

source would have been required to meet under sub. (2), (3), (4) or (6) if it had been constructed or modified prior to the date specified in the effective date table.

(9) LEATHER COATING. (a) This subsection applies only to a leather coating facility in existence on January 1, 1994 and:

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

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) 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 (100) 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 standard 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. 144.31 (2) (b) and 144.423, 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 (100) 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) 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:

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; and

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) MISCELLANEOUS FACILITIES. (a) This subsection applies only to a facility which is in existence on January 1, 1994 and which:

1. Prior to January 1, 1994 was exempt from the requirements of ss. NR 422.04 to 422.15 under ss. NR 422.03 (1) or (2), or

2. Is located in the county of Door or Kewaunee and which 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), or

3. Is located in the county of Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha and which prior to January 1, 1994 was exempt from the requirements of s. NR 422.14 under s. NR 422.03 (4), or

4. 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, or

5. Prior to January 1, 1994 was exempt from the requirements of s. NR 422.15 under s. NR 422.15 (1) (e), (g) or (j), or

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

7. Prior to January 1, 1994 was exempt from the requirements of s. NR 423.03 (3) or (6) under s. NR 423.03 (2) (a) 1 or (f).

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

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; or

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; or

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 of the U.S. environmental protection agency 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 of the U.S. environmental protection agency 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 of the U.S. environmental protection agency 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 be federally enforceable January 1, 1995.

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)

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(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.

NR 425.035 Throughput reporting and compliance schedules for motor vehicle fueling. (1) APPLICABILITY. This section applies only to owners or operators of gasoline dispensing facilities which are subject to s. NR 420.045.

(2) **THROUGHPUT REPORTING.** The owner or operator of a gasoline dispensing facility which is in operation prior to January 1, 1993, shall submit a report to the department by March 1, 1993, which contains all of the following:

- (a) The facility owner and operator;
- (b) The facility address, including county;
- (c) The date on which the last construction or modification of the facility was completed;
- (d) The quantity of gasoline, in gallons, dispensed at the facility for each month of the calendar years 1991 and 1992;
- (e) Any period of time during the calendar years 1991 and 1992 when the gasoline dispensing facility was not operating; and
- (f) Certification that the owner of the gasoline dispensing facility is an independent small business marketer if the owner claims exemption from the requirements of s. NR 420.045 by use of s. NR 420.045 (1) (d).

(3) **COMPLIANCE SCHEDULES.** (a) The owner or operator of a gasoline dispensing facility on which construction or physical modification commenced on or after May 15, 1993, shall do all of the following:

1. Submit a compliance plan to the department at least 60 days prior to start of construction or modification of the vapor recovery system. The compliance plan shall contain, at a minimum, all of the following:

- a. Facility name.
- b. Facility owner and operator, if different from that previously reported under sub. (2).
- c. Facility employe designated to serve as a contact person regarding the vapor recovery system.
- d. Facility address including county.
- e. Number of dispensers and gasoline dispensing nozzles.
- f. Type of vapor recovery system which is proposed for installation at the facility, including California air resources board certification number.
- g. Date the vapor recovery system is expected to be installed.

2. Notify the department at least 5 working days before construction or modification of the vapor recovery system begins.

3. Achieve final compliance with s. NR 420.045 before startup and initial operation of any new or modified vapor recovery system.

Note: Operation of a vapor recovery system for the sole purpose of confirming that the system is operating properly is allowed before the system must be in compliance with s. NR 420.045.

4. Submit a certification of compliance to the department within 45 days of initial operation of the vapor recovery system. The certification of compliance shall contain, at a minimum, all of the following:

a. Facility name.

b. Facility address.

c. Type of vapor recovery system which has been installed, including California air resources board certification number.

d. The date the vapor recovery system began operation.

e. Results of testing required under s. NR 420.045 (7).

f. Copies of the maintenance logs required under s. NR 420.045 (8) (b) for the first 4 weeks of system operation.

(b) The owner or operator of a gasoline dispensing facility on which construction or last modification commenced on or after November 15, 1990, but before May 15, 1993, shall comply with all of the following:

1. Submit a compliance plan to the department which contains, at a minimum, the information required under par. (a) 1 by March 1, 1993.

