Chapter NR 425

COMPLIANCE SCHEDULES, DELAYS, EXCEPTIONS AND INTERNAL OFFSETS FOR ORGANIC COMPOUND EMISSION SOURCES IN CHS. NR 419 TO 424

NR 425.01 Applicability; purpose.
NR 425.02 Definitions.
NR 425.03 Compliance schedules.
NR 425.04 Exceptions and non−ozone season allowances.
NR 425.05 Internal offsets.

Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1996, No. 492.

NR 425.013>**Applicability; purpose. (1)**2>APPLICABILITY. This chapter applies to all air contaminant sources governed by chs. NR 419 to 424 and to their owners and operators.

(2)2>PURPOSE. This chapter is adopted under ss. 285.11, 285.13 and 285.17, Stats., to establish time schedules for air contaminant sources governed by chs. NR 419 to 424 to meet the emission limits set for each specific organic compound emission source, to specify exceptions to the requirements of chs. NR 419 to 424, to establish an internal offset system and to establish criteria for granting compliance schedule delays.

History: Cr. Register, September, 1986, No. 369, eff. 10−1−86; am. (1) and (2), Register, February 1990, No. 410, eff. 3−1−90; am. (2), Register, February, 1995, No. 470, eff. 3−1−95.

NR 425.023>**Definitions.** The definitions contained in chs. NR 400, 419, 420 and 421 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1)2>c>Energy intensive control device" means an air pollution control device or system which consumes energy at a rate in excess of what would be required to heat the exhaust gas stream from 70°F to 800°F, taking into account energy recovered in the form of heat or organic compounds.

(2)2>c>Hydrophobic substrate" means any substrate that is resistant to or avoids wetting. This may include but is not limited to polyethylene, polypropylene, cellophane, metalized polyester, nylon and polyester film.

History: Renum. from NR 154.01, Register, September, 1986, No. 369, eff. 10−1−86; am. (intro.), Register, February, 1990, No. 410, eff. 3−1−90; am. (intro.) and (2), Register, October, 1999, No. 526, eff. 11−1−99.

NR 425.033>**Compliance schedules. (1)**2>EFFECTIVE DATES. Subsections (2) to (8) do not apply to a source which is in compliance with the emission limitations of chs. NR 419 to 424, provided the source has determined and certified compliance to the satisfaction of the department within 90 days after the date specified in the effective date table, nor do subs. (2) to (7) apply to a source on which construction or modification commenced on or after the specified date. Sources on which construction or modification commenced on or after the date specified in the effective date table shall meet the emission requirements of chs. NR 419 to 424 in accordance with the provisions of sub. (8).

(2)2>PROCESS AND EMISSION CONTROL EQUIPMENT INSTALLATIONS. Except as provided under sub. (5) and s. NR 425.04, the owner or operator of a VOC emission source proposing to install and operate VOC emission control equipment or replacement process equipment to comply with the emission limiting requirements of chs. NR 419 to 424 shall achieve final compliance within 26 months of the date specified in the effective date table for that source.

Effective Date Table

The effective date listed under the Date column applies to the requirements outlined in all sections listed in the Section column to the right of the effective date in this table.

Date	Section
8−1−79	420.03 (5), 420.04 (1) (b), (c) and (f), (2) (b),(c) 1. and 2., (d), (e) and (h), (3) (b) 1. and 2., (c), (e), (f), (g)1. and 2., (h) and (i), 420.05 (1) to (3), 422.05 to 422.08,422.09 to 422.12 and 423.03
7−1−80	420.03 (4)
4−1−81	420.03 (6) and (7), 420.04 (1) (d) and (e), (2)(f) and (g), (3) (d) and (g) 3., (4) (b), 420.05 (4), 421.03 (1)to (3), 421.04, 422.13, 422.14, 422.15 and 423.04
10−1−81	420.04 (1) (g), (2) (c) 3. and (3) (b) 3.
12−1−83	423.05
2−1−87	422.085

(3)2>LOW SOLVENT CONTENT COATING OR INK. (a) Except as provided under pars. (b) to (e) and subs. (5) and (7m), the owner or operator of a VOC source proposing to employ low solvent content coating or ink application technology to comply with the requirements of chs. NR 419 to 424 shall achieve final compliance within 28 months of the date specified in the effective date table for that source.

(b) The owner or operator of a can coating or flexible packaging facility proposing to employ low solvent content coating technology to comply with the requirements of s. NR 422.05 (2) (d) or 422.07 (2) may exceed the deadline in par. (a) by 12 months in developing acceptable can end sealing compounds or coatings for hydrophobic flexible packaging substrates.

