

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD REPEALING, RENUMBERING,
AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board adopts an order to **repeal** NR 406.04(1)(c) and 407.03(1)(c); to **renumber** NR 406.02(1) to (4); to **amend** NR 406.04(1)(ce), (cm) and (m)(intro.), 406.11(1)(intro.) and (c), 407.03(1)(ce) and (cm), 407.05(7), 407.15(title), (intro.) and (3), 410.03(1)(a)5. and 484.05(1); to **repeal and recreate** NR 407.02(3) and 407.10; and to **create** NR 400.02(73m) and (131m), 406.02(1),and (2), 406.04(2m), 406.11(1)(g), 406.11(3), 406.16, 406.17, 406.18, 407.02(3m), 407.105, 407.107, 407.14 Note, 407.14(4)(c), 407.15(8) and 410.03(1)(a)6. and 7. relating to implementing general and registration air permit programs as required by 2003 Wisconsin Act 118.

AM-46-04

Analysis Prepared by the Department of Natural Resources

Statutory Authority: ss. 227.11(2)(a), 285.11(1) and (6), 285.60(2g), (3) and (6) and 285.69(1), Stats.

Statutes Interpreted: ss. 285.11(6), 285.60(2g) and (3), 285.61 and 285.62, Stats. The State Implementation Plan developed under that provision is revised.

Explanation of Agency Authority

Section 227.11(2)(a), Stats., gives agencies general rulemaking authority. Section 285.11(1), Stats., gives the Department authority to promulgate rules consistent with ch. 285, Stats. Section 285.11(6), Stats., gives the Department the authority to develop a state implementation plan for the control of air pollution. The Department has authority under s. 285.60(2g), Stats., to promulgate rules to establish registration permits. The Department has authority under s. 285.60(3), Stats., to promulgate rules to establish general permits. The Department has the authority under s. 285.60(6), Stats., to exempt certain air pollution sources from the requirement to obtain a permit. Section 285.69(1), Stats., gives the Department the authority to charge fees for issuance of construction permits.

Related Statute or Rule

These rules relate directly to regulations for the permitting of activities that result in air emissions. These rules are in chs. NR 406 and 407, Wis. Adm. Code.

Plain Language Rule Analysis

The proposed rule revisions establish criteria and procedures for the issuance of general and registration air permits. These rules are intended to provide industry and the Department with a streamlined approach to permitting low emitting sources or categories of similar sources. Sources that are eligible for and which choose to take advantage of a general or registration permit would complete a simplified permit application form. General and registration permits would already have been completed by the Department for the selected sources or source categories using permit language that is standard for the sources to be covered by the permit. This process will provide greater certainty, flexibility and timeliness to the permitting process.

The rule establishes the general framework for these permits by setting implementation criteria. Specific permit conditions will be developed during permit preparation. Types of sources that could be regulated by registration or general permits include those that have actual or potential emissions significantly lower than federal major source thresholds, nonmetallic mineral processing plants, asphalt plants, small natural gas fired generators, small heating units, printing presses and hospital sterilization equipment.

Also included in this package is a minor change to clarify the permit exemption criteria for grain processing and grain storage facilities. This clarification is necessary to ensure that column dryers and rack dryers are included in the exemption criteria, as was intended in the original rule development. Included in this package as well is a minor technical change to provide correct references to the recently updated ch. NR 445, which was inadvertently omitted in the processing of that rule package.

Federal Regulatory Analysis

Although the federal operation permit program provides the option for states to prepare general operation permit programs, there is no federal program that requires general construction permits or any type of registration permit.

State Regulatory Analysis

Minnesota and Michigan operate registration and general permit programs. Iowa operates a general permit program. The Department is considering regulating similar source categories as have been regulated in Minnesota, Michigan and Iowa under general and registration permits. Illinois does not have registration or general permit programs.

Summary of Factual Data

Statutory changes under 2003 Wisconsin Act 118 require the Department to develop regulations for the implementation of general permit and registration permit programs. The proposed regulations will provide for flexibility identified during the Department's air permit streamlining efforts. By specifying which types of sources are ineligible for general or registration permits, environmental protection backstops are established without barriers on flexibility in implementation.

Effect on Small Business

Small business will benefit by the streamlining procedures provided within these proposed rule revisions. The proposed rule revisions should lead to greater flexibility and reduced administrative cost for small businesses. However, small businesses that elect registration operation permits will be responsible for complying with all applicable requirements in chs. NR 400 to 499, without having these requirements identified in the permit. These requirements are identified in individual and general operation permits.

Anticipated Costs Incurred by the Private Sector

The proposed rule revisions will require Department resources to implement. The Department is proposing changes to its construction permit fee schedule contained within ch. NR 410 to fund the registration and general construction permit program, as it applies to Part 70 sources. Annual fees will fund the registration and general operation permit program. Proposed construction permit fees are based upon the existing fee structure for Department review activities of a similar nature.

Agency Contact Person

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The consent of the Attorney General and the Revisor of Statutes will be requested for the incorporation by reference of the Standard Industrial Classification Manual in ch. NR 484.

SECTION 1. NR 400.02(73m) and (131m) are created to read:

NR 400.02(73m) "General permit" means a permit that may be applicable to similar stationary sources and is issued in accordance with s. 285.60(3), Stats.

(131m) "Registration permit" means a permit that may be applicable to stationary sources with low actual or potential emissions and is issued in accordance with s. 285.60(2g), Stats.

SECTION 2. NR 406.02(1) to (4) are renumbered NR 406.02(3) to (6).

SECTION 3. NR 406.02(1) and (2) are created to read:

NR 406.02(1) "Facility" means all stationary sources emitting air contaminants which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control. Emissions resulting from loading, unloading or stockpiling materials to or from vessels or vehicles while at a facility shall be considered as part of the facility's emissions. Air contaminant sources, other than transportation related activities, shall be considered as part of the same industrial grouping if they are classified under the same 2-digit major group as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in s. NR 484.05(1).

