

## Chapter NR 407

## OPERATION PERMITS

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**NR 407.01 Applicability; purpose.** (1) **APPLICABILITY.** This chapter applies to all stationary sources which are required under s. 144.391, Stats., to obtain an operation permit. In accordance with s. 144.391 (6), Stats., sources of certain sizes and types are exempt under s. NR 407.03 from the requirement to obtain an operation permit.

(2) **PURPOSE.** This chapter is adopted under ss. 144.31 (1) (a), (e), (f), and (r), 144.374, 144.38, 144.391, 144.3925, 144.394 (13) and 144.395, Stats., to establish a schedule of dates for the submission of operation permit applications and a schedule of dates for requiring operation permits for various categories of existing sources and to specify the content of operation permit applications and operation permits. This chapter also sets forth procedures for revising, suspending and revoking operation permits.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, May, 1992, No. 437, eff. 6-1-92; am. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.02 Definitions.** The definitions contained in chs. NR 400 and 406 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1) "Acid rain allowance" or "allowance" means an authorization by the administrator under the acid rain program to emit up to one ton of sulfur dioxide during or after a specified calendar year.

(2) "Acid rain provision" means any provision of an operation permit implementing an applicable requirement of the acid rain program.

(3) "Affected state" means:

(a) Any state that is within 50 miles of the stationary source obtaining an operation permit or undergoing revision or renewal of its operation permit; or

(b) Michigan, Illinois, Iowa or Minnesota if that state's air quality may be affected by the stationary source obtaining an operation permit or undergoing revision or renewal of its operation permit.

(4) "Affected unit" means an emissions unit that is subject to any emissions reduction requirement or emissions limitation under the acid rain program.

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(5) "Allowance tracking system" means the acid rain program system by which the administrator allocates, records, deducts and tracks allowances.

(6) "Allowance tracking system account" means an account in the allowance tracking system established by the administrator for purposes of allocating, holding, transferring and using allowances.

(7) "Baseline", for purposes of the acid rain program, means the annual average quantity of fossil fuel consumed by a unit, measured in millions of btus for calendar years 1985 through 1987; provided that in the event that a unit is listed in the NADB, the baseline will be calculated for each unit-generator pair that includes the unit, and the unit's baseline will be the sum of such unit-generator baselines. The unit-generator baseline shall be as provided in the NADB under the data field "BASE8587", as adjusted by the outage hours listed in the NADB under the data field "OUTAGEHR" in accordance with the following equation:

$$\text{Baseline} = \text{BASE8587} \times [26280 / (26280 - \text{OUTAGEHR})] \times [36 / (36 - \text{months not on line})] \times 10^6,$$

where "months not on line" is the number of months during January 1985 through December 1987 prior to the commencement of firing for units that commenced firing in that period, i.e., the number of months, in that period, prior to the on-line month listed under the data field "BLRMNONL" and the on-line year listed in the data field "BLRYRONL" in the NADB.

(8) "Clean coal technology" means atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the secretary of the U.S. department of energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(9) "Commence commercial operation" means to have begun to generate electricity for sale, including the sale of test generation.

(10) "Compensating unit" means a unit that is not otherwise subject to acid rain program emissions limitations or emissions reduction requirements during phase I and that is designated as a phase I unit in a reduced utilization plan under 40 CFR 72.43, provided that a unit that is not an affected unit under the acid rain program may not be a compensating unit.

(11) "Compliance option", for purposes of the acid rain program, means any of the 4 strategies specified in 40 CFR 72.40 to 72.44 for complying with the acid rain program. Subpart D lists 4 options: phase I substitution plans, phase I extension plans, phase I reduced utilization plans and phase II repowering extensions.

(12) "Compliance plan", for purposes of the acid rain program, means the document submitted for an affected source in accordance with an acid rain permit application under 40 CFR 72.30 to 72.33, specifying the

methods, including one or more compliance options under 40 CFR 72.40 to 72.44, by which each affected unit at the source will meet the applicable emissions limitations and emissions reduction requirements of the acid rain program.

(13) "Emissions allowable under the permit" means an enforceable permit term or condition required by an applicable requirement that establishes an emission limit, including a work practice standard, or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(14) "Excess acid rain emissions" means:

(a) Any tonnage of sulfur dioxide emitted by an affected unit during a calendar year that exceeds the emissions limitation in the acid rain program for sulfur dioxide for the unit; and

(b) Any tonnage of nitrogen oxides emitted by an affected unit during a calendar year that exceeds the annual tonnage equivalent of the emissions limitation in the acid rain program for nitrogen oxides applicable to the affected unit taking into account the unit's heat input for the year.

(15) "Excess emission offset requirement" means a requirement to reduce excess acid rain emissions pursuant to 40 CFR 77.1 to 77.6 by offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

(16) "General operation permit" means an operation permit that may be made applicable to numerous similar stationary sources.

(17) "Major source" means any stationary source, or any group of stationary sources, that is located on one or more contiguous or adjacent properties, is under common control of the same person or persons under common control, belongs to a single major industrial grouping and that is described in par. (a), (b) or (c). For the purposes of defining "major source", a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at the source or group of sources have the same 2-digit code as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in ch. NR 484.

(a) A stationary source that, for pollutants other than radionuclides, emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the act (42 USC 7412 (b)), 25 tpy or more of any combination of those hazardous air pollutants, or a lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station may not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources;

(b) A stationary source that directly emits, or has the potential to emit, 100 tpy or more of any air contaminant. The fugitive emissions of a stationary source may not be considered in determining whether it is a major source for the purposes of this definition, unless the source belongs to one of the following categories of stationary sources:

1. Coal cleaning plants with thermal dryers;
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants, furnace process;
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plants;
25. Charcoal production plants;
26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
27. All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the act (42 USC 7411 or 7412), but fugitive emissions shall be considered only for those air contaminants that have been regulated for that category; or

(c) A major stationary source as defined in part D of title I of the act (42 USC 7501 to 7515), which is defined as:

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1. For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tpy or more in areas classified as "serious", 25 tpy or more in areas classified as "severe", and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides do not apply with respect to any source for which the administrator has made a finding, under section 182 (f) (1) or (2) of the act (42 USC 7511a (f) (1) or (2)), that requirements under section 182 (f) of the act (42 USC 7511a (f)) do not apply;

2. For ozone transport regions established pursuant to section 184 of the act (42 USC 7511c), sources with the potential to emit 50 tpy or more of volatile organic compounds;

3. For carbon monoxide nonattainment areas that are classified as "serious", and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

4. For particulate matter (PM10) nonattainment areas classified as "serious", sources with the potential to emit 70 tpy or more of PM10.

(18) "Nameplate capacity" means the maximum electrical generating output, expressed in megawatts of electricity, that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings, as listed in the NADB under the data field "NAME-CAP" if the generator is listed in the NADB or as measured in accordance with the United States department of energy standards if the generator is not listed in the NADB.

(19) "National allowance data base" or "NADB" means the data base established by the administrator under s. 402 (4) (C) of the act (42 USC 7651a (4) (c)).

(20) "Non-part 70 source" means any stationary source required to obtain an operation permit that is not a part 70 source.

(21) "Offset plan", for purposes of the acid rain program, means a plan pursuant to 40 CFR 77.1 to 77.6 for offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

(22) (a) "Part 70 source" means any of the following stationary sources, except as provided in par. (b):

1. Any major source.
2. Any source subject to a standard, limitation or other requirement under section 111 of the act (42 USC 7411).
3. Any source subject to a standard or other requirement under section 112 of the act (42 USC 7412), except for a source subject solely to regulations or requirements under section 112 (r) of the act (42 USC 7412 (r)).
4. Any affected source.

(b) Notwithstanding par. (a), all sources listed in par. (a) 2 or 3 that are not major sources, affected sources or solid waste incineration units

required to obtain permits pursuant to section 129 (e) of the act (42 USC 7429 (e)) are not part 70 sources.

(23) "Phase I" means the acid rain program period beginning January 1, 1995 and ending December 31, 1999.

(24) "Phase II" means the acid rain program period beginning January 1, 2000 and continuing into the future.

(25) "Qualifying phase I technology" means a technological system of continuous emission reduction that is demonstrated to achieve at least a 90% reduction in emissions of sulfur dioxide relative to the emissions that would have resulted from the use of fossil fuels that were not subject to treatment prior to combustion, as provided in 40 CFR 72.42.

(26) "Qualifying repowering technology" means:

(a) Replacement of an existing coal-fired boiler with one of the clean coal technologies; or

(b) Any oil-fired or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the U. S. department of energy.

(27) "Recordation", "record" or "recorded" means, with regard to allowances, the transfer of allowances by the administrator from one allowance tracking system account or subaccount to another.

(28) "Reduced utilization" means a reduction, during any calendar year in phase I, in the heat input, expressed in millions of btus for the calendar year, at a phase I unit below the unit's baseline, where the reduction subjects the unit to the requirement to file a reduced utilization plan under 40 CFR 72.43.

