

## **Report From Agency**

### REPORT TO LEGISLATURE

NR 404, 438, and 484, Wis. Adm. Code  
Ambient air quality standards for ozone and lead and new reporting requirements for lead compounds

Board Order Number: AM-12-09  
Clearinghouse Rule Number: 09-088

#### BASIS AND PURPOSE OF THE PROPOSED RULE

The federal Clean Air Act requires the US 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 ozone, particular matter, sulfur dioxide, and lead. The EPA is required to periodically review the latest scientific information and standards in order to evaluate if and how the existing NAAQS need to be adjusted to more adequately protect human health and welfare.

In 1997, the EPA promulgated a 0.08 parts per million (ppm) 8-hour ozone NAAQS based on its conclusion that the more restrictive 8-hour ozone standard provided greater public health protection than the 1-hour ozone standard in affect at that time. EPA did not however repeal the 1-hour ozone standard, but left it in place. In 2008, EPA significantly strengthened the 8-hour ozone NAAQS for ground-level ozone to 0.075 ppm. Again, EPA left both the previous 1-hour and 8-hour standards in place. The Department is now proposing to adopt the 2008 8-hour ozone NAAQS which will provide even greater public health protection than did the 1997 ozone standard.

In addition, based on its review of the air quality criteria, the EPA has promulgated a new primary and secondary NAAQS for lead set at 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to provide requisite protection for public health and welfare respectively. The older standard of  $1.5\mu\text{g}/\text{m}^3$  has been left in place. By adopting the revised standards for lead, Wisconsin's air quality standard for lead will be consistent with the federal NAAQS.

As required by s. 285.21(1)(a), Stats., Wisconsin must promulgate ambient air quality standards similar to the federal NAAQS for the protection of public health and welfare. Consequently, there are no apparent policy alternatives to this proposed action.

#### SUMMARY OF PUBLIC COMMENTS

No public comments were received.

#### MODIFICATIONS MADE

No modifications were necessary.

#### APPEARANCES AT THE PUBLIC HEARING

The Department conducted a public hearing on December 1, 2009 at the Department's Southeast Region Headquarters in Milwaukee. There were no public appearances at the hearing.

#### CHANGES TO RULE ANALYSIS AND FISCAL ESTIMATE

None were required.

## RESPONSE TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

All comments from the Rules Clearinghouse were accepted as reported, and the rule revised accordingly.

## FINAL REGULATORY FLEXIBILITY ANALYSIS

The promulgation of the ozone and lead ambient air quality standards would not have any direct effect on business, including those defined as small business. Following the promulgation of the ozone and lead air quality standards, the EPA will determine if any areas in the state should be designated as nonattainment for either of the new air quality standards. The Department is required to develop an air quality management state implementation plan (SIP) to ensure that all ambient air quality standards are attained and maintained in all areas of the state. The future development of that SIP to address ozone and lead may result in emission limitations being developed for specific source categories or in the implementation of emission control technologies which may affect business, including small business. Any prospective SIP revisions would occur through the development of additional rules, which would include analyses of the rules' potential effects on the private sector, including small business.