(2) "Individual construction permit" means a construction permit which is not a general construction permit issued under s. NR 406.16 or a registration construction permit issued under s. NR 406.17.

SECTION 4. NR 406.04(1)(c) is repealed.

SECTION 5. NR 406.04(1)(ce), (cm) and (m)(intro.) are amended to read:

NR 406.04(1)(ce) Grain storage facilities; including facilities with rack dryers designed to dry grain at a rate of not more than 1,500 bushels per hour at 5% moisture extraction, or rack dryers equipped with at least 50 mesh screens, or column dryers; with an average tonnage of grain received of less than 5500 tons per month and which are not subject to s. NR 440.47. The average monthly tonnage of grain received shall be calculated by dividing the cumulative tonnage of grain received since January 1 of each year by 12. The average monthly tonnage of grain received does not include product that the facility sells, acting as a broker, which is never actually received or dried at the grain storage facility.

(cm) Grain processing facilities; including facilities with rack dryers designed to dry grain at a rate of not more than 1,500 bushels per hour at 5% moisture extraction, or rack dryers equipped with at least 50 mesh screens, or column dryers; with an average tonnage of grain received of less than 4500 tons per month and which are not subject to s. NR 440.47. The average monthly tonnage of grain received shall be calculated by dividing the cumulative tonnage of grain received since January 1 of each year by 12. The average monthly tonnage of grain received does not include product that the facility receives that is packaged when received and remains packaged.

(m)(intro.) The following procedures for the remediation or disposal of soil or water contaminated with organic compounds, provided the potential to emit, considering emission control devices, for any hazardous air contaminant listed in Table ~~4~~ A to Table ~~5~~ C of ~~s. NR 445.04~~ s. NR 445.07 is not greater than the emission rate listed in Table ~~4~~ A to Table ~~5~~ C of ~~s. NR 445.04~~ s. NR 445.07 for the air contaminant at the respective stack height, and the procedure is not subject to any standard or regulation under section 111 or 112 of the ~~act~~ Act (42 USC 7411 or 7412):

SECTION 6. NR 406.04(2m) is created to read:

NR 406.04(2m) EXEMPTIONS FOR SOURCES WITH GENERAL OPERATION AND REGISTRATION OPERATION PERMITS. Notwithstanding the provisions in s. NR 406.04(1) and (2), no construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if all the following criteria are met:

(a) The source is covered under a general operation permit issued under s. NR 407.10 or a registration operation permit issued under s. NR 407.105.

(b) Except for any provisions contained in any general operation permit issued prior to the effective date of this rule...[revisor insert date] specifying when a construction permit is needed, the construction, reconstruction, replacement, relocation or modification will not result in the source violating any term or condition of the general operation permit or the registration operation permit.

(c) The construction, reconstruction, replacement, relocation or modification does not require a permit under ch. NR 405 or 408.

Note: This exemption applies to new or modified facilities if they are covered under a general or registration operation permit.

SECTION 7. NR 406.11(1)(intro.) and (c) are amended to read:

NR 406.11(1)(intro.) After providing 21 days written notice to the permit holder and to the persons listed under s. 285.61(5) (a) 2. to 5., Stats., the department may revise, suspend ~~or~~ revoke or withdraw a source from coverage under a construction permit, part of that permit or the conditions of that permit if there is or was any of the following:

(c) *Department determination.* A determination by the department that the permit ~~shall~~ must be revised or coverage withdrawn to assure compliance with the applicable requirements.

SECTION 7A. NR 406.11(1)(g) is created to read:

NR 406.11(1)(g) *Cause or exacerbate*. 1. A determination by the department that the emissions unit or units covered under a general or registration construction permit cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment. The determination shall be made through an air quality assessment using the following procedures, as appropriate, which may be conducted after the determination that the source was covered under the general or registration construction permit.

a. For general construction permits, the department shall use criteria, methodologies or modeling consistent with criteria, methodologies or modeling used for any air quality analysis conducted under s. NR 406.16(1)(c).

b. For registration construction permits, the department shall use either an air dispersion model using maximum actual emissions on an annual or hourly basis or criteria, methodologies or modeling consistent with criteria, methodologies or modeling used for any air quality analysis conducted under s. NR 406.17(1)(b).

2. Notwithstanding a determination made under subd. 1., the owner or operator will be deemed to be in compliance with the requirement to obtain a construction permit until the department takes final action on a subsequent application for a construction permit, if the application is submitted to the department by the owner or operator within 30 days after the department notifies the owner or operator of its determination under this paragraph and the owner or operator is in compliance with the otherwise applicable general or registration construction permit from the time the determination is made under subd. 1. until the department takes final action under this subdivision.

SECTION 8. NR 406.11(3) is created to read:

NR 406.11(3) After providing 14 days written notice to the permit holder and to the persons listed under s. 285.61(5)(a)2. to 5., Stats., the department may revise or revoke an individual construction

permit if requested by the permit holder in order to be eligible for a general construction or operation permit or a registration construction or operation permit.

SECTION 9. NR 406.16, 406.17 and 406.18 are created to read:

NR 406.16 General construction permits. (1) **ISSUANCE OF GENERAL CONSTRUCTION PERMITS.** (a) The department may issue general permits for the construction, reconstruction, replacement, relocation or modification of stationary sources in accordance with s. 285.60 (3), Stats.

Note: A general construction permit is not required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a general operation permit and the project meets the criteria in s. NR 407.10(4)(a).

(b) A general construction permit may be issued for a source category if the sources in the category meet all of the following criteria:

1. Perform the same or similar operations.
2. Emit the same class of air contaminants.

Note: An example of "the same class of air contaminants" is volatile organic compounds.

