

## **Report From Agency**

### **REPORT TO LEGISLATURE**

NR 419 and 484, Wis. Adm. Code

Application of reasonably available control technology for volatile organic compound emissions from industrial wastewater collection and treatment operations

Board Order Number AM-24-08  
Clearinghouse Rule Number 08-104

### **BASIS AND PURPOSE OF THE PROPOSED RULE**

Section 182(b)(2) of Clean Air Act requires implementation of reasonably available control technology (RACT) for many emission source categories of VOCs in areas classified as moderate or worse nonattainment areas for the ozone national ambient air quality standard (NAAQS). The U.S. Environmental Protection Agency (EPA) has published Control Techniques Guidelines (CTGs) for many of these VOC RACT categories, including IWCT operations. The DNR has promulgated rules to establish VOC RACT emission limits for most of these CTG VOC source categories – applicable in Wisconsin's moderate and worse ozone nonattainment areas.

However, on March 17, 2008, EPA notified DNR that Wisconsin's state implementation plan (SIP) was deficient because DNR's rules did not set VOC RACT emission limits that are consistent with several EPA CTGs in Wisconsin's ozone nonattainment areas. The IWCT operations comprise one of these CTG VOC source categories for which the DNR has yet to promulgate a mandated RACT rule.

The EPA further notified the DNR that federal sanctions may be imposed in Wisconsin if the ozone SIP deficiencies identified in the March 17, 2008 letter are not fully rectified by mid-September, 2009. These potential federal sanctions include withholding of federal highway funds, and implementation of a federal air quality management plan in place of State rules.

In order to avoid these sanctions, the DNR is taking steps to remove the deficiencies to its ozone SIP. These steps include the proposed rule to establish VOC RACT requirements for IWCT operations in Wisconsin's ozone nonattainment areas.

### **Summary of the proposed rule**

The proposed rule would require VOC RACT measures that are listed in EPA guidance (including the CTG) as being highly effective towards reducing VOC emissions from any applicable IWCT operations.

Almost all of the VOC emissions from IWCT processes simply evaporate from the waste stream when exposed to the ambient air. Consequently, the VOC RACT requirements stated in the proposed IWCT rule largely consist of implementing technologies and work practice standards that would combine to substantially suppress the exposure of the VOC-laden waste stream to the ambient air. These proposed requirements include the following:

- Sumps and wastewater separators shall be provided with either a floating cover equipped with seals or a fixed cover, equipped with a closed vent system vented to a pollution control device.
- All sewer lines shall be completely enclosed so that no liquid surface is exposed to the air.
- All process drain shall be equipped with water seal controls.
- All junction boxes shall be totally enclosed with a fixed cover with gasket or a manhole cover.

Each pollution control device shall achieve a control efficiency of 95% by weight or greater for VOC emissions or emit VOC emissions measured at a concentration of less than 500 parts per million (ppm).

#### **SUMMARY OF PUBLIC COMMENTS**

No comments specific to the proposed rules were received.

#### **MODIFICATIONS MADE**

No modification were made.

#### **APPEARANCES AT THE PUBLIC HEARING**

The Department held a public hearing on December 5, 2008 at the DNR Southeast Region Headquarters located at 2300 N Dr. Martin Luther King Jr. Drive in Milwaukee. The following individuals appeared as indicated below.

In support:                      None

In Opposition:                      None

As interest may appear: Bob Fassbender, 10 E. Doty St., Suite 500, Madison, WI 53707  
Brian Borofka, 333 W. Everett St., Milwaukee, WI 53201  
James Meverden, 5159 N. Bay ridge Ave, Whitefish Bay, WI 53217

#### **CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE**

Additional information was provided in Section 7. of the rule analysis to better describe the responsibilities of adjacent states to develop similar rules and the status of those efforts.

No changes were made to the fiscal estimate.

#### **RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

The Legislative Council Rules Clearinghouse recommended no changes in its report.

#### **FINAL REGULATORY FLEXIBILITY ANALYSIS**

The DNR does not believe that the proposed rule will have a significant economic impact on small businesses. Due to the 100 ton/year applicability threshold in the rule, it is highly unlikely that a small business, as defined under 227.114(1), Stats., would have an IWCT operation that triggers the emission reduction requirements in the rule.