

Report to
Legislative Council Rules Clearinghouse
NR 400, 419, 421, 422, 423, 439, and 484, Wis. Adm. Code
Natural Resources Board Order AM-44-10

Wisconsin Statutory Authority

Sections 227.11(2) (a) and 285.11 (1) and (6), Stats., interpreting s. 285.11(1) and (6), Stats.

Federal Authority

Section 172 (c) (1) and 182 (a) (2) (A) and (b) (2) of the federal Clean Air Act [42 USC 7502 (c) (1) and 7511a (a) (2) (A) and (b) (2)]

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

Reason For The Rule:

Section 182(b)(2) of the federal Clean Air Act (CAA) [42 USC 7511a(b)(2)] requires implementation of reasonably available control technology (RACT) for volatile organic compound (VOC) emission source categories in moderate or worse ozone nonattainment areas for which the U.S. EPA has published Control Techniques Guidelines (CTGs). In response to a March 17, 2008 notification from the U.S. EPA that the Department's VOC RACT rules were not consistent with certain CTGs, the Board adopted rules on March 25, 2009 with the intent of correcting the inconsistencies. The Bureau of Air Management understood that these rules would satisfy the federal requirements. However, on April 22, 2010, the U.S. EPA notified the Department that some inconsistencies remain in several VOC RACT rules.

Federally approved VOC RACT rules are required for Wisconsin's ozone state implementation plan (SIP) and are a prerequisite for redesignation of the state's remaining nonattainment areas for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The counties of Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha constitute the current ozone nonattainment areas. In addition to a delay in the redesignation of these counties, an incomplete SIP could result in federal sanctions, including withholding of federal highway funds and the potential implementation of a federal air management plan.

In order to avoid federal sanctions and ensure timely redesignation of the state's remaining ozone nonattainment areas, the Department is proposing rule revisions for a portion of the current synthetic organic chemical manufacturing (SOCMI), industrial wastewater collection, and treatment (IWCT) and industrial solvent cleaning VOC RACT rules. These are the areas where the U.S. EPA identified inconsistencies.

Analysis Of The Rule:

The Bureau of Air Management has worked with staff at the U.S. EPA to better understand and clarify the VOC RACT rule deficiencies. Based on these discussions, some of the deficiencies have been resolved by clarifying our current rules and directing them to current rules that addressed their concerns. However, several deficiencies still remain and must be resolved to ensure consistency with current U.S. EPA CTGs. The applicable CTGs for the proposed rule revisions are listed in Table 1 of Appendix A.

The deficiencies identified by the U.S. EPA are related to the Department's industrial solvent cleaning VOC RACT rules, including the current recordkeeping requirements, work practices, exemptions, and the VOC content limits for solvents and solvent solutions used in industrial solvent cleaning operations. In addition, deficiencies have been identified with the Department's IWCT VOC RACT rule, including the current applicability threshold, recordkeeping requirements, and control requirements. Finally, deficiencies have been identified with the Department's SOCMI VOC RACT rule, including the current applicability threshold and list of distillation chemicals and reactor process chemicals.

The Bureau of Air Management proposes to update the current VOC RACT rules based on identified deficiencies by the U.S. EPA. These rules apply in Wisconsin's seven moderate ozone nonattainment counties (Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha).

Rule Effect:

The Department expects that the biggest impact from the proposed industrial solvent cleaning rule changes are for those facilities that will be subject to revised VOC content limits for cleaning solvent or solvent solutions. The Department identified facilities located in the nonattainment counties that may be subject to the revised VOC content limits. These facilities included coating operations and printing operations. The potentially impacted coating operations include coating manufacturers, fabric and vinyl coating, can coating, coil coating and wood furniture coating. The potentially impacted printing operations include non-packaging flexographic printing, screen printing, electrostatic printing, and letterpress printing. Initial stakeholder meetings were held with these groups in Milwaukee and Waukesha on October 20, 2010 and October 21, 2010, respectively, to discuss the proposed industrial cleaning solvent changes and the feasibility of facilities to comply with the revised VOC content limits. The U.S. EPA also participated in these stakeholder meetings. The results of the

meetings were positive for the Department, the U.S. EPA and the industry groups. Several portions of the draft rules were modified based on feedback received from the meetings.

Several other operations will be subject to revised work practices and recordkeeping requirements for industrial solvent cleaning. The Department expects impacts from these proposed rule changes will be minimal.

The proposed rule changes affecting the industrial wastewater sources will require them to either employ specific work practice standards to substantially suppress the exposure of VOC-laden waste streams to the ambient air or vent the VOC emissions to a post-process control device (e.g., flare, incinerator) that would destroy these emissions. The Department expects the impact of these changes to be minimal. The rules changes affecting synthetic organic chemical manufacturing industries are relatively minor. The Department will remove a VOC emission threshold, and clearly identify those chemicals, that if produced, will trigger the requirements.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

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