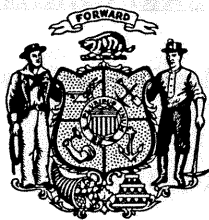


WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-101

AN ORDER to repeal NR 422.095 (6) (a) and (b) and (8); to amend NR 406.04 (7), 407.03 (4) (c), 419.02 (2), 422.02 (1), (67), (70), (89) and (102), 422.095 (title), (3) (b) and Note, (5) (intro.) and (6) (intro.) and 484.10 (9); to repeal and recreate NR 422.095 (4); and to create NR 406.04 (1) (gm), 407.03 (1) (gm), 422.02 (7k), (7m), (7o), (19m), (20m), (40m), (42m), (45m), (49m), (53m), (54m), (87m), (96m), (105h), (105r), (109m), (110m) and 484.10 (25m), relating to the control of volatile organic compound emissions from auto body refinishing operations.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

06-09-00 RECEIVED BY LEGISLATIVE COUNCIL.

07-06-00 REPORT SENT TO AGENCY.

RS:PS:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

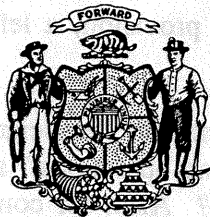
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-101

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In the treatment clause and text of SECTION 7, several of the newly created subsections in s. NR 422.02 do not follow the drafting format of the Legislative Reference Bureau. Subsection (7k) should be (7e), sub. (7o) should be (7s), sub. (40m) should be (39m) and sub. (105h) should be (105g). Also, in the subsection currently lettered (7k), the last sentence contains substantive material which should not be included in the definition, pursuant to s. 1.01 (7) (b), Manual.

b. The material in SECTIONS 8 and 9 of the rule could be combined, with a treatment clause that reads: "NR 422.095 (title) and (3) (b) and Note are amended to read:". The word "(title)" should also be inserted before the stricken material. See s. 1.05 (3) (a), Manual.

c. In SECTION 13, s. NR 422.095 (6) (a) and (b) are repealed. Paragraphs (c) to (f) could be relettered (a) to (d), unless it is contemplated that new provisions will eventually replace the material currently contained in pars. (a) and (b).

4. Adequacy of References to Related Statutes, Rules and Forms

In s. NR 422.02 (67) (in SECTION 6), it is suggested that the citation to s. NR 484.10 be rewritten to read: "s. NR 484.10 (25m)." Similarly, in s. NR 422.02 (49m) (in SECTION 7), the reference to s. NR 484.10 should be rewritten "s. 484.10 (9)."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The treatment clause to SECTION 2 contains a typographical error. The citation should read: "NR 406.04 (7)." Also, in that provision, a left parenthesis should replace the right parenthesis preceding "cm" on line 12.

b. In s. NR 407.03 (1) (gm), should "associated quality assurance laboratories" be mentioned, as well as "associated cleaning operations," as is done in s. NR 407.03 (1) (g) with regard to painting or coating operations? Also, for consistency with other occurrences in the current rules, a comma should be inserted after the one in the number "1666" on line 2.

c. In s. NR 407.03 (4) (intro.), the comma following the "(w)" on line 2 should be deleted, as it does not appear in the current rule. Also, on line 12, the right parenthesis preceding "(w)" should be changed to a left parenthesis.

d. In SECTION 6, the definition in s. NR 422.02 (67) is changed from "pretreatment coat" to "pretreatment wash primer." However, current s. NR 422.02 (68) still refers to a "pretreatment coat," which is now not the defined term in sub. (67). All of the rule chapters to which these definitions pertain should be reviewed for other occurrences of the phrase "pretreatment coat" which should be changed to "pretreatment wash primer." Also, in SECTION 6, the defined term in s. NR 422.02 (89) should be "speciality coatings" in order to reflect the current rule.

e. In SECTION 7 and elsewhere in this rule, there are inconsistent references to "automobile refinish" and "automobile refinishing." Since the term "refinishing" is defined in s. NR 422.02 (75), it is suggested that that form of the word be used throughout the rule when a noun is required. The entire rule should be reviewed for other occurrences of this problem.

f. In SECTION 7, in the definition in s. NR 422.02 (45m), the comma following the word "evaporation" on line 2 could be deleted. The same comment pertains to the comma following "performed" in sub. (110m).

g. Section NR 422.095 (4) (b) refers to "the most restrictive VOC limitation in Table 1." Since Table 1 appears to include a single maximum volatile organic compound (VOC) content for different types of coating, it is unclear to what "the most restrictive" limitation pertains. Also, does the most restrictive limitation (or whatever term is used) apply when either the condition in par. (b) 1. or the condition in par. (b) 2. is met? This should be clarified in the introduction by the appropriate use of phrases such as "all of the following" or "any of the following." Also, in par. (b), would subd. 1. be clearer if the phrase "than any of the systems listed" were inserted after the word "which"?

h. In s. NR 422.095 (4) (c), it is unclear which emission limitations are being referred to in the phrase "these emission limitations" on line 2. Are they the emission limitations in Table 1? If so, that should be stated. Also, in par. (d), what is the item for which the VOC content must be calculated using the formula set forth? Note that in par. (e), it is clarified that the formula in that provision pertains to the VOC content for a multi-stage topcoat.

