package. If the changes result in more stringent conditions within the permit, or are merely administrative adjustments or corrections of typos, then the Draft Permit can proceed to the next step in processing.

8) DNR Permit Decision The DNR makes a final decision to issue or deny a permit. If a permit is denied, the DNR sends a letter to the facility stating that the permit is denied, why it was denied, and how to appeal the decision. A facility is free to apply for a permit again proposing a project that can meet the limits and standards.

Modifications: At various points in the permit process, the facility may need to make changes for the permit application or project to go forward. These modifications could be an actual physical modification at the facility or a modification in the design of the project. Changes to the project design may result in starting the process over at Step 1.

9) Permit Issued Usually a permit is issued and the facility can then begin construction. If the facility or the public wants to object to a portion of the permit or entire permit, they have 30 days to appeal.

10) Construction and Compliance The facility constructs the project and demonstrates compliance with the terms and conditions in the permit. Eventually, the construction permit becomes a permit to operate.

11) Inspections & Reporting The DNR inspects facilities periodically. All facilities must submit periodic reports. These reports include:

- Results of monitoring required by permits (semi-annually or annually depending on the facility size);
- An annual compliance certification with the terms and conditions of the permit;
- A report on the facility's emissions (through the DNR's consolidating reporting system); (<http://dnr.wi.gov/org/aw/air/emission/crs/index.htm>) and
- Other reports specifically required in the permit.