3. Employ the same or similar capture and control systems, if applicable.
4. Are subject to the same or similar emission limitations and other state and federal requirements that are applicable to the sources in the category.

Note: An example of "similar emission limitations" is emission limitations for the same air contaminant but that differ based on the size of the source, its location, or its date of construction.

(c) When proposing to issue a general construction permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed general construction permit. The department shall use the applicable procedures in s. 285.61, Stats., to issue a general construction permit. The department may issue the general construction permit if the applicable criteria in s. 285.63, Stats., are met. The procedural requirements in s. 285.61(2) to (8), Stats., do not apply to the determination of whether an individual source is covered by a general construction permit for a source

category.

Note: The statutes cited above require that when issuing a general construction permit, the department distribute a notice of the availability of the proposed general construction permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(d) The general construction permit shall contain applicability criteria, emission limits, monitoring and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions appropriate for the stationary source category. The permit terms and conditions shall include those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirement in s. NR 424.03(2)(c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the general construction permit that represent LACT, if the requirements of s. NR 424.03(2)(a) or (b) are determined to be technologically infeasible.

Note: If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the general construction permit, or issue a different one, to include nonattainment area specific applicability criteria.

(2) SOURCES INELIGIBLE FOR COVERAGE UNDER A GENERAL CONSTRUCTION PERMIT. Notwithstanding the existence of a general construction permit for a stationary source category, the stationary source may not be covered by the general construction permit if any of the following criteria apply to the emissions unit or units for which coverage is sought:

(a) The emissions unit or units are an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03(86) or an infectious waste combustion source.

(b) The proposed project would result in one or more new or existing emissions units at the facility being required to obtain a permit under ch. NR 405 or 408.

Note: An example is the addition of an emissions unit at a PSD or nonattainment area major source that is considered a major modification to that source. Another example is a project that results in an emissions unit either upstream or downstream from the project increasing its emissions such that it would be required to obtain a permit under ch. NR 405 or 408.

(c) The emissions unit or units cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 406.11(1)(g).

(d) The construction, reconstruction, replacement, relocation or modification of the emissions unit or units constitutes a type 2 action under s. NR 150.03(8)(b)1.a., unless the review process under s. NR 150.20(1)(c) has been completed prior to granting coverage under the permit to the stationary source.

(3) PROCEDURE FOR DETERMINING COVERAGE UNDER A GENERAL CONSTRUCTION PERMIT FOR AN INDIVIDUAL SOURCE. (a) An owner or operator of a stationary source who applies for coverage under a general construction permit shall submit an application using department approved permit application forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved general permit application forms.

(b) An owner or operator of a stationary source who requests or requires emission limits, terms or conditions other than, or in addition to, those contained in the general construction permit shall apply for a different type of permit.

(c) Within 15 days after the receipt of an application for coverage under a general construction permit, the department shall provide one of the following to an applicant:

1. Written notice of the department's determination that the source is covered under the general construction permit.

2. A written description of any information that is missing from the application for coverage under the general construction permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the general construction permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the general construction permit if the owner or operator of the source applies for coverage and meets the eligibility requirements of the general construction permit, unless the source is ineligible under sub. (2).

(4) INCORPORATION OF A GENERAL CONSTRUCTION PERMIT INTO THE FACILITY OPERATION PERMIT. (a) When submitting an application for coverage under a general construction permit, the owner or operator of the source shall also submit an application for an operation permit or a request to revise its operation permit pursuant to ch. NR 407. Prior to issuing or revising the operation permit, the department shall determine that the applicable permit approval criteria under ss. 285.63 and 285.64, Stats., have been met.

(b) The general construction permit requirements and emission limitations shall be established as conditions in the operation permit.

(5) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a stationary source which is covered under a general construction permit may submit a request to the department to withdraw the source from coverage under the general construction permit and allow the source to be covered under a registration construction permit, a general construction permit for another source category or an individual construction permit. The owner or operator shall submit a written request for withdrawal from coverage under the general construction permit and a complete application for the different construction permit.

(b) An owner or operator of a stationary source that has an individual construction permit may submit a request to the department to revise or revoke the individual construction permit pursuant to s. NR 406.11(3) and allow the source to be covered under a general construction permit. The owner or operator shall submit to the department a written request for revision or revocation of the individual construction permit and a complete application for a general construction permit under this section.

(c) An owner or operator of a stationary source that is covered under a registration construction permit may submit a request to the department to withdraw the source from coverage under the registration construction permit and allow the source to be covered under a general construction permit. The owner or operator shall submit to the department a written request for withdrawal from coverage under the registration construction permit and a complete application for a general construction permit under this section.

(d) The owner or operator shall submit the request for revision or revocation of an individual construction permit or withdrawal from coverage under a general or registration construction permit on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

NR 406.17 Registration construction permits. (1) **ISSUANCE OF REGISTRATION CONSTRUCTION PERMITS.** (a) The department may issue registration permits for the construction, reconstruction, replacement, relocation or modification of stationary sources with low actual or potential emissions in accordance with s. 285.60(2g), Stats.

Note: A registration construction permit is not required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a registration operation permit and the project meets the criteria in s. NR 407.105(5)(a).

(b) When proposing to issue a registration construction permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed registration construction permit. The department shall use the applicable procedures in s. 285.61, Stats., to issue a registration construction permit. The department may issue the registration construction permit if the

applicable criteria in s. 285.63, Stats., are met. The procedural requirements in s. 285.61(2) to (8), Stats., do not apply to the determination of whether an individual stationary source may be covered by a registration construction permit.

Note: The statutes cited above require that when issuing a registration construction permit, the department distribute a notice of the availability of the proposed registration construction permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(c) The registration construction permit shall contain applicability criteria, emission caps and limitations, monitoring and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions. The permit terms and conditions shall include those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirement in s. NR 424.03(2)(c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the registration construction permit that represent LACT, if the requirements of s. NR 424.03(2)(a) or (b) are determined to be technologically infeasible.

Note: If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the registration construction permit, or issue a different one, to include nonattainment area specific applicability criteria.

(2) CRITERIA FOR ISSUANCE OF A REGISTRATION CONSTRUCTION PERMIT. (a) A registration construction permit shall be issued for the construction, reconstruction, replacement, relocation or modification of stationary sources that meet all of the following criteria:

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.

2. The facility is not, and will not as a result of the project be, a major source under ch. NR 405, 407 or 408.

(b) Notwithstanding par. (a), the department may issue registration construction permits for coverage of other types of stationary sources that the department determines have or will have low actual or potential emissions, in response to a petition submitted under s. NR 406.18.

(3) SOURCES INELIGIBLE FOR COVERAGE UNDER A REGISTRATION CONSTRUCTION PERMIT. Notwithstanding the existence of a registration construction permit, an individual stationary source may not be covered under a registration construction permit if any of the following criteria apply:

(a) The emissions unit or units are an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03(86) or an infectious waste combustion source.

(b) The proposed project would result in one or more new or existing emissions units at the facility being required to obtain a permit under ch. NR 405 or 408.

Note: An example is the addition of an emissions unit at a PSD or nonattainment area major source that is considered a major modification to that source. Another example is a project that results in an emissions unit either upstream or downstream from the project increasing its emissions such that it would be required to obtain a permit under ch. NR 405 or 408.

(c) The emissions unit or units cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 406.11(1)(g).

(d) The construction, reconstruction, replacement, relocation or modification of the emissions unit or units would be subject to a standard or regulation under section 111 of the Act (42 USC 7411) or under section 112 of the Act (42 USC 7412), other than those contained in the registration construction permit, or which are determined by the department to not preclude eligibility for the registration construction

permit.

(e) The construction, reconstruction, replacement, relocation or modification of the emissions unit or units constitutes a type 2 action under s. NR 150.03(8)(b)1.a., unless the review process under s. NR 150.20(1)(c) has been completed prior to granting coverage under the permit to the stationary source.

(4) PROCEDURE FOR DETERMINING COVERAGE UNDER A REGISTRATION CONSTRUCTION PERMIT FOR AN INDIVIDUAL SOURCE. (a) An owner or operator of a stationary source who applies for coverage under a registration construction permit shall submit an application using department approved registration permit application forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain the department approved registration permit application forms.

(b) An owner or operator of a stationary source who requests or requires emission limits, terms or conditions that require case-by-case review and approval by the department, or emission limits, terms or conditions other than, or in addition to, those contained in the registration construction permit, shall apply for a different type of permit.

(c) Within 15 days after the receipt of the application form prescribed by the department, the department shall provide one of the following to an applicant for a registration construction permit:

1. Written notice of the department's determination that the source is covered under the registration construction permit.

2. A written description of any information that is missing from the application for coverage under the registration construction permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the registration construction permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the registration construction permit if the owner or operator of the source applies for coverage and meets the eligibility requirements in the registration construction permit, unless the source is ineligible under sub. (3).

(e) For the purpose of determining whether a source is eligible for coverage under a registration construction permit, the source's emissions shall be calculated using the terms and conditions listed in the registration construction permit.

Note: The permit terms and conditions may include capture and control efficiencies. The Air Emissions Management System (AEMS) requires the owner or operator of a source to calculate actual annual emissions for reporting to the inventory using the terms and conditions in a permit.

(5) INCORPORATION OF REGISTRATION CONSTRUCTION PERMIT INTO THE FACILITY OPERATION PERMIT. (a) When submitting an application for coverage under a registration construction permit, the owner or operator of the source shall also submit an application for an operation permit or a request to revise its operation permit pursuant to ch. NR 407. Prior to issuing or revising the operation permit, the department shall determine that the applicable permit approval criteria under ss. 285.63 and 285.64, Stats., have been met.

(b) The registration construction permit requirements, emission caps and limitations shall be established as conditions in the operation permit.

(6) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a stationary source that is covered under a registration construction permit may submit a request to the department to withdraw coverage under the registration construction permit and allow the source to be covered under a general construction permit or be issued an individual construction permit. The owner or operator shall submit a written request for withdrawal of coverage under the registration construction permit and a complete application for a general or individual construction permit.

(b) An owner or operator of a stationary source that has an individual construction permit may submit a request to the department to revise or revoke the individual construction permit pursuant to s.

NR 406.11(3) and allow the source to be covered under a registration construction permit. The owner or operator shall submit to the department a written request for revision or revocation of the individual construction permit and a complete application for a registration construction permit under this section.

(c) An owner or operator of a stationary source that is covered under a general construction permit may submit a request to the department to withdraw the source from coverage under the general construction permit and allow the source to be covered under a registration construction permit. The owner or operator shall submit to the department a written request for withdrawal of the general construction permit and a complete application for a registration construction permit under this section.

(d) The owner or operator shall submit a request for revision or revocation of a construction permit or withdrawal from coverage under a construction permit under this subsection on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

NR 406.18 Petition for issuance of general construction permits and registration construction permits. (1) A person may petition the department to make a determination that a category of stationary source meets the criteria for a general construction permit under s. 285.60(3), Stats., and s. NR 406.16(1). A person may petition the department to make a determination that a stationary source meets the criteria for a registration construction permit under s. 285.60(2g), Stats., and s. NR 406.17(1) and (2)(b). The department may consider the number of sources that would be eligible for the permit, the complexity of air regulations applicable to the sources, the likelihood that sources would need source-specific emission limitations and other relevant factors in determining its priority for developing a general

or registration construction permit. Within 30 days after receipt of the petition, the department shall provide a written response to the petitioner granting or denying the petition. If the department grants the petition, the department shall issue the general construction permit or the registration construction permit as soon as practicable, but no later than 365 days after receipt of the petition.

(2) The person shall submit the petition on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

SECTION 10. NR 407.02(3) is repealed and recreated to read:

NR 407.02(3) "Facility" means all stationary sources emitting air contaminants which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control. Emissions resulting from loading, unloading or stockpiling materials to or from vessels or vehicles while at a facility shall be considered as part of the facility's emissions. Air contaminant sources, other than transportation related activities, shall be considered as part of the same industrial grouping if they are classified under the same 2-digit major group as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in s. NR 484.05(1).

SECTION 11. NR 407.02(3m) is created to read:

NR 407.02(3m) "Individual operation permit" means an operation permit which is not a general operation permit issued under s. NR 407.10 or a registration operation permit issued under s. NR 407.105.

SECTION 12. NR 407.03(1)(c) is repealed.

SECTION 13. NR 407.03(1)(ce) and (cm) are amended to read:

NR 407.03(1)(ce) Grain storage facilities, including facilities with column dryers or rack dryers, with an average tonnage of grain received of less than 5500 tons per month, which are not subject to s. NR 440.47, and which are not part 70 sources. The average monthly tonnage of grain received shall be calculated by dividing the cumulative tonnage of grain received since January 1 of each year by 12. The average monthly tonnage of grain received does not include product that the facility sells, acting as a broker, which is never actually received or dried at the grain storage facility.

(cm) Grain processing facilities, including facilities with column dryers or rack dryers, with an average tonnage of grain received of less than 4500 tons per month, which are not subject to s. NR 440.47, and which are not part 70 sources. The average monthly tonnage of grain received shall be calculated by dividing the cumulative tonnage of grain received since January 1 of each year by 12. The average monthly tonnage of grain received does not include product that the facility receives that is packaged when received and remains packaged.

SECTION 14. NR 407.05(7) is amended to read:

NR 407.05(7) Applications for general and registration 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~~ ability to meet the applicable emission limitations and requirements of the general or registration operation permit.

SECTION 15. NR 407.10 is repealed and recreated to read:

NR 407.10 General operation permits. (1) ISSUANCE OF GENERAL OPERATION PERMITS. (a) The department may issue general permits for the operation of stationary sources in accordance with s. 285.60 (3), Stats.

Note: No construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a general operation permit and the project meets the criteria in s. NR 407.10(4)(a).

(b) A general operation permit may be issued for a source category if the sources in the category meet all of the following criteria:

1. Perform the same or similar operations.

2. Emit the same class of air contaminants.

Note: An example of "the same class of air contaminants" is volatile organic compounds.

3. Employ the same or similar capture and control systems, if applicable.

4. Are subject to the same or similar emission limitations and other state and federal requirements that are applicable to the sources in the category.

Note: An example of "similar emission limitations" is emission limitations for the same air contaminant but that differ based on the size of the source, its location, or its date of construction.

(c) When proposing to issue a general operation permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed general operation permit. The department shall use the applicable procedures in s. 285.62, Stats., to issue the general operation permit. The department may issue the general operation permit if the applicable criteria in ss. 285.63 and 285.64, Stats., are met. The procedural requirements in s. 285.62(2) to (5), Stats., do not apply to the determination of whether an individual source is covered by a general operation permit for a source category. Coverage of a part 70 source under a general operation permit is not an appealable decision under s. 227.42, 227.52, 227.53 or 285.81, Stats.

Note: The statutes cited above require that when issuing a general operation permit, the department distribute a notice of the availability of the proposed general operation permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(d) The general operation permit shall contain applicability criteria, emission limits, monitoring

and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions applicable to the stationary source category. The permit terms and conditions shall be those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirement in s. NR 424.03(2)(c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the general operation permit that represent LACT, if the requirements of s. NR 424.03(2)(a) or (b) are determined to be technologically infeasible.

Note: If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the general operation permit, or issue a different one, to include nonattainment area specific applicability criteria.

(e) The term of a general operation permit issued to a part 70 source category, or granted to an individual part 70 source, may not exceed 5 years. General operation permits issued to a non-part 70 source category, or granted to an individual non-part 70 source, shall only expire if an expiration date is requested by the source owner or operator or the department finds that expiring coverage would significantly improve the likelihood of continuing compliance with applicable requirements, compared to coverage that does not expire.

(2) SOURCES INELIGIBLE FOR COVERAGE UNDER A GENERAL OPERATION PERMIT.

Notwithstanding the existence of a general operation permit for a stationary source category, an individual stationary source may not be covered by a general operation permit if any of the following criteria apply:

(a) The emissions unit or units are an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03(86), or an infectious waste combustion source.

(b) The emissions unit or units cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air

quality assessment conducted in accordance with s. NR 407.15(8).

(3) PROCEDURE FOR DETERMINING COVERAGE UNDER A GENERAL OPERATION PERMIT FOR AN INDIVIDUAL SOURCE. (a) An owner or operator of a stationary source who applies for coverage under a general operation permit shall submit an application using department approved general permit application forms.

Note: Contact the regional office or service center of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain the department approved general permit application forms.

(b) An owner or operator of a stationary source who requests or requires emission limits, terms or conditions other than, or in addition to, those contained in the general operation permit shall apply for a different type of permit.

(c) Within 15 days after the receipt of an application for coverage under a general operation permit, the department shall provide one of the following to an applicant:

1. Written notice of the department's determination that the source is covered under the general operation permit.

2. A written description of any information that is missing from the application for coverage under the general operation permit.

3. Written notice of the department's determination that the source does not qualify for coverage under the general operation permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the general operation permit if the owner or operator of the source applies for coverage and meets the eligibility requirements of the general operation permit, unless the source is ineligible for coverage under sub. (2).