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, AMENDING, REPEALING AND RECREATING
AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 422.095(6) (a) and (b) and (8); to **amend** NR 406.04(7), 407.03(4) and (c), 419.02(2), 422.02(1), (67), (70), (89) and (102), 422.095(title), (3) (b) and note, 5) (intro.) and (6) (intro.) and 484.10(9); to **repeal and recreate** NR 422.095(4); and to **create** NR 406.04(1) (gm), 407.03(1) (gm), 422.02(7k), (7m), (7o), (19m), (20m), (40m), (42m), (45m), (49m), (53m), (54m), (87m), (96m), (105h), (105r), (109m), (110m) and 484.10(25m) of the Wisconsin Administrative Code relating to the control of volatile organic compound emissions from autobody refinishing operations.

AM-28-00

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 227.11(2) (a) and 285.11(1), Stats.

Statutes interpreted: s. 285.11(6), Stats. The State Implementation Plan developed under that provision is revised.

These proposed rule revisions for automobile refinishing operations affect two portions of Wisconsin's air pollution control program: the air permitting requirements, and air emissions limits. The current VOC emission limits in s. NR 422.095 would be revised to reflect current federal standards. The federal rule, which was adopted in 1998, limits the amount of volatile organic compounds in automobile coatings and coating components when they are manufactured. This portion of the proposed revisions applies to facilities in a nine county area in Southeast Wisconsin only.

Additionally, the air permitting rules in chapters NR 406 and 407 are being revised to allow for small automobile refinishing facilities to be exempt from permitting. This portion of the proposed revisions affects facilities statewide.

(specific category of exempt sources)
SECTION 1. NR 406.04(1) (gm) is created to read:

NR 406.04(1) (gm) Automobile refinishing operations, including associated cleaning operations, which emit or will emit not more than 1666 pounds of volatile organic compounds per month, which are measured prior to entering any emission control devices, unless the emissions of any single hazardous air pollutant listed under section 112(b) of the act (42 USC 7412(b)) equal or

*def. nr
406.02(5)*

exceed 10 tons per year or the cumulative emissions of hazardous air pollutants listed under section 112(b) of the act equal or exceed 25 tons per year.

SECTION 2. NR 406.07(7) is amended to read:

⑤ type

NR 406.04(7) In order to be eligible for a specific exemption under sub. (1)(ce), (cm), (d), (g), (gm), (h), (j), (m), (o), (y) or (z), the owner or operator of a direct stationary source shall keep and maintain records of materials used, emissions or production rates, that are adequate to demonstrate that the source qualifies for the exemption. The owner or operator of a direct stationary source shall begin keeping these records no later than January 1, 1996 in order to qualify for exemption under sub. (1)(d), (g), (h), (j), (m), (o), (y) or (z), January 1, 1998, in order to qualify for exemption under sub. (1)(ce), (cm), or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. Any direct stationary source that ever exceeds any level listed in sub. (1)(ce), (cm), (d), (g), (gm), (h), (j), (m), (o), (y) or (z) is not thereafter eligible for the exemption under that subsection.

SECTION 3. NR 407.03(1)(gm) is created to read:

specific case of exempt source

NR 407.03(1)(gm) Automobile refinishing operations, including associated cleaning operations, which emit or will emit not more than 1666 pounds of volatile organic compounds per month, which are measured prior to entering any emission control devices, unless the emissions of any single hazardous air pollutant listed under section 112(b) of the act (42 USC 7412(b)) equal or exceed 10 tons per year or the cumulative emissions of hazardous air

⑤
old associated
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pollutants listed under section 112(b) of the act equal or exceed 25 tons per year.

Conduct the specific examples

SECTION 4. NR 407.03(4) (intro.) and (c) are amended to read:

NR 407.03(4) (intro.) In order to be eligible for a specific exemption under sub. (1) (ce), (d), (g), (gm), (h), (o), (s), (w) or (x), the owner or operator of a direct stationary source shall keep and maintain the records required under pars. (a) to (f), as applicable. The records shall be kept in a manner that allows the source to accurately calculate the required information on a monthly basis. The owner or operator of a direct stationary source shall begin keeping the records required under pars. (b) to (f) no later than January 1, 1994, and the records required under par. (a) no later than January 1, 1998, or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. After January 1, 1994, any direct stationary source that ever exceeds any level listed in sub. (1) (d), (g), (h), (o), (s), (sm), (w) or (x) is not eligible for the exemption under that subsection. After January 1, 1998, any direct stationary source that ever exceeds any level listed in sub. (1) (ce) or (cm) is not eligible for the exemption under that subsection. After January 1, 2001, any direct stationary source that ever exceeds any level listed in sub. (1) (gm) is not eligible for the exemption under that subsection. The records required are as follows:

(c) To be exempt under sub. (1) (g), (gm) or (h), records of the amounts used and VOC content of all VOC containing materials used at the facility per month.

*Control of
toxic
compound
emissions*

SECTION 5. NR 419.02(2) is amended to read:

NR 419.02(2) "Automobile" means ~~all passenger cars or passenger car derivatives capable of seating 12 or fewer passengers~~, vans, motorcycles, trucks, or any equipment that is physically capable of being driven or drawn upon a highway including, but not limited to, the following types of equipment: construction vehicles such as mobile cranes, bulldozers or concrete mixers; farming equipment such as tractors, plows or pesticide sprayers; hauling equipment such as truck trailers, utility bodies or camper shells; and miscellaneous equipment such as street cleaners or golf carts.

x (5)

x

x

(5)

SECTION 6. NR 422.02(1), (67), (70), (89) and (102) are amended to read:

NR 422.02(1) "Adhesion promoter" means a coating ~~used to promote adhesion of a~~ designed to facilitate the bonding of a primer or topcoat on surfaces such as trim moldings, door locks and door sills, where sanding is impractical, and on plastic parts and the edges of sanded areas.

(67) "Pretreatment ~~coat~~ wash primer" means a ~~coating~~ primer that is applied directly to metal substrates and which contains at least 0.50% acid, by weight, as measured according to ASTM D1613-96, incorporated by reference in s. NR 484.10, ^{(25m) - CR USEL 17} and is used to provide surface etching, corrosion resistance and enhanced adhesion of subsequent coatings.

x (4)

(5)

(70) "Primer sealer" means ~~a~~ any coating, applied subsequent to the prime coat or primer surfacer, and prior to the application of a topcoat, that improves the adhesion of the topcoat, provides corrosion resistance and prevents solvents from the topcoats from penetrating into the prime coat or primer surfacer coating.

(68) Shall refer to a "pretreatment wash primer" (67)
All other... shall be...
4

(89) "Specialty coating"^s means, for the purpose of motor vehicle refinishing operations, coatings used only for discrete portions of the vehicle, such as bumpers or spot repairs, which are necessary due to unusual coating performance requirements. Specialty coatings include, but are not limited to, adhesion promoters, uniform finish blenders, elastomeric coatings, gloss flatteners, bright metal trim repair, jambing (cut-in) clearcoats, impact resistant coatings, underbody coatings, weld-through primers and antiglare/safety coatings.

5

(102) "Touch-up coating" means a coating applied by brush, air-brush or hand held, non-refillable aerosol cans to repair minor surface damage and imperfections.

SECTION 7. NR 422.02(7k)^e, (7m), (7p)^s, (19m), (20m), (40m)³⁹, (42m), (45m), (49m), (53m), (54m), (87m), (96m), (105k), (105r), (109m) and (110m) are created to read:

2/15/15
Set 1/15

NR 422.02(7k)^e "Automobile refinish coating component"^{ing} means any portion of a coating, such as a reducer or thinner, hardener^a, additive, etc., recommended² by its manufacturer or importer, to distributors or end-users for automobile refinishing. The raw materials used to produce the components that are mixed by the end-user to prepare a coating for application are not considered automobile refinish coating components. (Any reference to automobile refinishing made by a manufacturer or importer on a container or in product literature constitutes a recommendation for automobile refinishing.)

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(7m) "Automobile refinish coating importer"^{ing}, "coating component importer" or "importer" means any company, group or individual that brings automobile refinish coatings or coating components from a location outside the

2
Set 1/15

United States into the United States for sale or distribution in the United States.

⁵ (7Ø) "Automobile refinish coating component manufacturer" or (2) #

"manufacturer" means any company, group or individual that produces or packages automobile refinish coatings or coating components for sale or distribution in the United States, including an entity which produces or packages such coating or coating components under a private label for another party.

(19m) "Container" means the individual receptacle that holds a coating or coating component for storage and distribution.

(20m) "Cut-in clearcoat" or "jamming clearcoat" means a fast-drying, ready-to-spray clearcoat applied to surfaces such as door jambs and trunk and hood edges to allow for quick closure.

³⁹ (40m) "Hardener" means a coating component specifically designed to promote a faster cure of an enamel finish. X To promote w/ the (2)

(42m) "Impact-resistant coating" means a coating designed to resist chipping caused by road debris.

(45m) "Lacquer" means a thermoplastic coating which dries primarily by solvent evaporation, and which is resoluble in its original solvent. X (P)

(49m) "Low-gloss coating" means a coating which exhibits a gloss reading of less than or equal to 25 on a 60-degree glossmeter, as measured according to ASTM D523-89, incorporated by reference in s. NR 484.10. (9) X (4)

(53m) "Mixing instructions" means the coating or coating component manufacturer's or importer's specification of the volumetric quantities of coating.

(54m) "Multi-colored topcoat" means a topcoat that exhibits more than one color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles. (5)

(87m) "Single-stage coating" means a topcoat consisting of only one coating.

