



# Air Program Fact Sheet Actual Emissions Based-Exemption from Operation Permits Under s. 407.03(1m), Wis. Adm. Code

December 2016

## What is the Air Operation Permit Exemption?

The Department of Natural Resources (DNR) created an exemption from air pollution control operation permit requirements for facilities with low actual emissions. 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/topic/AirPermits/Options.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's Small Business Environmental Assistance Program has resources to help facilities determine what rules apply and how to show compliance with them. Go to their web page at <http://dnr.wi.gov/topic/smallbusiness/>.

## What are the benefits of the Exemption?

- No annual fee.
- No construction permits, or related fees, if you remain exempt after making changes.
- No annual permit compliance and monitoring report due.

## Who qualifies for this Exemption?

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

Pollutant	Eligibility Threshold
Particulate matter (PM), and PM than 10 microns (PM <sub>10</sub> )	10 tons per calendar year
Sulfur dioxide (SO <sub>2</sub> )	10 tons per calendar year
Carbon monoxide (CO)	10 tons per calendar year
Nitrogen oxides (NO <sub>x</sub> )	10 tons per calendar year
Volatile organic compounds (VOCs)	10 tons per calendar year
Lead	0.5 tons per calendar year
Hazardous air contaminants, state regulated	The applicable thresholds listed in Tables A, B, C, or E of ch. NR 445. More information is available at <a href="http://dnr.wi.gov/topic/AirQuality/Toxics.html">http://dnr.wi.gov/topic/AirQuality/Toxics.html</a>

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 section 112 (Maximum Achievable Control Technology, or MACT) of the Clean Air Act (CAA).

A list of the NSPS can be found at [http://docs.legis.wisconsin.gov/code/admin\\_code/nr/400/440](http://docs.legis.wisconsin.gov/code/admin_code/nr/400/440). Information on MACT can be found on EPA's Web site at <http://www.epa.gov/ttn/atw/area/arearules.html>.

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Note that if your facility is subject to a Generally Available Control Technology (GACT) standard under s. 112(d)(5), CAA, you may still qualify for the exemption. Also, if your facility is subject only to a recordkeeping or reporting requirement of a standard in s. 111 or 112, CAA, you may still qualify for the exemption.

## How do I get the 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, complete Form 4530-100 *Facility Details and Permit Actions*, <http://dnr.wi.gov/files/PDF/forms/4500/4530-100.pdf>, and select the appropriate Operation Permit exemption option. In addition, submit information to demonstrate that you qualify for the exemption, including an estimate of the air pollution emissions from the facility. 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.

Mail your notification to:

Wisconsin Department of Natural Resources  
Bureau of Air Management  
AM/7 – Actual Emissions Operation 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, Wis. Adm. Code, must submit annual emissions reports using our online reporting system. If your facility emits more than 5 tons per year of PM, SO<sub>2</sub>, CO or NO<sub>x</sub>, 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 Table 1 in ch. NR 438 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 confirm your exemption from operation permits under s. NR 407.03(1m), Wis. Adm. Code. If appropriate, your confirmation 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 and email notifications 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 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.
- Comply with all state and federal air pollution rules that may apply and maintain supporting compliance records.

## Is there a downside to the Exemption?

Yes.

When you use an exemption, you do not have a permit document to list what air pollution rules may apply and their requirements. If you are concerned about understanding what applies to your facility, you may want to consider applying for the Registration Operation Permit even if exempt. Or you could follow the compliance and monitoring summary checklist (See Form 4530-179 under the Registration Permit tab here <http://dnr.wi.gov/topic/AirPermits/Forms.html>) provided for facilities covered under the Registration Permit as a way to learn what might apply.

The exemption has a smaller emission threshold, which can limit some operations. Having a Registration Permit will give you more flexibility to grow/expand your operations. To learn more about the Registration Permit go to <http://dnr.wi.gov/topic/AirPermits/Options.html> and click on the Registration Permit tab.

The Small Business Environmental Assistance Program has materials that can help facilities determine what the applicable requirements are and how to comply with them. Visit their website at: <http://dnr.wi.gov/topic/smallbusiness/>.

## Where do I go for help?

- For more information on the Actual Emissions Operation Permit Exemption, visit the DNR Exemptions web page at <http://dnr.wi.gov/topic/SmallBusiness/Exemptions.html> and click on the “Actual Emissions OP” tab.
- Contact the SBEAP at [DNRsmallbusiness@wisconsin.gov](mailto: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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**Wisconsin Department of Natural Resources**  
Bureau of Air Management  
Box 7921- AM/7  
Madison, WI 53707  
PHONE 608-266-7718 • FAX 608-267-0560  
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## **Submittal Elements for Actual Emissions Operation 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 facility 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 gray iron foundry. Process lines include melting, pouring, cooling, shakeout, molding making, sand handling, grinding and finishing. The facility uses baghouses to control particulate matter from melting, sand handling, shakeout operations, and grinding and finishing operations.

**Example 2.** The facility is a hospital with one 750 kW portable diesel generator manufactured in 1995, one ethylene oxidizer with emission abator, and a 9.0 MMBtu/hr natural gas fired boiler with propane backup manufactured in April, 1989.

**Example 3.** The facility is a vegetable cannery with five can printing lines with uncontrolled emissions, a spray paint booth with fabric filter control with outdoor exhausted stack, and a Stoddard solvent parts washer.

Please note that this notice is also considered a request for revocation of existing operation permits and withdrawal of any pending permit applications, or, if appropriate, a request of withdrawal from coverage under a general or registration permit. Please note that revocation and withdrawal from coverage both require the DNR to make a formal notification of our intent to revoke or withdraw and wait 21 days. After the 21 day notification waiting period is over, the DNR will send out the final decision on the operation permit exemption request.