(4) CONSTRUCTION AND MODIFICATION UNDER A GENERAL OPERATION PERMIT.

(a) Notwithstanding the provisions in s. NR 406.04(1) and (2), no construction permit is required prior to

commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a general operation permit and all of the following criteria are met:

1. The construction, reconstruction, replacement, relocation or modification will not result in the source violating any term or condition of the general operation permit.

2. Except for any provisions contained in any general operation permit issued prior to the effective date of this rule...[revisor insert date] specifying when a construction permit is needed, the construction, reconstruction, replacement, relocation or modification does not require a permit under ch. NR 405 or 408.

(b) No later than 30 calendar days from commencing construction, reconstruction, replacement, relocation or modification, the owner or operator shall notify the department of the action and provide information explaining how the source is meeting the criteria for an exemption under par. (a).

(c) If a construction permit is required, the owner or operator shall obtain a construction permit under ch. NR 405, 406 or 408, as applicable. The owner or operator may not commence construction, reconstruction, replacement, relocation or modification prior to receiving the construction permit. The owner or operator shall also apply for an individual operation permit, a revision of its operation permit or a registration operation permit under this chapter.

Note: The construction permit may be an individual, general or registration construction permit.

(5) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a stationary source that is covered under a general operation permit may submit a request to the department to withdraw the source from coverage under the general operation permit and allow the source to be covered under a registration operation permit or a general operation permit for another source category or be issued an individual operation permit. The owner or operator shall submit a written request for the withdrawal of the general operation permit and a complete application for a different operation permit.

(b) An owner or operator of a stationary source that has an individual operation permit may submit a request to the department to revise or revoke the individual operation permit pursuant to s. NR

407.12, 407.13 or 407.15(4) and allow the source to be covered under a general operation permit. The owner or operator shall submit to the department a written request for revision or revocation of the individual operation permit and a complete application for a general operation permit under this section.

(c) An owner or operator of a stationary source that is covered under a registration operation permit may submit a request to the department to withdraw the source from coverage under the registration operation permit and allow the source to be covered under a general operation permit. The owner or operator shall submit to the department a written request for withdrawal of the registration operation permit and a complete application for a general operation permit under this section.

(d) The owner or operator shall submit a request for revision or revocation of an operation permit or withdrawal from coverage under an operation permit on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

(6) ADDITIONAL PROVISIONS RELATED TO GENERAL OPERATION PERMITS.

Notwithstanding the permit shield provision in section 504(f) of the Act (42 USC 7661c(f)) and in s. 285.62(10)(b), Stats., an owner or operator of a source which is covered under a general operation permit may be prosecuted for operation without an individual operation permit if the source is later determined not to qualify for the conditions and terms of the general operation permit.

SECTION 16. NR 407.105 is created to read:

NR 407.105 Registration operation permits. (1) **ISSUANCE OF REGISTRATION OPERATION PERMITS.** (a) The department may issue a registration permit for the operation of an

entire facility that has or will have low actual or potential emissions in accordance with s. 285.60(2g), Stats.

Note: No construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the source is covered under a registration operation permit and the project meets the criteria in s. NR 407.105(5)(a).

(b) When proposing to issue a registration operation permit, the department shall prepare an air quality analysis and a preliminary determination on the approvability of the proposed registration operation permit. The department shall use the applicable procedures of s. 285.62, Stats., to issue the registration operation permit. The department may issue the registration operation permit if the applicable criteria in ss. 285.63 and 285.64, Stats., are met. The procedural requirements of s. 285.62(2) to (7), Stats., do not apply to the determination of whether an individual facility is covered by a registration operation permit.

Note: The statutes cited above require that when issuing the registration operation permit, the department distribute a notice of the availability of the proposed operation permit and of the department's analysis and preliminary determination, a notice of the opportunity for public comment and a notice of the opportunity to request a public hearing. There will be a 30-day public comment period and the department may hold a public hearing within 60 days after the deadline for requesting one.

(c) The registration operation permit shall contain applicability criteria, emission caps and limitations, monitoring and recordkeeping requirements, reporting requirements, compliance demonstration methods and general conditions appropriate for determining compliance with the terms and conditions of the registration operation permit. The permit terms and conditions shall be those required to comply with the Act and those required to assure compliance with applicable provisions in ch. 285, Stats., and chs. NR 400 to 499. Notwithstanding the requirements in s. NR 424.03(2)(c) to determine the latest available control techniques and operating practices demonstrating best current technology (LACT) for a specific process line, the department may include conditions in the registration operation permit that represent LACT, if the requirements of s. NR 424.03(2)(a) or (b) are determined to be technologically infeasible.

Note: If an area is designated nonattainment for particulate matter, PM10, sulfur dioxide, nitrogen oxides, carbon monoxide or lead, the department may revise the registration operation permit, or issue a different one, to include nonattainment area specific applicability criteria.

(2) CRITERIA FOR ISSUANCE OF A REGISTRATION OPERATION PERMIT. (a) A registration operation permit shall be issued for facilities that meet all of the criteria:

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.

2. The stack-vented emissions are exhausted from unobstructed discharge points that are within 10 degrees of vertical. This criterion does not apply to stacks serving any of the emission units listed in s. NR 407.05(4)(c)9. For the purposes of this paragraph, horizontal discharge vents that only discharge general building ventilation are not considered stacks.

Note: Valves designed to open and close at the point of discharge are considered to be unobstructed if they are open at the time of emission.

3. The stack is taller than any building that influences the dispersion of emissions from the stack. A building is considered to influence the dispersion of emissions from any stack that exists within a circle around the building, the radius of which is 5 times the height of the building. This criterion does not apply to stacks serving any of the emission units listed in s. NR 407.05(4)(c)9. For the purposes of this paragraph, horizontal discharge vents that only discharge general building ventilation are not considered stacks.