(29) "Reduced utilization plan" means a compliance plan submitted by the designated representative under 40 CFR 72.43 for the purpose of identifying an affected unit's method of complying with the applicable sulfur dioxide and nitrogen oxides emission limitations.

(30) "Repowering extension plan" means a compliance plan submitted by the designated representative under 40 CFR 72.44 for the purpose of identifying an affected unit's method of complying with the applicable sulfur dioxide and nitrogen oxides emission limitations.

(31) "Renewal" means the process by which an operation permit is reissued at the end of its term.

(32) "State-only requirement" means a requirement designated under s. NR 407.09 (3) (b) as not being federally enforceable.

(33) "Substitution plan" means a compliance plan submitted by the designated representative under 40 CFR 72.41 for the purpose of identifying an affected unit's method of complying with the applicable sulfur dioxide and nitrogen oxides emission limitations.

(34) "Substitution unit" means an affected unit, other than a unit under s. 410 of the act (42 USC 7651), that is designated as a phase I unit in a substitution plan under 40 CFR 72.41.

(35) "Synthetic minor source" means any stationary source that has its potential to emit limited by federally-enforceable permit conditions so that it is not a major source.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; renum. (1) to be (intro.), cr. (1), Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.025 Permit flexibility.** (1) (a) The owner or operator of an existing source that has an operation permit, or for which a timely and complete application has been submitted, may make a change to the stationary source that contravenes an express term of an operation permit without first obtaining a permit revision if all the following apply:

1. The change does not violate applicable requirements or contravene permit terms and conditions that are monitoring, including use of specified test methods, recordkeeping, reporting or compliance certification requirements;

2. The change is not a modification as defined in s. 144.30 (20), Stats., and rules promulgated thereunder;

3. The change does not cause the existing source to exceed the emissions allowable under the permit, whether expressed in the permit as an emissions rate or in terms of total emissions; and

4. Notice is given and the department does not inform the owner or operator of the stationary source that the change is not authorized, as provided in par. (b).

(b) 1. For each change allowed under par. (a), the owner or operator of the existing source shall provide the department and, for part 70 sources, the administrator, with written notification of the proposed change a minimum of 21 days in advance of the date on which the proposed change is to occur. The written notification shall include a brief description of the change within the stationary source, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

2. The owner or operator of the existing source may not make the proposed change if department informs the person before the end of the 21-day period provided in subd. 1 that the proposed change is not one authorized under this subsection.

(c) The owner or operator of the existing source, the department and the EPA, if applicable, shall attach each notification of a change made under this subsection to their copy of the relevant operation permit.

(d) The permit shield described in s. 144.3925 (9) (b), Stats., may not apply to any change made pursuant to this subsection.

(2) (a) The department shall, if a owner or operator of an existing source requests it, issue an operation permit that contains terms and conditions, including all terms required under s. NR 407.09 (1), (2) and (4), allowing for the trading of emissions increases and decreases at the existing source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the operation permit independent of otherwise applicable requirements. The permit applicant shall include in the application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.

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The department may not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. Any operation permit issued pursuant to this subsection shall require compliance with all applicable requirements.

(b) For any trade allowed in an operation permit pursuant to par. (a), the owner or operator of the existing source shall provide the department and, for part 70 sources, the administrator, with written notification a minimum of 7 days in advance of the date on which the proposed trade is to occur. The written notification shall state when the change is proposed to occur and shall describe the changes in emissions that will result and how these changes in emissions will comply with the terms and conditions of the permit.

(c) The permit shield described in s. 144.3925 (9) (b), Stats., may extend to terms and conditions that allow the increases and decreases in emissions allowed under this subsection.

History: Cr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.03 Exemptions from operation permit requirements. (1) SPECIFIC CATEGORIES OF EXEMPT SOURCES.** Any direct stationary source which consists solely of one of the following categories of stationary sources is exempt from the requirement to obtain an operation permit provided the requirements of sub. (4) are met:

(a) External combustion furnaces which do not burn any hazardous waste identified under ch. NR 605, or which have been issued a license under ch. NR 680, and which are designed at combined total capacity to burn the following fuels at the maximum rates indicated:

1. Coal, coke or other solid fuels, except wood, at a heat input rate of not more than 1.0 million BTU per hour;
2. Wood alone or wood in combination with gaseous or liquid fuels at a heat input rate of not more than 5.0 million BTU per hour;
3. Residual or crude oil at a heat input rate of not more than 5.0 million BTU per hour;
4. Distillate oil at a heat input rate of not more than 10 million BTU per hour; and
5. Gaseous fuel at a heat input rate of not more than 40 million BTU per hour.