(c) The owner or operator of a graphic arts facility proposing to employ low solvent content ink application technology to comply with the requirements of s. NR 422.14 may, for hydrophobic substrates, extend the date for achieving final compliance to December 31, 1985, provided:

1. Final plans for achieving compliance are submitted by September 1, 1981.

3. Sufficient documentation is submitted to justify the extension.

4. The plans provide for final compliance by December 31, 1985 through the use of an emission reduction system described in s. NR 422.14 (2) (c) and (3) in case the product quality and commercial acceptability evaluation shows low solvent content ink application technology to be unsatisfactory.

(d) The owner or operator of a miscellaneous metal parts and products coating facility proposing to employ low solvent content coating technology to comply with the requirements of s. NR 422.15 may, for extreme performance coatings requiring prolonged product quality evaluation periods, extend final compliance to accommodate the prolonged evaluation period but in no case beyond December 31, 1985.

(e) Where the department determines that the low solvent content coating or ink application technology has been sufficiently

researched and developed for a particular application, the owner or operator of a VOC source proposing to comply with the requirements of chs. NR 419 to 424 through application of low solvent content coatings or inks shall achieve final compliance within 21 months of the date specified in the effective date table for that source.

(4)2>EQUIPMENT MODIFICATION. Except as provided under subs. (5) and (7m), the owner or operator of a VOC source proposing to comply with the requirements of chs. NR 419 to 424 by modification of existing processing or emission control equipment shall achieve final compliance within 20 months of the date specified in the effective date table for that source.

(5)2>ALTERNATE COMPLIANCE SCHEDULES. Notwithstanding the deadlines specified in subs. (2) to (4), for any particular source the department may issue or approve a separate compliance schedule with later deadlines if it finds that those specified in subs. (2) to (4) would not be feasible. All alternate compliance schedules proposed or promulgated under this subsection shall provide for compliance of the source with the requirements of chs. NR 419 to 424 not later than December 31, 1982 or, where the owner or operator proposes to comply through development of a new surface coating which is subject to approval by a federal agency, not later than December 31, 1985.

(6)2>PHASED EMISSION REDUCTION SCHEDULES. (a) This subsection applies only to sources covered under ss. NR 422.09 and 422.15 (3).

(b) Except as provided under sub. (7m), the owner or operator of a source required to undertake a phased compliance program shall achieve final compliance on or before the date specified in the applicable rule or approved compliance plan, but not later than December 31, 1987.

(7)2>FINAL COMPLIANCE PLANS. (a) If the department finds any compliance plan submitted under this chapter to be unsatisfactory, it may require that the plan be resubmitted with appropriate revisions.

(b) Process lines subject to requirements of this chapter on which construction or modification commenced on or before August 1, 1979 shall continue to comply with the requirements of s. NR 424.03 (2) (a) during any interim period prior to the final compliance date in the applicable compliance schedule.

(c) Process lines covered under ss. NR 420.03 (6), 420.04 (1) (d), (e) and (g), (2) (c) 3., (f) and (g), (3) (b) 3., (d) and (g) 3., 420.05 (4), 421.03 (1) to (3), 421.04, 422.13 to 422.15, and 423.05, on which construction or modification commenced on or after August 1, 1979, but before April 1, 1981, shall continue to comply with the requirements of s. NR 424.03 (2) (b) during any interim period prior to the final compliance date in the applicable compliance schedule.

Note: The reference to s. NR 424.03 (2) (b) refers to that section as it existed prior to its repeal on May 1, 1989.

(d) Process lines covered under s. NR 421.04 on which construction or modification commenced on or after April 1, 1981 but before August 31, 1981, and process lines covered under s. NR 423.05 (1) on which construction or modification commenced on or after April 1, 1981 but before December 1, 1983, shall continue to comply with the requirements of s. NR 424.03 (2) (c) during any interim period prior to the final compliance date in the applicable compliance schedule.

Note: The reference to s. NR 424.03 (2) (c) refers to that section as it existed prior to May 1, 1989. As of May 1, 1989, s. NR 424.03 (2) (c) was renumbered to be s. NR 424.03 (2) (b) and amended.

(e) Where a source is not otherwise subject to requirements of this chapter and was previously unregulated under chs. NR 419 to 424, the final compliance plan shall specify reasonable measures to minimize emissions of VOCs during the interim period prior to the final compliance date.

