

Modifications From Agency

REPORT TO LEGISLATURE
NR 400, 419, 421, 422, 423, 425, 439, and 484, Wis. Adm. Code

Board Order No. AM-20-18
Clearinghouse Rule No. CR 20-088

Germane Modifications

While the proposed rule CR 20-088 was under review by the Joint Committee for Review of Administrative Rules (JCRAR), department staff identified a potential ambiguity in the proposed rule's applicability language. This ambiguity was identified following an evaluation of the impact of the U.S. Environmental Protection Agency's revised 2015 ozone nonattainment areas, effective August 14, 2021. On October 1, 2021, the department recalled the proposed rule to make germane modifications to address this concern.

To meet federal Clean Air Act requirements for ozone nonattainment areas classified as moderate (or above), the proposed rule incorporates Control Techniques Guidelines for three source categories issued by the U.S. Environmental Protection Agency in 2008. The proposed germane modifications in SECTIONS 22, 25 and 32 of the revised board order make clear that the proposed rule only applies to sources located in moderate (or higher) ozone nonattainment areas for national ozone standards promulgated in or after 2008. This will replace rule applicability language that was based on moderate (or higher) ozone nonattainment area classification on or after July 20, 2012, which could have resulted in application of the proposed rule in areas where additional control measures are not federally required. The department is making modifications to ensure that the control measures in the proposed rule would only apply where intended (i.e., where they are federally required).

Resubmittal of the Proposed Rule

The department resubmits the proposed rule pursuant to s. 227.19 (4) (b) 4., Stats., with germane modifications.

Brief Timeline Review

- June 9, 2021– DNR submitted the proposed rule to the chief clerk of each house of the legislature.
- July 15, 2021 – The proposed rule was referred to JCRAR from the Senate.
- August 5, 2021 – A public hearing was held by the Assembly Committee on Environment.
- September 3, 2021 – The proposed rule was referred to JCRAR from the Assembly.
- October 1, 2021 – DNR recalled the proposed rule for germane modification pursuant to s. 227.19 (4) (b) 4., Stats.
- December 8, 2021 – The Natural Resources Board adopted the proposed rule with germane modifications.