

(u) Emergency electric generators powered by internal combustion engines which are fueled by gaseous fuels, gasoline or distillate fuel oil with an electric output of less than 3,000 kilowatts.

(v) Any quarry, mine or other facility where nonmetallic minerals are extracted that is not a ledge rock quarry or industrial sand mine.

(w) Ledge rock quarries with actual production of less than 25,000 tons per month on a rolling 12 month average, or with actual operation of less than 365 days per 5 year period.

(x) Industrial sand mines with actual production of less than 2,000 tons per month on a rolling 12 month average.

(y) Fixed sand and gravel plants and fixed crushed stone plants with capacities of 25 tons per hour or less.

(z) Portable sand and gravel plants and portable crushed stone plants with capacities of 150 tons per hour or less.

(2) GENERAL CATEGORY OF EXEMPT SOURCES. In addition to the specific categories of exempt sources identified in sub. (1), no operation permit is required for a direct source if the source is not a part 70 source and:

(a) The maximum theoretical emissions from the source for sulfur dioxide or carbon monoxide do not exceed 9.0 pounds per hour for each air contaminant;

(b) The maximum theoretical emissions from the source for particulate matter, nitrogen oxides or organic compounds do not exceed 5.7 pounds per hour for each air contaminant;

(bm) The maximum theoretical emissions from the source for lead do not exceed 0.13 pounds per hour;

(c) The source will not emit any of the air contaminants listed in s. NR 405.02 (27) (a) at a rate greater than the applicable emission rate listed in s. NR 405.02 (27) (a);

(d) The source will not emit any hazardous air contaminant listed in Table 1, 2, 3 or 4 of s. NR 445.04 in amounts greater than the emission rate listed in Table 1, 2, 3 or 4 of s. NR 445.04 for the air contaminant for the respective stack height; and

(e) The source will not have maximum theoretical emissions of any single hazardous air pollutant as defined by s. 112 (b) of the act (42 USC 7412 (b)) that equal or exceed 10 tons per year or cumulative maximum theoretical emissions of all the hazardous air pollutants defined by s. 112 (b) of the act (42 USC 7412 (b)) that equal or exceed 25 tons per year.

(f) The source is not subject to any standard or regulation under section 111 of the act (42 USC 7411).

(g) The source is not subject to any standard or regulation under section 112 of the act (42 USC 7412).

(3) SPECIFIC CATEGORIES OF EXEMPT INDIRECT SOURCES. The following categories of indirect sources are exempt from the requirement to obtain an operation permit:

(a) *Existing sources.* All indirect sources on which construction or modification commenced on or prior to November 15, 1992.

(b) *Road and highway projects.* All indirect sources which are road or highway projects.

(c) *Indirect sources with associated parking.* If the indirect source will not be a road or highway project, no operation permit is required if the source will be:

1. An indirect source located in a metropolitan county with a parking capacity of less than 1000 cars in its associated parking areas.

2. An indirect source located in a metropolitan county with a parking capacity increase of less than 1000 cars in its associated parking areas.

3. An indirect source located outside the metropolitan counties with a parking capacity of less than 1500 cars in its associated parking areas.

4. An indirect source located outside the metropolitan counties with a parking capacity increase of less than 1500 cars in its associated parking areas.

(4) **CONDITIONS FOR SPECIFIC EXEMPTIONS.** In order to be eligible for a specific exemption under sub. (1) (d), (g), (h), (o), (s) or (sm), the owner or operator of a direct stationary source shall keep and maintain records of materials used, emissions or production rates, whichever is appropriate, that are adequate to demonstrate that the source qualifies for the exemption. The owner or operator of a direct stationary source shall begin keeping these records no later than January 1, 1994 or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. After January 1, 1994, any direct stationary source that ever exceeds any level listed in sub. (1) (d), (g), (h), (o), (s) or (sm) is not eligible for the exemption under that subsection.

