

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would apply only to an extremely small amount of the business of a hospital or health care provider. Otherwise, the rule would only apply to individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 11, 2002.

Anthony J. Principi,
Secretary of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 17 which was published at 66 FR 36467 on July 12, 2001 is adopted as a final rule with the following changes:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.1000 [Amended]

2. The Note following § 17.1000 is amended by removing “Health” and adding, in its place, “In cases where a patient is admitted for inpatient care, health”; and removing “the veteran begins receiving” and adding, in its place, “admission for”.

§ 17.1002 [Amended]

3. In § 17.1002, paragraph (d) is amended by removing “safely” and adding, in its place, “safely discharged or”.

§ 17.1004 [Amended]

4. In § 17.1004, paragraph (b) is amended by removing “(1500). The” and adding, in its place, “(1500). Where the form used does not contain a false claims notice, the”; and by removing “and 17.1003.” and adding, in its place, “(except for paragraph (e)) and 17.1003.”

§ 17.1005 [Amended]

5. In § 17.1005, paragraph (b) is amended by removing “beginning of the” and adding, in its place, “beginning of the initial evaluation”; and by removing, “transferred safely”, and adding, in its place, “safely discharged or transferred”.

[FR Doc. 03–1577 Filed 1–23–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[W112–01–7342b, FRL–7411–5]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Northern Engraving Environmental Cooperative Agreement

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a June 12, 2002, request from Wisconsin to revise its State Implementation Plan (SIP) for a source specific revision for Northern Engraving Corporation (NEC). Section 110 of the Clean Air Act (Act), 42 U.S.C. 7410, provides the authority for a state to provide a plan for the implementation, maintenance, and enforcement of the national ambient air quality standards in each air quality control region. The Wisconsin Department of Natural Resources (WDNR) and EPA entered into a memorandum of agreement concerning

implementation of a joint cooperative pilot program and agreed to pursue regulatory innovation at two NEC facilities in Holmen, Wisconsin and Sparta, Wisconsin. Because portions of the Environmental Cooperative Agreement with NEC supercedes portions of rules in the Wisconsin SIP, a source-specific SIP revision is required.

DATES: This rule is effective on March 25, 2003, unless EPA receives adverse written comments by February 24, 2003. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You may inspect copies of the documents relevant to this action during normal business hours at the following location: United States Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Send written comments to: Robert Miller, Chief, Permits and Grants Section, United States Environmental Protection Agency (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Constantine Blathras at (312) 886–0671.

SUPPLEMENTARY INFORMATION: On March 25, 1999, the WDNR and the EPA entered into a memorandum of agreement concerning implementation of the joint state/EPA agreement to pursue regulatory innovation and the Wisconsin Environmental Cooperation Pilot Program. On June 7, 2002, Thomas V. Skinner, Regional Administrator, EPA Region 5, sent a letter to Darrell Bazzell, Secretary, WDNR, containing EPA’s final response to the WDNR’s innovation proposal for alternative permit conditions at the NEC facilities. The NEC facilities affected by this agreement are the Holmen facility, located at 1023 Sand Lake Road, Holmen, La Crosse County, Wisconsin, and the Sparta facility, located at 803 South Black River Street, Sparta, Monroe County, Wisconsin. Both La Crosse and Monroe counties are classified as unclassifiable/attainment for ozone, as of November 15, 1990. Volatile organic compounds are a precursor to ozone. Each facility’s permit includes facility-wide emission rates for volatile organic compounds and hazardous air pollutants.

The innovative components of the proposal for the NEC Sparta and Holmen facilities include: (1) Waiver from the requirements that facilities obtain a new permit prior to

construction; (2) waiver from the requirement that facilities receive an appropriate permit prior to operating new process equipment; (3) waiver in the facilities' minor source permits of individual process line latest available control technology requirements for controlling volatile organic compound emissions; and (4) record keeping and reporting flexibility.

The Environmental Cooperative Agreement, specifically section XII (Operational Flexibility and Variances), proposes to establish new requirements for the two NEC facilities. The proposed new requirements would replace or revise certain requirements that might otherwise apply to those sources. Some of the requirements to be replaced or revised are currently embodied in Wisconsin's SIP for meeting air quality objectives. In such cases, the proposed flexibility in the Environmental Cooperative Agreement cannot be granted by WDNR unless the new requirements are first approved by EPA as a source-specific revision to the SIP.

The WDNR submitted the following portions of Section XII of the Environmental Cooperative Agreement (Operational Flexibility and Variances) as a source-specific SIP revision:

1. *Item:* Waiver from the requirements to obtain a construction permit prior to commencing construction of new process equipment, commencing modification of existing equipment, or relocating existing process equipment of a minor stationary source between the facilities covered by this Agreement.