(7m)2>COMPLIANCE SCHEDULE DELAYS. Notwithstanding any compliance schedule approved or issued under this section, the department may approve a new compliance schedule which provides additional time for achieving compliance, provided that all of the following conditions are met:

(a) The owner or operator of the source is able to document to the department's satisfaction that the source is unable to meet the applicable deadline under this section due to circumstances beyond the owner or operator's control which could not reasonably have been avoided by using all prudent planning.

(b) The final compliance for sources covered under ss. NR 420.03 (5), 420.04 (1) (b), (c) and (f), (2) (b), (c) 1., (d), (e) and (h), (3) (b) 1. and 2., (c), (e), (f), (g) 1. and 2., (h) and (i), 420.05 (1) to (3), 422.05 to 422.08, 422.10 to 422.12 and 423.03 (3) to (5) is not later than December 31, 1982.

(c) The final compliance for sources covered under ss. NR 420.03 (6), 420.04 (1) (d), (e) and (g), (2) (c) 3., (f) and (g), (3) (b) 3., (d) and (g) 3., 420.05 (4), 421.03 (1) to (3), 421.04, and 422.13 to 422.15 is not later than that required in this section.

(8)2>NEW AND MODIFIED SOURCES. Any source on which construction or modification commenced on or after the date specified for the source category in the effective date table shall meet the emission limitations of chs. NR 419 to 425 upon startup unless the owner or operator of the source demonstrates, to the satisfaction of the department, that compliance upon startup would be technologically infeasible. Such sources shall instead meet a department−specified compliance schedule which provides for interim emission limitations and for ultimate compliance with the emission limitations of chs. NR 419 to 425. Ultimate compliance shall be as soon as practicable but in no event later than the final compliance date applicable to the source under this chapter or chs. NR 419 to 424.

(9)2>LEATHER COATING. (a) This subsection applies only to a leather coating facility in existence on January 1, 1994 and which is one of the following:

1. Located in the county of Door, Kewaunee, Manitowoc, Sheboygan or Walworth.

2. Located in the county of Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha and which was not subject to this section prior to January 1, 1994.

(b) The owner or operator of any source identified under par. (a) shall:

1. Notify the department's bureau of air management in writing by April 1, 1994. This notification shall provide the name and location of the affected facility and include VOC emission data from coating applications if necessary to support eligibility under this subsection.

2. Achieve final compliance with the requirements of s. NR 422.085 no later than May 31, 1995.

(10)2>SOURCES OF VOCS WITH VAPOR PRESSURES LESS THAN OR EQUAL TO 0.1 MILLIMETERS OF MERCURY (0.0019 PSIA) AT STANDARD CONDITIONS. (a) This subsection applies only to sources constructed or last modified before March 1, 1990 which fail to meet an applicable VOC emission limitation of chs. NR 419 to 424 as a result of the amendment to s. NR 400.02 (162) which became effective on March 1, 1990.

(b) The owner or operator of any source subject to this subsection shall:

1. Notify the department's bureau of air management in writing by 90 days after March 1, 1990. This notification shall identify the name and location of the affected facility and the specific coatings and inks used at that facility which are eligible for the compliance extension under this subsection.

2. Achieve final compliance no later than March 1, 1991.

(c) For sources which were subject to an emission limitation under chs. NR 419 to 424 before March 1, 1990, the compliance schedule in par. (b) shall only apply to those coatings or inks which contained organic compounds with a vapor pressure less than or equal to 0.1 millimeters of mercury (0.0019 psia) at stan-

dard conditions and which the source relied on to comply with the applicable emission limitation prior to March 1, 1990.

(d) The department may, by order issued under ss. 285.13 (2) and 285.83, Stats., authorize a source not in compliance with an emission limitation prescribed in chs. NR 419 to 424 as a result of the amendment to s. NR 400.02 (162) which became effective on March 1, 1990 to achieve compliance as expeditiously as practicable but not later than March 1, 1993. The department shall hold a public hearing in accordance with its rules prior to authorizing any period of delayed compliance which exceeds 30 days in duration. No order under this subsection may be issued unless the requirements of s. NR 436.04 (2) (g) and (h) are satisfied.

(11)2>BULK GASOLINE PLANTS AND GASOLINE DISPENSING FACILITIES IN DOOR AND KEWAUNEE COUNTIES. (a) This subsection applies only to bulk gasoline plants and gasoline dispensing facilities located in Door or Kewaunee county on which construction or last modification commenced before November 15, 1992, and which are required to comply with the requirements of s. NR 420.04 (2) or (3).

