

## **Green Tier Advisors**

June 17, 2009

### Registration Operation Permit 1.0

**ISSUE SUMMARY:** The issue is whether participants and prospective participants who are a part of the Green Tier Advisors should petition for the creation of a Registration Operation Permit (ROP) for Green Tier Participants. The potential exists for the creation of a permit that would recognize participant commitments for superior environmental performance through the creation of a Registration Operation Permit (ROP). The permit could leverage the power of environmental management systems for compliance demonstration, broad recognition of multiple commitments for continual improvement in air emissions, waste management, water protection and other environmental activities. The permit would combine speed and flexibility, the primary advantage of ROP;s, to deliver value to participants and administrative savings to the Department.

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**BACKGROUND:** As a part of the Smart Regulation program for the Air Program in the Air and Waste Division, a new kind of operation permit was created called a Registration Operation Permit. Registration Permits are a category of general air pollution control permit allowed under s. NR 407.105, Wis. Adm. Code. They may be issued to grant coverage to facilities with “low actual or potential emissions.” Under s. NR 407.105(2)(b) the Department can write a Registration Permit in response to a petition for a source category with emission caps appropriate to that source category.

Enabling language in the administrative code is quite general but does allow for such permits for types of emissions (e.g. below certain threshold levels) or categories of sources (e.g. printers) which are the first two registration permits that have been done. General Features of Registration Permits:

- Permit is issued and available for facilities to see before they apply for coverage. Facilities have certainty in permit content
- Applications for coverage are in a simple on-line questionnaire format consisting of Yes/No questions.
- Fast decisions on applications for coverage - 15 days or less.
- Caps facility –wide emissions to a level established in the permit
- Eliminates all construction permitting for the facility as long as emissions stay below the caps.
- Allow for simplified and less frequent recordkeeping
- Facility must still comply with all applicable emission limitations.

With the Registration Permits, several advantages have been seen thus far:

- Simpler application is easier and cheaper for facility to complete
- Facilities get their permit much faster – 15 days or less
- Allows operational flexibility by eliminating construction permitting – big advantage for business

- A Special Registration Permit for Tier II facilities would serve as a visible and real incentive to get facilities to move to Tier II
- Much cheaper to issue and administer for DNR
- Reduces the number of permits DNR must issue
- Lower annual fees

**PROPOSAL:**

Consideration of a Registration Permit is at the conceptual level at this point although some drafting has been done to ascertain the possibilities of such a permit for Green Tier Participants.

The concepts for consideration at this point are:

- A permit which incorporates superior environmental performance through maintenance of their status as a Tier II facility under Green Tier – This means the facility has made a commitment to superior environmental performance. It also means that the facility has an EMS which it regularly audits with an outside auditor and that the facility performs regular compliance audits. In short, it means that the facility is more capable than the general group of air pollution sources to understand and comply with all applicable requirements.
- Emissions Caps at 80% of major source threshold
- Cross program requirements that are already in “general permit” format such as storm water or waste water general permit conditions
- Compliance demonstration methods that allow facilities to establish and use “Approved Replicable Methods” to calculate emissions – could substantially simplify the compliance demonstration section of the ROP
- Annual environmental compliance audit results submittal required under Green Tier may be substituted for the compliance certification and monitoring reports required by air program
- Permit is generic and does not allow for any conditions specific to a particular facility. Contracts may be able to be used to implement any such facility specific requirements such as variances from applicable limitations or recordkeeping requirements. Specifically, this would be a customization option.
- Can allow a facility to submit the application for coverage with their Tier II letter of intent. DNR can let a facility know whether they will qualify for Registration Permit coverage during contract negotiations, and can grant final coverage simultaneously with the signing of the contract.
- Can allow facilities that do not yet qualify for the Registration Permit to submit an application for coverage and declare their intent to reduce emissions or reformulate etc., so that they will qualify. DNR can let the facility know if they will qualify for the Registration Permit should they meet the proposed emission reduction goals, reformulation goals etc., and can be ready to grant coverage as soon as goals are achieved.

As mentioned above, the development is still at a conceptual level. There are still some issues, stated below as possible disadvantages that would need to be weighed as a part of the development process.

- Generic format may limit flexibility because source specific conditions can't be included. No way to grant source specific variances from a regulation through this permit (but variances may still be able to be implemented through contracts.)
- Green Tier ROP would be limited to Green Tier facilities that are not major sources.

- Green Tier ROP would usually not be available to facilities that took PSD or NAA avoidance limits in old permits

**DISCUSSION:**

The question is whether to proceed to the next step to petition for the creation of an ROP. There is an application that would need to be completed for this process so the action for the Advisors would be to direct the staff in concert with the Air Management program to develop the formal petition.

The development process for the ROP is a public process that achieves transparency through a number of steps:

- Engages stakeholders in the development process
- Provides for a public notice and public comment period for the permit drafted
- Leaves the option of a legal challenge to the permit if there are serious unresolved issues as a part of the drafting process.

Andy Stewart, Permitting Section Chief, from the Air Management Division will be joining us as the meeting for further discussion. The intention was to have a first draft of what a permit might look like but there was insufficient time to get some of the questions resolved before the meeting. Similarly, we were going to start work on the application but it seemed more prudent to have the discussion whether the Advisors would like to proceed with this.

**DISCUSSION SYNOPSIS:** None at this time.