Previous Requirements Superseded by this Agreement: Requirement to obtain a construction permit prior to construction, reconstruction, replacement, relocation of modification of a minor stationary source that is not otherwise exempt under section Natural Resources (NR) 406.04, Wisconsin Administrative (Wis. Adm.) Code. (NR 406.03, Wis. Adm. Code)

New Requirement

a. *New Equipment Construction and Modification:* The permittee may commence construction or modification (but not operation) of new process equipment prior to obtaining a construction permit, provided the following conditions are met. These conditions do not apply if a proposed project is exempt from the requirement to obtain a construction permit, pursuant to section NR 406.04, Wis. Adm. Code. (section 299.80(2)(h) and (4)(b), Wisconsin Statutes (Wis. Stats.))

(1) The permittee shall submit the following information to the Department of Natural Resources, La Crosse Area Office, 3550 Mormon Coulee Road,

Room 104, La Crosse, WI 54601 or other location specified by the Department:

(a) Two copies of a complete construction and operating permit application describing the proposed equipment;

(b) An application fee of \$1,350 or other amount as required by section NR 410.03(1)(d), Wis. Adm. Code; and

(c) Information describing how the interested persons group was notified of the proposed project. (sections 299.80(10) and (11)(b), Wis. Stats.)

(2) The Department shall process the permit application in accordance with sections 285.60 through 285.69, Wisconsin Statutes and sections NR 406 and NR 407, Wis. Adm. Code, however, the permittee need not wait for permit issuance to commence construction.

The Department shall process the permit application as both a construction permit and a significant revision to the operation permit, and issue both permits simultaneously to reduce the administrative burden of issuing a construction permit that expires 18 months after issuance followed by an operation permit. The Department shall send an invoice outlining the fees required for processing the construction permit for the proposed project, including the fees for an expedited permit review authorized under section NR 410.03(o), Wis. Adm. Code, less the \$1,350 permit application fee. (sections 299.80(2)(h), (4)(b), (10) and (11)(b), Wis. Stats.)

(3) The permittee shall pay the total amount of the fee invoice within 30 days of receipt.¹ (s. 299.80(10), Wis. Stats.)

(4) The permittee shall continue to comply with all the requirements of Part I.A. of the permit so long as the cooperative agreement is in effect.² (s. 299.80(2)(h) and (4)(b), Wis. Stats.)

¹ Pursuant to s. 299.80(10), Wis. Stats., a participant in a cooperative agreement shall pay the same fees required under chs. 280 to 295, Wis. Stats. that it would be required to pay if it had not entered into a cooperative agreement. Therefore, while the requirement to obtain a construction permit prior to installation is waived, the permittee is still required to pay the fees that would have been assessed had a construction permit been issued under ch. NR 406, Wis. Adm. Code.

² By continuing to comply with the facility wide emission limitations outlined in Part I.A., the net emissions increase from any new sources or relocation of any existing sources from other facilities will not exceed the major stationary source levels of s. NR 405.02(22)(a), Wis. Adm. Code triggering Prevention of Significant Deterioration (PSD) Requirements. The existing facility potential emissions of all criteria pollutants are less than 250 tons per year and the facility is not included in the source categories listed in s. NR 405.07(4), Wis. Adm. Code. Therefore, the existing facility is a synthetic minor source for PSD purposes. Note: This facility is not located in an area designated nonattainment. Also, by continuing to comply with

(5) Nothing in this section or in any Cooperative Agreement between the Department and the permittee shall be construed as a guarantee that the Department will issue an air pollution control construction and operation permit for a proposed project. The decision on whether to approve a permit application will be made according to the requirements of chapters NR 400 through NR 499, Wis. Adm. Code and s. 285.60 through 285.69, Wis. Stats. If the Department denies a permit application pursuant to ss 285.61 through 285.64, Wis. Stats. all costs and risks associated with installing and operating the proposed equipment shall be incurred solely by the permittee. In the event that the construction and operation permit application for the proposed project is denied, the permittee shall cease construction of the equipment in question immediately.

b. *New Equipment Operation:* The permittee may operate new process equipment, provided one of the following alternate scenarios are met. The conditions do not apply if a proposed project is exempt from the requirement to obtain a construction permit, pursuant to s. NR 406.04, Wis. Adm. Code. (s. 299.80(2)(h) and (4)(b), Wis. Stats.)

(1) *Alternate Scenario #1:* The permittee may operate new process equipment provided the permittee submits a complete construction and operation permit application as required by the conditions of I.A.5.a. and the Department issues a construction permit pursuant to ss. 285.60 through 285.69, Wis. Stats and ss. NR 406 and NR 407, Wis. Adm. Code. The permittee shall operate the new process equipment in compliance with the conditions contained in any construction permit issued by the Department. (s. NR 406.03, Wis. Adm. Code)

(2) *Alternate Scenario #2:* The permittee may initially operate new process equipment prior to obtaining a construction permit provided the permittee submits a complete

the facility wide emissions limitations, the potential emissions increase from any new sources or relocated existing sources will not exceed 100 tons per year after controls for any criteria pollutant. Therefore none of the changes will be considered a Type II action requiring an environmental assessment. Finally, by continuing to comply with the facility wide emission limitations, the facility will not become a major source for the Operating Permits Program under 40 CFR Part 70 (Part 70) purposes for either volatile organic compound or hazardous air pollutant emissions. Requirement I.A.5.a.(1)(g) of the permit requires that any changes that result in potential facility wide emissions of particulate matter, sulfur dioxide, nitrogen oxide or carbon monoxide emissions exceeding 100 tons per year, must follow permit issuance requirements of chs. NR 406 and NR 407, Wis. Adm. Code.

construction and operation permit application as required by the conditions of I.A.5.a. and the following conditions are met: (s. 299.80(2)(h) and (4)(b), Wis. Stats.)

(a) The permittee shall submit two copies of the following information to the Department of Natural Resources, La Crosse Area Office, 3550 Mormon Coulee Road, Room 104, La Crosse, WI, 54601 or other location specified by the Department, 14 calendar days prior to the date of initial operation:

(i) Information identifying all applicable requirements from the Wisconsin Statutes, Wisconsin Administrative Code, and the Act for the proposed equipment;

(ii) A quantification of the air pollution emissions that would result from the proposed project;

(iii) A computer dispersion modeling analysis showing the National Ambient Air Quality Standards will be protected if the proposed project results in an increase in potential particulate matter, sulfur dioxide, nitrogen oxide, and/or carbon monoxide emissions.

(iv) A computer dispersion modeling analysis showing the Acceptable Ambient Concentrations will be protected if the proposed project results in an increase in emissions of any hazardous air pollutant listed in ch. NR 445, Wis. Adm. Code so that the resulting facility total emissions of the hazardous air pollutant are above the corresponding Table Value(s) OR results in the emission of any hazardous air pollutant listed in ch. NR 445, Wis. Adm. Code that was not previously emitted, at a rate greater than its corresponding Table Value(s); and

(v) An analysis showing the proposed project will not cause the total facility wide potential emissions of particulate matter, sulfur dioxide, nitrogen oxides or carbon monoxide to exceed 100 tons per year. Any proposed new or relocated source that will result in the facility wide potential emissions of any one of these pollutants exceeding 100 tons per year is not eligible for this waiver. If the facility wide potential emissions of any one of the pollutants would be greater than 100 tons per year as the result of a proposed project, the permittee shall comply with the construction permit requirements outlined in ch. NR 406, Wis. Adm. Code and the significant operation permit revision requirements of s. NR 407.13, Wis. Adm. Code.³ (ss. 299.80(10) and (11)(b), Wis. Stats.)

³ This requirement is necessary because if the potential emissions of particulate matter, sulfur dioxide, nitrogen oxide or carbon monoxide emissions exceed 100 tons, the facility would be

(b) The Department has 14 calendar days from the date that all the information outlined in (a) is received to request additional information or object to the proposed project. If the Department requests additional information during the original 14 calendar day period the Department shall have an additional 7 calendar days from the date of receipt of the information to request additional information or object to the proposed project. Under no scenario shall the Department have less than 14 days to review original submittal. If the Department does not respond within 14 calendar days from the date that all the information outlined in (a) is submitted, or within 7 days from the date that any additional information requested by the Department is submitted, whichever is later, the permittee may commence initial operation of the proposed equipment. The Department may provide written approval to commence initial operation of the proposed equipment prior to the end of the 14 calendar day period. If this is the case the permittee may commence initial operation upon receipt of this written approval. (ss. 299.80(2)(h) and (11)(b), Wis. Stats.)

(3) *Alternate Scenario #3:* The permittee may initially operate new process equipment prior to obtaining a construction permit provided the permittee submits a complete construction and operation permit application as required by the conditions of I.A.5.a. and the following conditions are met: (s. 299.80(2)(h) and (4)(b), Wis. Stats.)

