

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date Draft - 10/5/2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) NR 422 – Control of Organic Compound Emissions from Surface Coating, Printing and Asphalt Surfacing Operations; NR 423 – Control of Organic Compound Emissions from Solvent Cleaning Operations; NR 425 – Compliance Schedules, Delays, Exceptions And Internal Offsets For Organic Compound Emission Sources In Chs. NR 419 To 424; NR 439 – Reporting, Recordkeeping, Testing, Inspection and Determination Of Compliance Requirements; NR 484 – Incorporation By Reference	
4. Subject Incorporating updated federal control technology guidelines for reasonably available control technology for volatile organic compound emissions from miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives. (Board Order AM-20-18)	
5. Fund Sources Affected <input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected NA
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$94,080 to \$347,613 annually (moderate)	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Volatile organic compounds (VOCs) react with nitrogen oxides in the presence of sunlight to form ground-level ozone. High concentrations of ground-level ozone are known to adversely impact human health and the environment. The U.S. Environmental Protection Agency (EPA) has designated several areas in eastern Wisconsin as "nonattainment areas" due to high concentrations of ozone. Emissions sources located in nonattainment areas are subject to more stringent controls under the Clean Air Act (CAA). Section 182(b)(2) of the CAA requires states to implement VOC Reasonably Available Control Technology (RACT) regulations in any ozone nonattainment area classified as "moderate" or above. The State's VOC RACT program must include regulations that reflect the latest Control Techniques Guidelines (CTGs) issued by EPA for specific source categories. In 2008, EPA released two updated CTGs that provided recommendations for three source categories: miscellaneous plastic parts coating, miscellaneous metal parts coating, and miscellaneous industrial adhesives. The department started rulemaking around 2009 to incorporate these CTGs into rule. At the time, however, it was unclear whether the 2008 CTGs would be challenged and possibly modified. The CTGs were not litigated and ultimately did not change and have	

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been in effect since 2008. This rulemaking effort began in 2018, and the scope statement was published in the Administrative Register on February 4, 2019.

Because Wisconsin has had several ozone nonattainment areas subject to this requirement since the CTGs were issued (Sheboygan County and eastern Kenosha County), the department is proposing to update its existing VOC RACT regulations to reflect the latest EPA CTGs. This will ensure the state remains in compliance with CAA Section 182(b)(2) requirements as they apply to moderate and higher ozone nonattainment areas. Wisconsin's compliance with all CAA requirements, including ensuring compliance with up-to-date RACT rules, will ensure the state has a legally sufficient state implementation plan (SIP) and allow the state to redesignate eligible ozone nonattainment areas more quickly.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

Entities that may have an interest in the economic impacts of the proposed rule include the affected facilities, the American Coatings Association, the Small Business Environmental Council, Wisconsin Manufacturers and Commerce, and the American Council of Engineering Companies of Wisconsin. In addition, the Air Management Study Group, the Air Program's stakeholder working group, may be interested in the economic impacts of this proposed rule. This group includes members representing Clean Wisconsin, environmental law attorneys, utilities and representatives of large and small businesses. The department intends to contact all these entities during the environmental impact analysis comment period via email or phone.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

This rule does not impact local government units directly. However, the department intends to notify the counties in which the affected sources are located (primarily, Sheboygan and Kenosha) so that those local governments are aware of this rulemaking action. Through county and municipal associations such as the League of Wisconsin Municipalities, other local government units will be consulted as part of the solicitation process.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The department estimates that the total compliance cost of this rule to be between \$94,080 to \$347,613 per year. This range is defined by two cost scenarios (Scenario A and Scenario B). These are discussed in detail in Attachment B. Scenario A considers the immediate impact of the rule, (that is, the impact on sources located in ozone nonattainment areas currently classified as moderate or higher with VOC emissions exceeding the applicability threshold), while Scenario B considers the potential future impact of the rule, should nonattainment areas fail to attain and every facility's emissions exceed the applicability thresholds. Scenario B represents a "worst case scenario"; the WDNR considers it extremely unlikely that every nonattainment area will be reclassified to "moderate" and that every facility's emissions will increase above the applicability thresholds.