(b) Equipment designed to incinerate solid wastes, which are not pathological wastes, infectious wastes, municipal wastes or hazardous wastes under ch. NR 605, at a rate of not more than 500 pounds per hour.

(c) Equipment which is designed to dry grain at a rate of not more than 1,500 bushels per hour at 5% moisture extraction and which is not subject to s. NR 440.47.

(d) Portland concrete batch plants which produce less than 20,000 cubic yards of concrete per month averaged over any 12 consecutive month period.

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- (e) Storage tanks containing organic compounds with a true vapor pressure in pounds per square inch absolute at 70°F of less than 1.52 with a combined total tankage capacity of not more than 40,000 gallons.
- (f) VOC storage tanks with a combined total tankage capacity of not more than 10,000 gallons of volatile organic compounds.
- (g) Painting or coating operations, including associated quality assurance laboratories and cleaning operations which emit or will emit not more than 1,666 pounds of organic compounds per month, which are measured prior to entering any emission control devices.
- (h) Graphic arts operations, including associated quality assurance laboratories and cleaning operations which emit or will emit not more than 1,666 pounds of organic compounds per month, which are measured prior to entering any emission control devices.
- (i) Cold cleaning equipment with a total air to solvent interface of 1.0 square meters or less during operation.
- (j) Open top vapor degreasing equipment with a total air to vapor interface of 1.0 square meters or less during operation.
- (k) Dry cleaning operations with a total maximum operating capacity for all machines of 75 pounds of clothes per hour.
- (l) Private alcohol fuel production systems as defined in s. 144.438 (1)(c), Stats.
- (m) Crematories.
- (n) Indirect malt dryers which are designed to burn fuels specified in par. (a) at a heat input rate less than the rates specified in par. (a).
- (o) A laboratory which emits organic compounds, sulfur dioxide, carbon monoxide, nitrogen oxides or particulate matter or a combination thereof at a rate of less than 5.7 pounds per hour unless the emissions of any single hazardous air pollutant as defined by s. 112 (b) of the act (42 USC 7412 (b)) equal or exceed 10 tons per year or the cumulative emissions of all such hazardous air pollutants equal or exceed 25 tons per year. Hourly emissions shall be determined, based on the quantitative estimate of air contaminants before they enter any emission control devices, by dividing the total uncontrolled emissions which would have occurred during a calendar month by the total hours of operation of the laboratory during that calendar month. A laboratory is in operation if laboratory apparatus or equipment is in use.
- (p) Equipment the primary purpose of which is to transport or sort paper.
- (q) Facilities for chlorination of municipal drinking water, the intake of once through industrial process or cooling water, or water for swimming pools, spas or other recreational establishments.
- (r) Gasoline dispensing facilities which dispense gasoline or other petroleum products.
- (s) Bulk gasoline plants which distribute gasoline or other petroleum products and which have an average daily throughput of less than 15,000 liters (4,000 gallons), based on a 30-day rolling average.

(sm) The following procedures for the remediation of soil or water contaminated with organic compounds:

1. Landspreading, aeration or bioremediation of contaminated soil;
2. Negative pressure venting of contaminated soil, provided the remediation is completed within 18 months or total organic compounds are emitted at a rate of not more than 5.7 pounds per hour, considering emission control devices;
3. Pilot tests of negative pressure venting systems provided those tests are completed within 8 hours of startup and the air flow rate during the pilot test does not exceed 100 standard cubic feet per minute;
4. Landfilling of contaminated soil;
5. Application of biodegradation techniques to contaminated soil;
6. Installation and use of devices which remove organic compounds from a private or municipal potable water supply;
7. Installation and use of crop irrigation systems or dewatering wells to remediate contaminated water;
8. Installation and use of air strippers for treatment of contaminated water, provided the remediation is completed within 18 months;
9. Installation and use of any devices or techniques not listed in this paragraph which are used to remediate soil or water contaminated with organic compounds, if the device or technique is not portable and is not a thermal evaporation unit, and the remediation is completed within 18 months; and
10. Installation and use of any technique or device to remediate soil or water contaminated with organic compounds as part of on-site actions taken under the authority of the comprehensive environmental response compensation and liability act of 1980, as amended, 42 USC 9601 et seq.

Note: Even though these sources are exempt from permit requirements, they are still subject to the approval requirements under s. NR 419.07 (2).

(sq) Renovation or demolition operations involving friable asbestos containing material.

