



Air Program Fact Sheet

Actual Emissions Based-Exemption from Construction Permits Under s. NR 406.04(1q), Wis. Adm. Code

December 2016

Air Management Program

What is the Air Construction Permit Exemption?

The Department of Natural Resources (DNR) created an exemption from air pollution control construction permit requirements for projects that meet certain emissions limits. This exemption is available for facilities planning to construct or modify equipment that emits air pollution.

This exemption is available to all facilities, large and small, that have been issued a facility-wide operation permit or have submitted a timely and complete application for a facility-wide operation permit. Please note that facilities with a Registration Permit or General Operation Permit or facilities operating under s. NR 407.03(1m), the 10 ton exemption from operation permits, do not need to apply for this construction permit exemption as long as the facility remains eligible for the general or registration permit or operation permit exemption after completion of the project.

Who qualifies for this Exemption?

Your facility may qualify for the exemption if the actual emissions from all the equipment (also known as emissions units) constructed, modified, replaced, relocated and/or reconstructed as part of a project do not exceed the following levels:

Pollutant	Eligibility Threshold
Particulate matter (PM), and PM less than 10 microns (PM ₁₀)	1,666 pounds per month*
Sulfur dioxide (SO ₂)	1,666 pounds per month*
Carbon monoxide (CO)	1,666 pounds per month*
Nitrogen oxides (NO _x)	1,666 pounds per month*
Volatile organic compounds (VOCs)	1,666 pounds per month*
Lead	10 pounds per month*

*Averaged over any 12-consecutive-month period

In addition to emitting at or below these thresholds, the project, which consists of all constructed, modified, replaced, relocated or reconstructed emissions units, must also meet the following requirements:

- ✓ None of the emissions units in the project can trigger a new Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) determination under the state toxics rule in ch. NR 445, Wis. Adm. Code. BACT or LAER may be triggered if the emissions of a hazardous air contaminant are over the applicable thresholds in Table A, B, or C of ch. NR 445, available at http://docs.legis.wisconsin.gov/code/admin_code/nr/400/445.pdf **and** column (i) in the tables says BACT or LAER is required. More information and assistance on the state toxics rule can be found at <http://dnr.wi.gov/topic/AirQuality/Toxics.html>.
- ✓ The project does not trigger New Source Review requirements under chs. NR 405 or NR 408, Wis. Adm. Code.
- ✓ Emissions units (or processes) newly constructed as part of the project cannot be subject to an emissions limitation under section 111 (New Source Performance Standards, or NSPS) or 112 (Maximum Achievable Control Technology, or MACT) excluding 112(d)(5) of the federal Clean Air Act. In addition, units that are modified, reconstructed, replaced or relocated as part of the project cannot trigger any **new** requirements under section 111 or 112 of the Clean Air Act due to the project.

A list of NSPS can be found at <http://dnr.wi.gov/topic/AirPermits/documents/NSPSlist.pdf>. Information on MACT standards can be found at <http://www.epa.gov/ttn/atw/mactfnlalph.html>.

How do I get this exemption from construction permit requirements?

Before starting on any projects, you must take the following steps:

- Make a claim of exemption by completing Form 4530-100 *Facility Details and Permit Actions*, <http://dnr.wi.gov/files/PDF/forms/4500/4530-100.pdf>, submit a thorough description of the project, emission estimates and any other information needed to confirm your eligibility for the exemption. A list of items that should be included in the submittal to allow the most efficient review by DNR is included at the end of this document.
- In addition, you must include a complete application for a revision to your facility-wide operation permit or, if the DNR has not yet acted upon your application for an operation permit, you must submit an amendment to your application. One of these options should be identified on Form 4530-100. Additional permit application forms are available online at <http://dnr.wi.gov/topic/AirPermits/Forms.html>.
- If control equipment is used to limit actual emissions from any unit in the project, the operation permit revision application or amendment must propose methods that will be used to monitor operation of the control equipment.

Mail your claim of exemption and complete operation permit revision application or amendment to:

Wisconsin Department of Natural Resources
Bureau of Air Management
AM/7 – Actual Emissions Construction Exemption
PO Box 7921
Madison, WI 53707-7921

What happens after the DNR gets my claim of exemption?

Review: The DNR is required to respond to any claim of exemption made under s. 406.04(1q) within 20 business days of receipt. If you have not submitted a complete application for an operation permit revision, or if not enough information is submitted to make an exemption determination, you will be asked to submit additional information. The DNR will have 20 business days from the date the additional information is received to make a decision. The DNR will send you a written response within that time.

If we determine that your project is exempt, you may begin construction immediately. If we find the project is not exempt, you will be instructed on how to apply for a traditional construction permit.

Fees: There is a one-time fee of \$1,250 for the review of an exemption under s. NR 406.04(1q). You must include a check for this fee with your claim of exemption. A claim is not considered complete unless this fee is included.

Revision: After determining that your facility is exempt, the application for operation permit revision will be changed using the appropriate procedures. Usually this will include preparation of a draft permit, publication of a public notice and a 30-day public comment period. Permits for facilities that are federal Part 70 sources will undergo an additional 45-day U.S. Environmental Protection Agency review. The DNR is generally able to make a final decision on permit revisions within 180 days of receiving a complete application.

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

Once any new or modified, emissions unit starts operating, you must begin monitoring any pollution control equipment as proposed in your operation permit revision application. You must also begin to maintain records adequate to demonstrate compliance with the applicable emissions limitations.

Where do I go for help?

- For more information on the Actual Emissions Construction Permit Exemption, visit the DNR Exemptions web page at <http://dnr.wi.gov/topic/SmallBusiness/Exemptions.html> and click on the “Actual Emissions NS” tab.
- Contact the SBEAP at DNRsmallbusiness@wisconsin.gov or call toll-free at 1-855-889-3021.
- Call the Air Program and ask for the Permit Exemption Coordinator at (608) 266-7718.

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.

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Submittal Elements for Actual Emissions Construction Permit Exemption Request

1. Complete form 4530-100, Facility Details and Permit Actions:
<http://dnr.wi.gov/files/PDF/forms/4500/4530-100.pdf>.
2. Provide a description of the project and attach emission estimates and calculation methods. The description may be more detailed than the following examples, but at a minimum the type of operation and air pollution emitting equipment should be provided.

Example 1. The facility is a hospital that proposes to install a 750 kW portable diesel generator manufactured in April, 2015. The project will also involve the replacement of a 9.0 MMBtu/hr natural gas fired boiler with propane backup originally installed in 1972 (identified in current permits as S10/B10), with a natural gas fired 13.5 MMBtu/hr capacity boiler with diesel fuel backup, manufactured in October 2015.

Example 2. The facility is a vegetable cannery with plans to install 5 new can printing lines with uncontrolled emissions, a touch-up spray paint booth with fabric filter control and outdoor exhausted stack, and a Stoddard solvent parts washer.