The DNR believes that the costs associated with both Scenarios A and B represent overestimates, because it is likely that many sources are already meeting some or all of the requirements contained in the proposed rule. For example, the coating-related work practices proposed by this rule are now considered standard industrial practice. Recent experience engaging potentially affected industrial sources by DNR lends weight to this presumption. Specifically, in early 2020, in order to fulfill CAA Section 182(b)(2) requirements until this rulemaking would come into effect, the DNR issued administrative orders that made federally enforceable the standards of these CTGs on three facilities located in moderate ozone nonattainment areas. In all three cases, the orders did not require any changes to facility operations or controls, since the facilities were already meeting the relevant VOC content limits of the CTG. Therefore, the calculated \$94,080

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to \$347,613 per year compliance cost range, which assumes affected sources are not already meeting these requirements in any way, likely far exceeds the actual cost of this rule.

(A) Economic Impact on Metal and Plastic Parts Coating Facilities and Miscellaneous Industrial Adhesives Application Facilities

The proposed requirements will primarily apply in areas of the state that are or were designated as nonattainment of the 2008 or the 2015 federal ozone standard and classified as moderate (or above). This currently comprises all of Sheboygan County and the eastern part of Kenosha County. The current VOC RACT rules for these source categories will continue to apply in all other areas of the state.

The analysis based on EPA-estimated annualized control costs, updated to 2020 dollars, for the coating operations covered by the proposed rule revisions for both Scenarios A and B are shown in Attachment B. The cost estimate for miscellaneous metal and plastic parts coatings and miscellaneous adhesives considers the following costs:

Metal/plastic parts coatings: The cost per facility (\$13,440) for implementing the miscellaneous metal/plastic coating CTG's recommended VOC content limits includes costs associated with research and development, raw materials, production, and marketing for the reformulated products. Source: EPA CTG for Miscellaneous Metal and Plastic Parts Coatings.

Adhesives: The adhesives cost/facility (\$4,277) is lower than the metal/plastic coating cost/facility because the analysis assumes that the costs related to reformulation are paid by the adhesive manufacturers. The cost to facilities is only related to purchasing the lower VOC content adhesives, which can be relatively more expensive. The cost analysis accounts for the purchase of drying equipment to compensate for longer drying times associated with lower VOC content adhesives. It is important to note that although lower VOC content adhesives can be more expensive, less adhesive is used during application, because lower VOC content adhesives typically have better coverage, which lowers the price differential. Sources: EPA CTG for Miscellaneous Industrial Adhesives, California Air Resources Board (CARB) RACT Determination for Adhesives and Sealants.

Both the adhesive and miscellaneous metal/plastic coatings CTG cost estimates are based on the proposed low VOC content compliance option and not the add-on control compliance option, as add-on controls are typically more expensive.

(B) Economic Impacts on Local Governments, Utility Rate Payers and Public Entities

The department does not anticipate that local governments, utility rate payers, or public entities will be economically impacted by the implementation of the proposed rules.

(C) State Economy

The department acknowledges that some facilities may need to modify their operations to comply with the proposed rules, but the department does not anticipate that the state's economy will be adversely impacted by the implementation of the proposed rules.

(D) Fiscal Impacts:

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There are no fiscal impacts to this rule other than those already described. This rule will not require additional state staff to implement, affect state revenues, etc.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The CAA requires states to have updated VOC RACT rules consistent with issued CTGs in place in ozone nonattainment areas classified as moderate or above. Since Wisconsin currently has ozone nonattainment areas subject to this requirement, the state must ensure these rules remain updated to meet this federal requirement. This proposed rulemaking would also fulfill VOC RACT rule requirements for areas that may be classified as moderate ozone nonattainment in the future.

The CAA mandates this requirement as a method to control VOC emissions. VOCs, when they react with nitrogen oxides in the presence of sunlight, form ground-level ozone. Therefore, controlling VOC emissions is an important strategy to reduce ozone levels and help the state attain and maintain the health-based federal ozone standards.

An alternative to this rule is to address this requirement with each affected source individually, through administrative orders that are submitted into the SIP to make them federally enforceable. This path is not preferred due to the burden it places on the individual facilities as well as the challenges it places on the facilities with regard to compliance. This alternative would also require more state resources to complete, given the need to work individually with each source. Since the state already has numerous VOC rules in place, this option would also be confusing for both sources and the public.

