

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

SUBJECT:

Request that the Board approve the statement of scope for Board Order AM-18-13, and conditionally approve the public hearing notice for Board Order AM-18-13 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse, for proposed rules affecting chapters NR 422, 423, 439, and 484 related to volatile organic compound control regulations for lithographic printing.

FOR: February 2014 Board meeting

PRESENTER'S NAME AND TITLE: Kristin Hart, Chief, Air Permits and Stationary Source Modeling

SUMMARY:

The United States Environmental Protection Agency (EPA) issued a revised control technique guideline (CTG) for volatile organic compound (VOC) emissions from lithographic and letterpress printing in September 2006. This CTG serves as the basis for states with ozone nonattainment areas to promulgate and implement rules to control VOC emissions from facilities in the affected industry sector. The Department is required under s. 182(b)(2) of the Clean Air Act (42 U.S.C. § 7511a(b)(2)) to submit a revision to the state implementation plan (SIP) that requires the implementation of reasonably available control technology for VOC emissions from these printing industry sectors. With the intent to satisfy this requirement, amended state rules found under chs. NR 422 and NR 423, Wis. Adm. Code, became effective on February 1, 2012 and were subsequently approved by EPA as a revision to the SIP on August 7, 2012 [77 FR 46961].

The final version of the lithographic printing rules approved by EPA is in two separate parts within the state rules, with part I containing the older regulation and part II, the requirements based on the 2006 CTG. While technically sufficient, the Department received feedback that the two part organizational structure causes confusion that could lead to inconsistent interpretation and application of the rules. The Department is therefore proposing changes to simplify and streamline these rules to facilitate implementation and to enhance consistency and clarity. Additionally, in order to provide flexibility, the Department may propose changes to compliance demonstration methods for a limited number of low emitting lithographic printing sources, which may include small businesses. Revised language will meet federal requirements and be submitted to the EPA for approval and incorporation into the SIP. These changes are not expected to be significant.

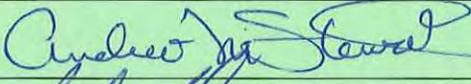
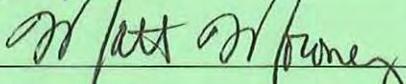
Any economic impact of the proposed rule change is expected to be a minimal to moderate reduction in costs based on the intent to simplify and clarify an existing rule and potentially add flexibility in compliance demonstration methods. The proposed rule changes are not expected to have a significant impact on small businesses.

The Department anticipates holding two hearings on proposed rule changes in June of 2014 in the cities of Madison and Oshkosh.

RECOMMENDATION: That the Board approve the statement of scope and conditionally approve the public hearing notice for Board Order AM-18-13 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

LIST OF ATTACHED MATERIALS:

- Statement of scope
- Governor approval of statement of scope

Approved by	Signature	Date
Bart Sponseller, Bureau Director		01/24/14
Pat Stevens, Division Administrator		1/27/14
Cathy Stepp, Secretary		1/28/14

cc: Board Liaison - AD/8

Program attorney - LS/8

Administrative rule officer - LS/8

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: AM-18-13

Relating to: Volatile organic compound control regulations for lithographic printing in NR 422, 423, 439, and 484.

Rule Type: Permanent

Detailed description of the objective of the proposed rule:

The United States Environmental Protection Agency (EPA) revised control techniques guidelines (CTG) for volatile organic compound (VOC) emissions from lithographic printing in September 2006¹. This CTG serves as the basis for states with ozone nonattainment areas to promulgate and implement rules to control VOC emissions from the lithographic printing industry sector. The Department is required under s. 182(b)(2) of the Clean Air Act (42 U.S.C. § 7511a(b)(2)) to submit a revision to the state implementation plan (SIP) that requires reasonably available control technology (RACT) for VOC emissions. In addition, the Department is required to keep RACT rules, such as those for lithographic printing, in place even after nonattainment areas are reclassified to attainment to ensure compliance with national air quality standards is maintained. This is commonly referred to the "anti-backsliding" provision of the Clean Air Act.

With the intent to satisfy this requirement, the Department proposed revised state rules for VOC emissions from lithographic printing operations that became effective on August 1, 2009. However, when the Department submitted the rules to EPA for approval as a revision to Wisconsin's SIP, EPA identified deficiencies in the rules and declined to approve them. The Department subsequently proposed amendments to the state rules to correct all of the EPA-identified deficiencies. These amended state rules, found under chs. NR 422 and NR 423, Wjs. Adm. Code, became effective on February 1, 2012 and were subsequently approved by EPA as a revision to the SIP on August 7, 2012 [77 FR 46961].

