

Meeting Summary
Air Management Advisory Group Meeting
Thursday, September 5, 2024

Attendees

Zac Adelman, LACDO	Ashley Korrer, WEC Energy Group
Renee Bashel, Interested party	Mark Lee, Masonite
Mickenna Beach, Oneida Nation	Jeremy Luebke, Geosyntec Consultants
Rob Bermke, Georgia-Pacific	Chris Lutzen, AECOM
David Bittrich, TRC Environmental	Scott Manley, WMC*
Dan Bell, Alliant Energy	Jason Martin, Foth Infrastructure and Environment
Philip Bower, DNR	Matt Matrise, DNR
Molly Collins, American Lung Association	James Mertes, WTBA*
Megan Corrado, DNR	James Mevedren, Mevedren Environmental, Inc.
Natalene Cummings, Forest County Potawatomi Community*	Michael Moran, DNR
Craig Czarnecki, DNR	Bill Nelson, Godfrey & Kahn*
Brianna Denk, DNR	Todd Palmer, Michael Best*
Angie Dickens, LADCO	Barb Pavliscak, DNR
Ciaran Gallagher, Clean Wisconsin*	Mary Recktenwalt, Mead & Hunt
Gail Good, DNR	Andrea Simon, Interested party
Ashley Gray, DNR	Brad Sims, Exxon Mobil
Jeremy Gruse, Custom Fiberglass Modeling	Pat Stevens, Wisconsin Paper Council*
Rob Harmon, Amcor Flexibles North America	Steve Stretchberry, WEC Energy Group
Maria Hill, DNR	Patti Stickney, Short Elliot Hendrickson, Inc.
Joe Hoch, WUA*	John Tadelski, SCS Engineers
Jodi Jensen, WTBA	Steve Tasch, Trinity Consultants
Adam Jordahl, WMC*	Serene Tomaszewski, DNR
Brittany Keyes, Healthy Climate Wisconsin	Kate Verbeten, Green Bay Metro Sewerage District
Nathan Kilger, Bad River Band of Lake Superior Chippewa	Dr. Jeremiah Yee, DHS
Mike Kolb, WEC Energy Group *	

*AMAG member

Meeting Summary

Opening remarks and agenda repair

Program Director Gail Good opened the meeting. Craig Czarnecki ran through meeting procedures.

Hiring and Administrative Update

Staff departures:

- Katie Praedel, Air Monitoring Section Chief, left program to become DNR Southeast Region Field Integration Leader

Proposed Guidance, rules and legislative update

Proposed/Final DNR Rules

AM-05-22 – Compliance Demonstration Rule - Updates to NR 439 testing, monitoring, recordkeeping, reporting requirements for compliance. NRB approved and the rule was signed by the Governor on 8/22/2024. More information can be found on the [Rulemaking to Revise Chapter NR 439 | Wisconsin DNR](#) webpage.

AM-10-23 – NSR Fee Rule - Updates to construction permit fees to assure compliance with Clean Air Act requirements and to meet business needs of permitted sources. Public comment period closed 9/4/2024. More information can be found on the [NR410 Rulemaking | Wisconsin DNR](#) webpage.

Proposed/Final DNR Guidance

Permit Guidance for RNG Processors [AM641.pdf \(widen.net\)](#) - Guidance on how to determine air permit needs when installing renewable natural gas (RNG) systems associated with digesters. Joint comments were received from WMC/ Wisconsin Dairy Alliance and Venture Dairy Cooperative. Guidance was finalized 6/10/2024. A member asked a question regarding availability of the link to final guidance. The department mentioned it is linked in today's presentation and will follow up to ensure it's accessible.

NR 410

The public comment period closed on 9/4/2024. A public hearing was held on 8/29/2024. No public comments were received during the hearing. The rule will be presented to the Natural Resources Board (NRB) in December. More information can be found on the [NR410 Rulemaking | Wisconsin DNR](#) webpage.

