

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARING
AM-23-08

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.11(2)(a) and 285.11(1) and (6), Stats., interpreting ss 227.11(2)(a), 227.14(1m)(b), 285.11(1) and (6), Stats, the Department of Natural Resources will hold a public hearing on creating and amending rules in ss. NR 421.07 and 439.075, Wis. Adm. Code, relating to the application of reasonably available control technology for volatile organic compound emissions from certain operations within the synthetic organic chemical manufacturing industry. The State Implementation Plan developed under s. 285.11(6) , Stats., is revised.

NOTICE IS HEREBY FURTHER GIVEN THAT the hearing will be held on:

January 28, 2009
Wednesday
at 1:30 P.M.

Rooms 140 – 141
DNR Southeast Region Headquarters
2300 North Dr. Martin Luther King Jr. Drive
Milwaukee

NOTICE IS HEREBY FURTHER GIVEN THAT the proposed rule and supporting documents, including the fiscal estimate may be viewed and downloaded at <http://adminrules.wisconsin.gov> (Use the Search tab at the top of the page and search for AM-23-08). If you do not have Internet access, a personal copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge from Robert Eckdale, Rules Coordinator, DNR, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266-2856.

Comments on the proposed rule must be received on or before Monday, February 9, 2009. Written comments will have the same weight and effect as oral statements presented at the public hearing. Written comments and questions on the proposed rules may be submitted to William Adamski at:

DNR, Bureau of Air Management (AM7), 101 S Webster St, Madison, WI 53703

Phone: 608 266-2660

Fax: 608 267-0560

E-mail: William.Adamski@wisconsin.gov

Internet: <http://adminrules.wisconsin.gov>

NOTICE IS HEREBY FURTHER GIVEN, that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have an effect on small businesses. As the position of Small Business Regulatory Coordinator is currently vacant you may contact Robert Eckdale by E-mail at Robert.Eckdale@wisconsin.gov or by phone at 608 266-2856 if you have questions on the impact of these rules on small businesses.

Related statute or rules: Several sections of the proposed rule reference similar federal requirements for the same emission source categories as New Source Performance Standards (NSPS) adopted by the Department in ss. NR 440.675, 440.868 and 440.705, Wis. Adm. Code. These references are used because many of the federal control requirements necessary in the proposed rule are identical to the NSPS requirements.

Plain language analysis: Section 182(b)(2) of Clean Air Act requires implementation of reasonably available control technology (RACT) for sources of volatile organic compounds (VOC) emissions in moderate and worse ozone nonattainment areas, for which EPA has published Control Technology Guidelines (CTGs – “guidance”).

These requirements include that Wisconsin promulgate VOC RACT rules which are based on EPA guidance for facilities classified as synthetic organic chemical manufacturing industry (SOCMI) that have air oxidation or distillation and reactor processes. The DNR is proposing a VOC RACT rule that would regulate these SOCMI VOC emission categories in Wisconsin’s ozone nonattainment areas. Several

sections of the proposed rule reference identical federal requirements contained in the NSPS for these source categories, which the Department has already adopted into ch. NR 440, Wis. Adm. Code.

Summary of, and comparison with, existing or proposed federal regulation: The proposed rule will modify the Department's ozone state implementation plan (SIP) to meet the requirements of the federal Clean Air Act and to clarify other state requirements. Portions of the proposed rule reference similar federal requirements contained in the NSPS for these source categories, which the Department has adopted in ch. NR 440, Wis. Adm. Code.

Comparison with similar rules in adjacent states (Illinois, Iowa, Michigan and Minnesota): The proposed rule is based on requirements established in the federal Clean Air Act for states that have ozone nonattainment areas. Iowa and Minnesota have no ozone nonattainment areas. Illinois' requirements are similar to the proposed rule. Michigan has adopted the NSPS for SOCMI source categories into its own regulations.

Summary of factual data and analytical methodologies used and how any related findings support the regulatory approach chosen: The DNR has already adopted federal regulations that establish VOC emission control requirements for NSPS facilities classified as SOCMI air oxidation, distillation and reactor operations. Much of the EPA guidance that the DNR must follow in its proposed VOC RACT rulemaking for SOCMI facilities is identical to these federal regulations. Consequently, appropriate portions of the proposed SOCMI VOC RACT rule reference those portions of ch. NR 440, Wis. Adm. Code, that are identical to EPA RACT guidance.

Analysis and supporting documents used to determine the effect on small business or in preparation of an economic impact report: EPA's guidance for the SOCMI VOC controls does not include any discussion on the regulations potential impact on small business. It is not anticipated that the proposed rule will have an effect on small businesses. An economic impact report was not requested for the proposed rule.

Effect on small business: Any SOCMI facility would require a minimum of 100 tons VOC emissions per year (maximum theoretical) in order to be subject to the proposed rule. Any small business that is classified a SOCMI facility would likely not meet this relatively high emissions total criteria. Consequently, the proposed rule will likely have no effect on small businesses.

Agency contact person: Bill Adamski (608) 266-2660, William.Adamski@wisconsin.gov

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Robert Eckdale at 608 266-2856 with specific information on your request at least 10 days before the date of the scheduled hearing.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Matthew J. Frank, Secretary