

AIR MANAGEMENT PROGRAM FACT SHEET



Actual Emissions-Based Exemption from Operation Permits

September 2022

What is the actual emissions-based 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 under [s. NR 407.03\(1m\)](#), Wis. Adm. Code. As long as a facility remains eligible for this operation permit exemption, it is also exempt from the requirement to get a construction permit under [s. NR 406.04\(1\)\(zh\)](#), Wis. Adm. Code.

The DNR has several operation permit exemption options, registration permits, or general permits for facilities that do not qualify for this exemption. Information on registration operation permits, general permits, and other exemptions, is available through the [Air Permit Options](#) webpage.

Exemption from the requirement to get a permit does not exempt a facility from complying with other applicable air pollution regulations. The DNR's [Small Business Environmental Assistance Program](#) (SBEAP) has resources to help facilities determine what rules apply and how to show compliance.

What are the benefits of this exemption?

- No annual fee.
- No construction permits, or related fees, if the facility remains 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:

| Eligibility Thresholds | |
|---|---|
| Pollutant | Controlled Actual Annual Emissions |
| Particulate matter (PM) | <10 tons per year |
| Sulfur dioxide (SO ₂) | <10 tons per year |
| Carbon monoxide (CO) | <10 tons per year |
| Nitrogen oxides (NO _x) | <10 tons per year |
| Volatile organic compounds (VOCs) | <10 tons per year |
| Lead | <0.5 tons per year |
| Hazardous air contaminants, state regulated | The applicable thresholds listed in Tables of ch. NR 445. More information is available on DNR's Air Toxics webpage |

In addition to emitting at or below these thresholds, the facility cannot be subject to an emission limitation or emission standard under section 111 ([New Source Performance Standards](#), or NSPS) or section 112 ([National Emissions Standards for Hazardous Air Pollutants](#), or NESHAP) of the Clean Air Act (CAA).

There are exceptions for certain situations where the facility may still qualify for the exemption:

- Subject to a Generally Available Control Technology (GACT) standard under s. 112(d)(5), CAA.
- Owns engines subject to the NSPS subparts IIII and JJJJ, if the engines are certified to meet the emission standards in the NSPS.
- Subject only to recordkeeping or reporting requirements of a standard in s. 111 or 112, CAA.

How are controlled actual emissions calculated for this exemption?

The actual controlled emissions to determine eligibility for the actual emissions exemption can include the emissions reductions achieved by using a control device. Provide proof of the control efficiency used for the exemption either through recent stack test results or documentation from the device manufacturer.

Occasionally devices traditionally considered a control device may be used to collect process materials that can be reused as part of the process. When evaluating whether this type of equipment is inherent to the process, the DNR considers the questions outlined in a [November 27, 1995 letter](#) from David Solomon, Integrated Implementation Group, U.S. EPA, to Mr. Timothy Mohin, Government Affairs, Intel Corporation. The letter addresses situations for which case-by-case judgments may be needed regarding whether control equipment should be considered as air pollution control equipment, or whether that equipment is an inherent part of the process. Provide detailed information to answer the following questions:

- Is the primary purpose of the equipment to control air pollution?
- Where the equipment is recovering product, how do the cost savings from the product recovery compare to the cost of the equipment?
- Would the equipment be installed if no air quality regulations are in place?

If the facility has such a device, they must provide sufficient details to elaborate the answers to these questions and include a quantitative cost savings analysis. The DNR will review the responses to these questions and make a case-by-case determination whether the equipment is inherent to the process.

If the DNR approves a control device as inherent process equipment, the actual emissions from the process take into account the removal efficiency of the inherent process equipment. If the facility uses a collection efficiency for the inherent process equipment that is greater than the control efficiency for that type of equipment allowed in Registration Permits Section G when calculating emissions, the exemption application should include documentation supporting the collection efficiency used to determine emissions or documentation supporting the emission rate after the collection equipment. Examples of supporting documentation include equipment manufacturer control or emission guarantees, or stack test results that comply with the requirements in NR 439. For more details on stack test requirements, refer to [SB119](#) or contact the [Air Permit Exemption coordinator](#).