The final version of the lithographic printing rules approved by EPA is in two separate parts within the state rules, with part I containing the older regulation (i.e., pre-2006 CTG) and part II, the requirements based on the 2006 CTG. While technically sufficient, the Department received feedback that the two part organizational structure causes confusion that could lead to inconsistent interpretation and application of the rules. The Department is therefore proposing changes to simplify and streamline these rules to facilitate implementation and to enhance consistency and clarity. Additionally, in order to provide flexibility for small businesses, the Department may propose changes to compliance demonstration methods for a limited number of low emitting lithographic printing sources, which may include small businesses.

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 Department's policy to require control of VOC emissions as a precursor to ozone formation, consistent with U.S. EPA requirements, is not being changed. The Department is clarifying and streamlining existing requirements as part of the proposed rules, not proposing any new policies. An alternative to this proposed rule action is to keep the rules as they are and to issue guidance memorandums, as necessary, to clarify specific issues. However, the Department believes this alternative would not bring the same degree of clarity nor long-term certainty to regulated sources and therefore would not be as effective as the proposed clarification and streamlining of the rules.

¹ EPA included both Lithographic and Letterpress Printing in its CTG, *Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing*, but the proposed rule covers Lithographic Printing only. Text of the CTG is available at: http://www.epa.gov/airquality/ozonepollution/SIPToolkit/ctg_act/200609_voc_epa453_r-06-002_litho_letterpress_printing.pdf

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

The legislature granted authority to the Department for the proposed rule-making in s. 285.11 (6), Stats., which states in part that the Department shall "Prepare and develop one or more comprehensive plans for the prevention, abatement and control of air pollution in this state. The department thereafter shall be responsible for the revision and implementation of the plans. The rules or control strategies submitted to the federal environmental protection agency under the federal clean air act for control of atmospheric ozone shall conform to the federal clean air act ..."

Two provisions of the Clean Air Act relate to the statutory authority granted to the Department to revise the state implementation plan for ozone and to ensure that rules submitted to the EPA conform to the Clean Air Act. First, section 183 (a) and (b) (1) of the Clean Air Act (42 U.S.C. 7511b (a) and (b) (1)), require that the administrator of the EPA issue CTG for new stationary source categories, and periodically review and, if necessary, update CTG that were issued before the date of the enactment of the Clean Air Act amendments of 1990. Secondly, under section 182 (b) (2) of the federal act (42 U.S.C. 7511a (b) (2)), the state must submit to EPA a proposed revision of its ozone SIP that would require the implementation of reasonably available control technology (RACT) with respect to each category of VOC sources in the area covered by a CTG issued by the administrator between the date of the enactment of the clean air act amendments of 1990 and the date of attainment.

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

Approximately 432 hours will be spent by Department staff.

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

Affected parties that will benefit from the proposed rule streamlining include small to medium-sized industrial sources based on air emissions in the category of lithographic printing. There are several organizations that may not be directly affected by the rule, but are likely to have an interest in rule development including Wisconsin Manufacturers and Commerce (WMC), Great Lakes Graphics Association, environmental organizations such as Clean Wisconsin and Sierra Club, and public health organizations.

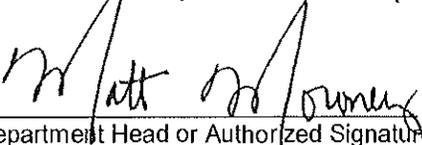
Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The proposed rule will include streamlining modifications to rules affecting lithographic printing and may contain changes to compliance demonstration requirements now in effect, while continuing to meet the Clean Air Act requirements for our ozone SIP. There are no federal rules in effect that address the activities which would be regulated by the proposed rule.

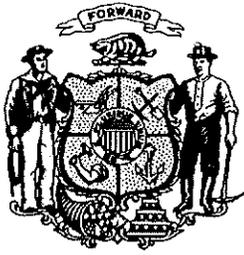
Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

Considering the rules are already in effect and the proposed changes are only intended to streamline, clarify, and potentially add flexibility, the overall economic impact, including impact on small business is expected to create a minimal to moderate reduction in the implementation and compliance costs compared to the existing rules.

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Department Head or Authorized Signature

4/15/13
Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

May 8, 2013

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Scope Statement for AM-18-13 relating to volatile organic compound control regulations for lithographic printing

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on April 15, 2013, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 422, 423, 439, and 484 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor