**§ 100.22 Definition of ''significant upgrade or major modification.''**

(a) For equipment, facilities or services for which an upgrade or modification has been completed after January 1, 1995 and on or before October 25, 1998, the term ''significant upgrade or major modification'' means any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility or service, that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute;

(b) For equipment, facilities or services for which an upgrade or modification is completed after October 25, 1998, the term ''significant upgrade or major modification'' means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal statute.

Dated: April 13, 1998.

**Louis Freeh,**

*Director, Federal Bureau of Investigation, Department of Justice.*

[FR Doc. 98–10928 Filed 4–27–98; 8:45 am]

BILLING CODE 4410–02–M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[WI76–01–7305; FRL–6004–7]**

## Approval and Promulgation of State Implementation Plans; Wisconsin

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Environmental Protection Agency (USEPA) is proposing to disapprove a site-specific volatile organic compound (VOC) reasonably available control technology (RACT) State Implementation Plan (SIP) revision for the Amron Corporation facility located at 525 Progress Avenue in Waukesha. The SIP revision was submitted by the Wisconsin Department of Natural Resources (WDNR) on February 21, 1997, and would exempt the facility from the emission limits applicable to miscellaneous metal coating operations.

**DATES:** Comments on this proposed rule must be received before May 28, 1998.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–1767.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On February 21, 1997, WDNR submitted a site-specific VOC RACT SIP revision for the Amron Corporation facility located at 525 Progress Avenue in Waukesha. Amron manufactures several different kinds of projectiles for a United States Department of Defense (DOD) contractor. Amron's work is exclusively DOD contracts.

The Amron facility is located in the Milwaukee severe nonattainment area and is subject to rule NR 422.15 of the Wisconsin Administrative code, which regulates miscellaneous metal coating operations. NR 422.15 has been approved by the United States Environmental Protection Agency (USEPA) as meeting the RACT requirements of the Clean Air Act (Act).

Specifically, under NR 422.15(2)(a) and (b), when coating miscellaneous metal parts or products using a baked or specially cured coating technology, Amron may not exceed 4.3 pounds of VOC per gallon of coating as applied for clear coats and 3.5 pounds of VOC per gallon of coating as applied for extreme performance coatings. Under NR 422.15(3)(c), when coating miscellaneous metal parts or products using an air dried coating technology, Amron may not exceed 3.5 pounds of VOC per gallon for clear coatings.

### II. Facility and Process Description

As noted above, Amron manufactures several different kinds of projectiles for the DOD. Process P01 at Amron is the paint operation which encompasses five different lines for coating numerous types and shapes of military items, including the 25mm cartridge case, the M430/M918TP, the M67/M69, the M56A4, and the M75 and M73 rockets. As a contractor to the DOD, Amron is required to use certain paints which are specified by the military. Each coating was specified by DOD for its unique characteristics.

Exterior projectile coatings must protect against corrosion, provide color identification and not chip, flake or rub off. Exterior cartridge case coatings must protect against corrosion, provide a low co-efficient of friction surface for feeding and extraction, as well as not chip or rub off. Interior and exterior cartridge or projectile coatings must protect against corrosion, provide a friction-free surface between the steel body and high explosives during loading, and be chemically compatible with the high explosives.

Below is a table listing the coatings used by Amron for the various projectiles.

| Product | Description | Type | Military specification | VOC lb/gal |
|---|---|---|---|---|
| 25MM | Olive Drab | Polyamide-Amide Teflon | 12013517 | 6.4 |
| M430/M918 | Red Oxide Primer | Alkyd | MIL–P–22332 | 4.52 |
| | Olive Drab Lacquer | Cellulose Nitrate | MIL–L–11195 | 4.94 |
| | Blue Lacquer | Cellulose Nitrate | MIL–L–11195 | 4.94 |
| M67 | Red Oxide Primer | Alkyd | MIL–P–22332 | 4.52 |
| | Off-White Primer | Epoxy | MIL–P–53022 | 4.229 |
| | Green Zenthane | Polyurethane | MIL–C–53039 | 3.491 |
| M69 | Blue Lacquer | Cellulose Nitrate | MIL–L–11195 | (1) |
| M56A4 | Asphalt Type I | Asphalt | MIL–C–450C | 3.744 |
| | Yellow Lacquer | Cellulose Nitrate | MIL–L–11195 | 4.89 |
| | Red Lacquer | Cellulose Nitrate | MIL–L–11195 | 5.0 |
| M73 | Olive Drab Lacquer | Cellulose Nitrate | MIL–L–11195 | 4.94 |
| | Yellow Lacquer | Cellulose Nitrate | MIL–L–11195 | 4.89 |