(96m) "Thinner" means any solvent used to reduce the viscosity or solids content of a coating. (2)

(105^gm) "Two-stage topcoat" means a topcoat consisting of a pigmented basecoat and a transparent clearcoat. (2 insert 914)

(105r) "Underbody coating" means a coating designed for protection and sound deadening that is typically applied to the wheel wells and underbody of an automobile.

(109m) "Water hold-out coating" means a coating applied to the interior cavity areas of doors, quarter panels and rocker panels for the purpose of corrosion resistance to prolonged water exposure.

(110m) "Weld-through primer" means a primer that is applied to an area before welding is performed, and that provides corrosion resistance to the surface after welding has been performed. (5)

SECTION 8. NR 422.095 (title) is amended to read: (2) combine

NR 422.095 ^(title) ~~Motor vehicle refinishing~~ ^(m) Automobile refinish operations. (5)

SECTION 9. NR 422.095(3) (b) and Note are amended to read: (2) combine

NR 422.095(3) (b) The owner or operator of a automobile refinishing operation which becomes subject to this section ~~after September 1, 1995,~~ shall (2) combine

submit a written notification to the department containing the information specified in par. (a) within 30 days after becoming subject to this section.

Note: Notifications submitted under this subsection should be submitted to:

Wisconsin Department of Natural Resources

Bureau of Air Management

PO Box 7921

Madison WI 53707-7921

Attn: ~~Compliance~~ Small Business Section

SECTION 10. NR 422.095(4) is repealed and recreated to read:

NR 422.095(4) EMISSION LIMITATIONS - COATING. (a) No owner or operator of a motor vehicle refinishing operation may refinish or allow the refinishing of any motor vehicles or their body parts and components using any coating or coating system with a VOC content in excess of that specified in Table 1. All coatings and coating components shall be used according to manufacturer's specifications and mixing instructions.

(b) The most restrictive VOC limitation in Table 1 applies when:

1. Different combinations or mixing ratios of coatings and coating components are used which constitute a different coating system in Table 1.

2. The same combination and mixing ratio of coating components is used for more than one category in Table 1.

(c) Automobile refinish coatings and coating components manufactured prior to January 11, 1999 are exempt from these emission limitations.

Table 1

VOC Content Limitations for Coatings Used in
Automobile Refinishing Operations

[Kilograms/liter (pounds/gallon) of coating, excluding water, as applied]

Type of Coating	Maximum VOC Content
Pretreatment wash primer	0.78 (6.5)
Primers/primer surfacers	0.58 (4.8)
Primer sealers	0.55 (4.6)
Single/2-Stage topcoats	0.60 (5.0)
Three or more stage topcoat system	0.63 (5.2)
Specialty coatings	0.84 (7.0)
Multi-colored topcoats	0.68 (5.7)

Quoted (ie as opposed to (c) for a multi-stage topcoat 5
(d) The VOC content shall be calculated according to the following

formula:

$$\text{VOC} = \frac{(W_v - W_w - W_{ec})}{(V - V_w - V_{ec})}$$

where:

VOC content is the pounds of VOC per gallon of coating

W_v is the mass of total volatiles, in pounds

W_w is the mass of water, in pounds

W_{ec} is the mass of exempt compounds, in pounds

V is the volume of coating, in gallons

V_w is the volume of water, in gallons

V_{ec} is the volume of exempt compounds, in gallons

(e) The VOC content for a multi-stage topcoat shall be calculated

according to the following formula:

$$\text{VOC}_{\text{multi}} = [\text{VOC}_{\text{bc}} + \sum_{i=1}^M 3 \text{VOC}_{\text{mci}} + 2(\text{VOC}_{\text{cc}})] / (M + 3)$$

where:

$\text{VOC}_{\text{multi}}$ is the VOC content of a multi-stage topcoat, in pounds of VOC per gallon of coating

VOC_{bc} is the VOC content of the basecoat, as determined in par. (d)

VOC_{mci} is the VOC content of midcoat i , as determined in par. (d)

VOC_{cc} is the VOC content of the clearcoat, as determined in par. (d)

M is the number of midcoats.

SECTION 11. NR 422.095(5) (intro.) is amended to read:

NR 422.095(5) APPLICATION EQUIPMENT. (intro.) ~~After January 1, 1996, no~~
No owner or operator of a motor vehicle refinishing operation may refinish or allow the refinishing of any motor vehicles or their body parts and components unless one of the following types of application equipment is used in accordance with the manufacturer's recommendations:

SECTION 12. NR 422.095(6) (intro.) is amended to read:

NR 422.095(6) SURFACE PREPARATION AND CLEANUP SOLVENT. (intro.) ~~After January 1, 1996, the~~ The owner or operator of a motor vehicle refinishing operation shall:

SECTION 13. NR 422.095(6) (a) and (b) are repealed.

*Amend re-letter
(c) thru (f) to
(a) thru (d)*

SECTION 14. NR 422.095(8) is repealed.

SECTION 15. NR 422.095(8)(b) Note is repealed.