2. Achieve final compliance with s. NR 420.045 no later than May 15, 1993.

3. Submit a certification of compliance to the department which contains, at a minimum, the information required under par. (a) 4, by July 1, 1993.

(c) The owner or operator of a gasoline dispensing facility on which construction or last modification commenced before November 15, 1990, and which dispensed more than 100,000 gallons of gasoline per month, on average, for the 24 months immediately preceding January 1993, shall comply with all of the following:

1. Submit a compliance plan to the department which contains, at a minimum, the information required under par. (a) 1 by May 1, 1993.

2. Achieve final compliance with s. NR 420.045 no later than November 15, 1993.

3. Submit a certification of compliance to the department which contains, at a minimum, the information required under par. (a) 4 by January 1, 1994.

(d) The owner or operator of a gasoline dispensing facility on which construction or last modification commenced before November 15, 1990, and which dispensed 100,000 gallons of gasoline or less per month, on average, for the 24 months immediately preceding January 1993, shall comply with all of the following:

1. Submit a compliance plan to the department which contains, at a minimum, the information required under par. (a) 1 by May 1, 1994.

2. Achieve final compliance with s. NR 420.045 no later than November 15, 1994.

3. Submit a certification of compliance to the department which contains, at a minimum, the information required under par. (a) 4 by January 1, 1995.

(e) The owner or operator of a gasoline dispensing facility which becomes subject to the requirements of s. NR 420.045 because of s. NR 420.045 (1) (e) shall comply with all of the following:

1. Submit a compliance plan to the department which contains, at a minimum, the information required under par. (a) 1 no later than the first day of the third month after the 24 month averaging period in which the facility exceeded the throughput levels established in s. NR 420.045 (1) (c) or (d);

2. Achieve final compliance with s. NR 420.045 no later than the first day of the ninth month after the 24 month averaging period in which the facility exceeded the throughput levels established in s. NR 420.045 (1) (c) or (d); and

3. Submit a certification of compliance to the department which contains, at a minimum, the information required under par. (a) 4 within 45 days of the final compliance date established in subd. 2.

History: Cr. Register, January, 1993, No. 446, eff. 2-1-93.

NR 425.04 Exceptions, registrations and non-ozone season allowances.
(1) **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) and sub. (2), the requirements of chs. NR 419 to 425 do not apply to the use or application of insecticides, pesticides or herbicides or to the use or emission of trichlorotrifluoroethane (CFC-113), ethane, methane, methylene chloride or methyl chloroform.

(2) **REGISTRATION OF CERTAIN SOLVENTS.** Any person operating a source which has total combined emissions of methylene chloride and methyl chloroform in excess of 0.50 tons in a calendar year shall register the solvent use with the department by February 1 of the year following such use.

(3) **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. 144.31 (2) (b) and 144.423, Stats., authorize a source not in compliance with an emission Register, December, 1993, No. 456

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.

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) **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 of the U.S. environmental protection agency 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.

NR 425.05 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) **SOURCE-SPECIFIC SIP REVISION.** (a) *Eligibility.* The department may, by order issued under s. 144.31 (2) (b), Stats., approve an application made under this subsection only if:

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); and

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

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; and

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; and

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:

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

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 "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 ch. NR 484; and

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 of the U.S. environmental protection agency 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:

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

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 "Emissions Trading Policy Statement; Register, December, 1993, No. 456

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:

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; and

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) **GENERIC INTERNAL OFFSETS.** (a) *Eligibility.* The department may, by order issued under s. 144.31 (2) (b), Stats., approve an application made under this subsection only if:

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; and

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; and

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:

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

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

$$E = Y \left[\frac{A_1 B_1 C_1}{D_1} + \frac{A_2 B_2 C_2}{D_2} + \dots + \frac{A_n B_n C_n}{D_n} \right]$$

where E = 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} = 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} = the amount of coating material or ink in liters (gallons), delivered to the applicator during the actual production day, C_{1,2, . . . n} = volume fraction of solids in the coating or ink, delivered to the applicator

during the actual production day, and $D_{1,2, \dots, n}$ = 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:

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

where $P_{1,2, \dots, n}$ = 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 VOCs, 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; and

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) **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. 144.31 (2) (b), 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:

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

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

(4) **ENFORCEABILITY.** The emission limitations and conditions of any approval issued under this section are enforceable under s. 144.426, 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.