NR 439

The rule was approved by Natural Resources Board and signed by the Governor on 8/22/2024. The next step in the rule process is Legislative review which will begin around the start of the new year.

Next steps for the program include continued discussion with stakeholders on a few areas including calibration frequency, deviation definition and implementation. The department is also developing support materials including an outline of compliance report requirements, form updates and webpage updates.

More information can be found on the [NR 439 Rulemaking page](#).

A question on whether proposed schedule is firm was asked. The DNR responded that it is possible that changes could be seen.

State Implementation Plan (SIP) Actions

Alignment SIP - In the 1980s and 1990s, hundreds of air rules and statues were renumbered from the ch. NR 154, Wis. Adm. Code, and ch. 144, Wis. Stats., to the NR 400, Wis. Adm. Code, series and ch. 285, Wis. Stats., creating a mismatch in citations used in the state and those in the SIP. Approximately 20% of the renumbered provisions were also revised at some point.

The “SIP Notebook” project goal is aligning the federally enforceable provisions in the Wisconsin SIP with the provisions currently in effect in the state. The Air Program has prepared a draft SIP revision related to the SIP Notebook project (the Alignment SIP) requesting that the EPA renumber and revise provisions in Wisconsin’s SIP to match the provisions being implemented in the state.

The alignment SIP will not address rules involved in the startup/shutdown/malfunction (SSM) SIP call. This will be handled in a separate submittal once the EPA provides guidance.

NOx RACT - Also being reviewed by EPA is a SIP submittal to incorporate NR 428 rule updates.

Regional Haze - A SIP to meet regional haze planning requirements was submitted in 2021 and is under review by EPA.

Ozone Infrastructure SIP - The DNR also submitted the infrastructure SIP for the 2015 ozone National Ambient Air Quality Standard, and it is under review by the EPA.

A member reminded AMAG to convene a group to discuss SSM issues, particularly malfunction.

A member noted that ch. NR 439 will need SIP and Title V program approval and asked how much time this will take. DNR responded that it generally takes 6 months to a year for SIP approval.

Proposed EPA rules/Guidance

[Revisions to Regulations Related to Project Emissions Accounting](#). This proposed rule published in the Federal Register on 5/3/24. In this action, the EPA proposes to revise its 2020 Project Emissions Accounting Rule to ensure that emission decreases claimed under the Project

Emissions Accounting approach are substantially related to the project and are legally and practicably enforceable. DNR did not comment. Comments were due 7/2/2024.

Non-Regulatory Docket: [Power Plant GHG: Regulating Existing Gas Plants](#). The DNR submitted comments, largely re-stating issues raised in 2023 joint DNR-PSC comment letter. Comments were due 5/28/2024.

Non-Regulatory Docket: [Regional Haze Round 3](#). The DNR did not submit independent comments. Wisconsin engaged with NACAA and LADCO to communicate Wisconsin's perspective.

[Proposed disapproval of Missouri's 2015 Ozone Transport SIP](#). Missouri's emissions impact Wisconsin's ozone nonattainment area so this disapproval is of interest to Wisconsin. Comments are due 9/20/2024. Update: since the time of the meeting, the comment period was extended by 30 days.

Finalized EPA rules/Guidance

Reclassification of Major Sources as Area Sources under Section 112 (Part 63).¹

The Final Rule amending aspects of the 2020 "Major MACT to Area" or MM2A Rule was signed 9/4/2024.

The MM2A Rule codified EPA's 2018 decision to withdraw the agency's historic "once-in-always in policy" for major sources of federal HAPs subject to NESHAP requirements. EPA's 2018 policy shift allows sources classified as major sources to reclassify as area sources at any time after taking steps to limit HAP emissions below major source thresholds and thereby would no longer be subject to major source NESHAP requirements.