(a) The Department provides written approval to commence initial operation of the proposed equipment. This written approval shall only be provided after the Department completes an air quality dispersion modeling analysis to ensure that the national ambient air quality standards and acceptable ambient concentrations will be protected while the proposed equipment is operating; (s. NR 406.09, Wis. Adm. Code)

(b) The permittee shall comply with any specific conditions included in the Department's written approval to commence initial operation;

(4) The permittee shall continue to comply with all the requirements of Part I.A. of this permit so long as the

considered a major source for Part 70 purposes and would be required to obtain either a Part 70 source permit or a synthetic minor, non-Part 70 source permit containing conditions that limit the potential emissions of all criteria pollutants to less than 100 tons per year.

cooperative agreement is in affect.⁴ (s. 299.80(2)(h) and (4)(b), Wis. Stats.)

(5) Nothing in this section or in any Cooperative Agreement between the Department and the permittee shall be construed as a guarantee that the Department will issue an air pollution control construction and operation permit for a proposed project. The decision on whether to approve a permit application will be made according to the requirements of chapters NR 400 through NR 499, Wis. Adm. Code and s. 285.60 through 285.69, Wis. Stats. If the Department denies a permit application pursuant to ss 285.61 through 285.64, Wis. Stats. all costs and risks associated with installing and operating the proposed equipment shall be incurred solely by the permittee. In the event that the construction and operation permit application for the proposed project is denied, the permittee shall cease construction and/or operation of the equipment in question immediately.

2. Item: (*Sparta Only—Processes P32, P33, P56, P42, and P44*) Waiver from the requirements for Processes P32, P33, P56, P42 and P44 at the Sparta facility to comply with the reasonable available control technology (RACT) requirements for controlling volatile organic compound emissions. *Previous Requirements Superseded by this Agreement (source of the requirement):*

(1) *3 Roll Coating Machines P32:* Requirement to limit volatile organic compound emissions from a miscellaneous metal parts or products coating line using baked or specially cured coating technology to not more

⁴ By continuing to comply with the facility-wide emission limitations outlined in Part I.A., the net emissions increase from any new sources or relocation of any existing sources from other facilities will not exceed the major stationary source levels of s. NR 405.02(22)(a), Wis. Adm. Code triggering Prevention of Significant Deterioration (PSD) Requirements. The existing facility potential emissions of all criteria pollutants are less than 250 tons per year and the facility is not included in the source categories listed in s. NR 405.07(4), Wis. Adm. Code, therefore the existing facility is a synthetic minor source for PSD purposes. Note: This facility is not located in an area designated nonattainment. Also, by continuing to comply with the facility wide emissions limitations, the potential emissions increase from any new sources or relocated existing sources will not exceed 100 tons per year after controls for any criteria pollutant. Therefore none of the changes will be considered a Type II action requiring an environmental assessment. Finally, by continuing to comply with the facility wide emission limitations, the facility would not become a major source for Part 70 purposes for either volatile organic compound or hazardous air pollutant emissions. Requirement I.A.5.a.(1)(g) of this permit requires that any changes that result in potential facility wide emissions of particulate matter, sulfur dioxide, nitrogen oxide or carbon monoxide emissions exceeding 100 tons per year follow permit issuance requirements of chapters NR 406 and NR 407, Wis. Adm. Code.

than: (a) 4.3 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies clear coatings; (b) 3.5 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings; (c) 3.0 pounds per gallon of coating, excluding water, delivered to a coating applicator for all other coatings. (s. NR 422.15(2), Wis. Adm. Code, the Specific Emission Limitation for volatile organic compounds in condition I.C.1. and conditions I.C.2.c., I.C.2.d., and I.C.2.e. of Air Pollution Control Permit 92-POY-157 and the Specific Emission Limitation for volatile organic compounds in condition I.A.1. and conditions I.A.2.c., I.A.2.d., and I.A.2.e. of Air Pollution Control Permit 91-POY-088)

(2) *2 Metal Spray Booths P33:* Requirement to limit volatile organic compound emissions from a miscellaneous metal parts or products coating line using baked or specially cured coating technology to not more than: (a) 4.3 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies clear coatings; (b) 3.5 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings; (c) 3.0 pounds per gallon of coating, excluding water, delivered to a coating applicator for all other coatings. (s. NR 422.15(2), Wis. Adm. Code, the Specific Emission Limitation for volatile organic compounds in condition I.A.1. and conditions I.A.2.c., I.A.2.d., and I.A.2.e. of Air Pollution Control Permit 91-POY-157, and the Specific Emission Limitation for volatile organic compounds in condition I.D.1. of Air Pollution Control Permit 91-POY-088.)

(3) *Roll Coating Line with Electric Oven P56:* Requirement to limit volatile organic compound emissions from a miscellaneous metal parts or products coating line using baked or specially cured coating technology to not more than: (a) 4.3 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies clear coatings; (b) 3.5 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings; (c) 3.0 pounds per gallon of coating, excluding water, delivered to a coating applicator for all other coatings. (s. NR 422.15(2), Wis. Adm. Code, the Specific Emission Limitation for volatile organic compounds in condition I.F.1. and conditions I.F.2.c. of Air Pollution Control Permit 93-IRS-040.)

