

methods, including one or more compliance options under 40 CFR 72.40 to 72.44, by which each affected unit at the source will meet the applicable emissions limitations and emissions reduction requirements of the acid rain program.

(13) "Emissions allowable under the permit" means an enforceable permit term or condition required by an applicable requirement that establishes an emission limit, including a work practice standard, or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(14) "Excess acid rain emissions" means:

(a) Any tonnage of sulfur dioxide emitted by an affected unit during a calendar year that exceeds the emissions limitation in the acid rain program for sulfur dioxide for the unit; and

(b) Any tonnage of nitrogen oxides emitted by an affected unit during a calendar year that exceeds the annual tonnage equivalent of the emissions limitation in the acid rain program for nitrogen oxides applicable to the affected unit taking into account the unit's heat input for the year.

(15) "Excess emission offset requirement" means a requirement to reduce excess acid rain emissions pursuant to 40 CFR 77.1 to 77.6 by offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

(16) "General operation permit" means an operation permit that may be made applicable to numerous similar stationary sources.

(17) "Major source" means any stationary source, or any group of stationary sources, that is located on one or more contiguous or adjacent properties, is under common control of the same person or persons under common control, belongs to a single major industrial grouping and that is described in par. (a), (b) or (c). For the purposes of defining "major source", a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at the source or group of sources have the same 2-digit code as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in ch. NR 484.

(a) A stationary source that, for pollutants other than radionuclides, emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the act (42 USC 7412 (b)), 25 tpy or more of any combination of those hazardous air pollutants, or a lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station may not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources;

(b) A stationary source that directly emits, or has the potential to emit, 100 tpy or more of any air contaminant. The fugitive emissions of a stationary source may not be considered in determining whether it is a major source for the purposes of this definition, unless the source belongs to one of the following categories of stationary sources:

1. Coal cleaning plants with thermal dryers;
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants, furnace process;
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plants;
25. Charcoal production plants;
26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
27. All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the act (42 USC 7411 or 7412), but fugitive emissions shall be considered only for those air contaminants that have been regulated for that category; or

(c) A major stationary source as defined in part D of title I of the act (42 USC 7501 to 7515), which is defined as:

(35) "Synthetic minor source" means any stationary source that has its potential to emit limited by federally-enforceable permit conditions so that it is not a major source.

**History:** Cr. Register, December, 1984, No. 348, eff. 1-1-85; renum. (1) to be (intro.), cr. (1), Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.025 Permit flexibility.** (1) (a) The owner or operator of an existing source that has an operation permit, or for which a timely and complete application has been submitted, may make a change to the stationary source that contravenes an express term of an operation permit without first obtaining a permit revision if all the following apply:

1. The change does not violate applicable requirements or contravene permit terms and conditions that are monitoring, including use of specified test methods, recordkeeping, reporting or compliance certification requirements;

2. The change is not a modification as defined in s. 144.30 (20), Stats., and rules promulgated thereunder;

3. The change does not cause the existing source to exceed the emissions allowable under the permit, whether expressed in the permit as an emissions rate or in terms of total emissions; and

4. Notice is given and the department does not inform the owner or operator of the stationary source that the change is not authorized, as provided in par. (b).

(b) 1. For each change allowed under par. (a), the owner or operator of the existing source shall provide the department and, for part 70 sources, the administrator, with written notification of the proposed change a minimum of 21 days in advance of the date on which the proposed change is to occur. The written notification shall include a brief description of the change within the stationary source, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

2. The owner or operator of the existing source may not make the proposed change if department informs the person before the end of the 21-day period provided in subd. 1 that the proposed change is not one authorized under this subsection.

(c) The owner or operator of the existing source, the department and the EPA, if applicable, shall attach each notification of a change made under this subsection to their copy of the relevant operation permit.

(d) The permit shield described in s. 144.3925 (9) (b), Stats., may not apply to any change made pursuant to this subsection.

(2) (a) The department shall, if a owner or operator of an existing source requests it, issue an operation permit that contains terms and conditions, including all terms required under s. NR 407.09 (1), (2) and (4), allowing for the trading of emissions increases and decreases at the existing source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the operation permit independent of otherwise applicable requirements. The permit applicant shall include in the application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.

The department may not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. Any operation permit issued pursuant to this subsection shall require compliance with all applicable requirements.

(b) For any trade allowed in an operation permit pursuant to par. (a), the owner or operator of the existing source shall provide the department and, for part 70 sources, the administrator, with written notification a minimum of 7 days in advance of the date on which the proposed trade is to occur. The written notification shall state when the change is proposed to occur and shall describe the changes in emissions that will result and how these changes in emissions will comply with the terms and conditions of the permit.

(c) The permit shield described in s. 144.3925 (9) (b), Stats., may extend to terms and conditions that allow the increases and decreases in emissions allowed under this subsection.