The final amendments include a new provision requiring sources subject to a NESHAP to address emissions of any of seven persistent and bioaccumulative HAPs listed in Section 112(c)(6) of the Act to remain subject to such NESHAPs, even if they reclassify to area source status. There are approximately 30 NESHAPs that fall into this category. Sources subject to any of these NESHAPs on the effective date of the final rule must remain subject to them even if they reclassify to an area source.

The NESHAPs that cannot be removed once the rule is published are: 40 CFR Part 63 Subparts F, G, H, I, L, R, X, CC, GG, II, JJ, KK, LL, MM, EEE, HHH, JJJ, LLL, RRR, UUU, FFFF, JJJJ, MMMM, PPPP, ZZZZ, CCCCC, DDDDD, FFFFF, IIIII, LLLLL, YYYYY, JJJJJ, and EEEEEEE.

¹ This rule was published in the Federal Register and effective on September 10, 2024.

Spring 2024 Regulatory Agenda

For the last few years, the timing of regulatory agenda releases has been July for spring and December for Fall. The election will likely impact when a Fall 2024 regulatory agenda will be seen.

Several dates below are already passed, and the associated actions have not been completed. The regulatory agenda is a high-level summary of priorities. Actions taken by EPA Region Five may not be represented here including actions on SIPs.

Moderate NAA Reclassification to Serious

The Milwaukee, Kenosha and Sheboygan Non-Attainment Areas (NAAs) failed to attain and must be reclassified to serious nonattainment by operation of law after August 3.

The reclassification will occur via a notice (issued by individual regions), not a rule, with serious-area deadlines/requirements/etc. to follow in a national rulemaking. This item is associated with that rulemaking.

Review of Secondary NAAQS

The EPA proposed the secondary NAAQS for Nitrogen Oxides (NO_x), Sulfur Oxides (SO_x) and Particulate Matter (PM) in April of 2024.

The EPA proposed to strengthen the secondary NAAQS for SO_x to 10-15 ppb, as an annual average, averaged over 3 years, while proposing to retain existing secondary standards for NO_x and PM.

Air Management expects that the state will be in attainment for this standard. The final rule will kick off a designations process.

Emissions Guidelines for Greenhouse Gas (GHG) Emissions from Existing Fossil Fuel-Fired Combustion Electric Generating Units (EGUs).

Air Management is coordinating with the utilities and considering options for a state plan, including accepting a federal plan due to resource constraints. In addition to coal, large gas units, and possibly smaller gas units would also be affected. At least one utility has expressed interest in a state plan due to the flexibility afforded.

A state plan would be due two years after rule is finalized (i.e., April 2026)

Air Emissions Reporting Rule (AERR)

Expected finalization in July 2024. No additional information at this time.

Clarifying the Scope of “Applicable Requirements” under State Operating Permit Programs and the Federal Operating Permit Program 40 CFR Part 70

This proposed rule clarifies EPA’s position on the proper intersection between NSR permitting and Title V permitting. As described in the preamble of this rule, the EPA’s position is that provided a source obtains an NSR permit with an opportunity for public comment and judicial review, the NSR permit establishes the “applicable requirements” for purposes of Title V. The EPA would not use the Title V petitioning process to revisit applicable requirements established by NSR permits obtained in such a manner.

If finalized as proposed, this rule will make minor revisions to the definition of “applicable requirement” in Part 70 to clarify the intersection between Title I and tile V permitting. The department would revise the state definition of “applicable requirement” in chapter NR 400 to match the revision, but the current definition will not conflict with the proposed updates to the definition.

Guideline on Air Quality Models

The EPA proposes revisions to the Guideline on Air Quality Models (“Guideline”), which include enhancements to the formulation and application of the EPA’s near-field dispersion modeling system, AERMOD, as well as refinements to the recommendations regarding the determination of background concentration for use in National Ambient Air Quality Standards (NAAQS) implementation modeling demonstrations (e.g., PSD compliance demonstrations, SIP demonstration for inert pollutants and SO₂ designations).

The EPA’s proposed recommended framework would replace the term “significant concentration gradient” and its related content included in previous versions of the Guideline.