(b) The owner or operator of any bulk gasoline plant subject to the requirements of s. NR 420.04 (2) shall do all of the following:

1. Notify the department in writing by July 1, 1993, of the affected facility, the storage capacity of each stationary tank, in gallons, located at the facility, the material stored in each stationary storage tank and the yearly throughput of gasoline at the facility for the calendar years 1990, 1991 and 1992.

2. Achieve final compliance with s. NR 420.04 (2) no later than November 15, 1994.

(c) The owner or operator of any gasoline dispensing facility subject to the requirements of s. NR 420.04 (3) shall:

1. Notify the department in writing by July 1, 1993, of the affected facility, the storage capacity of each stationary storage tank, in gallons, located at the facility, and the material stored in each stationary storage tank.

2. Achieve final compliance with the requirements of s. NR 420.04 (3) no later than November 15, 1994.

(12)2>MISCELLANEOUS FACILITIES. (a) This subsection applies only to a facility which was in existence on January 1, 1994 and to which one of the following applies:

1. Prior to January 1, 1994 the facility was exempt from the requirements of ss. NR 422.04 to 422.155 under s. NR 422.03 (1) or (2).

Note: The reference to s. NR 422.03 (1) or (2) is as these subsections existed on January 31, 2012.

2. The facility is located in the county of Door or Kewaunee and prior to January 1, 1994 was exempt from the requirements of ss. NR 422.05 to 422.08, 422.09 to 422.13, 422.15 or 422.155 under s. NR 422.03 (3).

Note: The reference to s. NR 422.03 (3) is as the subsection existed on January 31, 2012.

3. The facility is located in the county of Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha and prior to January 1, 1994 was exempt from the requirements of s. NR 422.14 under s. NR 422.14 (1) (a) 1.

4. The facility fails to meet an emission limitation applicable under s. NR 422.14 (2) (c) as a result of the amendment to s. NR 422.14 (3) which became effective on January 1, 1994.

5. Prior to January 1, 1994 the facility was exempt from the requirements of s. NR 422.15 under s. NR 422.15 (1) (cm) 5. or 6.

6. The facility fails to meet an emission limitation applicable under s. NR 422.15 (2) or (3) as a result of the amendment to s. NR 422.15 (5) (intro.) which became effective on January 1, 1994.

7. Prior to January 1, 1994 the facility was exempt from the requirements of s. NR 423.03 (3) or (6) for one of the following reasons:

a. The facility was located outside the counties of Brown, Calumet, Dane, Dodge, Fond du Lac, Jefferson, Kenosha, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago.

b. Conveyorized non−vapor degreasers at the facility had a total horizontal solvent−air interface smaller than 2.0 square meters (21.6 square feet).

(b) The owner or operator of any source identified under par. (a) shall:

1. Notify the department's bureau of air management in writing by April 1, 1994. This notification shall provide the name and location of the affected facility and include information adequate to support eligibility for the schedule provided under this subsection.

2. Achieve final compliance with the applicable requirements no later than May 31, 1995.

(13)2>ALTERNATIVE OR EQUIVALENT METHODS. (a) This subsection applies only to a facility in existence on January 1, 1994 and which, prior to January 1, 1994, received written approval from the department to use an alternative or equivalent VOC control method as allowed in chs. NR 419 to 424, or received written approval from the department to use an alternative, equivalent or other specific method or procedure for determining compliance with emission limitations for an ozone precursor, as allowed in s. NR 439.06.

(b) The owner or operator of any source identified under par. (a) shall:

1. Notify the department's bureau of air management in writing by April 1, 1994. This notification shall provide the name and location of the affected facility and shall include a copy of the department approval referred to in par. (a). A copy of the notification required under this subdivision shall be maintained at the facility until at least January 1, 1995.

2. No later than January 1, 1995, do one of the following:

a. Achieve compliance with the applicable control method specified under chs. NR 419 to 424 or the applicable reference method specified under ss. NR 439.06 to 439.095.

b. Notify the department's bureau of air management in writing that it is the owner's or operator's intent to continue to use the approved alternative or equivalent method.

c. Submit a written request to the department's bureau of air management for approval to use a proposed alternative or equivalent method as allowed in chs. NR 419 to 424 and s. NR 439.06.

(c) 1. Upon receipt of a notification under par. (b) 2. b., the department shall submit the approved alternative or equivalent method to the administrator or designee as a source−specific revision to the department's state implementation plan for ozone.