(t) A combination of emission units which consists of not more than one each of the following specific categories of sources:

1. Fuel burning equipment otherwise exempt under par. (a);
2. Equipment designed to incinerate solid wastes otherwise exempt under par. (b);
3. Storage tanks of organic compounds with a combined total tankage capacity of not more than 40,000 gallons if not more than 10,000 gallons of the storage tanks' capacity is used for storage of volatile organic compounds; and
4. Only one of the other specific category exemptions listed in pars. (c), (d) and (g) to (s).

(u) Emergency electric generators powered by internal combustion engines which are fueled by gaseous fuels, gasoline or distillate fuel oil with an electric output of less than 3,000 kilowatts.

(2) GENERAL CATEGORY OF EXEMPT SOURCES. In addition to the specific categories of exempt sources identified in sub. (1), no operation permit is required for a direct source if the source is not a part 70 source and:

(a) The maximum theoretical emissions from the source for sulfur dioxide or carbon monoxide do not exceed 9.0 pounds per hour for each air contaminant;

(b) The maximum theoretical emissions from the source for particulate matter, nitrogen oxides or organic compounds do not exceed 5.7 pounds per hour for each air contaminant;

(bm) The maximum theoretical emissions from the source for lead do not exceed 0.13 pounds per hour;

(c) The source will not emit any of the air contaminants listed in s. NR 405.02 (27) (a) at a rate greater than the applicable emission rate listed in s. NR 405.02 (27) (a);

(d) The source will not emit any hazardous air contaminant listed in Table 1, 2, 3 or 4 of s. NR 445.04 in amounts greater than the emission rate listed in Table 1, 2, 3 or 4 of s. NR 445.04 for the air contaminant for the respective stack height; and

(e) The source will not have maximum theoretical emissions of any single hazardous air pollutant as defined by s. 112 (b) of the act (42 USC 7412 (b)) that equal or exceed 10 tons per year or cumulative maximum theoretical emissions of all the hazardous air pollutants defined by s. 112 (b) of the act (42 USC 7412 (b)) that equal or exceed 25 tons per year.

(f) The source is not subject to any standard or regulation under section 111 of the act (42 USC 7411).

(g) The source is not subject to any standard or regulation under section 112 of the act (42 USC 7412).

(3) SPECIFIC CATEGORIES OF EXEMPT INDIRECT SOURCES. The following categories of indirect sources are exempt from the requirement to obtain an operation permit:

(a) *Existing sources.* All indirect sources on which construction or modification commenced on or prior to November 15, 1992.

(b) *Road and highway projects.* All indirect sources which are road or highway projects.

(c) *Indirect sources with associated parking.* If the indirect source will not be a road or highway project, no operation permit is required if the source will be:

1. A indirect source located in a metropolitan county with a parking capacity of less than 1000 cars in its associated parking areas.

2. A indirect source located in a metropolitan county with a parking capacity increase of less than 1000 cars in its associated parking areas.

3. A indirect source located outside the metropolitan counties with a parking capacity of less than 1500 cars in its associated parking areas.

4. A indirect source located outside the metropolitan counties with a parking capacity increase of less than 1500 cars in its associated parking areas.

(4) **CONDITIONS FOR SPECIFIC EXEMPTIONS.** In order to be eligible for a specific exemption under sub. (1) (d), (g), (h), (o), (s) or (sm), the owner or operator of a direct stationary source shall keep and maintain records of materials used, emissions or production rates, whichever is appropriate, that are adequate to demonstrate that the source qualifies for the exemption. The owner or operator of a direct stationary source shall begin keeping these records no later than January 1, 1994 or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. After January 1, 1994, any direct stationary source that ever exceeds any level listed in sub. (1) (d), (g), (h), (o), (s) or (sm) is not eligible for the exemption under that subsection.

(5) **EXEMPTIONS FROM PERMIT REQUIREMENTS FOR INDIRECT SOURCES.** Pursuant to s. 144.393 (4) (a), Stats., the permit requirements in s. 144.393 (2) (b) and (3) (a), Stats., do not apply to indirect sources.

**History:** Cr. Register, December, 1984, No. 348, eff. 1-1-85; cr. (2) (bm), r. and recr. (2) (d), am. (2) (e), Register, September, 1988, No. 393; eff. 10-1-88; am. (1) (a) (intro.), 1. to 3., (b), (g), (h), (o), (2) (a), (b), (bm), (c) 1. and 5., (d) and (e), Register, May, 1992, No. 437, eff. 6-1-92; am. (1) (intro.), (a) (intro.) and 5., (b) to (e), (2) (intro.), (a) to (c), cr. (1) (sm), (sq) and (u), (2) (f), (g), (3) to (5), r. (2) (c) 1. to 5., r. and recr. (2) (e), Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.04 Application filing dates. (1) INITIAL FILING DATES.** Except as provided in sub. (3), the owner or operator of an air contaminant source which is not exempt under s. 144.391 (5), Stats., or s. NR 407.03 shall submit an operation permit application on application forms available from the department by the following dates:

**Note:** Application forms may be obtained from the district and area offices of the Department or from the Wisconsin Department of Natural Resources, Bureau of Air Management, Permits Section, P.O. Box 7921, Madison WI 53707-7921.