Inaction by the department to adopt the proposed VOC RACT rule into Wisconsin Administrative Code could eventually lead to EPA issuing a federal implementation plan (FIP) and/or sanctions under the CAA. Without a permanent and enforceable VOC RACT program, SIP revisions requiring RACT for moderate and higher ozone nonattainment areas would not be approvable. Disapproval of such an attainment plan would trigger a 2-year clock for the FIP requirement under CAA Section 110(c). In addition, disapproval would trigger sanctions under CAA Section 179 and 40 CFR 52.31.

16. Long Range Implications of Implementing the Rule

Due to the limited number of impacted sources, the department does not anticipate any adverse long-term implications to implementing the rule. A long-range benefit to this rule is that the state will be meeting all its CAA requirements for ozone nonattainment areas, which will ensure the state has a legally sufficient SIP and allow the state to redesignate these areas to attainment more quickly when they are eligible.

17. Compare With Approaches Being Used by Federal Government

These revisions will ensure state rules are consistent with the latest federal approaches for controlling emissions from these sources, as described and promulgated in EPA's CTGs.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois and Indiana have similar administrative rules that reflect the latest federal CTGs. Minnesota and Michigan do not have any ozone nonattainment areas subject to this requirement and therefore are not required to have updated VOC RACT regulations.

19. Contact Name

Olivia Salmon

20. Contact Phone Number

608-264-9219

This document can be made available in alternate formats to individuals with disabilities upon request.

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The RACT control requirements in the proposed rule could have an economic cost to some individual small businesses. Specific cost estimates are provided below. The DNR anticipates that the total cost to small businesses as a result of this rule will be approximately \$13,440.

Miscellaneous metal and plastic parts coating (ss. NR 422.151 and 422.084, Wis. Adm. Code)

The DNR anticipates that one small business may be impacted by the proposed miscellaneous metal and plastic parts coating rules in ss. NR 422.151 and 422.084, Wis. Adm. Code. DNR estimates that 23 facilities in Wisconsin's ozone nonattainment areas (marginal and moderate) conduct activities related to miscellaneous metal and plastic parts coating, and only 10 of those facilities have emissions above the applicability threshold for VOC RACT in any given year. Of these 10 facilities, only one facility is considered a small business, based on the definition in s. 227.114(1), Stats., and is known to the department to emit VOCs related to miscellaneous metal and plastic parts coating in excess of the threshold.

In its 2008 CTG, EPA estimated the national average cost of this RACT control is an annualized cost of \$10,500/facility in 2007 dollars. Updated for 2020, the cost for RACT control is an annualized cost of \$13,440/facility. This gives a total estimated annualized cost to implement RACT control for small businesses using the updated CTG limits for miscellaneous metal and plastic parts coating processes of \$13,440.

Miscellaneous industrial adhesives (s. NR 422.128, Wis. Adm. Code)

The DNR does not anticipate small businesses to be impacted by the proposed adhesive use rule in s. NR 422.128, Wis. Adm. Code. DNR estimates that nine facilities in Wisconsin's ozone nonattainment areas (marginal and moderate) currently conduct activities involving miscellaneous industrial adhesives applications; however, in recent years, none of the facilities have had emissions above the applicability threshold for VOC RACT in any given year. Given that no facilities considered to be small businesses are known to the department to currently emit VOCs related to adhesive use in excess of the threshold, the total estimated annualized cost to implement RACT control for small businesses using the updated CTG limits for miscellaneous industrial adhesives applications is \$0.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The number of potentially affected facilities was estimated from state emission reporting and inventory estimates. Estimated cost per facility to comply with these CTGs was provided by EPA in its CTG documents.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The proposed rule changes would not change the existing metal coating (s. NR 422.15, Wis. Adm. Code), plastic coating (s. NR 422.083, Wis. Adm. Code), and adhesive use (s. NR 422.127, Wis. Adm. Code) rules. To avoid confusion, these existing rules are referred to as "Part I," and the new VOC content limits and work practices consistent with the updated

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CTGs are referred to as “Part II.” Part II rules only apply to ozone nonattainment areas that have been classified as “moderate” or above since July 20, 2012, to limit their regulatory impact only to the areas required to have these RACT rules in place under the CAA.

5. Describe the Rule’s Enforcement Provisions

Enforcement provisions are not included in the subsections of the rule affected by the proposed order. These provisions are located in other portions of administrative rule not proposed for revision in this rule order.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No