2. A request submitted under par. (b) 2. c. shall be reviewed by the department and if approved, submitted to the administrator or designee as a source−specific revision to the department's state implementation plan for ozone.

3. Notwithstanding par. (b) 2. b. and c., unless or until an alternative or equivalent method as allowed in chs. NR 419 to 424 or s. NR 439.06 is approved by the administrator or designee as a source−specific revision to the department's state implementation plan for ozone, the applicable control methods specified under chs. NR 419 to 424 and reference methods specified under ss. NR 439.06 to 439.095 shall become federally enforceable on January 1, 1995.

(14)2>ASPHALT SURFACING MATERIALS. (a) This subsection applies only to a facility which prior to January 1, 1996 applied an asphalt surfacing material not subject to s. NR 422.16, but which, as a result of the amendment to s. NR 422.02 (20) which became effective on January 1, 1996, became subject to s. NR 422.16.

(b) The owner or operator of any facility identified under par. (a) shall:

1. Notify the department's bureau of air management in writing by 90 days after January 1, 1996. This notification shall include the name and location of the affected facility and the name, or other unique descriptor, of the asphalt surfacing material identified under par. (a).

2. Achieve final compliance with s. NR 422.16 no later than January 1, 1999.

(c) The compliance schedule in par. (b) shall only apply to the asphalt surfacing material affected by the amendment to s. NR 422.02 (20) which became effective on January 1, 1996.

History: Renum. from NR 154.13 (12) (a) (intro.) and (b) to (h) and am. Register, September, 1986, No. 369, eff. 10−1−86; am. (1) table, cr. (9), Register, January, 1987, No. 373, eff. 2−1−87; corrections in (7) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1989; am. (2) (a) (intro.), (3) (a) (intro.) and (e), (4) (a) (intro.), (6) (b) (intro.), (7) (c) and (d) and (8), am. (7m) as renum. from NR 425.04 (4), cr. (10), Register, February, 1990, No. 410, eff. 3−1−90; cr. (11), Register, January, 1993, No. 445, eff. 2−1−93; r. and recr. (9), cr. (12) and (13), Register, December, 1993, No. 456, eff. 1−1−94; am. (12) (a) 7., Register, August, 1994, No. 464, eff. 9−1−94; correction in (12) (a) 1., made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1994, No. 464; am. (12) (a) 1., (13) (c) 3., Register, February, 1995, No. 470, eff. 3−1−95; renum. (2) (a) (intro.), (4) (a) (intro.), (5) (a) (intro.) to be (2), (4) and (5) and am., r. (2) (a) 1. to 5., (b), (3) (a) 1. to 7., (3) (c) 2., (3) (d) 1. to 4., (3) (e) 1. to 6. and (f), (4) (a) 1. to 5. and (b), (5) (a) 1. to 4., (b) and (c), (6) (b) 1. to 3., am. (3) (a) (intro.), (b), (d) (intro.), (e) (intro.), (6) (b) (intro.), (7) (e), (7m) (intro.) and (a), (8), cr. (14), Register, December, 1995, No. 480, eff. 1−1−96; am. (7m), (11) (b) (intro.), (13) (b) 2. intro., Register, December, 1996, No. 492, eff. 1−1−97; am. (9) (a) (intro.), 1., (10) (a), (d), (12) (a) (intro.), 1. to 6. and 7. (intro.), Register, October, 1999, No. 526, eff. 11−1−99; corrections in (7) (c), (7m) (b) and (c) made under s. 13.93 (2m) (b) 7., Stats.; correction in (12) (a) 3., 5. made under s. 13.92 (4) (b) 7., Stats., Register January 2012 No. 673.

NR 425.043>Exceptions and non−ozone season allowances. (1)2>EXCEPTIONS. (a) For sources on which construction or modification commenced before August 1, 1979, the provisions of ss. NR 419.05, 419.06 and 424.03 do not apply to the storage, transfer, use or application of saturated halogenated hydrocarbons, perchloroethylene or acetone.

(b) Except for the provisions of s. NR 419.03 (1) and (2), the requirements of chs. NR 419 to 424 do not apply to the use or application of insecticides, pesticides or herbicides or to the use or emission of organic compounds which have been determined to have negligible photochemical reactivity as listed in s. NR 400.02 (162).

(3)2>SPECIALIZED COATINGS. (a) This subsection applies only to sources subject to s. NR 422.15 which, prior to March 1, 1990, applied specialized coatings required by state or federal agencies on products made for their use.

