

Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

SUBJECT:

Request that the Board approve the statement of scope for Board Order AM-20-18, and conditionally approve the public hearing notice for Board Order AM-20-18 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse proposed rules affecting chapter NR 422, related to implementing reasonably available control technology for volatile organic compound emissions from miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives.

FOR: April 2019 Board meeting

PRESENTER'S NAME AND TITLE: David Bizot, Air Quality Planning and Standards Section Chief

SUMMARY:

EPA has issued new or revised control techniques guidelines (CTGs) for two industrial source categories of VOC emissions: Miscellaneous Metal and Plastic Parts Coatings, and Miscellaneous Industrial Adhesives. The department is proposing to update ch. NR 422, Wis. Admin. Code, to incorporate the CTG updates and to ensure rules are consistent with federal requirements. The department is not proposing any new policies in this rule. This rule is consistent with the department's longstanding policy of controlling VOC emissions as a precursor to ozone formation, consistent with federal requirements.

Economic impact of the rule is expected to be minimal and the rule is not anticipated to have a significant economic impact on small businesses.

The Board last acted on this rule on February 27, 2019, authorizing a preliminary public hearing and comment period for the statement of scope.

RECOMMENDATION: That the Board approve the statement of scope and conditionally approve the public hearing notice for Board Order AM-20-18 and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- Background memo
- Statement of scope
- Governor approval of statement of scope
- Additional information

Approved by	Signature	Date
Gail Good, Air Management Program Director	<i>Gail E. Good</i>	3.20.19
Darsi J. Foss, Environmental Management Division Administrator	<i>Darsi Foss</i>	3.20.19
Preston D. Cole, Secretary	<i>Preston D. Cole</i> <i>by Elizabeth Kiewner</i>	3/20/19

cc: Board Liaison - AD/8
David Bizot - AM/7

Program attorney - LS/8

Department rule officer - LS/8

DATE: March 19, 2019

TO: All Members of the Natural Resources Board

FROM: Preston D. Cole, Secretary

SUBJECT: Background memo on preliminary public hearing and public comments received on the scope statement for Board Order AM-20-18, relating to implementing reasonably available control technology for volatile organic compound emissions from miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives.

On February 5, 2019, the co-chair of the Joint Committee for the Review of Administrative Rules (JCRAR) requested that the Department hold a preliminary public hearing and comment period on the scope statement for Board Order AM-20-18, pursuant to s. 227.136(1), Wis. Stats. The statement of scope contemplates rulemaking relating to implementing reasonably available control technology for volatile organic compound emissions from miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives. This memo summarizes the comments received at the public hearing and during the period for written public comments.

Public Hearing

The Department held a preliminary public hearing on the statement of scope on March 8, 2019 at 10:00 a.m. at the State Natural Resources Building, 101 S. Webster St., Madison, WI 53707. No members of the public attended the hearing.

Written Public Comment

The public comment period ended on March 18, 2019. The Department received no written comments on the proposed statement of scope.

A sound recording of the March 8, 2019 preliminary hearing can be made available on request.

Drafter: Cami Peterson

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: AM-20-18

Relating to: Revisions to ch. NR 422 for the purpose of implementing reasonable available control technology for volatile organic compound emissions from miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives.

Rule Type: Permanent

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

The rules will be proposed as permanent rules.

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

Per the federal Clean Air Act (CAA), an ozone nonattainment area is classified by comparing the area's ambient air quality to the applicable ozone standard. There are five levels of classification. From least severe to most severe, these are: marginal, moderate, serious, severe, and extreme. The regulatory requirements that apply in ozone nonattainment areas increase as the classification increases.

Section 182(b)(2) of CAA [42 USC 7511a(b)(2)] requires implementation of reasonably available control technology (RACT) for volatile organic compound (VOC) emission source categories in ozone nonattainment areas classified as moderate (or above) and for which EPA has published control techniques guidelines (CTGs). Federally-approved VOC RACT rules based on CTGs are required for Wisconsin's ozone state implementation plan (SIP) and are required for redesignation to attainment of any state ozone nonattainment areas classified as moderate (or above).