(4) *Two Roll Coaters with Two Electric Drying Ovens P42:* Requirement to limit

volatile organic compound emissions from a miscellaneous metal parts or products coating line using baked or specially cured coating technology to not more than: (a) 4.3 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies clear coatings; (b) 3.5 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings; (c) 3.0 pounds per gallon of coating, excluding water, delivered to a coating applicator for all other coatings. (s. NR 422.15(2), Wis. Adm. Code.)

(5) *Spray Booth P44:* Requirement to limit volatile organic compound emissions from a miscellaneous metal parts or products coating line using baked or specially cured coating technology to not more than: (a) 4.3 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies clear coatings; (b) 3.5 pounds per gallon of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings; (c) 3.0 pounds per gallon of coating, excluding water, delivered to a coating applicator for all other coatings. (s. NR 422.15(2), Wis. Adm. Code.)

New Requirement: Volatile organic compound emissions from the entire Northern Engraving Corporation, Sparta facility may not exceed 85 tons per year averaged over each 12 consecutive month period.

3. *Item:* Waiver from individual process line latest available control technique (LACT) requirements for controlling volatile organic compound emissions.

Previous Requirements Superseded by this Agreement (source of the requirement): Requirement to control volatile organic compound emissions from process lines on which construction or modification commenced on or after August 1, 1979, and which are not subject to emission limitations listed elsewhere in chs. NR 419 to 423, by at least 85 percent or where 85 percent control had been demonstrated to be technologically infeasible, to control volatile organic compounds using the latest available control techniques and operating practices demonstrating best current technology, as approved by the Department. (s. NR 424.03(2)(b) and (c), Wis. Adm. Code)

Holmen—LACT Permit Requirements

Process P03: Permit 91-POY-126—Condition: I.D.1.

Specific Emission limitation for VOCs Process P08: Permit 91-POY-126—Condition: I.E.1.

Specific Emission Limitation for VOCs

Process P09: Permit: 91-POY-126—Condition: I.A.1.

Specific Emission Limitation for VOCs Alteration EOP-10-KJC-83-32-081 dated May 27, 1987 for PSMG-04, PSO-21H, PSO-11-H, PSO-12-H, PSO-18-H and PSO-19-H

Alteration of EOP-10-JKC-83-32-081 dated February 12, 1985 Condition:

I.A.44. Emission Limitation for Organic Compounds and I.A.50. Emission Limitation for Organic Compounds

EOP-10-JKC-83-32-081—Condition:

I.A.38. Emission Limitation of Organic Compounds, I.A.39. Emission

Limitation of Organic Compounds,

I.A.42. Emission Limitation for Organic Compounds Process P50: s. NR

424.03(2)(b) and (c), Wis. Adm. Code

Sparta—LACT Permit Requirements

Process P30: Permit 642025010—N01—Condition: I.A.2.

Specific Emission Limitation for VOCs EOP-10-KJC-83-42-077—

Condition: I.A.5.

Specific Emission Limitation for VOCs Process P37: Permit 92-POY-068—

Condition: I.B.

Specific Emission Limitation for VOCs EOP-10-KJC-83-32-077A—

Condition I.A.4.

Specific Emission limitation for VOCs EOP-10-KJC-83-32-077—Condition I.A.8.

Specific Emission Limitation for VOCs Process P57: Permit 64025010—N01—Condition I.A.1.

Specific Emission Limitation for VOCs Process P91: Permit 93-IRS-040—Condition I.D.1.

Specific Emission Limitation for VOCs Process P41: s. NR 424.03(2)(b) and (c), Wis. Adm. Code

Process P42: s. NR 424.03(2)(b) and

(c), Wis. Adm. Code

Process P43: s. NR 424.03(2)(b) and

(c), Wis. Adm. Code

Process P44: s. NR 424.03(2)(b) and

(c), Wis. Adm. Code

New Requirement: Volatile organic compound emissions from each of the Sparta and Holmen NEC facilities may not exceed 85 tons per year averaged over each 12 consecutive month period.

4. *Item:* Monthly rather than daily record keeping requirements and six month emission reporting.

Previous Requirements Superseded by this Agreement (source of the requirement): The following permit conditions require Northern Engraving to keep daily records:

Holmen—Daily Recordkeeping Requirements

Section NR 439.04(3), Wis. Adm.

Code

Permit 91-POY-126—Condition I.II.5.