(b) The owner or operator of any source subject to this subsection shall:

1. Notify the department's bureau of air management in writing by 90 days after March 1, 1990.

2. Achieve final compliance for specialized coatings required by state or federal agencies on products made for their use by March 1, 1991.

(c) The department may, by order issued under ss. 285.13 (2) and 285.83, Stats., authorize a source not in compliance with an emission limitation in s. NR 422.15 for specialized coatings required by state or federal agencies on products made for their use to achieve compliance as expeditiously as practicable but not later than March 1, 1993. The department shall hold a public hearing in accordance with its rules prior to authorizing any period of delayed compliance which exceeds 30 days in duration. No order under this subsection may be issued unless the requirements of s. NR 436.04 (2) (g) and (h) are satisfied.

(d) Notwithstanding par. (b), the owner or operator of a source constructed or modified before March 1, 1990 which fails to meet a VOC emission limitation of s. NR 422.15 because of the amendment to s. NR 422.15 (1) (f), which became effective March 1, 1990, may request a variance from the emission limitation.

Note: NR 422.15 (1) (f) was repealed eff. 3−1−90.

1. Any request made under this paragraph shall be made in writing and be received by the department on or before March 1, 1991.

2. The department may grant a variance under this paragraph and set an alternate emission limitation under the criteria and procedures outlined in s. NR 436.05 (2) (c) and (d), (3) and (5).

(4)2>LIMITATION OF RESTRICTIONS TO THE OZONE SEASON. Where the requirements of chs. NR 419 to 425 are met by means of a natural gas fired incinerator, use of the incinerator shall be required only during the ozone season, provided that operation of the incinerator is not required for purposes of occupational health or safety or for the control of toxic or hazardous substances, malodors, or other pollutants regulated by other sections of chs. NR 400 to 499. The provisions of this subsection may be applied, subject to approval of the department, where the requirements of chs. NR 419 to 425 are met by use of other energy intensive control devices. Any approval issued by the department to apply the provision of this subsection to control devices other than natural gas fired afterburners or incinerators shall be submitted to, and will not become effective for federal purposes until approved by, the administrator or designee as a source−specific revision to the department's state implementation plan for ozone.

History: Renum. from NR 154.13 (13) and am. Register, September, 1986, No. 369, eff. 10−1−86; corrections in (3) (a), (4) (b) and (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1989; renum. (1), (2), (4), (5) and (6) (b) to be (1) (a) and (b), NR 425.03 (7m), (4) and (2) and am. (1) (a) and (b), NR 425.03 (7m) and (4), r. and recr. (3), r. (6) (a), Register, February, 1990, No. 410, eff. 3−1−90; reprinted to correct (1) (b) and (4), Register, March, 1990, No. 411; am. (2), Register, May, 1992, No. 437, eff. 6−1−92; am. (4), Register, December, 1993, No. 456, eff. 1−1−94; am. (1) (b), r. (2), Register, February, 1995, No. 470, eff. 3−1−95; am. (1) (b), Register, December, 1995, No. 480, eff. 1−1−96; am. (4), Register, December, 1996, No. 492, eff. 1−1−97; am. (1) (b), Register, October, 1999, No. 526, eff. 11−1−99.

NR 425.053>Internal offsets. An owner or operator of a surface coating or printing facility subject to ss. NR 422.05 to 422.15 may achieve compliance with the emission limitations in those sections through the use of an internal offset provided the owner or operator has submitted, and the department has approved, an application under sub. (1) or (2). The owner or operator shall specify the subsection under which the application is submitted.

(1)2>SOURCE−SPECIFIC SIP REVISION. (a) *Eligibility.* The department may, by order issued under s. 285.13 (2), Stats., approve an application made under this subsection only if all of the following conditions are met:

1. The construction or modification of each coating or printing line with emissions exceeding an applicable limitation was commenced on or before:

a. August 1, 1979, for sources covered under ss. NR 422.05 (1), 422.06 (1), 422.07 (1), 422.08 (1), 422.09 (1), 422.10 (1), 422.11 (1) and 422.12 (1).

b. April 1, 1981, for sources covered under ss. NR 422.13 (1), 422.14 (1) and 422.15 (1).

2. The owner or operator has certified, and the department has confirmed, that the emissions of all air contaminants from all existing sources owned or controlled by the owner or operator in the state, other than VOC emissions from sources specified in subd. 1. for which an application was made under this subsection, are in compliance with or under a schedule for compliance as expeditiously as practicable with all applicable local, state and federal laws and regulations.

