

# STATEMENT OF SCOPE

## Department of Natural Resources

**Rule No.:** AM-10-19

**Relating to:** Incorporation of the 2015 national ambient air quality standards for ozone.

**Rule Type:** Permanent

### **1. Finding/nature of emergency (Emergency Rule only)**

The rule will be proposed as a permanent rule.

### **2. Detailed description of the objective of the proposed rule:**

Under the federal Clean Air Act, the U.S. Environmental Protection Agency (EPA) has responsibility for promulgating National Ambient Air Quality Standards (NAAQS) which are designed to protect public health (primary standards) and public welfare (secondary standards). Under state and federal law, if the EPA promulgates a NAAQS, the Department is required to promulgate a similar, but no more restrictive standard. On October 26, 2015 the EPA published revisions to the NAAQS for ozone. These revisions became effective nationwide on December 28, 2015. The EPA revised the primary and secondary standards for ozone by lowering them from 0.075 parts per million (ppm) to 0.070 ppm.

In order to meet this obligation, the Department is proposing to adopt EPA's revised standards for ozone into ch. NR 404, Wis. Adm. Code, incorporate the revised ozone data handling and computation requirements into ch. NR 438, Wis. Adm. Code, and, as necessary, update additional sections of the NR 400 series to ensure implementation of ozone NAAQS consistent with federal law.

### **3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The proposed rule changes are compatible with existing policy to maintain consistency between state rules and EPA regulations and satisfy the Department's statutory obligation to promulgate an ambient air quality standard similar but not more restrictive than the NAAQS promulgated by the EPA. The proposed rules do not include any new policies, and there are no policy alternatives available because the proposed actions are required under state and federal law.

### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 285.21 (1) (a), Wis. Stats., establishes that if an ambient air quality standard is promulgated under section 109 of the federal Clean Air Act, the Department shall promulgate a similar standard by rule which may not be more restrictive than the federal standard except as otherwise provided by statute. The action taken by the EPA in promulgating the revised primary annual standard for ozone was done so under section 109 of the federal Clean Air Act (42 U.S.C. 7409).

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

The Department estimates that up to 400 hours of state employee time will be needed to complete the promulgation of the proposed rules.

**6. List with description of all entities that may be affected by the proposed rule :**

The proposed rule will not impose any additional requirements on sources beyond those already required by federal law. Sources emitting ozone precursors in areas designated nonattainment for the 2015 ozone NAAQS may be affected by federal requirements if control programs are necessary to attain the NAAQS in the future.

In addition, there are organizations that may not be directly affected by the rule but may have an interest in rule development, including business, environmental and public health organizations.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

The intended result of this proposed rulemaking is to ensure consistency between Wisconsin's ambient air quality standards for ozone and those NAAQS for ozone currently promulgated by EPA.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):**

The department estimates that the economic impact of implementing the revised ozone NAAQS in Wisconsin will be minimal, because the proposed changes to Wisconsin's rules are already required by federal law. The rule is not expected to have any direct impact on small business.

**9. Anticipated number, month and locations of public hearings :**

The Department anticipates holding one public hearing in Madison during the spring of 2020.

**10. Contact Person:**

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Preston D. Cole, Secretary

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Date Submitted