| Product | Description | Type | Military specification | VOC lb/gal |
|---|---|---|---|---|
| M75 | Clear Lacquer & Blue Tint | Cellulose Nitrate | MIL–L–10287 | 5.07 |
| | Blue Lacquer | Cellulose Nitrate | MIL–L–11195 | (1) |
| | Brown Lacquer | Cellulose Nitrate | MIL–L–11195 | 4.92 |

[1] Unknown.

## III. RACT Evaluation

Amron hired a consultant to take bids for a catalytic oxidation unit, a regenerative oxidation unit and a regenerative catalytic oxidation unit. The cost ranged from $7,146 to $9,060 per ton to control one coating line and $9,909 to $18,657 per ton to control the five coating lines. USEPA agrees that the cost of add-on controls seems to be economically unreasonable.

Amron has written letters to its prime DOD contractor seeking permissible alternate coatings, but has received no reply. Therefore, Amron contends that it needs an exemption from RACT requirements for these painting operations. The variance submitted states that the VOC content of the coatings used for a DOD contract shall not exceed the DOD specification for that coating.

USEPA has reviewed the military specifications provided by Amron and has independently investigated the availability of alternate coatings. The coatings (above) used by Amron which are required to meet MIL–L–11195 (actually MIL–L–11195D) range from 4.89 to 5.0 pounds of VOC per gallon of coating. This military standard was replaced by MIL–E–11195E which specifies a VOC content of 3.5 pounds per gallon and would comply with RACT requirements. Amron should seek to modify its contract to allow for the use of coatings complying with the updated specification.

The off-white primer covered by specification MIL–P–53022 is listed as having a VOC content of 4.229 pounds per gallon. MIL–P–53022, however, requires coatings to meet a VOC content of 3.5 pounds of VOC per gallon. Amron has not explained this discrepancy. The clear lacquer and blue tint covered by MIL–L–10287 does not appear on the M73 drawing provided by Amron. The company should indicate where this coating is required so it will be possible to verify that no alternate specifications are allowed. Finally, for the polyamide-amide Teflon coating covered by specification 12013517, the red oxide primer covered by MIL–P–22332, and the asphalt coating covered by MIL–C–450C, as well as clear lacquer and blue tint coating covered by MIL–L–10287, Amron should, at a minimum, demonstrate that it has investigated other vendors and is using the lowest VOC content coating which meets the applicable military specification.

Furthermore, the variance is unacceptable because it provides Amron with no fixed applicable limits, and in most cases, no applicable limits at all. Granting the variance would give Amron no incentive to seek the lowest VOC content coating available. Also, while ''usage records'' are required, no time frame, e.g. daily, is specified.

For the reasons discussed above, USEPA is proposing to disapprove this SIP revision.

## IV. Miscellaneous

### *A. Applicability to Future SIP Decisions*

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

### *B. Executive Order 12866*

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

### *C. Regulatory Flexibility*

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. §§ 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

USEPA's disapproval of the State request under Section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities, because it does not remove existing requirements or impose any new Federal requirements.

### D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the disapproval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal disapproval action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result.

### *E. Small Business Regulatory Enforcement Fairness Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory 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 to the Comptroller General of the United States. Section 804, however, exempts from section 891 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). USEPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: April 15, 1998.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

[FR Doc. 98–11278 Filed 4–27–98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 69 and 80

**[FRL–5999–6]**

## State of Alaska Petition for Exemption From Diesel Fuel Sulfur Requirement

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On March 14, 1994, EPA granted the State of Alaska a waiver from the requirements of EPA's low-sulfur diesel fuel program for motor vehicles, permanently exempting Alaska's remote areas and providing a temporary exemption for areas of Alaska served by the Federal Aid Highway System. The exemption applied to certain requirements in section 211(i) and (g) of the Clean Air Act, as implemented in EPA's regulations. On December 12, 1995, the Governor of Alaska petitioned EPA to permanently exempt the areas covered by the temporary exemption. In this document, EPA is proposing to grant Alaska's petition for a permanent exemption for areas of Alaska served by the Federal Aid Highway System.

This proposed rulemaking, if finalized, is not expected to have a significant impact on the ability of Alaska's communities to attain the National Ambient Air Quality Standards for carbon monoxide and particulate matter, due to the limited contribution of emissions from diesel motor vehicles in those areas and the sulfur level currently found in motor vehicle diesel fuel used in Alaska. However, if circumstances change such that the exemption is no longer appropriate under Section 325 based on consideration of the factors relevant under that section, EPA could withdraw this exemption in the future after public notice and comment.

**DATES:** EPA will conduct a public hearing on today's proposal May 21, 1998, if one is requested by May 12, 1998. If a hearing is held, comments on this proposal must be submitted on or before June 22, 1998. If no hearing is held, comments must be submitted on or before May 28, 1998. For additional information on the public hearing see Supplementary Information.

**ADDRESSES:** Comments should be submitted in duplicate to Mr. Richard Babst, Environmental Engineer, Fuels Implementation Group, Fuels and Energy Division (6406–J), 401 M Street S.W., Washington, D.C. 20460.

*Public Hearing:* A public hearing, if held, will be at the Anchorage Federal Building, room 135, in Anchorage, Alaska.

*Docket:* Copies of information relevant to this petition are available for inspection in public docket A–96–26 at the Air Docket of the EPA, first floor, Waterside Mall, room M–1500, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548, between the hours of 8:00 a.m. to 5:30 p.m. Monday through Friday. A duplicate public docket has been established at EPA Alaska Operations Office—Anchorage, Federal Building, Room 537, 222 W. Seventh Avenue, #19, Anchorage, AK 99513–7588, and is available from 8:00 a.m. to 5:00 p.m. Monday through Friday. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Babst, Environmental Engineer, Fuels Implementation Group, Fuels and Energy Division (6406–J), 401 M Street S.W., Washington, D.C. 20460, (202) 564–9473.

**SUPPLEMENTARY INFORMATION:**

### Public Hearing Information

Anyone wishing to testify at the public hearing scheduled for May 21, 1998, should notify Richard Babst by telephone at (202) 564–9473, by fax at (202) 565–2085, or by Internet message at babst.richard@epa.gov. If the above contact person fails to receive any requests for testifying on this proposal by May 12, 1998, the hearing will be canceled without further notification. Persons interested in determining if the hearing has been canceled should contact the person named above after May 12, 1998.

The public hearing, if held, will begin at 9:00 a.m and continue until all interested parties have had an opportunity to testify. A sign-up sheet will be available at a registration table the morning of the hearing for scheduling testimony for those who have not previously notified the contact person listed above. Testimonies will be scheduled on a first come, first serve basis. EPA suggests that approximately 25 to 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing in order to give EPA staff adequate time to review the material before the hearing. Such advance copies should be submitted to the contact person listed above.

The hearing will be conducted informally and technical rules of evidence will not apply. Because a public hearing is designed to give interested parties an opportunity to participate in the proceeding, there are no adversary parties as such. Statements by participants will not be subject to cross examination by other participants. A written transcript of the hearing will be placed in the public docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding. The EPA Presiding Officer is authorized to strike from the record statements which he deems irrelevant or repetitious and to impose reasonable limits on the duration of the statement of any witness. EPA asks that persons who testify attempt to limit their testimony to ten minutes, if possible.

The Administrator will base her final decision with regard to Alaska's petition for exemption from the diesel fuel sulfur content requirement on the record of the public hearing, if held, and on any other relevant written submissions and other pertinent information. This information will be available for public inspection at the EPA Air Docket, Docket No. A–96–26 (see **ADDRESSES**). For more information on public participation, see **SUPPLEMENTARY INFORMATION:** VII. Public Participation.

**Table of Contents**

I. Regulated Entities
II. Electronic Copies of Rulemaking Documents
III. Background
IV. Petition for Exemption
V. Comments Received and Other Issues
VI. Decision for Permanent Exemption
VII. Public Participation
VIII. Statutory Authority
IX. Administrative Designation and Regulatory Analysis
X. Compliance With the Regulatory Flexibility Act
XI. Paperwork Reduction Act
XII. Unfunded Mandates Act

### I. Regulated Entities

Entities potentially regulated by this action are refiners, marketers, distributors, retailers and wholesale purchaser-consumers of diesel fuel for