Draft Guidance: Practical Enforceability of Potential to Emit (PTE)

Guidance on practical enforceability of PTE is in response to 2021 Office of the Inspector General (OIG) report. Consolidates all existing policies into a single document. EPA is expected to finalize a draft this fall and provide a comment period.

New Construction Permit Numbering System

All construction permit applications received on or after 7/1/2024 are assigned numbers in the new system. The previous construction permit numbering system consisted of a two-digit year followed by the permit writer’s initials and a sequence number.

Example using old system: 24-DMM-125

The new system is the same except the permit writer's initials are replaced by three letters that indicate the type of permit.

24-MIN-141 Minor construction permit

24-PSD-166 Major construction permit under PSD

24-NAA-299 Major construction permit under NNSR

Construction Review Timelines

Permit writer vacancies have diminished the department's ability to accomplish core construction permit activities. Prior to 2023, permit issuance times from receipt of application to permit issuance averaged 3 to 4 months. As of August 2024, these times averaged 7 to 8 months. The program's goal is to issue each construction permit within 58 days of a receiving a completed application. The "58-day metric" is currently at 73 days.

Members Update

Todd Palmer – Federal development on vacated portion of 2022 Boiler MACT. Question on how many sources affected.

Joe Hoch – Still seeking how the EPA will address banked allowances. There was an August memo about a stay on Good Neighbor Plan. EPA rulemaking in progress. Asked for updates on Title V funding? The agency is working on the budget, no word at this time.

Pat Stevens – Expressed appreciation for opportunities to comment on NR 439 and NR 410 rules.

Scott Manley – Echoed Pat on appreciation for NR 439 input opportunities. Requested the program let Wisconsin Manufacturers and Commerce (WMC) know when the rule package has been sent to the Legislature to see if they can assist.

PM_{2.5} Data

The EPA data alignment has taken place and is complete. The design values decreased as a result of alignment, and most monitors show a design value below the new PM NAAQS.

2023 and 2024 design values will be used in the designations process. The DNR has used a model to track likely design values for 2024.

PM_{2.5} Emissions and Air Quality in Wisconsin

Guest presentation by Angie Dickens, Data Scientist, LADCO and Zac Adelman, Exec. Director, LADCO. See slides for information.

An AMAG member made a comment on the biogenic nature of many sources of the precursors for PM_{2.5} and asked about the reasonableness of controls on anthropogenic sources for SIP purposes.

Brianna Denk emphasized the importance of continued efforts by the EPA to address the mobile source sector.

Another member asked whether Wisconsin sources and trends in precursor emissions are similar to sources and trends seen in other Region 5 states. Zac indicated that the sources and trends are similar although in some states the magnitude of emissions and declines have been larger due to number of coal sources that have converted to cleaner fuels or shutdown.

An AMAG member asked what amount of the PM_{2.5} in Wisconsin is due to transport from other states. Zac stated that there has been an increasing trend in wildfires and that they have significantly affected PM_{2.5} concentrations in Wisconsin.

An AMAG member also asked how the information on biogenic sources could inform the need for PM_{2.5} modeling demonstrations for PSD permits that are major for PM_{2.5} or a precursor. For some precursors it may be possible to make a demonstration that the precursor does not contribute. Zac emphasized that questions about how planning and attainment demonstrations would work have been raised across the country and is not unique to Wisconsin.

DNR is considering whether it should revise the PM_{2.5} background concentration due to the new PM NAAQS.

PM_{2.5} Exceptional Events

The Exceptional Events Rule implements Clean Air Act (CAA) Section 319(b), Air Quality Monitoring Data Influenced by Exceptional Events. Exceptional events are defined in the CAA as events that affect air quality, are not reasonably controllable or preventable, and are either natural events or caused by human activity unlikely to recur. Air agencies can request exclusion of data influenced by exceptional events from use in regulatory decisions, such as initial area designations of a revised NAAQS.