SECTION 16. NR 484.10(9) is amended to read:

NR 484.10(9)

ASTM D523-89	(1994) (1999)	<u>Standard Test Method for</u>	ANSI/AHA	
		<u>Specular Gloss</u>	A135.5-1998	X
			<u>NR 422.02(49m)</u>	

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SECTION 17. NR 484.10(25m) is created to read:

NR 484.10(25m)

ASTM D1613-96	(1999)	<u>Standard Test Method for</u>	NR 422.02(67)	
		<u>Acidity in Volatile Solvents and</u>		
		<u>Chemical Intermediates Used</u>		
		<u>in Paint, Varnish, Lacquer</u>		X
		<u>and Related Products</u>		

⑤

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)

OCT 05 2000

State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. AM-28-00

Legislative Council Rules Clearinghouse Number 00-101

Subject of Rules Control of volatile organic
compound emissions from auto body
refinishing operations

Date of Transmittal to Presiding Officers October 4, 2000

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster

266-1959

REPORT TO LEGISLATURE

NR 406, 407 and 422, Wis. Adm. Code
Control of volatile organic compound emissions from
auto body refinishing operations

Board Order No. AM-28-00
Clearinghouse Rule No. 00-101

Statement of Need

In 1998, the U.S. Environmental Protection Agency promulgated rules that required manufacturers of automobile refinish coatings and coating components to meet specific volatile organic compound limits for those coatings and coating components. The provisions of the federal rule apply to automobile refinish coatings and coating components that are manufactured on or after January 11, 1999. The Department needs to adopt these new VOC limitations to be consistent with the federal rules. These revisions will not affect our ozone State Implementation Plan, and will only apply to a 9-county area in southeast Wisconsin consistent with the current rule.

The proposed revisions will exempt most automobile refinishing operations from needing a permit. The permit exemption levels will be the same for both construction and operation permits so a new facility will not need a permit if it meets the exemption criteria. The permit exemption level emission limitations are 1666 pounds per month of VOCs prior to entering any control equipment. This permit exemption level is consistent with other VOC source category exemption levels. The record keeping requirements associated with the permit exemptions are also consistent with other source categories and already appear in current rule language. It would require the automobile refinishing operations to keep monthly records of their coating and VOC usage. This portion of the rule revisions is applicable statewide.

The Department is repealing the current limitation for cleanup solvents for non-plastic substrates. The low VOC solvent is an inferior product for its intended purpose. It does not clean or prepare the surface adequately to accept a primer and coating. As a result, vehicles have to be repainted to achieve an acceptable finish.

Modifications as a Result of Public Hearing

No modifications were made as a result of public hearing.

Appearances at the Public Hearings and Their Position

August 1, 2000 – Madison

In support:

Renee Bashel, Small Business Clean Air Assistance Program, 201 W. Washington Ave., Madison

In opposition – none

As interest may appear – none

August 2, 2000 – Milwaukee

In support:

Sue Peterson, Wis. Auto Collision Technicians Association Ltd., W226 S1742 Hwy. 164,
Waukesha, WI 53186

In opposition – none

As interest may appear – none

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted and incorporated into the rule.

Final Regulatory Flexibility Analysis

The proposed rule will have a significant effect on a substantial number of small businesses. Almost all automobile refinishing facilities are small businesses. It will exempt these facilities from applying for, and obtaining an air pollution construction and operation permit. The facilities will have to keep records of the amount of VOCs used to verify that they are exempt from needing a permit. In most cases, the actual pounds of coatings used are far less than the exemption level established for the VOC content of those coatings.

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, RENUMBERING AND AMENDING, AMENDING
REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board adopts an order to **repeal** NR 422.095(2)(c), (6)(a), (b), (8) and (8)(b)Note; to **renumber and amend** NR 422.095(6)(c) to (f); to **amend** NR 406.04(7), 407.03(4)(intro.) and (c), 419.02(2), 422.02(1), (68), (70), (89) and (102), 422.095(title), (1), (2)(a), (3)(a)(intro.), (b) and Note, (5)(intro.) and (6)(intro.) and (7) and 484.10(9); to **repeal and recreate** NR 422.095(4); and to **create** NR 406.04(1)(gm), 407.03(1)(gm), 422.02(7e), (7m), (7s), (19m), (20m), (39m), (42m), (45m), (49m), (53m), (54m), (67m), (87m), (96m), (105g), (105r), (109m), (110m) and 484.10(25m) of the Wisconsin Administrative Code relating to the control of volatile organic compound emissions from automobile refinishing operations.

AM-28-00

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 227.11(2)(a) and 285.11(1), Stats.

Statutes interpreted: s. 285.11(6), Stats. The State Implementation Plan developed under that provision is revised.

These proposed rule revisions for automobile refinishing operations affect two portions of Wisconsin's air pollution control program: the air permitting requirements, and air emissions limits. The current VOC emission limits in s. NR 422.095 would be revised to reflect current federal standards. The federal rule, 40 CFR Part 59, Subpart B, which was adopted September 11, 1998, limits the amount of volatile organic compounds in automobile coatings and coating components when they are manufactured. This portion of the proposed revisions applies to facilities in a nine county area in Southeast Wisconsin only.