(5) **EXEMPTIONS FROM PERMIT REQUIREMENTS FOR INDIRECT SOURCES.** Pursuant to s. 144.393 (4) (a), Stats., the permit requirements in s. 144.393 (2) (b) and (3) (a), Stats., do not apply to indirect sources.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; cr. (2) (bm), r. and recr. (2) (d), am. (2) (e), Register, September, 1988, No. 393; eff. 10-1-88; am. (1) (a) (intro.), 1. to 3., (b), (g), (h), (o), (2) (a), (b), (bm), (c) 1. and 5., (d) and (e), Register, May, 1992, No. 437, eff. 6-1-92; am. (1) (intro.), (a) (intro.) and 5., (b) to (e), (2) (intro.), (a) to (c), cr. (1) (sm), (sq) and (u), (2) (f), (g), (3) to (5), r. (2) (c) 1. to 5., r. and recr. (2) (e), Register, December, 1993, No. 456, eff. 1-1-94; cr. (1) (v) to (z), Register, June, 1994, No. 462, eff. 7-1-94.

**NR 407.04 Application filing dates.** (1) **INITIAL FILING DATES.** Except as provided in sub. (3), the owner or operator of an air contaminant source which is not exempt under s. 144.391 (5), Stats., or s. NR 407.03 shall submit an operation permit application on application forms available from the department by the following dates:

Note: Application 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.

(a) *Existing sources, initial application.* For initial applications for all existing sources, the date in the appropriate column of Table 1 for part 70 and non-part 70 sources corresponding to the county in which the source is located. Where the location of a source is in 2 or more counties, the date an application is due shall be the latest date listed for any of the counties in which the source is located. Any existing air contaminant

source for which an application is submitted requesting that it be made a synthetic minor source is a part 70 source until a permit making that source a synthetic minor source is issued and, except as allowed in sub. (3), is subject to the filing dates listed for part 70 sources. If a source submits an application on or before the date specified in Table 1 and the department determines that the application is incomplete, the source shall have 30 days from the date that the department notifies the source of the incompleteness determination to complete the application.

(b) *New and modified sources.* 1. In accordance with s. 144.374 (2) (b), Stats., for new or modified sources for which a construction permit is required and which apply for a construction permit after November 15, 1992, the date that the application for the construction permit is filed.

2. For new or modified sources for which a construction permit is required and which applied for a construction permit before November 15, 1992, a date at least 120 days prior to the expiration date of the construction permit.

3. For new or modified sources for which no construction permit is required, the application for an operation permit shall be filed before the source commences construction or modification.

(2) **PERMIT RENEWAL.** Pursuant to s. 144.396 (3), Stats., a permittee shall apply for renewal of an operation permit at least 12 months, but not more than 18 months, before the permit expires. No permittee may continue operation of a source after the operation permit expires, unless the permittee submits a timely and complete application for renewal of the permit.

(3) **EXTENSIONS AND DEFERRALS.** (a) *Extensions for cause.* An existing source may request and the department may grant an extension of not more than 60 days beyond the applicable date specified in sub. (1) (a) if all of the following conditions are met:

1. a. The extension is requested in writing at least 30 but no more than 90 days before the application is due.

b. The department may waive the 30 day requirement in subpar. a if an emergency occurs that makes it impossible for the source to meet that deadline.

2. The applicant demonstrates that the reason that they cannot meet the date specified in sub. (1) (a) is beyond their reasonable control.

3. The extension does not extend the date that a complete application is due for a part 70 source beyond November 15, 1995.

(b) *Deferral for sources proposing to become synthetic minor sources.* 1. If an existing source proposes to be permitted as a synthetic minor source in order to avoid being classified as a part 70 source, the owner or operator shall:

a. Submit a complete application for an operation permit for a non-part 70 source in accordance with s. NR 407.05 (4) and (8) by the date that a part 70 source permit application would be due for that source under the schedule in Table 1.

b. Submit information to show that the actual emissions of each air contaminant emitted by the source for the 2 most recent years prior to

the submittal of the application for an operation permit were less than the corresponding thresholds for being classified a major source under s. NR 407.02 (17). If available, actual emissions, as reported to the department pursuant to ch. NR 438, shall be submitted.

c. Submit information to show that the source is a part 70 source solely due to its classification as a major source.

2. The department shall review the application and determine whether the source may be permitted as a non-part 70 source and whether the source has demonstrated that the requirements of subd. 1 have been met. If the department determines that the source may be permitted as a non-part 70 source and the requirements of subd. 1 have been met, it shall process the application in accordance with ss. 144.3925, Stats., NR 407.07 and 407.09. If the department determines that the source may not be permitted as a non-part 70 source, the department shall notify the source of that determination. The owner or operator of the source shall then submit to the department a complete application for a part 70 source in accordance with s. NR 407.05 (4) by October 30, 1995.

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,