Wisconsin DNR intends to submit an Exceptional Events Demonstration for the late-June 2023 Canadian Wildfire event (June 26 – June 30) for the Milwaukee 16th street and Waukesha

monitors.

It is important for interested parties to engage in the state's public comment period. EPA's concurrent action on EE demos does not include a public comment period. The DNR expects to submit its EE demonstration before the end of this year. Final designations will be based on most recent data, likely 2022-2024 data.

All Region 5 states, with the possible exception of Minnesota, will be submitting EE demonstrations.

Ozone Topics

Brianna Denk reviewed the 2024 Wisconsin Ozone Status, reviewed data presentation.

Question - Did smoke have an impact on ozone concentrations in 2023?

Answer – Yes, there was likely an impact, but it's difficult to make a nexus demonstration. The department does evaluate these impacts each year.

Question - How does smoke impact Ozone? It's mostly the VOCs that are transported that are having an impact. If you also have NO_x locally, the impact is increased.

Reclassification to Serious Nonattainment

Moderate area attainment date for the 2015 ozone standard was August 3, 2024. By law, the EPA must reclassify areas that failed to attain to Serious by February 3, 2025. EPA regional offices will publish a notice to reclassify areas to Serious, and the EPA will propose a national action to set due dates for SIPs.

Nonattainment Area Major Source Thresholds

- Serious Nonattainment – 50 tons per year for both VOCs and NO_x
- Significant Emission Rates – Serious (offset ratio 1.2:1) 25 tons per year for both VOCs and NO_x

Reclassification from “moderate” to “serious” nonattainment lowers major source thresholds.

Permitting Impacts – Threshold tons/year will decrease by half for major sources from 100 to 50 (NO_x, VOC). Additionally, significant emission rates will be impacted, offset ratio going up to 1.2:1 and NO_x/VOC tons/year decrease from 40 to 25.

Question on look back requirements for Non-Attainment Area Major Permitting (NNSR).

Answer – It is similar to the 5-year look back used in the second step of a PSD applicability determination. Serious nonattainment now requires a 5-year look back (not optional) and projects that result in net increases that exceed the significant emission rate for a contaminant will have to go through major permitting. The Serious NNSR applicability determination is more restrictive by design.

Question on quantity of permit impacts, will workload increase substantially?

Answer - Opens a dialogue with permittees on how the department can assist given current limited resources and how to best prioritize.

Question on what is effective date?

Answer – The department anticipates a 60-day window from notice in register to implementation date.

Question on whether sources should be aware of these possible changes?

Answer - The department plans to do outreach when the time comes as resources enable.

Question on ROP threshold of 50, will it drop to 25 if this new designation to serious takes place?

Answer - Yes, the threshold will drop for the pollutants that are ozone precursors: VOC and NO_x. The permit references “the threshold” and not a particular numerical standard so it will automatically be adjusted.

Question on GOP for asphalt/crushers, when they were developed were permits written in a way that they would be impacted?

Answer – They are based on numerical standard and not a reference to threshold, but the department will look into and circle back.

Litigation Update - Good Neighbor Plan (GNP)

Lower courts stayed the GNP in 12 of 23 states in the original GNP, while the remaining states asked the U.S. Supreme Court for a stay. On June 27, 2024 the Supreme Court granted an emergency stay of the GNP. Litigation is currently before the DC Circuit. Wisconsin did submit a brief. The court anticipates arguments sometime in the new year. While litigation is ongoing

and the GNP is stayed, no additional upwind emission reductions are being achieved.

Question on upwind states - is Wisconsin a contributor?

Answer - Only to Michigan in 2023 and not out into the future, applicable to Electric generating units.

2025 Meeting Dates

- Thursday, March 6
- Thursday, June 5
- Thursday, Sept. 11
- Thursday, Dec. 4

Next AMAG Meeting. The next study group meeting will be held on **Thursday, Dec. 5** at 9 a.m.