Additionally, the air permitting rules in chapters NR 406 and 407 are being revised to allow for small automobile refinishing facilities to be exempt from permitting. This portion of the proposed revisions affects facilities statewide.

SECTION 1. NR 406.04(1)(gm) is created to read:

NR 406.04(1)(gm) Automobile refinishing operations, including associated cleaning operations, which emit or will emit not more than 1666 pounds of volatile organic compounds per month, which are measured prior to entering any emission control devices, unless the emissions of any single hazardous air pollutant listed under section 112(b) of the act (42 USC 7412(b)) equal or exceed

10 tons per year or the cumulative emissions of hazardous air pollutants listed under section 112(b) of the act equal or exceed 25 tons per year.

SECTION 2. NR 406.04(7) is amended to read:

NR 406.04(7) In order to be eligible for a specific exemption under sub. (1)(ce), (cm), (d), (g), (gm), (h), (j), (m), (o), (y) or (z), the owner or operator of a direct stationary source shall keep and maintain records of materials used, emissions or production rates, that are adequate to demonstrate that the source qualifies for the exemption. The owner or operator of a direct stationary source shall begin keeping these records no later than January 1, 1996 in order to qualify for exemption under sub. (1)(d), (g), (h), (j), (m), (o), (y) or (z), January 1, 1998, in order to qualify for exemption under sub. (1)(ce), (cm), or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. Any direct stationary source that ever exceeds any level listed in sub. (1)(ce), (cm), (d), (g), (gm), (h), (j), (m), (o), (y) or(z) is not thereafter eligible for the exemption under that subsection.

SECTION 3. NR 407.03(1)(gm) is created to read:

NR 407.03(1)(gm) Automobile refinishing operations, including associated quality assurance laboratories and cleaning operations, which emit or will emit not more than 1,666 pounds of volatile organic compounds per month, which are measured prior to entering any emission control devices, unless the emissions of any single hazardous air pollutant listed under section 112(b) of the act (42 USC 7412(b)) equal or exceed 10 tons per year or the cumulative emissions of

hazardous air pollutants listed under section 112(b) of the act equal or exceed 25 tons per year.

SECTION 4. NR 407.03(4)(intro.) and (c) are amended to read:

NR 407.03(4)(intro.) In order to be eligible for a specific exemption under sub. (1)(ce), (d), (g), (gm), (h), (o), (s), (w) or (x), the owner or operator of a direct stationary source shall keep and maintain the records required under pars. (a) to (f), as applicable. The records shall be kept in a manner that allows the source to accurately calculate the required information on a monthly basis. The owner or operator of a direct stationary source shall begin keeping the records required under pars. (b) to (f) no later than January 1, 1994, and the records required under par. (a) no later than January 1, 1998, or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. After January 1, 1994, any direct stationary source that ever exceeds any level listed in sub. (1)(d), (g), (h), (o), (s), (sm), (w) or (x) is not eligible for the exemption under that subsection. After January 1, 1998, any direct stationary source that ever exceeds any level listed in sub. (1)(ce) or (cm) is not eligible for the exemption under that subsection. After January 1, 2001, any direct stationary source that ever exceeds any level listed in sub. (1)(gm) is not eligible for the exemption under that subsection. The records required are as follows:

(c) To be exempt under sub. (1)(g), (gm) or (h), records of the amounts used and VOC content of all VOC containing materials used at the facility per month.

SECTION 5. NR 419.02(2) is amended to read:

NR 419.02(2) "Automobile" means ~~all passenger cars or passenger car derivatives capable of seating 12 or fewer passengers~~, vans, motorcycles, trucks, or any equipment that is physically capable of being driven or drawn upon a highway including, but not limited to, the following types of equipment: construction vehicles such as mobile cranes, bulldozers or concrete mixers; farming equipment such as tractors, plows, or pesticide sprayers; hauling equipment such as truck trailers, utility bodies or camper shells; and miscellaneous equipment such as street cleaners or golf carts.

SECTION 6. NR 422.02(1), (68), (70), (89) and (102) are amended to read:

NR 422.02(1) "Adhesion promoter" means a coating ~~used to promote adhesion of a~~ designed to facilitate the bonding of a primer or topcoat on surfaces such as trim moldings, door locks and door sills, where sanding is impractical, and on plastic parts and the edges of sanded areas.

(68) "Prime coat" means a coating applied directly to a substrate or on top of a pretreatment ~~coat~~ wash primer or other coating for purposes of filling pores in the substrate, providing corrosion resistance or enhancing adhesion or blister resistance of subsequent coatings.

(70) "Primer sealer" means ~~a~~ any coating, applied subsequent to the prime coat or primer surfacer, and prior to the application of a topcoat, that improves the adhesion of the topcoat, provides corrosion resistance and prevents solvents from the topcoats from penetrating into the prime coat or primer surfacer coating.

