

**NR 407.10 General operation permits. (1) ISSUANCE OF GENERAL OPERATION PERMITS.** (a) The department may issue general permits for the operation of stationary sources in accordance with s. 285.60 (3), Stats.

**Note:** No construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a general operation permit and the project meets the criteria in s. NR 407.10 (4)(a).

(b) A general operation permit may be issued for a source category if the sources in the category meet all of the following criteria:

1. Perform the same or similar operations.
2. Emit the same class of air contaminants.

**Note:** An example of "the same class of air contaminants" is volatile organic compounds.

3. Employ the same or similar capture and control systems, if applicable.

4. Are subject to the same or similar emission limitations and other state and federal requirements that are applicable to the sources in the category.

**Note:** An example of "similar emission limitations" is emission limitations for the same air contaminant but that differ based on the size of the source, its location, or its date of construction.

(c) When proposing to issue a general operation permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed general operation permit. The department shall use the applicable procedures in s. 285.62, Stats., to issue the general operation permit. The department may issue the general operation permit if the applicable criteria in ss. 285.63 and 285.64, Stats., are met. The procedural requirements in s. 285.62 (2) to (5), Stats., do not apply to the determination of whether an individual source is covered by a general operation permit for a source category. Coverage of a part 70 source under a general operation permit is not an appealable decision under s. 227.42, 227.52, 227.53 or 285.81, Stats.

**Note:** The statutes cited above require that when issuing a general operation permit, the department distribute a notice of the availability of the proposed general operation permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(d) The general operation permit shall contain applicability criteria, emission limits, monitoring and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions applicable to the stationary source category. The permit terms and conditions shall be those required to comply with the Act and those required to assure compliance

with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirement in s. NR 424.03 (2) (c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the general operation permit that represent LACT, if the requirements of s. NR 424.03 (2) (a) or (b) are determined to be technologically infeasible.

**Note:** If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the general operation permit, or issue a different one, to include nonattainment area specific applicability criteria.

(e) The term of a general operation permit issued to a part 70 source category, or granted to an individual part 70 source, may not exceed 5 years. General operation permits issued to a non-part 70 source category, or granted to an individual non-part 70 source, shall only expire if an expiration date is requested by the source owner or operator or the department finds that expiring coverage would significantly improve the likelihood of continuing compliance with applicable requirements, compared to coverage that does not expire.

**(2) SOURCES INELIGIBLE FOR COVERAGE UNDER A GENERAL OPERATION PERMIT.** Notwithstanding the existence of a general operation permit for a stationary source category, an individual stationary source may not be covered by a general operation permit if any of the following criteria apply:

(a) The emissions unit or units are an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03 (86), or an infectious waste combustion source.

(b) The emissions unit or units cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 407.15 (8).

**(3) PROCEDURE FOR DETERMINING COVERAGE UNDER A GENERAL OPERATION PERMIT FOR AN INDIVIDUAL SOURCE.** (a) An owner or operator of a stationary source who applies for coverage under a general operation permit shall submit an application using department approved general permit application forms.

**Note:** Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain the department approved general permit application forms.

(b) An owner or operator of a stationary source who requests or requires emission limits, terms or conditions other than, or in addition to, those contained in the general operation permit shall apply for a different type of permit.

(c) Within 15 days after the receipt of an application for coverage under a general operation permit, the department shall provide one of the following to an applicant:

1. Written notice of the department's determination that the source is covered under the general operation permit.

2. A written description of any information that is missing from the application for coverage under the general operation permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the general operation permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the general operation permit if the owner or operator of the source applies for coverage and meets the eligibility requirements of the general operation permit, unless the source is ineligible for coverage under sub. (2).

**(4) CONSTRUCTION AND MODIFICATION UNDER A GENERAL OPERATION PERMIT.** (a) Notwithstanding the provisions in s. NR 406.04 (1) and (2), no construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered

under a general operation permit and all of the following criteria are met:

1. The construction, reconstruction, replacement, relocation or modification will not result in the source violating any term or condition of the general operation permit.

2. Except for any provisions contained in any general operation permit issued prior to September 1, 2005 specifying when a construction permit is needed, the construction, reconstruction, replacement, relocation or modification does not require a permit under ch. NR 405 or 408.

(b) No later than 30 calendar days from commencing construction, reconstruction, replacement, relocation or modification, the owner or operator shall notify the department of the action and provide information explaining how the source is meeting the criteria for an exemption under par. (a).

(c) If a construction permit is required, the owner or operator shall obtain a construction permit under ch. NR 405, 406 or 408, as applicable. The owner or operator may not commence construction, reconstruction, replacement, relocation or modification prior to receiving the construction permit. The owner or operator shall also apply for an individual operation permit, a revision of its operation permit or a registration operation permit under this chapter.

*Note:* The construction permit may be an individual, general or registration construction permit.

(5) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a stationary source that is covered under a general operation permit may submit a request to the department to withdraw the source from coverage under the general operation permit and allow the source to be covered under a registration operation permit or a general operation permit for another source category or be issued an individual operation permit. The owner or operator shall submit a written request for the withdrawal of the general operation permit and a complete application for a different operation permit.

(b) An owner or operator of a stationary source that has an individual operation permit may submit a request to the department to revise or revoke the individual operation permit pursuant to s. NR 407.12, 407.13 or 407.15 (4) and allow the source to be covered under a general operation permit. The owner or operator shall submit to the department a written request for revision or revocation of the individual operation permit and a complete application for a general operation permit under this section.

(c) An owner or operator of a stationary source that is covered under a registration operation permit may submit a request to the department to withdraw the source from coverage under the registration operation permit and allow the source to be covered under a general operation permit. The owner or operator shall submit to the department a written request for withdrawal of the registration operation permit and a complete application for a general operation permit under this section.

(d) The owner or operator shall submit a request for revision or revocation of an operation permit or withdrawal from coverage under an operation permit on department approved forms.

*Note:* Contact the regional offices or service centers of the department or the Permit and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

(6) ADDITIONAL PROVISIONS RELATED TO GENERAL OPERATION PERMITS. Notwithstanding the permit shield provision in section 504(f) of the Act (42 USC 7661c(f)) and in s. 285.62 (10) (b), Stats., an owner or operator of a source which is covered under a general operation permit may be prosecuted for operation without an individual operation permit if the source is later determined

not to qualify for the conditions and terms of the general operation permit.

*History:* Cr. Register, December, 1993, No. 456, eff. 1-1-94; am. (2) (intro.), r. (2) (e), Register, December, 1996, No. 492, eff. 1-1-97; cr. (9), Register, December, 1997, No. 504, eff. 1-1-98; am. (6) (intro.) and cr. (6) (a) (intro.), Register, October, 1999, No. 526, eff. 11-1-99; CR 04-107: r. and recr. Register August 2005 No. 596, eff. 9-1-05.

### NR 407.105 Registration operation permits.

(1) ISSUANCE OF REGISTRATION OPERATION PERMITS. (a) The department may issue a registration permit for the operation of an entire facility that has or will have low actual or potential emissions in accordance with s. 285.60 (2g), Stats.

*Note:* No construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a registration operation permit and the project meets the criteria in s. NR 407.105 (5) (a).

(b) When proposing to issue a registration operation permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed registration operation permit. The department shall use the applicable procedures of s. 285.62, Stats., to issue the registration operation permit. The department may issue the registration operation permit if the applicable criteria in ss. 285.63 and 285.64, Stats., are met. The procedural requirements of s. 285.62 (2) to (7), Stats., do not apply to the determination of whether an individual facility is covered by a registration operation permit.

*Note:* The statutes cited above require that when issuing the registration operation permit, the department distribute a notice of the availability of the proposed operation permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(c) The registration operation permit shall contain applicability criteria, emission caps and limitations, monitoring and record-keeping requirements, reporting requirements, compliance demonstration methods and general conditions appropriate for determining compliance with the terms and conditions of the registration operation permit. The permit terms and conditions shall be those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirements in s. NR 424.03 (2) (c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the registration operation permit that represent LACT, if the requirements of s. NR 424.03 (2) (a) or (b) are determined to be technologically infeasible.

*Note:* If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the registration operation permit, or issue a different one, to include nonattainment area specific applicability criteria.

(2) CRITERIA FOR ISSUANCE OF A REGISTRATION OPERATION PERMIT. (a) A registration operation permit shall be issued for facilities that meet all of the criteria:

1. The calendar year sum of actual emissions of each air contaminant from the facility may not exceed 25% of any major source threshold in s. NR 407.02 (4), except that for lead, emissions may not exceed 0.5 tons per calendar year.

2. The stack-vented emissions are exhausted from unobstructed discharge points that are within 10 degrees of vertical. This criterion does not apply to stacks serving any of the emission units listed in s. NR 407.05 (4) (c) 9. For the purposes of this paragraph, horizontal discharge vents that only discharge general building ventilation are not considered stacks.

*Note:* Valves designed to open and close at the point of discharge are considered to be unobstructed if they are open at the time of emission.

3. The stack is taller than any building that influences the dispersion of emissions from the stack. A building is considered to influence the dispersion of emissions from any stack that exists within a circle around the building, the radius of which is 5 times the height of the building. This criterion does not apply to stacks serving any of the emission units listed in s. NR 407.05 (4) (c) 9.

For the purposes of this paragraph, horizontal discharge vents that only discharge general building ventilation are not considered stacks.

4. An owner or operator of a facility whose stacks do not meet the criteria in subs. 2. and 3. may demonstrate through air dispersion modeling that the facility's emissions do not and will not cause or exacerbate a violation of any ambient air quality standard or ambient air increment. If an air dispersion model is not available for one or more pollutants, the demonstration for that pollutant shall rely on the department's air quality analysis conducted under sub. (1) (b).

(b) Notwithstanding par. (a), the department may issue registration operation permits for coverage of other types of facilities that the department determines have or will have low actual or potential emissions, in response to a petition submitted under s. NR 407.107.

**(3) SOURCES INELIGIBLE FOR COVERAGE UNDER A REGISTRATION OPERATION PERMIT.** Notwithstanding the existence of a registration operation permit, an individual facility may not be covered under a registration operation permit if any of the following criteria apply:

(a) The facility is an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03 (86) or an infectious waste combustion source.

(b) One or more emissions units at the facility would be subject to a standard or regulation under section 111 of the Act (42 USC 7411) or under section 112 of the Act (42 USC 7412), other than those contained in the registration operation permit or determined by the department to not preclude eligibility for the registration operation permit.

(c) The facility's emissions cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 407.15 (8).

**(4) PROCEDURE FOR DETERMINING COVERAGE UNDER A REGISTRATION OPERATION PERMIT FOR AN INDIVIDUAL FACILITY.** (a) An owner or operator of a facility who applies for coverage under a registration operation permit shall submit an application using department approved forms.

*Note:* Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved registration permit application forms.

(b) An owner or operator of a facility who requests or requires emission limits, terms or conditions that require case-by-case review and approval by the department, or emission limits, terms or conditions other than, or in addition to, those contained in the registration operation permit, shall apply for a different type of permit.

(c) Within 15 days after the receipt of an application for coverage, the department shall provide one of the following to an applicant for a registration operation permit:

1. Written notice of the department's determination that the facility is covered under a registration operation permit.

2. A written description of any information that is missing from the application for coverage under a registration operation permit.

3. Written notice of the department's determination that the facility does not qualify for coverage under a registration operation permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the registration operation permit if the owner or operator of the facility applies for coverage and meets the eligibility requirements in the registration operation permit, unless the facility is ineligible for coverage under sub. (3).

(e) For the purpose of determining whether a source is eligible for coverage under a registration operation permit, the source's emissions shall be calculated using the terms and conditions listed in the registration operation permit.

*Note:* The permit terms and conditions may include capture and control efficiencies. The Air Emissions Management System (AEMS) requires the owner or operator of a source to calculate actual annual emissions for reporting to the inventory using the terms and conditions in a permit.

(f) The owner or operator of a facility that has an individual operation permit or is covered under a general operation permit may submit an application for coverage under a registration operation permit on or after July 1, 2006. The owner or operator shall submit a request for revision or revocation of the existing operation permit pursuant to sub. (6) prior to submitting the application for coverage under the registration operation permit. The revision or revocation request may be submitted before July 1, 2006.

**(5) CONSTRUCTION OR MODIFICATION UNDER A REGISTRATION OPERATION PERMIT.** (a) No construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the facility is covered under a registration operation permit and the construction, reconstruction, replacement, relocation or modification will not result in the facility violating any term or condition of the registration operation permit.