(a) *Existing sources, initial application.* For initial applications for all existing sources, the date in the appropriate column of Table 1 for part 70 and non-part 70 sources corresponding to the county in which the source is located. Where the location of a source is in 2 or more counties, the date an application is due shall be the latest date listed for any of the counties in which the source is located. Any existing air contaminant source for which an application is submitted requesting that it be made a synthetic minor source is a part 70 source until a permit making that source a synthetic minor source is issued and, except as allowed in sub. (3), is subject to the filing dates listed for part 70 sources. If a source submits an application on or before the date specified in Table 1 and the department determines that the application is incomplete, the source shall have 30 days from the date that the department notifies the source of the incompleteness determination to complete the application.

(b) *New and modified sources.* 1. In accordance with s. 144.374 (2) (b), Stats., for new or modified sources for which a construction permit is required and which apply for a construction permit after November 15, 1992, the date that the application for the construction permit is filed.

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2. For new or modified sources for which a construction permit is required and which applied for a construction permit before November 15, 1992, a date at least 120 days prior to the expiration date of the construction permit.

3. For new or modified sources for which no construction permit is required, the application for an operation permit shall be filed before the source commences construction or modification.

(2) PERMIT RENEWAL. Pursuant to s. 144.396 (3), Stats., a permittee shall apply for renewal of an operation permit at least 12 months, but not more than 18 months, before the permit expires. No permittee may continue operation of a source after the operation permit expires, unless the permittee submits a timely and complete application for renewal of the permit.

(3) EXTENSIONS AND DEFERRALS. (a) *Extensions for cause.* An existing source may request and the department may grant an extension of not more than 60 days beyond the applicable date specified in sub. (1) (a) if all of the following conditions are met:

1. a. The extension is requested in writing at least 30 but no more than 90 days before the application is due.

b. The department may waive the 30 day requirement in subpar. a if an emergency occurs that makes it impossible for the source to meet that deadline.

2. The applicant demonstrates that the reason that they cannot meet the date specified in sub. (1) (a) is beyond their reasonable control.

3. The extension does not extend the date that a complete application is due for a part 70 source beyond November 15, 1995.

(b) *Deferral for sources proposing to become synthetic minor sources.* 1. If an existing source proposes to be permitted as a synthetic minor source in order to avoid being classified as a part 70 source, the owner or operator shall:

a. Submit a complete application for an operation permit for a non-part 70 source in accordance with s. NR 407.05 (4) and (8) by the date that a part 70 source permit application would be due for that source under the schedule in Table 1.

b. Submit information to show that the actual emissions of each air contaminant emitted by the source for the 2 most recent years prior to the submittal of the application for an operation permit were less than the corresponding thresholds for being classified a major source under s. NR 407.02 (17). If available, actual emissions, as reported to the department pursuant to ch. NR 438, shall be submitted.

c. Submit information to show that the source is a part 70 source solely due to its classification as a major source.

2. The department shall review the application and determine whether the source may be permitted as a non-part 70 source and whether the source has demonstrated that the requirements of subd. 1 have been met. If the department determines that the source may be permitted as a non-part 70 source and the requirements of subd. 1 have been met, it shall process the application in accordance with ss. 144.3925, Stats., NR

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407.07 and 407.09. If the department determines that the source may not be permitted as a non-part 70 source, the department shall notify the source of that determination. The owner or operator of the source shall then submit to the department a complete application for a part 70 source in accordance with s. NR 407.05 (4) by October 30, 1995.