4. An owner or operator of a facility whose stacks do not meet the criteria in subds. 2. and 3. may demonstrate through air dispersion modeling that the facility's emissions do not and will not cause or exacerbate a violation of any ambient air quality standard or ambient air increment. If an air dispersion model is not available for one or more pollutants, the demonstration for that pollutant shall rely on the department's air quality analysis conducted under sub. (1)(b).

(b) Notwithstanding par. (a), the department may issue registration operation permits for coverage

of other types of facilities that the department determines have or will have low actual or potential emissions, in response to a petition submitted under s. NR 407.107.

(3) SOURCES INELIGIBLE FOR COVERAGE UNDER A REGISTRATION OPERATION PERMIT. Notwithstanding the existence of a registration operation permit, an individual facility may not be covered under a registration operation permit if any of the following criteria apply:

(a) The facility is an affected source under ch. NR 409, a municipal solid waste combustion source under s. NR 500.03(86) or an infectious waste combustion source.

(b) One or more emissions units at the facility would be subject to a standard or regulation under section 111 of the Act (42 USC 7411) or under section 112 of the Act (42 USC 7412), other than those contained in the registration operation permit or determined by the department to not preclude eligibility for the registration operation permit.

(c) The facility's emissions cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment, as determined by the department through an air quality assessment conducted in accordance with s. NR 407.15(8).

(4) PROCEDURE FOR DETERMINING COVERAGE UNDER A REGISTRATION OPERATION PERMIT FOR AN INDIVIDUAL FACILITY. (a) An owner or operator of a facility who applies for coverage under a registration operation permit shall submit an application using department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved registration permit application forms.

(b) An owner or operator of a facility who requests or requires emission limits, terms or conditions that require case-by-case review and approval by the department, or emission limits, terms or conditions other than, or in addition to, those contained in the registration operation permit, shall apply for a different type of permit.

(c) Within 15 days after the receipt of an application for coverage, the department shall provide one of the following to an applicant for a registration operation permit:

1. Written notice of the department's determination that the facility is covered under a registration operation permit.

2. A written description of any information that is missing from the application for coverage under a registration operation permit.

3. Written notice of the department's determination that the facility does not qualify for coverage under a registration operation permit, specifically describing the reasons for that determination.

(d) The department shall grant coverage under the registration operation permit if the owner or operator of the facility applies for coverage and meets the eligibility requirements in the registration operation permit, unless the facility is ineligible for coverage under sub. (3).

(e) For the purpose of determining whether a source is eligible for coverage under a registration operation permit, the source's emissions shall be calculated using the terms and conditions listed in the registration operation permit.

Note: The permit terms and conditions may include capture and control efficiencies. The Air Emissions Management System (AEMS) requires the owner or operator of a source to calculate actual annual emissions for reporting to the inventory using the terms and conditions in a permit.

(f) The owner or operator of a facility that has an individual operation permit or is covered under a general operation permit may submit an application for coverage under a registration operation permit on or after July 1, 2006. The owner or operator shall submit a request for revision or revocation of the existing operation permit pursuant to sub. (6) prior to submitting the application for coverage under the registration operation permit. The revision or revocation request may be submitted before July 1, 2006.

(5) CONSTRUCTION OR MODIFICATION UNDER A REGISTRATION OPERATION PERMIT. (a) No construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a stationary source if the facility is covered under a registration

operation permit and the construction, reconstruction, replacement, relocation or modification will not result in the facility violating any term or condition of the registration operation permit.

(b) If a construction permit is required, the owner or operator shall obtain a construction permit under ch. NR 405, 406 or 408, as applicable. The owner or operator may not commence construction prior to receiving the construction permit. The owner or operator shall also apply for an individual operation permit, a revision of its individual operation permit or a general operation permit under this chapter.

Note: The construction permit may be an individual, general or registration construction permit.

(6) APPLICATION FOR A DIFFERENT PERMIT. (a) An owner or operator of a facility that is covered under a registration operation permit may submit a request to the department to withdraw the source from coverage under the registration operation permit and allow the facility to be covered under a general operation permit or be issued an individual operation permit. The owner or operator shall submit a written request for the withdrawal of the registration operation permit and a complete application for an individual or general operation permit under s. NR 407.05 or 407.10.

(b) An owner or operator of a facility that has an individual operation permit may submit a request to the department to revoke the individual operation permit pursuant to s. NR 407.15 and allow the facility be covered under a registration operation permit. The owner or operator shall submit to the department a written request for revocation of the operation permit and a complete application for a registration operation permit under this section.

(c) An owner or operator of a facility that is covered under a general operation permit may submit a request to the department to withdraw coverage under the general operation permit and allow the facility to be covered under a registration operation permit. The owner or operator shall submit to the department a written request for withdrawal of the operation permit and a complete application for a registration operation permit under this section.

(d) The owner or operator shall submit a request for revocation or withdrawal of an operation permit under this subsection on department approved forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

(e) The owner or operator of a facility submitting an application for a different permit under this subsection shall comply with the existing permit until the department has issued or granted coverage under the different permit.

(7) ADDITIONAL PROVISIONS RELATED TO REGISTRATION OPERATION PERMITS.

(a) An owner or operator of a facility operating in compliance with a registration operation permit shall be deemed to be in compliance with the applicable requirements in chs. NR 400 to 499 if the owner or operator conducts a reasonable search and evaluation to identify applicable requirements and to determine whether the facility is meeting the applicable requirements, is operating in compliance with these applicable requirements and complies with par. (b). A reasonable search and evaluation includes a search and evaluation of chs. NR 400 to 499, and shall include a reasonable effort to review other readily accessible information relevant to the facility's operations, such as data bases, workshops and materials available through trade associations, vendors, the department, the department of commerce small business clean air assistance program, the U.S. environmental protection agency and other recognized sources of information on air regulations. The owner or operator shall document, in writing, the results of the search and evaluation and shall keep the documents at the facility for inspection upon request for as long as the facility is covered under the registration operation permit.

