

Wisconsin Department of Natural Resources
 Natural Resources Board Agenda Item

SUBJECT:

Request that the Board approve the statement of scope for Board Order AM-07-15 and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for proposed rules affecting chs. NR 404 and 484 related to incorporation of the national ambient air quality standards for fine particles (PM_{2.5}).

FOR: August 2015 Board meeting

PRESENTER'S NAME AND TITLE: David Bizot, Chief, Regional Pollutant and Mobile Sources Section, Bureau of Air Management.

SUMMARY:

This proposed rulemaking addresses changes needed to maintain consistency with the annual National Ambient Air Quality Standards (NAAQS) for fine particulate (PM_{2.5}) promulgated by U.S. EPA. More specifically, the Department proposes:

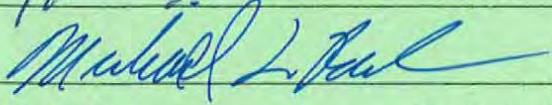
1. Revising the primary annual NAAQS for PM_{2.5} listed under NR 404.04(9), Wis. Adm. Code from 15.0 micrograms per cubic meter (µg/m³) to 12.0 µg/m³. The secondary annual standard, and the primary and secondary 24-hour standards for PM_{2.5} remain unchanged.
2. Revising NR 484.04, Wis. Adm. Code to incorporate the updated data handling and computation methods for PM_{2.5} NAAQS published by U.S. EPA.

The proposed rule changes are compatible with existing policy to maintain consistency between state rules and EPA regulations and satisfy the Department's statutory (s. 285.21(1)(a), Wis. Stats.) obligation to promulgate an ambient air quality standard similar to, but not more restrictive than, a NAAQS promulgated by the EPA. The proposed rules do not include any new policies. Because the Department is required by statute to take the proposed action, no policy alternative is available. The Department does not believe the proposed rule changes would have adverse environmental impacts. This proposed state rule could have overall moderate economic impacts and could affect small businesses.

RECOMMENDATION: That the Board approve the statement of scope and conditionally approve the public hearing notice and notice of submittal of proposed rules to the Legislative Council Rules Clearinghouse for Board Order AM-07-15, proposed rules affecting chs. NR 404 and 484 related to incorporation of the national ambient air quality standards for fine particles (PM_{2.5}).

LIST OF ATTACHED MATERIALS:

Statement of scope
 Governor approval of statement of scope

| Approved by | Signature | Date |
|---|--|-----------|
| Bart Sponseller, Director, Bureau of Air Management |  | 6/22/2015 |
| Patrick Stevens, Administrator, AWaRe Division |  | 7/6/15 |
| Cathy Stepp, Secretary |  | 7/9/15 |

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: Revising Chapters NR 404 and 484. (NRB Order AM-07-15)

Relating to: Incorporation of the national ambient air quality standards for fine particles (PM_{2.5}) into the Wisconsin Administrative Code.

Rule Type: Permanent

1. 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 law, if the EPA promulgates a NAAQS, the Department is required to promulgate a similar, but no more restrictive standard. On January 15, 2013 the EPA published revisions to the NAAQS for particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers, commonly referred to as PM_{2.5} or fine particles. These revisions became effective nationwide on March 18, 2013.

The EPA revised the primary annual standard for PM_{2.5} by lowering it from 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 12.0 $\mu\text{g}/\text{m}^3$. The secondary annual standard of 15.0 $\mu\text{g}/\text{m}^3$ and the primary and secondary 24-hour standards of 35 $\mu\text{g}/\text{m}^3$ were retained unchanged. The EPA also made changes to the data handling conventions and computations necessary for determining when the NAAQS for PM_{2.5} are met.

In order to meet its obligation under state law, the Department is proposing to promulgate state standards for PM_{2.5} and the relating supporting requirements consistent with the federal NAAQS promulgated by the EPA.

The Department may also propose non-substantive corrections of a clean-up nature, such as punctuation, grammar and spelling, and changes necessary to ensure consistency with administrative rule drafting guidance issued by the Legislative Reference Bureau and the Legislative Council. Any such proposed changes would not affect Department policy.

2. 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 to but not more restrictive than a NAAQS promulgated by the EPA. The proposed rules do not include any new policies, and because the Department is required by statute to take the proposed action, no policy alternative is available.

3. 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 PM_{2.5} was done so under section 109 of the federal Clean Air Act (42 U.S.C. 7409).

4. 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 300 hours of state employee time will be needed to complete the promulgation of the proposed rules.

5. Description of all entities that may be affected by the proposed rule:

Sources that have the potential to directly emit fine particulate emissions, such as electric power plants, industrial boilers, heating processes, furnaces, and reciprocating engines, might be affected by the proposed rule.

Sources that undergo a major modification under the prevention of significant deterioration permit program (PSD) are required to consider emissions of pollutants that can lead to secondary formation of PM_{2.5}. These sources may be affected by the proposed rule.

6. 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 the state standards for PM_{2.5} and the federal NAAQS for PM_{2.5} promulgated by the EPA.

7. Anticipated economic impact of implementing the rule:

The Department estimates that the economic impact of implementing the revised primary annual PM_{2.5} NAAQS in Wisconsin through the Department's existing air pollution controls rules will be moderate.

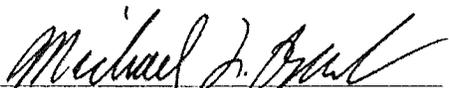
8. Anticipated number, month and locations of public hearings:

If approved to develop the proposed rules, the Department anticipates holding one public hearing in Madison during the fall of 2016.

9. Contact Person:

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Department Head or Authorized Signature

5/14/15

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

June 10, 2015

Cathy Stepp
Secretary
Wisconsin Department of Natural Resources
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

RE: Scope Statement for NR 404 and 484 (AM-07-15) relating to the incorporation of the national ambient air quality standards for fine particles (PM_{2.5}) into the Wisconsin Administrative Code

Dear Secretary Stepp,

I hereby approve the statement of scope submitted on May 18, 2015, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapters NR 404 and 484 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor