



Air Program Fact Sheet

Exemptions from Operation Permits Based on Actual Emissions

Under s. 407.03(1m), Wis. Adm. Code

February 2008

What is the new Air Operation Permit Exemption all about?

In June 2007, the Department of Natural Resources (DNR) created a new type of exemption from air pollution control operation permit requirements. This exemption is available for facilities with low actual emissions. Furthermore, as long as your facility remains eligible for this operation permit exemption, you are also exempt from the requirement to get a construction permit.

For larger facilities that don't qualify for this exemption from operation permits, the DNR has several new options that might be right for your facility. Check out our fact sheets on registration operation permits, general permits, and the new exemptions from construction permits based on actual emissions, all available at <http://dnr.wi.gov/air/permits.html>.

It is important to understand that exemption from the requirement to get a permit does not exempt your facility from other air pollution regulations. The Department of Commerce Small Business Clean Air Assistance Program (SBCAAP) has resources to help facilities determine what rules apply and how to show compliance with them. Go to SBCAAP's Web site at <http://commerce.wi.gov/sbcaap.html> or contact Renee Bashel at (608)264-6153 or Tom Coogan at (608)267-9214.

Who qualifies for this Actual Emissions Operation Permit Exemption?

Facilities that emit at or below the following levels may qualify for the exemption:

Pollutant	Eligibility Threshold
Particulate matter (PM)	10 tons per calendar year
Sulfur dioxide (SO ₂)	10 tons per calendar year
Carbon monoxide (CO)	10 tons per calendar year
Nitrogen oxides (NO _x)	10 tons per calendar year
Volatile organic compounds (VOCs)	10 tons per calendar year
Lead	0.5 tons per calendar year
Hazardous air contaminants	The applicable thresholds listed in Tables A, B, C, or E of ch. NR 445. More information is available at http://dnr.wi.gov/air/toxics/ .

In addition to emitting at or below these thresholds, you cannot be subject to a *standard* under section 111 (New Source Performance Standards, or NSPS) or 112 (Maximum Achievable Control Technology, or MACT) of the Clean Air Act. A list of the NSPS can be found at <http://dnr.wi.gov/air/pdf/NSPSlist.pdf>. Some common MACT source categories affecting small facilities are listed at EPA's Web site at <http://www.epa.gov/ttn/atw/area/arearules.html>. Note that if your facility is subject only to a recordkeeping or reporting requirement, you may still qualify for the exemption.

How do I get the new actual emission exemption from operation permit requirements?

You will need to notify the department in writing of your intent to operate under the actual emissions exemption if either of the following conditions applies to your facility:

- your facility is required to report annual emissions under s NR 438.03; OR
- you have submitted an operation permit application or are currently operating under an air permit.

To notify the DNR of your intent to operate under the actual emissions exemption, you must either use the optional form available at <http://dnr.wi.gov/air/pdf/PermitExemptionoptionalform.pdf> or submit a simple letter stating that you intend to operate under the exemption and the reason that you qualify for the exemption.

Mail your notification to: Wisconsin Department of Natural Resources, Bureau of Air Management, AM/7 – Actual Emissions Exemption, PO Box 7921, Madison, WI 53707-7921.

How do I know if I need to report annual emissions under ch. NR 438?

Facilities that emit air pollution above the reporting thresholds of Table 1 in s. NR 438.03 must submit annual emissions reports. If your facility emits more than 5 tons per year of PM, SO₂, CO or NO_x, or if you facility emits more than 3 tons per year of VOCs, you will need to report. Emissions of any hazardous air pollutant above its Table 1 value will also trigger reporting requirements. You can access ch. NR 438 and its Table 1 at <http://www.legis.state.wi.us/rsb/code/nr/nr438.pdf>.

What happens after DNR gets my notification?

Your notification of intent to operate under the actual emissions operation permit exemption puts into motion several actions at the DNR.

Revocation: Your notification serves as a request to revoke any old permits issued to your facility. Before sending confirmation of your exemption, we will send you a letter notifying you of our intent to revoke the old permits. By law, we must then wait 21 days before formal revocation takes place.

Once your revocation is confirmed, you should mark your old permits “revoked” but keep them in your files. These old permits can be valuable resources for understanding and demonstrating compliance with state and federal air pollution regulations.

Withdrawal: If your facility is covered under a registration or general permit, your notification serves as a request to withdraw your facility from coverage under those permits. (This is similar to revocation, but “withdrawal” is the term used for the general and registration permits.) Similarly, if you have submitted an application for an air pollution control permit, we will consider your notification a request to withdraw the application. No notification or waiting period is required for the withdrawal process.

Approval: After we receive your written notification of intent to operate under this exemption, the DNR will prepare a letter confirming your exemption from operation permits under s. NR 407.03(1m), Wis. Adm. Code. If appropriate, your confirmation letter will also serve as a formal notification of withdrawal from registration or general permit coverage, and any pending permit applications. As mentioned above, if you had old permits, you will get a letter formally revoking them. Keep these letters on file at your facility.

What do I need to do after my exemption is approved?

In order to maintain your exemption, your facility must do the following:

- Conduct monitoring and maintain records on-site that prove annual emissions are indeed below the eligibility thresholds listed above.

- If the facility uses a control device to limit actual emissions, you must use the compliance monitoring methods listed in s. NR 439.055, Wis. Adm. Code, available at <http://www.legis.state.wi.us/rsb/code/nr/nr439.pdf>.
- Report actual annual emissions if required under ch. NR 438.

Whom should I contact if I need more help?

- Steve Dunn, Air Permit Engineer, (608)267-0566 or Steven.Dunn@wisconsin.gov
- Contact the DNR Service Center nearest you and ask for your air compliance inspector. Service Center contact information is available at: <http://dnr.wi.gov/org/caer/cs/ServiceCenter/locations.htm>
- For updates, visit the DNR Permit Exemption Web page at <http://dnr.wi.gov/air/permits/streamlining/PermitExemptions.html>

DISCLAIMER — This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

The Wisconsin Department of Natural Resources provides equal opportunity in employment, programs, services and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, DC 20240. This publication is available in alternative format (large print, Braille, audio tape, etc.) upon request. Please contact the Bureau of Air Management, phone 608-266-7718, for more information.



Wisconsin Department of Natural Resources

Bureau of Air Management

Box 7921- AM/7

Madison, WI 53707

PHONE 608-266-7718 • FAX 608-267-0560

PUB-AM-388 2008