(b) If a construction permit is required, the owner or operator shall obtain a construction permit under ch. NR 405, 406 or 408, as applicable. The owner or operator may not commence construction prior to receiving the construction permit. The owner or operator shall also apply for an individual operation permit, a revision of its individual operation permit or a general operation permit under this chapter.

*Note:* The construction permit may be an individual, general or registration construction permit.

**(6) APPLICATION FOR A DIFFERENT PERMIT.** (a) An owner or operator of a facility that is covered under a registration operation permit may submit a request to the department to withdraw the source from coverage under the registration operation permit and allow the facility to be covered under a general operation permit or be issued an individual operation permit. The owner or operator shall submit a written request for the withdrawal of the registration operation permit and a complete application for an individual or general operation permit under s. NR 407.05 or 407.10.

(b) An owner or operator of a facility that has an individual operation permit may submit a request to the department to revoke the individual operation permit pursuant to s. NR 407.15 and allow the facility be covered under a registration operation permit. The owner or operator shall submit to the department a written request for revocation of the operation permit and a complete application for a registration operation permit under this section.

(c) An owner or operator of a facility that is covered under a general operation permit may submit a request to the department to withdraw coverage under the general operation permit and allow the facility to be covered under a registration operation permit. The owner or operator shall submit to the department a written request for withdrawal of the operation permit and a complete application for a registration operation permit under this section.

(d) The owner or operator shall submit a request for revocation or withdrawal of an operation permit under this subsection on department approved forms.

*Note:* Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

**(7) ADDITIONAL PROVISIONS RELATED TO REGISTRATION OPERATION PERMITS.** (a) An owner or operator of a facility operating in

compliance with a registration operation permit shall be deemed to be in compliance with the applicable requirements in chs. NR 400 to 499 if the owner or operator conducts a reasonable search and evaluation to identify applicable requirements and to determine whether the facility is meeting the applicable requirements, is operating in compliance with these applicable requirements and complies with par. (b). A reasonable search and evaluation includes a search and evaluation of chs. NR 400 to 499, and shall include a reasonable effort to review other readily accessible information relevant to the facility's operations, such as data bases, workshops and materials available through trade associations, vendors, the department, the department of commerce small business clean air assistance program, the U.S. environmental protection agency and other recognized sources of information on air regulations. The owner or operator shall document, in writing, the results of the search and evaluation and shall keep the documents at the facility for inspection upon request for as long as the facility is covered under the registration operation permit.

(b) The owner or operator will not be deemed to be out of compliance with the applicable requirements in chs. NR 400 to 499 if an applicable requirement that was previously not identified through the search and evaluation described in par. (a) is later identified, if the owner or operator does all of the following:

1. Submits written notification to the department within 21 days of identifying the applicable requirement.
2. Certifies that the facility is in compliance with the applicable requirement no later than 90 days after notifying the department. If requested, the department may extend the deadline for achieving compliance.
3. Submits documentation to demonstrate that the search and evaluation that was conducted prior to identifying the applicable requirement was reasonable.

(c) Notwithstanding par. (b), the department retains the authority to order the owner or operator to achieve compliance with the applicable requirements within a specific time period shorter than the 90 calendar days whenever compliance in the shorter period of time is feasible and necessary to protect public health and the environment.

Note: Contact the Compliance and Enforcement Section of the Bureau of Air Management, 608-266-7718, for information on submitting the notification.

History: CR 04-107: cr. Register August 2005 No. 596, eff. 9-1-05.

**NR 407.107 Petitions for issuance of general operation permits and registration operation permits.** (1) A person may petition the department to make a determination that a category of stationary source meets the criteria for a general operation permit under s. 285.60 (3), Stats., and s. NR 407.10 (1). A person may petition the department to make a determination that a stationary source meets the criteria for a registration operation permit under s. 285.60 (2g), Stats., and s. NR 407.105 (1) and (2) (b). The department may consider the number of sources that would be eligible for the permit, the complexity of air regulations applicable to the sources, the likelihood that sources would need source-specific emission limitations and other factors in determining its priority for developing a general or registration operation permit. Within 30 days after receipt of the petition, the department shall provide a written response to the petitioner granting or denying the petition. If the department grants the petition, the department shall issue the general operation permit or the registration operation permit as soon as practicable, but no later than 365 days after receipt of the petition.

(2) The person shall submit the petition using department approved petition forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

History: CR 04-107: cr. Register August 2005 No. 596, eff. 9-1-05.