

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: AM-31-19

Relating to: Revisions to ch. NR 438 to clarify and update air contaminant emissions inventory reporting requirements.

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

The rule will be proposed as a permanent rule.

2. Detailed description of the objective of the proposed rule:

In 2015 the U.S. Environmental Protection Agency (EPA) finalized amendments to the Air Emissions Reporting Requirements (AERR) rule (40 CFR 51, subpart A, and 40 CFR 51.122). This rule requires state and local agencies to collect and submit emissions data to the EPA.

The department is proposing to revise ch. NR 438, Wis. Admin. Code, and, as necessary, update additional sections of the NR 400 series to meet federal requirements in the AERR rule. This rulemaking will satisfy federal emissions reporting requirements and resolve inconsistencies between state and federal emissions inventory reporting. This rulemaking will also resolve inconsistencies between the current emissions inventory process and ch. NR 438 and resolve any ambiguities in ch. NR 438.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The proposed rule changes are compatible with existing policy to maintain consistency between state rules and EPA regulations. The department must ensure that state reporting requirements align with those established in federal code in order to keep Wisconsin's State Implementation Plan (SIP) current and maintain Wisconsin approval under Title I of the Clean Air Act. Section 285.14(1), Wis. Stats., requires SIP submittals resulting in regulatory requirements to be promulgated by rule. The proposed rules do not include any new policies, and there are no policy alternatives available because the proposed actions are required under state and federal law.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The department is required under ss. 285.17 and 299.15, Wis. Stats., to promulgate by rule classification of air contaminant sources which may cause or contribute to air pollution and require by rule those discharging air contaminants report the manner used, amount used and amount discharged for each such contaminant. The department is also required under s. 285.11(11), Wis. Stats., to coordinate the reporting requirements under ss. 285.65 and 299.15 to prevent duplication of reporting requirements.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that 800 hours of state employee time will be required to complete the promulgation of the proposed rules.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule will align state administrative code with federal rules concerning reporting requirements for point sources, including the reporting of PM_{2.5} emissions congruent with federal requirements and state procedures.

There are organizations that may not be directly affected by the rule but may have an interest in rule development, including business, environmental and public health organizations.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The intended result of this proposed rulemaking is to resolve inconsistencies between Wisconsin's emissions reporting rules and those promulgated by the EPA.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

The department estimates that the economic impact of implementing the revised reporting requirements in Wisconsin will be minimal, because the proposed changes to Wisconsin's rules do not involve an emission fee increase. The department expects a small impact to sources required to report and certify PM_{2.5} emissions.

9. Anticipated number, month and locations of public hearings:

The department anticipates holding one public hearing in the month of November 2021. The hearing city will be: Madison, WI.

The department will hold the hearing in this location to obtain public input on the proposed rules.

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