

Report From Agency

REPORT TO LEGISLATURE

NR 404 and 484, Wis. Adm. Code
Ambient air quality standards and affecting small business

Board Order No. AM-23-07A
Clearinghouse Rule No. 07-082

Basis and Purpose of the Proposed Rule

The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to promulgate national ambient air quality standards (NAAQS), which are designed to protect public health (primary standards) and public welfare (secondary standards) for certain criteria pollutants such as particulate matter, sulfur dioxide and ozone. The U.S. EPA is required to periodically review the current health science in order to evaluate if and how the existing NAAQS need to be adjusted to more accurately protect human health and welfare.

The U.S. EPA has revoked the NAAQS for annually-averaged particulate matter less than 10 micrometers in diameter (PM₁₀) and promulgated new NAAQS for particulate matter less than 2.5 micrometers in diameter (PM_{2.5}). The U.S. EPA also revised the monitoring requirements related to these NAAQS changes. The proposed rule revisions would update the ambient air standards for particulate matter in ch. NR 404 and the monitoring requirements in ch. NR 484 to reflect the NAAQS changes. This would assure that Wisconsin's Administrative Code is consistent with the NAAQS for particulate matter, as required under s. 285.21(1)(a), Stats., and better reflect the science of particle pollution effects on human health.

If any areas in the state are designated as nonattainment for the new air quality standards, the Department is required to develop an air quality state implementation plan to ensure that the ambient air quality standards are attained and maintained in those areas.

Summary of Public Comments

Public comments from the Wisconsin Paper Council and Wisconsin Manufacturers and Commerce were in support of the proposed rule. After the close of the public comment period in October, 2007, concerns were expressed by several citizens and the Natural Resources Board regarding the proposed repeal of the air quality standard for total suspended particulates (TSP). This proposed repeal was included in the rule as it was taken to public hearing. Consequently, the original order has been bifurcated. The proposed changes related to the repeal of the TSP standards have been removed from Board Order No. AM-23-07A, but may be brought before the Natural Resources Board at a future time.

Modifications Made

No modifications were made as a result of the public hearing.

Appearances at the Public Hearing

In support:

Donald Pay, 26 Mesa Court, #4, Madison, WI 53719

In opposition – none

As interest may appear - none

Changes to Rule Analysis and Fiscal Estimate

The rule analysis was changed to reflect the elimination of the portion of the rule relating to the repeal of the total suspended particulates (TSP) air quality standard.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse report did not contain any recommendations relating to the rule as it related to particulate matter.

Final Regulatory Flexibility Analysis

The proposed rule revisions would modify Wisconsin's ambient air quality standards for particulate matter. These proposed rules contain no new requirements (compliance, reporting, etc.) for any sources, including those classified as small business. These proposed rule revisions are needed to make Wisconsin's ambient air quality standards the same as the federal NAAQS, as required under s. 285.21(1)(a), Stats. Consequently, the Department has limited flexibility to make any changes to these proposed rule revisions.