Alteration of permit EOP-10-KJC-83-32-081 dated 2/20/90 Condition I.B.13.

Sparta—Daily Recordkeeping Requirements

Sections NR 439.04(5)(e) and (g) and NR 439.04(3), Wis. Adm. Code

Permit 92-POY-157—Conditions

I.I.A.2.b., I.I.A.2.f., I.I.A.2.g.,

I.I.C.2.b., I.I.C.2.f., and I.I.C.2.g.

Permit 91-POY-088—Conditions

I.I.A.2.b., I.I.A.2.d., and I.I.A.2.e.

Permit 93-IRS-040—Condition I.I.F.2.b.

New Requirement: To demonstrate compliance status with the facility wide emission limitations for volatile organic compounds and hazardous air pollutants, NEC would be required to keep monthly records of emissions from each facility and report actual emission every 6 months as follows:

(1) Each month the permittee shall calculate the total volatile organic compound emissions from the facility as follows:

$$E = (1 \text{ ton}/2000 \text{ lbs}) \times \{[(U_1 \times W_1 \times C_1) + (U_2 \times W_2 \times C_2) + \dots + (U_n \times W_n \times C_n)] - [(S_1 \times P_1) + (S_2 \times P_2) + \dots + (S_m \times P_m)]\}$$

where:

E is the monthly VOC emissions (tons/month);

U is the monthly usage of each ink, coating, solvent, or other VOC containing material used during the month (gallons/month);

W is the density of each ink, coating, solvent, or other VOC containing material used during the month (pounds/gallon)

C is the VOC content of each ink, coating, solvent, or other VOC containing material used during the month expressed as a weight fraction (*i.e.* if a material is 25% VOC by weight C would be 0.25);

n identifies each ink, coating, solvent or other VOC containing material used during the month;

S is the amount of each spent ink, coating, solvent or other VOC containing material recovered and shipped off site each month (gallons/month);

P is the VOC content of each spent ink, coating, solvent or other VOC containing material recovered and shipped off site each month in pounds per gallon;

m identifies each spent ink, coating, solvent or other VOC containing material recovered and shipped off site during the month. (s. NR 407.09(4)(a)1., Wis. Adm. Code)

(2) To demonstrate compliance with condition I.A.1.a.(1), the permittee shall

calculate the total volatile organic compound emissions from the facility over each 12 consecutive month period by summing the monthly volatile organic compound emissions as calculated in I.A.1.b.(1) for each consecutive 12-month period. This calculation shall be performed within 20 calendar days of the end of each month for the previous 12 consecutive month period. (s. NR 407.09(4)(a)1., Wis. Adm. Code)

(3) The permittee shall use U.S. EPA Method 24, or coating manufacturer's formulation data to determine the VOC content (Cn) and the density (Wn) of the inks, coatings, solvents or other VOC containing materials used. In case of an inconsistency between the Method 24 results and the formulation data, the Method 24 results will govern. (s. NR 439.04(1)(d), Wis. Adm. Code)

(4) The permittee shall analyze the spent ink, coating, solvent and other VOC containing material recovered and shipped off site to determine the VOC content (P) no less than: (a) each time there is a substantial change to materials or process operations that may affect the characteristics of the waste stream; or (b) quarterly, which ever is most frequent. (s. NR 439.04(1)(d), Wis. Adm. Code)

(5) The permittee shall keep records of the following for each ink, coating, solvent, or other VOC containing material used at the facility:

(a) A unique name or identification number; and

(b) The VOC content, expressed as a weight fraction (Cn). (s. NR 439.04(1)(d), Wis. Adm. Code)

(6) The permittee shall keep monthly records of:

(a) The amount of each ink, coating, solvent, or other VOC containing material used in gallons per month (Un);

(b) The density of each ink, coating, solvent, or other VOC containing material used in pounds per gallon (Wn);

(c) The amount of spent ink, coating, solvent, or other VOC containing material recovered and shipped off site in gallons per month (Sm);

(d) The VOC content of each spent ink, coating, solvent or other VOC containing material recovered and shipped off site in pounds per gallon (Pm).

(e) The total monthly VOC emissions from the facility in tons per month (E), as calculated in I.A.1.b.(1); and

(f) The total VOC emissions from the facility in tons per year as calculated in I.A.1.b.(2). (s. NR 439.04(1)(d), Wis. Adm. Code)

(7) Each month the permittee shall calculate the total emissions of *each*

hazardous air pollutant from the facility regulated by the Act as follows:⁵

$$E_x = (1 \text{ ton}/2000 \text{ lbs}) \times \{[(U_1 \times W_1 \times H_1) + (U_2 \times W_2 \times H_2) + \dots + (U_n \times W_n \times H_n)] - [(S_1 \times I_1) + (S_2 \times I_2) + \dots + (S_m \times I_m)]\}$$

where:

Ex is the monthly emissions of each hazardous air pollutant regulated by the Act (tons/month);

x identifies each HAP emitted from the facility

U is the monthly usage of each ink, coating, solvent, or other HAP containing material used during the month (gallons/month);

W is the density of each ink, coating, solvent, or other HAP containing material used during the month (pounds/gallon)

H is the HAP content of each ink, coating, solvent, or other HAP containing material used during the month expressed as a weight fraction (*i.e.* if a material is 25% HAP by weight H would be 0.25);

n identifies each ink, coating, solvent or other HAP containing material used during the month;

S is the amount of each spent ink, coating, solvent or other HAP containing material recovered and shipped off site each month (gallons/month);

I is the HAP content of each spent ink, coating, solvent or other HAP containing material recovered and shipped off site each month in pounds per gallon;

m identifies each spent ink, coating, solvent or other HAP containing material recovered and shipped off site during the month. (s. NR 407.09(4)(a)1., Wis. Adm. Code)

(8) To demonstrate compliance with condition I.A.2.a.(1), the permittee shall calculate the emissions of each hazardous air pollutant regulated by the Act over each 12 consecutive month period by summing the monthly emissions of each hazardous air pollutant regulated by the Clean Air Act (the Act) as calculated in I.A.2.b.(1) for each consecutive 12-month period. This calculation shall be performed within 20 calendar days of the end of each month for the previous 12 consecutive month period. (s. NR 407.09(4)(a)1., Wis. Adm. Code)

(9) Each month the permittee shall calculate the *total* emissions of hazardous air pollutants regulated by the Act as follows:

$$E_{\text{hap}} = E_x$$

where:

⁵ This calculation shall be performed for each hazardous air pollutant regulated by the Act that is emitted from the facility.

E_{hap} is the monthly total emissions of all hazardous air pollutants regulated by the Act that are emitted by the facility (tons/month);

E_x is the monthly emissions of each hazardous air pollutant regulated by the Act (tons/month) as calculated in I.A.2.b.(1); x identifies each HAP emitted from the facility. (s. NR 407.09(4)(a)1., Wis. Adm. Code)

(10) To demonstrate compliance with condition I.A.2.a.(2), the permittee shall calculate the total emissions of *all* hazardous air pollutants regulated by the Act over each 12 consecutive month period by summing the monthly emissions of all hazardous air pollutants regulated by the Act as calculated in I.A.2.b.(3) for each consecutive 12-month period. This calculation shall be performed within 15 calendar days of the end of each month for the previous 12 consecutive month period. (s. NR 407.09(4)(a)1., Wis. Adm. Code)

(11) The permittee shall use coating manufacturer's formulation data to determine the HAP content (H_n) of the inks, coatings, solvents or other HAP containing materials used. (s. NR 439.04(1)(d), Wis. Adm. Code)

(12) The permittee shall analyze the spent ink, coating, solvent and other HAP containing material recovered and shipped off site to determine the HAP content (H) no less than: (a) each time there is a substantial change to materials or process operations that may affect the characteristics of the waste stream; or (b) quarterly, whichever is more frequent. (s. NR 439.04(1)(d), Wis. Adm. Code)

(13) The permittee shall keep records of the following for each ink, coating, solvent, or other HAP containing material used at the facility:

(a) A unique name or identification number; and

(b) The weight fraction of each HAP contained in the material (H_n). (s. NR 439.04(1)(d), Wis. Adm. Code)

(14) The permittee shall keep monthly records of:

(a) The amount of each ink, coating, solvent, or other HAP containing material used in gallons per month (U_n);

(b) The density of each ink, coating, solvent, or other HAP containing material used in pounds per gallon (W_n);

(c) The amount of spent ink, coating, solvent, or other HAP containing material recovered and shipped off site in gallons per month (S_m);

(d) The amount of each HAP contained in each spent ink, coating, solvent or other HAP containing material recovered and shipped off site in pounds per gallon (L_m);

(e) The facility total monthly emissions of each HAP in tons per month (E_x), as calculated in I.A.2.b.(1);

(f) The total monthly HAP emissions from the facility in tons per month (E_{hap}), as calculated in I.A.2.b.(3);

(g) The facility total emissions of each HAP in tons per year as calculated in I.A.2.b.(2).

(h) The total HAP emissions from the facility in tons per year as calculated in I.A.2.b.(4). (s. NR 439.04(1)(d), Wis. Adm. Code)

(15) Report actual facility wide volatile organic compound and hazardous air pollutant emissions as follows:

(a) The permittee shall submit a report summarizing the actual, facility wide volatile organic compound and hazardous air pollutant emissions for each consecutive 12-month period as calculated in conditions I.A.1.b.(2) and I.A.2.b.(2) and (4), every 6 months.

(b) The period addressed by the report shall be the 6 month period starting on the date the Cooperative Agreement is signed or other date agreed upon and approved by WDNR, EPA and the permittee, and each subsequent 6 month period thereafter.

(c) A copy of the report shall be submitted to the WDNR (Marty Sellers, Air Management Engineer, Department of Natural Resources, 3550 Mormon Coulee Road, La Crosse, WI 54601) and the U.S. EPA (Steve Rothblatt, Branch Chief, Air Program Branch, U.S. EPA, 77 W. Jackson Blvd., Mailcode: (AR-18)), Chicago, IL 60604) within 20 days following the end of the reporting period.

(d) If the report shows the actual facility wide volatile organic compound or hazardous air pollutant emissions have exceeded 50 percent of the allowable limitations outlined in conditions I.A.1.a and I.A.2.a.(1) and (2), the permittee shall provide an explanation why emissions reached the levels that they did and how they intend to ensure emissions will not exceed the allowable limitations outlined in conditions I.A.1.a. and I.A.2.a.(1) and (2). (s. NR 439.03(1)(a), Wis. Adm. Code)

Administrative Review

The EPA is publishing this SIP revision approval without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. The approval of this SIP revision will be effective without further notice unless EPA receives relevant adverse

written comments by February 24, 2003. Should EPA receive such comment, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on March 25, 2003.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number or small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule does not have tribal implications, because it will not have a substantial direct effect on one or more Indian tribes, or on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications, because it does not have substantial direct effects on the states, or the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19855, April 23, 1997), applies to any rule that is both economically significant, as defined under Executive Order 12866, and concerns an environmental health

or safety risk that EPA has reason to believe may have a disproportionate effect on children. This rule is not subject to Executive Order 13045 because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, (5 U.S.C. 801 *et seq.*), as added by the Small Business Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 25, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged late in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Hazardous air pollutants, Volatile organic compounds.

Dated: October 24, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(107) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(107) On June 12, 2002, the Wisconsin Department of Natural Resources submitted a site specific revision to its SIP for emissions from Northern Engraving Corporation's Holmen and Sparta facilities in the form of a Environmental Cooperative Agreement for incorporation into the federally enforceable State Implementation Plan. It consists of portions of the Environmental Cooperative Agreement which supersede portions of rules in the State Implementation Plan. The Cooperative Agreement establishes an exemption for pre-construction permitting activities for certain physical changes or changes in the method of operation at the Northern Engraving Corporation's Holmen and Sparta facilities.

(i) Incorporation by reference.

(A) The following provisions of the Environmental Cooperative Agreement between Northern Engraving Corporation (NEC) and the Wisconsin Department of Natural Resources signed on June 10, 2002: Section XI of the Environmental Cooperative Agreement (Operational Flexibility and Variances) and Part IA. of Appendix C.3: Specific Permit Conditions under the Environmental Cooperative Agreement for NEC's Sparta facility.

[FR Doc. 03-1516 Filed 1-23-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[DC039-2030; MD073-3101; VA090-5063; FRL-7441-9]

Determination of Nonattainment as of November 15, 1999, and Reclassification of the Metropolitan Washington, DC Ozone Nonattainment Area; District of Columbia, Maryland, Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to issue a determination that the Metropolitan Washington, D.C. serious ozone nonattainment area (hereinafter referred to as the Washington area) did not attain the 1-hour ozone national ambient air quality standard (NAAQS) by the November 15, 1999 Clean Air Act (CAA) deadline for serious ozone nonattainment areas. As a result, the Washington area is reclassified by operation of law as a severe ozone nonattainment area on the effective date of this rule. The District of Columbia, the State of Maryland and the Commonwealth of Virginia each must submit by March 1, 2004, a State Implementation Plan (SIP) revision for the Washington area that meets the severe area ozone nonattainment area requirements of CAA section 182(d). Finally, EPA is adjusting the dates by which the area must achieve a nine (9) percent reduction in ozone precursor emissions to meet the 2002 rate-of-progress (ROP) requirement and adjusting contingency measure requirements as this relates to the 2002 ROP milestone. In an Order entered on December 18, 2002, the United States District Court for the District of Columbia directed EPA to publish a final action in the **Federal Register** determining whether the Washington area had attained the applicable ozone standard under the CAA and any reclassification of the area required as a result of this determination. This final determination and this notice are in direct response to and comply with the Court's order.

DATES: This final rule is effective on March 25, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.