TABLE 1 — APPLICATION FILING DATES FOR AIR POLLUTION OPERATION PERMITS FOR EXISTING SOURCES

County of location	Application filing date for part 70 sources	Application filing date for non-part 70 sources
Adams	June 1, 1994	August 1, 1997
Ashland	June 1, 1994	August 1, 1997
Barron	March 1, 1995	May 1, 1998
Bayfield	June 1, 1995	August 1, 1998
Brown	May 1, 1995	July 1, 1998
Buffalo	October 1, 1994	December 1, 1997
Burnett	December 1, 1994	February 1, 1998
Calumet	May 1, 1994	July 1, 1997
Chippewa	June 1, 1995	August 1, 1998
Clark	March 1, 1995	May 1, 1998
Columbia	May 1, 1994	July 1, 1997
Crawford	May 1, 1994	July 1, 1997
Dane	September 1, 1995	November 1, 1998
Dodge	May 1, 1995	July 1, 1998
Door	September 1, 1994	November 1, 1997
Douglas	May 1, 1994	August 1, 1998
Dunn	August 1, 1994	October 1, 1997
Eau Claire	December 1, 1994	February 1, 1998
Florence	August 1, 1994	October 1, 1997
Fond du Lac	September 1, 1994	November 1, 1997
Forest	June 1, 1994	August 1, 1997
Grant	August 1, 1994	October 1, 1997
Green Lake	May 1, 1995	July 1, 1998
Green	February 1, 1995	April 1, 1998
Iowa	January 1, 1995	March 1, 1998
Iron	December 1, 1994	February 1, 1998
Jackson	March 1, 1995	May 1, 1998
Jefferson	November 1, 1994	January 1, 1998
Juneau	June 1, 1994	August 1, 1997
Kenosha	January 1, 1995	March 1, 1998
Kewaunee	September 1, 1994	November 1, 1997
La Crosse	September 1, 1995	November 1, 1998
Lafayette	January 1, 1995	March 1, 1998
Langlade	June 1, 1994	August 1, 1997
Lincoln	August 1, 1994	October 1, 1997
Manitowoc	February 1, 1995	April 1, 1998
Marathon	May 1, 1995	July 1, 1998
Marinette	August 1, 1994	October 1, 1997
Marquette	May 1, 1995	July 1, 1998
Menominee	July 1, 1994	September 1, 1997
Milwaukee, South of Wisconsin Avenue	July 1, 1995	June 1, 1998
Milwaukee, North of Wisconsin Avenue	April 1, 1995	September 1, 1998
Monroe	March 1, 1995	May 1, 1998

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County of location	Application filing date for part 70 sources	Application filing date for non-part 70 sources
Oconto	July 1, 1994	September 1, 1997
Oneida	May 1, 1994	July 1, 1997
Outagamie	November 1, 1994	January 1, 1998
Ozaukee	July 1, 1994	September 1, 1997
Pepin	December 1, 1994	February 1, 1998
Pierce	June 1, 1994	August 1, 1997
Polk	March 1, 1995	May 1, 1998
Portage	November 1, 1994	January 1, 1998
Price	June 1, 1995	July 1, 1997
Racine	January 1, 1995	March 1, 1998
Richland	August 1, 1994	October 1, 1997
Rock	February 1, 1995	April 1, 1998
Rusk	December 1, 1994	February 1, 1998
Sauk	June 1, 1994	August 1, 1997
Sawyer	December 1, 1994	February 1, 1998
Shawano	June 1, 1994	August 1, 1997
Sheboygan	October 1, 1994	December 1, 1997
St Croix	August 1, 1994	October 1, 1997
Taylor	December 1, 1994	February 1, 1998
Trempealeau	October 1, 1994	December 1, 1997
Vernon	December 1, 1994	February 1, 1998
Vilas	May 1, 1994	July 1, 1997
Walworth	May 1, 1994	July 1, 1997
Washburn	December 1, 1994	February 1, 1998
Washington	June 1, 1994	August 1, 1997
Waukesha	October 1, 1995	December 1, 1998
Waupaca	September 1, 1994	November 1, 1997
Waushara	September 1, 1994	November 1, 1997
Winnebago	August 1, 1995	October 1, 1998
Wood	February 1, 1995	April 1, 1998
Portable sources located anywhere in Wisconsin	October 1, 1995	December 1, 1998

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; renum. (1) to be (1) (a), cr. (1) (b), Register, September, 1988, No. 393, eff. 10-1-88; am. (1) (a), renum. Table, Register, May, 1992, No. 437, eff. 6-1-92; am. (1) (a), Register, June, 1993, No. 450, eff. 7-1-93; r. and recr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.05 Applications and forms.** (1) Applications for operation permits and renewals of operation permits shall be made on forms supplied by the department for these purposes and supplemented with other materials as required by the forms. The forms may be supplied by the department in an electronic format, such as on a computer disk, if so requested by the applicant.

Note: Application forms may be obtained from the district and area offices of the Department or from the Wisconsin Department of Natural Resources, Bureau of Air Management, Permits Section, P.O. Box 7921, Madison WI 53707-7921.

(2) Application materials may be submitted on paper or in an electronic format. The applicant shall file 3 copies of all forms and other materials required by the application which are submitted on paper. The applicant shall file one copy of all forms and other materials which are

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submitted in an electronic format. These materials shall be submitted to the Wisconsin department of natural resources, bureau of air management, permits section, P.O. Box 7921, Madison WI 53707-7921.

(3) The application forms shall be signed by a responsible official of the stationary source designated by the source for this purpose. In the case of an electronic format application, a form supplied with the electronic format shall be signed in accordance with this subsection and returned to the department with the electronic format application.

(4) The application shall contain all of the information required for the issuance of an operation permit. Except as provided in subs. (5) and (8), it shall include the following elements:

(a) Identifying information, including company name and address, and plant name and address if different from the company name or address; owner's name and agent, and operator if different from the owner, and names and telephone numbers of the plant manager and contact person.

(b) A description of the source's processes and products, by standard industrial classification code as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in ch. NR 484, including any processes and products associated with each alternate operating scenario identified by the source.

(c) The following emissions-related information:

1. The maximum theoretical emissions of all air contaminants from all emissions units, operations and activities except for those exempted under subd. 9 or 10. Fugitive emissions from emissions units, operations and activities shall be included in the permit application in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. Maximum theoretical fugitive emissions shall be calculated using average operating conditions and average weather conditions. Only sources which manufacture or process pesticides, rodenticides, insecticides, herbicides or fungicides shall include emissions of air contaminants identified as pesticides, rodenticides, insecticides, herbicides and fungicides in Table 2 in their permit applications. When preparing its application, the owner or operator of a facility may rely on information in an approved material safety data sheet. Trace contaminants need not be reported if they constitute less than 1% of the material, or 0.1% of the material if the air contaminant is footnoted as a suspected or confirmed human carcinogen by the American conference of governmental industrial hygienists in the 1990-1991 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, incorporated by reference in ch. NR 484.

2. Identification and description of all emissions points in sufficient detail to determine the applicable requirements to be included in an operation permit.

3. Emission rates in tons per year and in terms necessary to demonstrate compliance with emission limitations consistent with the applicable reference test method.

4. The following information to the extent that it is needed to determine or regulate emissions: types and amounts of fuels used, types and

amounts of raw materials used, production rates and operating schedules.

5. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

6. Limitations on source operations and any applicable work practice standards which affect emissions of any air contaminants.

7. Other information necessary to determine any applicable requirement.

8. The calculations on which the information contained in subds. 1 to 7 is based.

9. The emissions units, operations and activities in subpars. a to o shall be listed in the application but are exempt from being further included in any application required under this chapter:

a. Any emissions unit, operation or activity that has, for each air contaminant, maximum theoretical emissions which are less than the levels in Table 2. Multiple emissions units, operations and activities that perform identical or similar functions shall be combined in determining the applicability of the exemption under this subparagraph.

b. If the maximum theoretical emissions of any air contaminants listed in Table 2 from all emission units, operations or activities at a facility are less than 5 times the level specified in Table 2 for those air contaminants, any emissions unit, operation or activity that emits only those air contaminants.

c. Maintenance of grounds, equipment and buildings, including lawn care, pest control, grinding, cutting, welding, painting, woodworking, general repairs and cleaning, but not including use of organic compounds as clean-up solvents.

d. Boiler, turbine, generator, heating and air conditioning maintenance.

e. Pollution control equipment maintenance.

f. Internal combustion engines used for warehousing and material transport, forklifts and courier vehicles, front end loaders, graders and trucks, carts and maintenance trucks.

g. Fire control equipment.

h. Janitorial activities.

i. Office activities.

j. Convenience water heating.

k. Convenience space heating units with heat input capacity of less than 5 million btu per hour that burn gaseous fuels, liquid fuels or wood.

l. Fuel oil storage tanks with a capacity of 10,000 gallons or less.

m. Stockpiled contaminated soils.

n. Demineralization and oxygen scavenging of water for boilers.

o. Purging of natural gas lines.

10. For any emissions unit, operation or activity that is included in the application, the applicant does not need to include information on any air contaminant if the maximum theoretical emissions of the air contaminant are less than the level for that air contaminant listed in Table 2 or if the maximum theoretical emissions of any air contaminant listed in Table 2 from all emission units, operations or activities at a facility are less than 5 times the level specified in Table 2 for that air contaminant. Multiple emissions units, operations and activities that perform identical or similar functions shall be combined in determining the applicability of this exemption.