(b) The owner or operator will not be deemed to be out of compliance with the applicable requirements in chs. NR 400 to 499 if an applicable requirement that was previously not identified through the search and evaluation described in par. (a) is later identified, if the owner or operator does all of the following:

1. Submits written notification to the department within 21 days of identifying the applicable requirement.

2. Certifies that the facility is in compliance with the applicable requirement no later than 90 days after notifying the department. If requested, the department may extend the deadline for achieving compliance.

3. Submits documentation to demonstrate that the search and evaluation that was conducted prior to identifying the applicable requirement was reasonable.

(c) Notwithstanding par. (b), the department retains the authority to order the owner or operator to achieve compliance with the applicable requirements within a specific time period shorter than the 90 calendar days whenever compliance in the shorter period of time is feasible and necessary to protect public health and the environment.

Note: Contact the Compliance and Enforcement Section of the Bureau of Air Management, 608-266-7718, for information on submitting the notification.

SECTION 17. NR 407.107 is created to read:

NR 407.107 Petitions for issuance of general operation permits and registration operation permits. (1) A person may petition the department to make a determination that a category of stationary source meets the criteria for a general operation permit under s. 285.60(3), Stats., and s. NR 407.10(1). A person may petition the department to make a determination that a stationary source meets the criteria for a registration operation permit under s. 285.60(2g), Stats., and s. NR 407.105(1) and (2)(b). The department may consider the number of sources that would be eligible for the permit, the complexity of air regulations applicable to the sources, the likelihood that sources would need source-specific emission limitations and other factors in determining its priority for developing a general or registration operation permit. Within 30 days after receipt of the petition, the department shall provide a written response to the petitioner granting or denying the petition. If the department grants the petition, the department shall issue

the general operation permit or the registration operation permit as soon as practicable, but no later than 365 days after receipt of the petition.

(2) The person shall submit the petition using department approved petition forms.

Note: Contact the regional offices or service centers of the department or the Permits and Stationary Source Modeling Section of the Bureau of Air Management, 608-266-7718, for information on how to obtain and submit the department approved forms.

SECTION 18. NR 407.14 Note is created to read:

Note: This section covers individual operation permits, general operation permits and registration operation permits.

SECTION 19. NR 407.14(4)(c) is created to read:

NR 407.14(4)(c) If the revision is being made to a general or registration operation permit, the department shall determine whether each individual source that is covered under the general or registration operation permit qualifies for coverage under the revised permit prior to issuing the revised permit.

SECTION 20. NR 407.15 (title), (intro.) and (3) are amended to read:

NR 407.15(title) Permit suspension, ~~and revocation~~ and withdrawal from coverage.

(intro.) After providing 21 days written notice to the permittee and to the persons listed in s. 285.62 (3)(b)2. to 7., Stats., the department may suspend ~~or~~ revoke or withdraw a source from coverage under an operation permit, part of that permit or the conditions of that permit if there is or was any of the following:

(3) DEPARTMENT DETERMINATION. A determination by the department that the permit must be revoked or coverage withdrawn to assure compliance with the applicable requirements.

SECTION 20A. NR 407.15(8) is created to read:

NR 407.15(8) CAUSE OR EXACERBATE. (a) A determination by the department that the emissions unit or units covered under a general or registration operation permit cause or exacerbate, or may cause or exacerbate, a violation of any ambient air quality standard or ambient air increment. The determination shall be made through an air quality assessment using the following procedures, as appropriate, which may be conducted after the determination that the source was covered under the general or registration operation permit.

1. For general operation permits, the department shall use criteria, methodologies or modeling consistent with criteria, methodologies or modeling used for any air quality analysis conducted under s. NR 407.10(1)(c).

2. For registration operation permits, the department shall use an air dispersion model using maximum actual emissions on an annual or hourly basis or criteria, methodologies or modeling consistent with criteria, methodologies or modeling used for any air quality analysis conducted under s. NR 407.105(1)(b).

(b) Notwithstanding a determination made under par. (a), the owner or operator will be deemed to be in compliance with the requirement to obtain an operation permit until the department takes final action on a subsequent application for an operation permit, if the application is submitted to the department by the owner or operator within 30 days after the department notifies the owner or operator of its determination under this subsection and the owner or operator is in compliance with the otherwise applicable general or registration operation permit from the time the determination is made under par. (a) until the department takes final action under this subsection.

SECTION 21. NR 410.03(1)(a)5. is amended to read:

NR 410.03(1)(a)5. \$1,100 for revision of a construction permit when requested by the permit holder or the permit holder's agent unless the only reason for the revision is to make the source eligible for a registration operation permit.

SECTION 22. NR 410.03(1)(a)6. and 7. are created to read:

NR 410.03(1)(a)6. \$2,300 for coverage under a general construction permit issued to a part 70 source under s. NR 406.16.

7. \$1,100 for coverage under a registration construction permit issued to a part 70 source under s. NR 406.17.

SECTION 23. NR 484.05(1) is amended to read:

NR 484.05(1)

NTIS Order No. PB 87- 100012	Standard Industrial Classification Manual, 1987	NR 400.02(74) NR 400.02(86) NR 400.02(91) NR 400.02(149) NR 405.02(8) <u>NR 406.02(1)</u> <u>NR 407.02(3)</u> NR 407.02(4)(intro.) NR 407.05(4)(b) NR 408.02(5) NR 410.02(4) NR 421.02(3) NR 421.02(17) NR 422.02(112) NR 422.095(1) NR 422.15(1)(intro.) NR 437.07(2)(a)4. NR 438.02(1) NR 445.11(1)(intro.) NR 465.02(51)
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SECTION 24. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 25. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 27, 2005.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)