(89) "Specialty coatings" means, for the purpose of ~~motor vehicle~~ automobile refinishing operations, coatings used only for discrete portions of the vehicle, such as bumpers or spot repairs, which are necessary due to unusual

coating performance requirements. Specialty coatings include, but are not limited to, adhesion promoters, uniform finish blenders, elastomeric coatings, gloss flatteners, bright metal trim repair, jambing (cut-in) clearcoats, impact resistant coatings, underbody coatings, weld-through primers and antiglare/safety coatings.

(102) "Touch-up coating" means a coating applied by brush, air-brush or hand held, non-refillable aerosol cans to repair minor surface damage and imperfections.

SECTION 7. NR 422.02(7e), (7m), (7s), (19m), (20m), (39m), (42m), (45m), (49m), (53m), (54m), (67m), (87m), (96m), (105g), (105r), (109m) and (110m) are created to read:

NR 422.02(7e) "Automobile refinishing coating component" means any portion of a coating, such as a reducer or thinner, hardener, additive, etc., recommended, by its manufacturer or importer, to distributors or end-users for automobile refinishing. The raw materials used to produce the components that are mixed by the end-user to prepare a coating for application are not considered automobile refinishing coating components.

(7m) "Automobile refinishing coating importer", "coating component importer" or "importer" means any company, group or individual that brings automobile refinishing coatings or coating components from a location outside the United States into the United States for sale or distribution in the United States.

(7s) "Automobile refinishing coating component manufacturer" or "manufacturer" means any company, group or individual that produces or packages automobile refinishing coatings or coating components for sale or distribution in

the United States, including an entity which produces or packages such coating or coating components under a private label for another party.

(19m) "Container" means the individual receptacle that holds a coating or coating component for storage and distribution.

(20m) "Cut-in clearcoat" or "jamming clearcoat" means a fast-drying, ready-to-spray clearcoat applied to surfaces such as door jambs and trunk and hood edges to allow for quick closure.

(39m) "Hardener" means a coating component specifically designed to promote a faster cure of an enamel finish.

(42m) "Impact-resistant coating" means a coating designed to resist chipping caused by road debris.

(45m) "Lacquer" means a thermoplastic coating which dries primarily by solvent evaporation and which is resoluble in its original solvent.

(49m) "Low-gloss coating" means a coating which exhibits a gloss reading of less than or equal to 25 on a 60-degree glossmeter, as measured according to ASTM D523-89, incorporated by reference in s. NR 484.10(9).

(53m) "Mixing instructions" means the coating or coating component manufacturer's or importer's specification of the volumetric quantities of coating.

(54m) "Multi-colored topcoat" means a topcoat that exhibits more than one color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles.

(67m) "Pretreatment wash primer" means a primer that is applied directly to metal substrates and which contains at least 0.50% acid by weight, as measured according to ASTM D1613-96, incorporated by reference in s. NR 484.10(25m), and

is used to provide surface etching, corrosion resistance and enhanced adhesion of subsequent coatings.

(87m) "Single-stage coating" means a topcoat consisting of only one coating.

(96m) "Thinner" means any solvent used to reduce the viscosity or solids content of a coating.

(105g) "Two-stage topcoat" means a topcoat consisting of a pigmented basecoat and a transparent clearcoat.

(105r) "Underbody coating" means a coating designed for protection and sound deadening that is typically applied to the wheel wells and underbody of an automobile.

(109m) "Water hold-out coating" means a coating applied to the interior cavity areas of doors, quarter panels and rocker panels for the purpose of corrosion resistance to prolonged water exposure.

(110m) "Weld-through primer" means a primer that is applied to an area before welding is performed and that provides corrosion resistance to the surface after welding has been performed.

SECTION 8. NR 422.095 (title) (1) and (2) (a) are amended to read:

NR 422.095 (title) ~~Motor vehicle~~ Automobile refinishing operations.

(1) APPLICABILITY. This section applies to ~~motor vehicle~~ automobile refinishing operations performed in the following types of facilities in the counties of Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha: auto body and repair shops; production paint shops; new and used motor vehicle dealer repair and paint shops; fleet operator repair and paint shops; and any facility which coats vehicles and is classified under

standard industrial classification code 7532, as described in the Standard Industrial Classification Manual, 1987, incorporated by reference in s. NR 484.05, including dock repair of imported vehicles and dealer repair of vehicles damaged in transit.

(2) (a) ~~Motor vehicle~~ Automobile refinishing operations at facilities which use less than 20 gallons per year of coatings are exempt from the equipment requirements in subs. (5) and (6) ~~(e)~~ (c).

SECTION 9. NR 422.095(2)(c) is repealed.

SECTION 10. NR 422.095(3)(a)(intro.) (b) and Note are amended to read:

NR 422.095(3)(a)(intro.) The owner or operator of ~~a motor vehicle~~ an automobile refinishing operation in existence on September 1, 1995, and subject to this section shall submit a notification to the department, in writing, within 60 days of September 1, 1995, consisting of the following information:

(b) The owner or operator of ~~a motor vehicle~~ an automobile refinishing operation which becomes subject to this section ~~after September 1, 1995,~~ shall submit a written notification to the department containing the information specified in par. (a) within 30 days after becoming subject to this section.

Note: Notifications submitted under this subsection should be submitted to:

Wisconsin Department of Natural Resources

Bureau of Air Management

PO Box 7921

Madison WI 53707-7921

Attn: Compliance Small Business Section

SECTION 11. NR 422.095(4) is repealed and recreated to read:

NR 422.095(4) EMISSION LIMITATIONS - COATING. (a) No owner or operator of

an automobile refinishing operation may refinish or allow the refinishing of any motor vehicles or their body parts and components using any coating or coating system with a VOC content in excess of that specified in Table 1. All coatings and coating components shall be used according to manufacturer's specifications and mixing instructions.

(b) The most restrictive VOC limitation in Table 1 applies with either of the following:

1. Different combinations or mixing ratios of coatings and coating components are used which constitute a different coating system than any of the systems listed in Table 1.

2. The same combination and mixing ratio of coating components is used for more than one category in Table 1.

(c) Automobile refinishing coatings and coating components manufactured prior to January 11, 1999 are exempt from the emission limitations in Table 1.

Table 1

VOC Content Limitations for Coatings and Coating Components Used in

Automobile Refinishing Operations

[Kilograms/liter (pounds/gallon) of coating, excluding water, as applied]

Type of Coating	Maximum VOC Content
Pretreatment wash primer	0.78 (6.5)
Primers/primer surfacers	0.58 (4.8)
Primer sealers	0.55 (4.6)
Single/2-Stage topcoats	0.60 (5.0)
Three or more stage topcoat system	0.63 (5.2)
Specialty coatings	0.84 (7.0)
Multi-colored topcoats	0.68 (5.7)

(d) The maximum VOC content for any category of coating in Table 1 shall be calculated according to the following formula:

$$\text{VOC} = \frac{(W_v - W_w - W_{ec})}{(V - V_w - V_{ec})}$$

where:

VOC content is the pounds of VOC per gallon of coating

W_v is the mass of total volatiles, in pounds

W_w is the mass of water, in pounds

W_{ec} is the mass of exempt compounds, in pounds

V is the volume of coating, in gallons

V_w is the volume of water, in gallons

V_{ec} is the volume of exempt compounds, in gallons

(e) The VOC content for a multi-stage topcoat shall be calculated according to the following formula:

$$\text{VOC}_{\text{multi}} = [\text{VOC}_{\text{bc}} + 3 \sum_{i=1}^M \text{VOC}_{\text{mci}} + 2(\text{VOC}_{\text{cc}})] / (M + 3)$$

where:

$\text{VOC}_{\text{multi}}$ is the VOC content of a multi-stage topcoat, in pounds of VOC per gallon of coating

VOC_{bc} is the VOC content of the basecoat, as determined in par. (d)

VOC_{mci} is the VOC content of midcoat i , as determined in par. (d)

VOC_{cc} is the VOC content of the clearcoat, as determined in par. (d)

M is the number of midcoats.

SECTION 12. NR 422.095(5) (intro.) is amended to read:

NR 422.095(5) APPLICATION EQUIPMENT. (intro.) ~~After January 1, 1996, no~~ No owner or operator of ~~a motor vehicle~~ an automobile refinishing operation may refinish or allow the refinishing of any motor vehicles or their body parts and components unless one of the following types of application equipment is used in accordance with the manufacturer's recommendations:

SECTION 13. NR 422.095(6) (intro.) is amended to read:

NR 422.095(6) SURFACE PREPARATION AND CLEANUP SOLVENT. (intro.) ~~After January 1, 1996, the~~ The owner or operator of ~~a motor vehicle~~ an automobile refinishing operation shall:

SECTION 14. NR 422.095(6) (a) and (b) are repealed.

SECTION 15. NR 422.095(6) (c) to (f) are renumbered (a) to (d) and 422.095(6) (d), as renumbered, is amended to read:

NR 422.095(6) (d) For facilities exempt under sub. (2) (a) from the requirements of par. ~~(e)~~ (c), collect solvent used to clean spray equipment and paint lines in a closed container for proper disposal.

SECTION 16 NR 422.095(7) is amended to read:

NR 422.095(7) SPECIALTY COATINGS. No owner or operator of ~~a motor vehicle~~ an automobile refinishing operation may apply or allow the application of a specialty coating for any reason other than the manufacturer's intended purposes.

SECTION 17. NR 422.095(8) and (8) (b) Note are repealed.

SECTION 18. ~~NR 484.10(9)~~ is amended to read:

NR 484.10(9)

ASTM D523-89 ~~(1994)~~ (1999) Standard Test Method for ANSI/AHA

Specular Gloss

A135.5-

1988

NR 422.02 (49m)

SECTION 19. NR 484.10(25m) is created to read:

NR 484.10(25m)

ASTM D1613-96 (1999) Standard Test Method for NR 422.02 (67)

Acidity in Volatile Solvents and

Chemical Intermediates Used

in Paint, Varnish, Lacquer,

and Related Products

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 27, 2000.

The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)