In 2008, EPA issued new or revised CTGs for two industrial source categories of VOC emissions: Miscellaneous Metal and Plastic Parts Coatings, and Miscellaneous Industrial Adhesives. The department is proposing to update ch. NR 422, Wis. Admin. Code, to incorporate the miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives CTG updates and to ensure rules are consistent with federal requirements. Additional rule changes may be pursued which are reasonably related to those discussed here.

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 department is not proposing any new policies in this rule. This rule is consistent with the department's longstanding policy of controlling VOC emissions as a precursor to ozone formation, consistent with federal requirements. An alternative to this proposed rule action is to keep the rules as they are. This approach would not be consistent with the Clean Air Act and would preclude EPA from redesignating the state's ozone nonattainment areas to attainment once air quality monitoring data shows these areas are meeting the appropriate national ambient air quality standard.

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

The department is required under s. 285.11(1), Wis. Stats., to promulgate rules implementing and consistent with ch. 285 (air pollution control). In addition, s. 285.11(6), Wis. Stats., requires the

department to prepare and develop comprehensive plans for prevention, control and abatement of air pollution and revise and implement those plans to conform with the federal Clean Air Act.

Several provisions of the CAA provide the federal statutory basis for this rule. Section 183 (a) and (b)(1) of the CAA [42 USC 7511b (a) and (b)(1)] require EPA to issue CTGs for new stationary source categories, and periodically review and, if necessary, update these CTGs. Section 182 (b)(2) [42 USC 7511a (b)(2)] requires states to implement VOC RACT in ozone nonattainment areas classified as moderate (or above) and for which EPA has published CTGs.

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 approximately 400 hours of staff time will be required to complete the proposed rule.

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

Affected entities include industrial sources located in ozone nonattainment areas classified as moderate (or above) in the two identified categories (miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives) where use of adhesives or plastic or metal coatings have not already been addressed in the Wisconsin Administrative Code.

In addition to the affected sources, 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, environmental organizations, 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:

To guide state VOC RACT rule development, EPA promulgates CTGs that DNR then evaluates. DNR's rule development will be based on, and consistent with, EPA's CTGs.

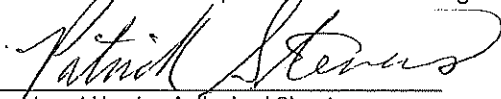
8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule would only apply within areas of the state that are classified as moderate (or above) ozone nonattainment areas by EPA. Wisconsin currently has only two such areas: Sheboygan County and the eastern part of Kenosha County. In addition, narrow parts of six counties are designated as marginal ozone nonattainment areas, with the potential for future reclassification to moderate in 2021. Given the applicability threshold for these CTGs, the control requirements, and the limited geographic scope of potential applicability, a relatively small number of sources (e.g., less than 20) are anticipated to be impacted. Therefore, the economic impact of the rule is expected to be minimal and the rule is not anticipated to have a significant economic impact on small businesses.

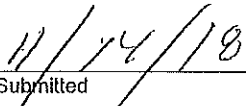
9. Anticipated number, month and locations of public hearings:

The Department anticipates holding one public hearing in the month of November 2019 in Sheboygan, Wisconsin.

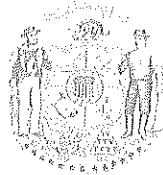
Contact Person: Cami Peterson, cami.peterson@wisconsin.gov, 608-267-7546, Wisconsin Department of Natural Resources, Bureau of Air Management, 101 S. Webster, AM/7, Madison, WI 53703.



Department Head or Authorized Signature



Date Submitted



Tony Evers

Office of the Governor | State of Wisconsin

January 30, 2019

By Electronic Mail Only

Secretary-Designee Preston Cole
Department of Natural Resources
101 S. Webster Street
Madison, Wisconsin 53707

Re: Statement of Scope for Wis. Admin. Code ch. NR 422

Dear Secretary-Designee Cole:

On November 14, 2018, the Department of Natural Resources submitted a statement of scope related to updating provisions in Wis. Admin. Code ch. NR 422. On behalf of the Governor, I am approving this statement of scope pursuant to Wis. Stat. § 227.135(2).

Sincerely,

A handwritten signature in cursive script that reads "Ryan Nilsestuen".

Ryan Nilsestuen
Chief Legal Counsel
Office of the Governor

Cc: Elizabeth Kluesner, Deputy Secretary
Cami Peterson, Department of Natural Resources
Chris Connor, State Budget Office