

Report From Agency

REPORT TO LEGISLATURE

NR 466, Wis. Adm. Code
National emission standards for hazardous air pollutants for paper
and other web surface coating processes

Board Order No. AM-08-07
Clearinghouse Rule No. 07-045

Basis and Purpose of the Proposed Rule

Section 112 of the Clean Air Act requires that the U.S. Environmental Protection Agency (EPA) promulgate emission standards for all categories of major sources of hazardous air pollutants (HAP). Major sources are defined as those having the potential to emit at least 10 tons per year of any single HAP or 25 tons per year of any combination of HAPs. The proposed rule will regulate the emissions of hazardous air pollutants from facilities which are major sources of federal HAPs and which conduct surface coating of paper and other web (affected sources). These include facilities which manufacture the following products: pressure-sensitive tapes and labels, flexible vinyl, photographic film, decorative and industrial laminates, abrasive products, and specialty papers. The rule specifies emission limits for organic HAP and operating limits for emission control devices.

Existing affected sources had until December 5, 2005 to achieve compliance with the federal rule. Thus, all existing sources must be in compliance by now. New or reconstructed affected sources must achieve compliance "immediately upon start-up". Sources have until their final compliance date to reduce HAP emissions below the major source level and thereby avoid the rule. Sources may also become a synthetic minor HAP source to avoid the rule by obtaining and complying with the federally enforceable permit that restricts HAP emissions prior to the final compliance date.

Affected sources may use various compliance options. These include the use of compliant coating materials (i.e., low-HAP coatings), capture systems and control devices, solvent recovery systems, etc. To demonstrate compliance, sources may document that uncontrolled HAP emissions are below the emission limits for the compliance coating option or conduct performance testing on capture systems and control devices. Sources may use continuous monitoring systems to track and document emissions and operating parameters. Affected sources must maintain continuous compliance with the emission limits and operating limits.

Affected sources must notify the Department that they are affected sources. Affected sources must also submit the notification of compliance status and semiannual compliance reports, including any deviations from emission limits or operating limits. Affected sources must also develop a startup, shutdown and malfunction plan.

The proposed rule is identical to the federal NESHAP, except for punctuation, capitalization, numbering and non-substantive wording and organizational changes made to accommodate state rule form and style requirements and, in some cases, to improve clarity.

Summary of Public Comments

The Wisconsin Paper Council submitted eight comments, six of which were non-substantive comments about typos, incorrect references, minor discrepancies between federal and state language, etc. The Wisconsin Paper Council also asked us to include the federal definition of "day" in the rule. The federal

definition refers to a “a consecutive 24-hour period” while the state definition adds the phrase “beginning at midnight”. According to the Paper Council, the state reference to “beginning at midnight” causes problems for mills that operate 24 hours per day and have a different start time for other purposes.

The Paper Council also recommended that the Department adopt federal MACT standards by reference. In response, the Department is required by s. 285.27(2)(a), Stats., to promulgate the MACT rules into the Wisconsin Administrative Code. Therefore, the Legislature would have to change the law to allow us to adopt federal MACT standards by reference. Such action is beyond the scope of the state rule being promulgated.

Modifications Made

The federal definition of “day” was added to the proposed rule.

Appearances at the Public Hearing

No one appeared at the public hearing.

Changes to Rule Analysis and Fiscal Estimate

None were required.

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

Since the proposed rule is required by law to be identical to the existing federal rule, the Department has no flexibility to make any substantial changes to the proposed rule. Because all affected sources must comply with the federal rule, the proposed state rule will have no additional adverse economic impact on small businesses or any other affected source.

A. Identify and discuss why the rule includes or fails to include any of the following methods for reducing the impact on small business.

1. Less stringent compliance or reporting requirements.

The federal rule does not provide for less stringent requirements for small sources, and, by statute, the department is prohibited from altering the federal requirements. It should be noted that a variety of compliance options are available within the rule for all sources.

2. Less stringent schedules or deadlines for compliance or reporting requirements.

Schedules and deadlines for compliance and reporting requirements are identical for all affected sources.

3. Consolidation or simplification of compliance or reporting requirements.

The proposed rule allows sources with Title V permits to combine their periodic NESHAP compliance reports with their Title V compliance reports, and the source’s permit application may be used in lieu of the initial notification required by the proposed rule.

4. The establishment of performance standards in lieu of design or operational standards.

The proposed rules establish emission limits and operating limits.

5. The exemption from any or all requirements of the rule.

The proposed rule applies only to major sources of hazardous air pollutant (HAP) emissions. Major sources are sources which emit, or have the potential to emit, 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAPs. Applying the rule only to major sources has the same effect as exempting minor sources. Most small businesses are not major sources of HAP emissions, and would thus be exempt from the rule.

- B. Summarize the issues raised by small business during the rule hearings, any changes made in the proposed rule as a result of alternatives suggested by small business and the reasons for rejecting any alternatives suggested by small business.

No businesses, small or large, appeared at the public hearing. No issues were raised by small businesses during the public comment period.

- C. Identify and describe any reports required by the rule that must be submitted by small business and estimate the cost of their preparation.

Semiannual Compliance Reports - Documentation of ongoing compliance submitted twice per year.

Startup, Shutdown, and Malfunction Reports – These are required of an affected source only if the affected source uses a control device for compliance and only when the source has a startup, shutdown, or malfunction and takes actions that are not consistent with the source's startup, shutdown, and malfunction plan. This report must be submitted in writing to the department.

Performance Test Reports – Provide the results of performance tests. In addition, all affected sources must submit an initial notification that they are affected sources, notifications of performance tests, and a notification of compliance status.

US EPA has estimated monitoring, reporting, and recordkeeping costs for this rule to be about \$14,000 per year per facility. These costs are all incurred while complying with the existing federal regulation. The proposed state regulation will not result in any additional costs to the affected sources beyond what they already pay to comply with the federal regulation.

- D. Identify and describe any measures or investments that small business must take to comply with the rule and provide an estimate of the associated cost.

No compliance costs for small businesses have been estimated by DNR or EPA. As stated above, any costs are incurred in order to comply with the existing federal regulation. The proposed state regulation will not result in any additional costs to the affected sources beyond what they already pay to comply with the federal regulation.

- E. Identify the additional cost, if any, to the state in administering or enforcing a rule which includes any of the methods listed in A.

Some of the methods listed in A are already included in the proposed rule. Also, Wisconsin statutes require the Department to adopt the federal language as is and do not allow significant changes that would make the rules more or less stringent for any sources.

- F. Describe the impact on public health, safety and welfare, if any, caused by including in the rule any of the methods listed in A.

Same answer as for E above.