3. The owner or operator has demonstrated to the department's satisfaction that the allowable emission rates in pars. (b) 1. and 2. can be met.

4. The owner or operator has demonstrated to the department's satisfaction that the requirements of s. NR 439.04 can be met.

(b) *Approval criteria.* Any department approval of an application made under this subsection shall, at a minimum, do all of the following:

1. Establish an allowable emission rate for each of the coating and printing lines involved in the internal offset.

2. Establish a combined daily allowable emission rate from all coating and printing lines involved in the internal offset which is consistent with the U.S. environmental protection agency's c>Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits", 51 FR 43814, December 4, 1986, incorporated by reference in s. NR 484.06.

3. Establish recordkeeping requirements adequate to determine compliance and consistent with s. NR 439.04.

(c) *Revocation.* The department may, after notice and opportunity for hearing, revoke or modify any internal offset approved under this subsection when any term or condition of the approval has been violated, or for other reasons deemed necessary by the department. Any modification shall be submitted to, and will not become effective for federal purposes until approved by, the administrator or designee as a source−specific revision to the department's state implementation plan for ozone.

(d) *Additional requirements.* Any internal offset approved under this subsection may not become effective for federal purposes until it has met the following requirements:

1. It has been submitted to the administrator pursuant to applicable law, including but not limited to 42 USC 7410 and 40 CFR parts 51 and 52, and all substantive requirements of the federal law have been met.

2. It has been approved by the administrator or designee as a revision to the state implementation plan.

Note: In reviewing internal offset approvals, the U.S. environmental protection agency will require that the internal offset meet the criteria of its c>Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits", 51 FR 43814, December 4, 1986.

(e) *Relocated lines.* Notwithstanding par. (a) 1., any coating or printing line which is relocated to another facility may comply with the emission limitations in ss. NR 422.05 to 422.15 through an internal offset if the following conditions are met:

1. The internal offset applies only to relocated coating or printing lines which had been jointly involved in an internal offset approved under this subsection.

2. The internal offset involving the relocated lines is approved by the department under the criteria of pars. (a) 2. to 4., (b) and (d).

(2) 2>GENERIC INTERNAL OFFSETS. (a) *Eligibility.* The department may, by order issued under s. 285.13 (2), Stats., approve an application made under this subsection only if all of the following conditions are met:

1. Opportunity for public comment has been offered for a 30 day period through public notice, and where requested, a public hearing has been held. The department shall provide the region V office of the U.S. environmental protection agency with a copy of the public notice, the department's technical analysis and the proposed decision by the first day of the public comment period.

2. The owner or operator has demonstrated to the department's satisfaction that the allowable emission rates in pars. (b) 1. and 2. can be met.

3. The owner or operator has demonstrated to the department's satisfaction that the requirements of s. NR 439.04 can be met.

(b) *Approval criteria.* Any department approval of an application made under this subsection shall, at a minimum, do all of the following:

1. Establish an allowable emission rate for each of the coating and printing lines involved in the internal offset.

2. Establish a combined daily allowable emission rate from all coating and printing lines involved in the internal offset equal to:

$$E = Y\left[\frac{A_1B_1C_1}{D_1} + \frac{A_2B_2C_2}{D_2} + \ldots + \frac{A_nB_nC_n}{D_n}\right]$$

where E is the total allowable emissions from all of the coating and printing lines involved in the internal offset in kilograms (pounds), Y = 1 for facilities located in areas designated attainment or unclassified for ozone or in areas designated nonattainment for ozone with a federally approved demonstration of attainment, and Y = 0.8 for facilities located in areas designated nonattainment for ozone and lacking a federally approved demonstration of attainment, $A_{1,2...n}$ is the lowest of the allowable emission rate for each coating or printing line pursuant to ss. NR 422.05 to 422.15, or other limitation imposed by permit, order or approval, or the actual emission rate for each coating or printing line, as of the date of the internal offset application, in kilograms per liter (pounds per gallon) of coating or ink, excluding water, delivered to the applicator, $B_{1,2...n}$ is the amount of coating material or ink in liters (gallons), delivered to the applicator during the actual production day, $C_{1,2...n}$ is the volume fraction of solids in the coating or ink, delivered to the applicator during the actual production day, and $D_{1,2...n}$ is the theoretical volume fraction of solids in the coating or ink necessary to meet the lowest of the allowable emission rate for each coating or printing line pursuant to ss. NR 422.05 to 422.15, or other limitation imposed by permit, order or approval, calculated from:

$$D_{1,2...n} = 1 - \frac{A_{1,2...n}}{P_{1,2...n}}$$

where $P_{1,2...n}$ is the density of the VOC used in the coating or ink delivered to the applicator during the actual production day in kilograms per liter (pounds per gallon). If the coating or ink does not contain any VOC_s, or if the actual VOC density cannot be demonstrated by the owner or operator, a value of 0.88 kilograms per liter (7.36 pounds per gallon) shall be used for P.