How does a facility utilize the actual emission exemption?

The facility must notify the DNR in writing of the intent to operate under the actual emissions exemption if either of the following conditions applies:

- the facility is required to report annual emissions under [s. NR 438.03](#), Wis. Adm. Code
- the facility has submitted an operation permit application or is currently operating under an air permit

Notify the DNR of the intent to operate under the actual emissions exemption by completing Form 4530-100, Facility Details and Permit Actions, and select the appropriate Operation Permit exemption option. In addition, submit actual emissions information, including fugitive emissions, to demonstrate that the emissions from the facility are below the exemption thresholds specified in the table on page 1. A list of items that should be included in the submittal to allow the most efficient review by the DNR is on the Operation Permit Exemption Application Checklist ([AM-597](#)).

Submit a copy of the form to: DNRAMAirPermit@Wisconsin.gov. Additional information about submitting the form, including the option for electronic signature, is on the [How to Apply](#) webpage.

When is a facility required 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 the DNR's online air emissions reporting system. If emissions are more than 5 tons per year of PM, SO₂, CO or NO_x, or more than 3 tons per year of VOCs, the facility will need to report. Emissions of any hazardous air pollutant above the thresholds in Table 1 must be reported as well. Learn about submitting a report on the [Air Emissions Inventory and Reporting](#) webpage.

What happens after the DNR receives the notification?

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

Revocation: The notification serves as a request to revoke any old permits issued to a facility. Before sending confirmation of the exemption, the DNR will send a letter notifying the facility of the intent to revoke the old permits. By law, the DNR must then wait 21 days (or 30 days for facilities currently holding a Part 70 permit) before formal revocation takes place. Once the revocation is confirmed, a facility should mark the old permits "revoked" but keep them on file. These old permits can be valuable resources for understanding and demonstrating compliance with state and federal air pollution regulations.

Withdrawal: If a facility is covered under a registration or general permit, the notification serves as a request to withdraw the facility from coverage under those permits. (This is similar to revocation, but "withdrawal" is the term used for general and registration permits.) Similarly, if the facility submitted an application for an air pollution control permit, the DNR will consider the notification a request to withdraw the application. By law, the DNR must then wait 21 days before formal withdrawal takes place.

Approval: After the DNR receives written notification of intent to operate under this exemption, they will send an acknowledgement of receipt of the facility's intent to operate under the exemption in s. NR 407.03(1m), Wis. Adm. Code. As mentioned above, if the facility had existing permits, final revocation or withdrawal approval documents will be sent, along with the exemption acknowledgement after the appropriate waiting period has passed.

What does the facility need to do after the exemption is approved?

To maintain the exemption the facility must:

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

- Use the compliance monitoring methods listed in s. NR 439.055, Wis. Adm. Code, for any control device used to limit actual emissions below the exemption thresholds.
- Report actual emissions annually if above reporting thresholds in ch. NR 438, Wis. Adm. Code.
- Comply with all state and federal air pollution rules that may apply and maintain supporting compliance records.

Is there a downside to the exemption?

When using an exemption, the facility does not have a permit document to list what air pollution rules may apply and their requirements. The facility may find it helpful to follow the compliance and monitoring summary checklist provided for facilities covered under the registration permit as a way to learn what might apply; see Form 4530-179 under the [Compliance tab on the Forms](#) webpage.

The exemption has a smaller emission threshold, which can limit some operations. Applying for a registration operation permit may give a facility more flexibility to grow/expand their operations. Learn more on the [Registration Permit](#) webpage.

The [SBEAP](#) has materials that can help facilities determine what the applicable requirements are and how to comply with them.

For more information

For more information on the actual emissions operation permit exemption:

- visit the DNR's [Air Permit Exemptions](#) webpage's Actual Emissions OP tab
- contact the SBEAP at DNRsmallbusiness@wisconsin.gov or call toll-free at 1-855-889-3021
- go to the [Air Permit Contacts](#) webpage for the current exemption coordinator

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