

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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You had requested a provision that would allow DNR to give certain notices by way of publication on DNR's Internet Web site in lieu of required class 1 notices. Your request was to "allow a 15 day" notice. I did not include the 15 day requirement because, typically, the provisions in current law requiring a class 1 notice include a date by which the notice must be given and, under this draft, if a class 1 notice must be published by a certain date, and DNR chooses to publish on the Internet instead of publishing by way of a class 1 notice, then the Internet publication must also occur by that date. If I have misunderstood your intent, please let me know.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

With regard to the threshold for registration construction and operation permits, you requested that the draft increase the threshold for registration operation permits (ROP) and registration construction permits (RCP) from 25 to 79 tons per year.

I am uncertain how to proceed with drafting this request. The statute relating to air registration permits (s. 285.60 (2g)) does not include a threshold. The DNR rule that relates to registration construction permits (NR 406.17) and the rule that relates to registration operation permits (NR 407.105) specify criteria for issuance of registration permits and characteristics that prevent a source from being eligible for a registration permit. The general eligibility criteria for registration permits in DNR's rules include a threshold, among other criteria, but the threshold is not expressed in terms of a specified number of tons, except for lead emissions. The provisions setting the thresholds read as follows:

For construction permits: NR 406.17 (2) (a) 1. Actual emissions of each air contaminant from the construction, reconstruction, replacement, relocation or modification of the stationary source or sources will not exceed 25% of any major source threshold in s. NR 407.02 (4), over any 12 consecutive month period, except that emissions of lead may not exceed 0.5 tons over any 12 consecutive month period.

For operation permits: NR 407.105 (2) (a) 1. The calendar year sum of actual emissions of each air contaminant from the facility may not exceed 25% of any major source

threshold in s. NR 407.02 (4), except that for lead, emissions may not exceed 0.5 tons per calendar year.

The major source thresholds in NR 407.02 (4) vary, although for many pollutants the threshold is 100 tons per year. For hazardous air pollutants, the thresholds are lower and there are also lower thresholds in some nonattainment areas. The major source thresholds derive from the Clean Air Act. This is how DNR describes the thresholds on its Web site (<http://dnr.wi.gov/air/permits/streamlining/regpermits.html>):

There are two types of registration permits.

Type A Registration Permit – available for qualifying facilities that have emissions below 25 tons per year of each criteria pollutant, 2.5 tons per year of each federal hazardous air pollutant, 6.25 tons per year of all federal hazardous air pollutants combined, and 0.5 tons per year lead.

Type C Registration Permit – available only for qualified printing facilities that have emissions below 25 tons per year VOC, 5 tons per year of each federal hazardous air pollutant, 12.5 tons per year of all federal hazardous air pollutants combined, and 0.5 tons per year lead. It contains permit conditions specific to the printing industry.

That Web site also has a link to a fact sheet that has additional information about eligibility for registration permits. It appears that it would not comply with the Clean Air Act to set a registration permit threshold of 79 tons per year for all types of pollutants and in all areas. There is not sufficient information available to me to determine how to proceed with drafting the increase in the threshold for ROP and RCP. The information can be provided in writing or I am available to meet with you or anyone you designate to discuss the issues relating to this issue.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov