

Report From Agency

REPORT TO LEGISLATURE

NR 400, Wis. Adm. Code
Relating to the definition of volatile organic compound

Board Order Number: AM-27-09
Clearinghouse Rule Number: 10-012

BASIS AND PURPOSE OF THE PROPOSED RULE

In a January 21, 2009 Federal Register notice (74 FR 3437), the United States Environmental Protection Agency (EPA) revised its definition of volatile organic compounds (VOC) for purposes of preparing state implementation plans (SIP) to attain the national ambient air quality standard for ozone under Title I of the Clean Air Act. This revision added the compounds propylene carbonate and dimethyl carbonate to the list of compounds which are excluded from the federal definition of VOC on the basis that their emissions make a negligible contribution to tropospheric ozone formation.

Currently, s. NR 400.02(162)(a), Wis. Adm. Code, lists 50 compounds that are excluded from the state regulatory definition of VOC. The Department is proposing to add dimethyl carbonate and propylene carbonate to this list to ensure continued consistency between state and federal definitions in accordance with s. 285.11(16), Wis. Stats.

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxides (NO_x) react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOC and NO_x that can be released. VOC are those organic compounds of carbon which form ozone through atmospheric photochemical reactions. Different VOC have different levels of reactivity, i.e., they do not react to form ozone at the same speed or to the same extent. Some VOC react slowly, and changes in their emissions have limited effects on local or regional ozone pollution episodes. It has been EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory definition of VOC, so as to focus VOC control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs. The EPA lists these negligibly reactive compounds in its regulations (at 40 CFR 51.100(s)) and excludes them from the definition of VOCs.

SUMMARY OF PUBLIC COMMENTS

No public comments were received.

MODIFICATIONS MADE

No modification were necessary.

APPEARANCES AT THE PUBLIC HEARING

The Department conducted a public hearing on March 12, 2010 in Madison. There were no appearances at the hearing.

CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE

None were required.

RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

No comments were provided by the Legislative Council Rules Clearinghouse in its report.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rule is not expected to have a significant economic impact on small business because it does not impose any new regulations, but rather removes two compounds from the state regulatory definition of VOC. This may provide lower cost alternatives to compounds currently being used.