3. Establish recordkeeping requirements adequate to determine compliance and consistent with s. NR 439.04.

(c) *Revocation.* The department may, after notice and opportunity for hearing, revoke or modify any internal offset approved under this subsection when any term or condition of the approval has been violated, or for other reasons deemed necessary by the department.

(d) *Additional requirements.* 1. Notwithstanding s. NR 425.04 (4), to demonstrate compliance under this subsection, actual emissions from all coating and printing lines participating in an internal offset must be less than or equal to allowable emissions as calculated using the equation in par. (b) 2.

2. Emission reductions from shutdowns or production curtailments or which were claimed in the state's federally approved demonstration of attainment, or any subsequent updated demonstration of attainment, may not participate in an internal offset.

3. Coating and printing lines subject to chs. NR 405, 440 or 446 to 449, or a lowest achievable emission rate (LAER) emission limitation, may participate in an internal offset under this subsection only if the owner or operator has certified, and the department has confirmed, that such lines are in compliance with all applicable requirements of those chapters or LAER.

4. Daily VOC emissions in excess of those allowed under ss. NR 422.05 to 422.15 shall be offset through an approval issued under this subsection by VOC emission reductions achieved after an application to use internal offsets has been submitted.

(e) *New or modified lines.* An owner or operator may include in an application under this subsection coating or printing lines constructed or modified after March 1, 1990, on which the owner or operator intends to apply coatings or inks not meeting the applicable emission limitations in ss. NR 422.05 to 422.15, and may apply such coatings or inks under an internal offset approved under this subsection if he or she demonstrates to the department's satisfaction that compliance with the applicable emission limitation on such coating or printing lines is technologically or economically infeasible.

(3)2>COMPLIANCE EXTENSIONS. (a) *Availability.* An owner or operator of a source may request an extension to achieve compliance with the emission limitations of ss. NR 422.05 to 422.15 if the owner or operator demonstrates to the department's satisfaction that it is technologically or economically infeasible for the source to achieve compliance with the applicable emission limitations as a result of the creation of this section which became effective on March 1, 1990. The department may grant a request and authorize the owner or operator, by order issued under s. 285.13 (2), Stats., to achieve compliance with the applicable emission limitation as expeditiously as practicable, but not later than March 1, 1993.

(b) *Extension criteria.* Authorization under par. (a) may not be granted unless the owner or operator had submitted a compliance plan for use of an internal offset under s. NR 425.04 (3) prior to March 1, 1990 and had maintained records to demonstrate compliance under that subsection. In addition, the owner or operator shall submit a proposed schedule which demonstrates reasonable progress towards, and contains a date for, achieving final compliance.

Note: The reference to s. NR 425.04 (3) refers to that section as it existed prior to March 1, 1990. As of March 1, 1990, the internal offset requirements of this chapter were moved from s. NR 425.04 (3) to this section.

(c) *Federal approval.* Any compliance extension authorization under par. (a) may not become effective for federal purposes until it has met the following requirements:

1. It has been submitted to the administrator pursuant to applicable law, including but not limited to 42 USC 7410 and 40 CFR parts 51 and 52, and all substantive requirements of the federal law have been met.

2. It has been approved by the administrator or designee as a revision to the state implementation plan.

(4)2>ENFORCEABILITY. The emission limitations and conditions of any approval issued under this section are enforceable under s. 285.87, Stats.

History: Cr. Register, February, 1990, No. 410, eff. 3−1−90; reprinted to correct (1) (b) and (2) (b), Register, March, 1990, No. 411; correction in (2) (e) made under s. 13.93 (2m) (b) 5., Stats., Register, July, 1990, No. 415; am. (2) (a) 1., Register, May, 1992, No. 437, eff. 6−1−92; r. and recr. (1) (b) 2., am. (1) (c), Register, December, 1993, No. 456, eff. 1−1−94.; am. (1) (b) 2., (1) (d) 1., (2) (b) 2., (3) (c) 1., Register, February, 1995, No. 470, eff. 3−1−95.