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CLEARINGHOUSE RULE 99−067

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In several places in ch. NR 466, references to "a major source of hazardous air pollutants" is followed by the phrase "as defined in s. NR 460.02 (24)." This latter reference should be omitted, as the definitions in ch. NR 460 apply to ch. NR 466.

b. Several very wordy terms are used repeatedly throughout the rule, adding to the rule's verbosity and decreasing its readability. It would be helpful to devise simpler terms which could be defined and used in place of these longer terms. The terms in question include "publication rotogravure, product and packaging rotogravure, or wide-web flexographic printing presses," "product and packaging rotogravure, or wide-web flexographic printing presses," "inks, coatings, varnishes, adhesives, primers, solvents, thinners, reducers and other materials" and "solvent, thinner, reducer, diluent or other nonsolids containing material." It appears that these last two terms may comprise, in whole or in part, the terms "solids-containing materials" and "nonsolids-containing materials" which are used extensively in the rule but not defined. Would the definition and more consistent use of these last two terms allow for their substitution for the two lists of materials?

c. In s. NR 466.01 (1) (c) and (d), the parenthetical notations should be replaced by commas. [See, also, s. NR 466.02 (9).]

d. Section NR 466.015 (3) (intro.) should be rewritten as follows: "Each product and packaging rotogravure or wide-web flexographic printing affected source at a facility that is a

major source of HAP is subject to the requirements of ss. NR 466.11 (5) and 466.12 (2) (a) if, on or after the applicable compliance date specified in s. NR 466.08, the source complies with either of the following criteria:".

e. In the last sentence of s. NR 466.015 (4), the words "does meet" should be replaced by the word "meets."

f. In s. NR 466.02 (intro.), the second sentence should be deleted and the material should conclude with the phrase "In this chapter:".

g. In s. NR 466.02 (2), the notation "e.g." should be replaced by the phrase "for example." [See ss. NR 466.06 (4) (a) 2. a., 466.07 (4) (a) 2. c. and 466.12 (2) (f).]

h. The last two sentences of the definition of "rotogravure print station" should either be omitted or placed in a note. [See, also, s. NR 466.02 (9).]

i. The second sentence of the definition of "stand-alone coating equipment" should begin with the phrase "Stand-alone coating equipment includes equipment that does any of the following:". The remainder of that sentence should be broken into three paragraphs. The last sentence of that definition should be placed in a note.

j. The definitions in s. NR 466.03 appear to be inconsistent in the use of the terms "solids-containing material," "ink or other solids-containing material" and "ink or other material." Are these terms distinct and is the usage of these terms in that section correct?

k. The symbols "i" and "j" are not defined in s. NR 466.03, although they are used elsewhere in the chapter. It is not clear to the reader whether their meaning as used in the chapter is clear without definition.

l. The term "mass flow rate," used in s. NR 466.03 (22) is not defined. Is it a term of art known in the industry or should it be defined?

m. The symbols used in s. NR 466.03 (41) are not defined. (Actually, the symbol "K" is defined in s. NR 460.03, but differently from the way it is used in this provision.) The phrase "at 293 K and 760 mmHg" should be replaced by the phrase "at standard conditions."

n. Section NR 466.05, as written, is simply a statement of fact, not a substantive provision, and as such should be placed in a note. However, if the department wishes to make this a substantive provision, it could be reworded as follows: "General provisions of ch. NR 460 apply to owners and operators of affected sources subject to this chapter as indicated in ch. NR 460 Appendix KK." However, such a provision is not necessary and a note explaining this would suffice. The same comment applies to s. NR 466.11 (1). Section NR 466.12 (1) is similar, but differs in that that section applies additional provisions of ch. NR 460 to facilities subject to ch. NR 466. Section NR 466.12 (1) could be reworded as follows: "Except as provided in this section, the reporting requirements of ch. NR 460 apply to owners and operators of affected sources subject to this chapter as identified in ch. NR 460 Appendix KK." It may be

advisable to modify ch. NR 460 Appendix KK to also indicate that the provisions listed in that appendix are not the only ones that bear upon ch. NR 466.

o. Section NR 466.06 (1) is redundant with s. NR 466.08, and should be omitted. However, if it is retained, the phrase "these requirements" should be replaced by the phrase "this section." The same comment applies to s. NR 466.07 (1).

p. Section NR 466.07 (7) should be numbered as a paragraph. The remaining paragraphs and cross-references should be renumbered accordingly. [See, also, s. NR 466.10 (intro.).]

q. Section NR 466.08 should be rewritten in the active voice. For example, sub. (1) should read: "The owner or operator of an existing affected source subject to the provisions of this chapter shall comply with the provisions of this chapter on or before May 30, 1999."

r. In s. NR 466.09 (4) (intro.), it appears that the word "requirement" should be replaced by the word "requirements."

s. Section NR 466.09 (4) (b) implies but does not explicitly state that tests must be performed under representative conditions. This should be stated more clearly.

t. Section NR 466.10 (intro.) states that any excursions from the required operating parameters are considered a violation, "unless otherwise excused." It does not, however, explain in any way how such excursions would be excused. This should be clarified and elaborated. Also, the choice of the word "excursion" in this sentence is interesting, but not quite precise; the word "deviation" would be a better choice.

u. The format of s. NR 466.12 (2) (a) and (e) is incorrect. Either the introduction should be numbered as a subdivision or the two subdivisions should be collapsed into a single paragraph along with the introduction.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Section NR 466.09 (1) (intro.) should include a cross-reference to the provisions creating a requirement for an initial performance test, to identify the test referred to in that section.

b. Section NR 466.11 (2) (a) should include a cross-reference to the standard referred to in that section.

c. In s. NR 466.11 (3), should the final cross-reference be a reference to s. NR 460.09 (2) (a)?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. NR 466.02 (21) (c), the word "and" should be inserted before the word "point."

b. In s. NR 466.03 (2), it appears that the comma following the word "content" should be omitted.

c. In s. NR 466.03 (9), a comma and the word "expressed" should be inserted after the word "device."

d. The use of the notation "e.g." in s. NR 466.06 (4) (a) 2. a. is confusing. Does it mean that the material that follows is one example of how to comply with that subdivision paragraph? In that case, what other methods are allowable? Also, the second occurrence of the words "such that" should be replaced by the word "and."

e. In s. NR 466.07 (4) (a) 1., the words "and every" should be omitted.

f. In s. NR 466.07 (7) (title), a hyphen should be inserted between the words "never" and "controlled."

g. The last sentence of s. NR 466.07 (7) (e) should be rewritten as follows: "For purposes of a determination under this paragraph, the organic HAP emitted from an uncontrolled press shall be considered to be equal to the organic HAP applied on that press."

h. In s. NR 466.07 (9) (c), a comma should be inserted after the word "appropriate."

i. In s. NR 466.08 (2), what is the point of including the reference to May 30, 1996, which is already past? In general, dates should be used rather than the vague and undefined terms "existing" and "new." [See, also, s. NR 466.12 (2) (a) 1.] Also, in sub. (3), what does the term "reconstruction" mean?

j. In s. NR 466.09 (2) (c), if the department means to refer only to circumstances in which the method 311 test value is greater than the value determined using formulation data, the rule should state that directly and omit the general language about any inconsistency between the determinations. This comment does ***not*** appear to apply to the otherwise similar language in s. NR 466.09 (3) (c).

k. Section NR 466.10 (3) is unclear. The second sentence should end at the semicolon and the remaining portion of that sentence should become the beginning of the following sentence, stating: "The owner or operator shall replace the chart recorder, data logger or temperature indicator if either . . . ."

l. In s. NR 466.10 (4), either the last occurrence of the word "the" should be omitted or the words "control device" should be inserted after that word.

m. In s. NR 466.10 (5) (a) and (b), the phrase "whichever is greater" is unclear. Does this mean whichever indicates the greater level of accuracy or whichever gives the larger numerical value? Since these two interpretations give opposite results, this provision should be clarified.

n. In s. NR 466.10 (6) (a) (intro.), a comma should be inserted after the word "operator."

o. In s. NR 466.11 (5) (c), the comma following the word "years" should be moved, to precede the word "upon."

p. Section NR 466.12 (2) (intro.) should end with a colon.

q. Section NR 466.12 (2) should be clarified to indicate when reports are due. For example, "once every six-month period" in par. (f) is no clearer than "on a semi-annual basis." How is the six-month period determined?