History: Cr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.03 Exemptions from operation permit requirements.** (1) **SPECIFIC CATEGORIES OF EXEMPT SOURCES.** Any direct stationary source which consists solely of one of the following categories of stationary sources is exempt from the requirement to obtain an operation permit provided the requirements of sub. (4) are met:

(a) External combustion furnaces which do not burn any hazardous waste identified under ch. NR 605, or which have been issued a license under ch. NR 680, and which are designed at combined total capacity to burn the following fuels at the maximum rates indicated:

1. Coal, coke or other solid fuels, except wood, at a heat input rate of not more than 1.0 million BTU per hour;

2. Wood alone or wood in combination with gaseous or liquid fuels at a heat input rate of not more than 5.0 million BTU per hour;

3. Residual or crude oil at a heat input rate of not more than 5.0 million BTU per hour;

4. Distillate oil at a heat input rate of not more than 10 million BTU per hour; and

5. Gaseous fuel at a heat input rate of not more than 40 million BTU per hour.

(b) Equipment designed to incinerate solid wastes, which are not pathological wastes, infectious wastes, municipal wastes or hazardous wastes under ch. NR 605, at a rate of not more than 500 pounds per hour.

(c) Equipment which is designed to dry grain at a rate of not more than 1,500 bushels per hour at 5% moisture extraction and which is not subject to s. NR 440.47.

(d) Portland concrete batch plants which produce less than 20,000 cubic yards of concrete per month averaged over any 12 consecutive month period.

submitted in an electronic format. These materials shall be submitted to the Wisconsin department of natural resources, bureau of air management, permits section, P.O. Box 7921, Madison WI 53707-7921.

(3) The application forms shall be signed by a responsible official of the stationary source designated by the source for this purpose. In the case of an electronic format application, a form supplied with the electronic format shall be signed in accordance with this subsection and returned to the department with the electronic format application.

(4) The application shall contain all of the information required for the issuance of an operation permit. Except as provided in subs. (5) and (8), it shall include the following elements:

(a) Identifying information, including company name and address, and plant name and address if different from the company name or address; owner's name and agent, and operator if different from the owner, and names and telephone numbers of the plant manager and contact person.

(b) A description of the source's processes and products, by standard industrial classification code as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in ch. NR 484, including any processes and products associated with each alternate operating scenario identified by the source.

(c) The following emissions-related information:

1. The maximum theoretical emissions of all air contaminants from all emissions units, operations and activities except for those exempted under subd. 9 or 10. Fugitive emissions from emissions units, operations and activities shall be included in the permit application in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. Maximum theoretical fugitive emissions shall be calculated using average operating conditions and average weather conditions. Only sources which manufacture or process pesticides, rodenticides, insecticides, herbicides or fungicides shall include emissions of air contaminants identified as pesticides, rodenticides, insecticides, herbicides and fungicides in Table 2 in their permit applications. When preparing its application, the owner or operator of a facility may rely on information in an approved material safety data sheet. Trace contaminants need not be reported if they constitute less than 1% of the material, or 0.1% of the material if the air contaminant is footnoted as a suspected or confirmed human carcinogen by the American conference of governmental industrial hygienists in the 1990-1991 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, incorporated by reference in ch. NR 484.

2. Identification and description of all emissions points in sufficient detail to determine the applicable requirements to be included in an operation permit.

3. Emission rates in tons per year and in terms necessary to demonstrate compliance with emission limitations consistent with the applicable reference test method.

4. The following information to the extent that it is needed to determine or regulate emissions: types and amounts of fuels used, types and

amounts of raw materials used, production rates and operating schedules.

5. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

6. Limitations on source operations and any applicable work practice standards which affect emissions of any air contaminants.

7. Other information necessary to determine any applicable requirement.

8. The calculations on which the information contained in subsds. 1 to 7 is based.

9. The emissions units, operations and activities in subpars. a to o shall be listed in the application but are exempt from being further included in any application required under this chapter:

a. Any emissions unit, operation or activity that has, for each air contaminant, maximum theoretical emissions which are less than the levels in Table 2. Multiple emissions units, operations and activities that perform identical or similar functions shall be combined in determining the applicability of the exemption under this subparagraph.

b. If the maximum theoretical emissions of any air contaminants listed in Table 2 from all emission units, operations or activities at a facility are less than 5 times the level specified in Table 2 for those air contaminants, any emissions unit, operation or activity that emits only those air contaminants.

c. Maintenance of grounds, equipment and buildings, including lawn care, pest control, grinding, cutting, welding, painting, woodworking, general repairs and cleaning, but not including use of organic compounds as clean-up solvents.

d. Boiler, turbine, generator, heating and air conditioning maintenance.

e. Pollution control equipment maintenance.

f. Internal combustion engines used for warehousing and material transport, forklifts and courier vehicles, front end loaders, graders and trucks, carts and maintenance trucks.

g. Fire control equipment.

h. Janitorial activities.

i. Office activities.

j. Convenience water heating.

k. Convenience space heating units with heat input capacity of less than 5 million btu per hour that burn gaseous fuels, liquid fuels or wood.

l. Fuel oil storage tanks with a capacity of 10,000 gallons or less.

m. Stockpiled contaminated soils.

n. Demineralization and oxygen scavenging of water for boilers.

o. Purging of natural gas lines.

3. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the department.

4. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements under s. 114 (a) (3) of the act (42 USC 7414 (a) (3)).

(j) Any application form, report or compliance certification submitted pursuant to this section shall require certification by a responsible official of the truth, accuracy and completeness of the submission. This certification and any other certification required under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

(5) The applicant shall use nationally-standardized forms for the portions of permit applications and compliance plans related to acid rain program requirements, as required by regulations promulgated under the acid rain program.

Note: These forms may be obtained from the district and area offices of the Department or from the Wisconsin Department of Natural Resources, Bureau of Air Management, Permits Section, P.O. Box 7921, Madison WI 53707-7921 or U. S. EPA, Region 5, 77 W. Jackson, Chicago IL 60604.

(6) The applicant shall specifically identify all information in the permit application for which confidential status is sought and shall follow procedures in s. 144.33, Stats., and s. NR 2.19 to request confidential status for that information. In addition to the copies of the complete application required under sub. (2), an applicant requesting confidentiality shall also supply to the department 3 copies of the application with all confidential material deleted for forms and other materials which are submitted on paper. The applicant shall file one copy of all forms and other materials with all confidential material deleted if submitted in electronic format.

(7) Applications for general operation permits shall be submitted on forms supplied by the department and shall include all information necessary to determine qualification for and assure compliance with the general operation permit.

(8) Notwithstanding sub. (4) (intro.), the initial applications for existing, non-part 70 sources submitted pursuant to s. NR 407.04 (1) and initial applications for new or modified sources for which no construction permit is required do not need to include the information in sub. (4) (d), (f), (h) and (i).

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; r. and recr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.06 Complete applications.** (1) An application for an operation permit shall be initially deemed complete only if it contains all of the information described in s. NR 407.05 (4) and, for each form submitted, if all portions of that form which are specifically designated as necessary for a complete application are completed. The department may require an applicant to submit data necessary to complete any incomplete application.

(2) After an application for an operation permit has been initially deemed complete, the department may require additional information, including other information than that requested on the application forms, as needed to process the application. The department shall specify, in writing, a reasonable time period, of not less than 30 days, for the applicant to submit the requested information. The applicant may request and the department may grant a reasonable extension of the time period to submit the requested information. If the applicant does not supply the information requested by the date specified, the authorization for an existing source to operate under s. 144.3925 (7), Stats., shall no longer apply to the source.

(3) Unless the department determines in writing that an application for an operation permit is not complete within 20 days from the date that the application or additional information requested under sub. (2) is submitted, the application shall be deemed complete.

History: Cr. Register, December, 1993, No. 456, eff. 1-1-94.

**NR 407.07 Action on applications.** (1) The department shall follow the procedures in s. 144.3925, Stats., in acting on applications for operation permits and for renewals of operation permits. The requirements in s. 144.3925 (5m) (a) to (c), Stats., do not apply with respect to non-part 70 sources.

(2) For applications for existing sources received by January 1, 1995, the department shall issue or deny the operation permit within 30 months after receiving a complete application.

(3) For applications for new or modified sources for which a construction permit is required under s. 144.391 (1) (a), Stats., and ch. NR 406, the department shall:

(a) Conduct the review, notification and publication, public comment and public hearing processes under s. 144.3925 (3) to (5), Stats., for the operation permit simultaneously with the similar processes under s. 144.392 (3) to (7), Stats., for the construction permit.

(b) Issue or deny the operation permit within 180 days after the applicant submits to the department the results of all equipment testing and emission monitoring required under the construction permit.

(c) 1. Except as provided in subd. 3, for part 70 sources, if, when comparing the permit conditions and emissions allowed under the construction permit to the permit conditions and emissions that would be allowed under the proposed operation permit prepared pursuant to s. 144.3925 (5m), Stats., there will be a change that would require treatment as a significant permit revision under s. NR 407.13, the department shall repeat the review, notification and publication, and public comment and public hearing processes under s. 144.3925 (3), (4) and (5), Stats., with the new proposed conditions or higher levels of emissions prior to further processing of the permit.

2. For non-part 70 sources, if, when comparing the permit conditions and emissions allowed under the construction permit to the permit conditions and emissions that would be allowed under the operation permit, there will be a change that would require treatment as a significant permit revision under s. NR 407.13, the department shall repeat the review,