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SUBMITTED ELECTRONICALLY

February 24, 2021

Maria Hill, P.E.
Compliance, Enforcement & Emission Inventory Section Chief
Bureau of Air Management
Wisconsin DNR
101 S. Webster St.
Madison, WI 53703

SUBJECT: Waupaca Foundry, Inc. Comments on Next Business Day Deviation Reporting Air Program Memo Guidance (February 9, 2021)

Dear Ms. Hill,

Attached please find Waupaca Foundry, Inc. (WFI) comments on the draft guidance document dated February 9, 2021 regarding the department's understanding of the next business day deviation (NDD) requirements in ch. NR 439, Wis. Adm. Code. WFI appreciates the opportunity to comment on this guidance document, and offers ourselves for any follow-up discussion with Department staff to ensure the publication of the most appropriate document that provides functional clarity to the regulated community.

As noted within the guidance memo, NR 439.03(4) currently states:

NR 439.03(4) Reporting.

(a) The owner or operator of a source shall report to the department the next business day following the onset, any malfunction or other unscheduled event at the source, not reported in advance to the department, which causes or may cause any emission limitation, including the visible emission limit, to be exceeded with the following exceptions:

1. Hazardous air spills that require immediate notice to the department under s. NR 445.16.

2. Exceedances of visible emission limitations detected by a continuous emission monitor which are less than 10% opacity above the opacity limit for a period not to exceed 30 minutes. These exceedances shall be reported in the quarterly excess emissions reports required under s. NR 439.09 (10).

(b) The person shall report the cause and duration of the exceedance, the period of time considered necessary for correction, and measures taken to minimize emissions during the period.

(c) The owner or operator of a source which has been issued an operation permit shall report to the department by the next business day any deviation from permit requirements, the probable cause of the deviation, and any corrective actions or preventive measures taken or which will be taken to prevent future deviations.

Reporting of Section NR 439.03(4)(a) circumstances appear to be clearly relevant in appropriate WDNR - regulated facility communications, as are any Section NR 439.03(4)(c) instances which may be reasonably expected to transition to a Section NR 439.03(4)(a) reporting event. However, of particular concern and the focus of WFI's comments are the practical challenges in applying NDD for Section NR 439.03(4)(c) occurrences which do not pose a reasonable potential of excess emissions.

In order to comply with an issued operation permit, facilities may log thousands (or more) of data points daily from applicable equipment. As it is difficult for facility staff to monitor every value daily, data collection systems are typically configured to provide an automated flag of a parametric value which appears to be of concern, or data is organized via a summary report which is generated (weekly, monthly) for review. These data systems have been proven to be highly effective in satisfying the requirements for semiannual monitoring and certification submittals, where data can be reviewed to confirm the status of compliance with the primary deadline consisting of the timely submittal of the next semiannual report. The difficulty in reviewing collected data for deviations or other anomalies has been recognized by U.S. EPA in their decision to require the submission of semiannual monitoring reports 60 days after the end of a reporting period.

NDD, as represented by the guidance memo with its significantly reduced review period, poses logistical challenges in practice. Relatively common during the review of facility data is the need to gather additional information to understand the context of a suspected deviation. After a thorough review of all information, it is a common experience to determine that potential deviations are in fact not deviations at all. Some examples follow:

- A facility may identify a loss of monitoring data in a primary parametric monitoring system. Subsequent review (often requiring more than 24 hours due to the complexity of information technology systems) identifies that the "missing" data has been retained in a secondary monitoring system and is available for compliance demonstration. The initial indication of a deviation has been invalidated and deviation reporting is not required.

- An operating permit requires the completion of specific maintenance tasks on a scheduled basis. Initial review suggests that a required maintenance activity may not have been completed at the required interval. Subsequent review, often requiring more than 24 hours due to maintenance workflow and the normal lag between the completion of an activity and the task being Teco'd (meaning the time of documentation closure or technical completion of the production/process order in a business management software such as SAP), identifies that the "missing" task is completed but not yet formally closed. The initial indication of a deviation has been invalidated and deviation reporting is not required.

- An operating permit requires the monitoring of a parameter in which an initial review suggests a monitoring device has failed and data not captured. Subsequent review confirms that the

facility permit allows the use of an approved alternative monitoring parameter in which data for the time period is available. The initial indication of a deviation has been invalidated and deviation reporting is not required.

Beyond the examples provided, a number of additional scenarios can be shared which cumulatively demonstrate the significant difficulty in collecting (within a 24 hour period) all of the required information necessary to issue an accurate compliance determination.

Additionally, it is common in modern parametric monitoring to identify a system parameter which begins to drift out of range but is immediately identified and followed by nearly instantaneous corrective measures, resulting in the return of the system to normal operation within minutes. Such instances are representative of the strength of corrective action response at a regulated facility with a mature compliance program. With such events reported via regular semiannual monitoring and certification reports, it is difficult to ascertain the value in reporting such events twice to Department staff. Historically, NDD reporting of these types of incidences was not desired by many Department staff, with enforcement discretion advised and exercised as appropriate.

While NDD reporting is considered by WFI to be redundant and unnecessary for many Section NR 439.03(4)(c) occurrences, it is requested that the Department consider the issues noted above and modify the guidance to allow, at a minimum, additional time for the regulated community to perform these compliance determinations, or alternatively clarify that the trigger for NDD reporting occurs after a deviation event has been identified, vetted and confirmed.

(Note: The basis for Section NR 439.03(4)(c) is not understood by much of the regulated community as the corresponding Federal Rule mandates reporting of deviations as infrequently as once every 6 months. WFI would support an effort to better address this concern via a revision to NR 439.03(4)(c) to provide consistency with the Federal Rule.)

Thank you for your review of these comments.

Respectfully submitted,

Bryant Esch

Director of Environmental Engineering

Waupaca Foundry, Inc.