

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
RENUMBERING, AMENDING AND CREATING RULES

The Wisconsin Natural Resources Board adopts an order to **renumber** NR 404.02(2); to **amend** NR 404.02 (8), 404.04(2)(a)1. and 2. and (b), (5) and (6), 404.06(2) and 484.04(2) and (4); and to **create** NR 404.04(5)(b) and 484.04(4m) relating to ambient air quality standards.

AM-26-03a

Analysis Prepared by the Department of Natural Resources

Authorizing statutes: ss. 285.11(1) and (6) and 285.21(1), Stats.

Statutes interpreted: s. 285.21(1), Stats. The State Implementation Plan developed under s. 285.11(6), Stats., is revised.

The Department of Natural Resources is authorized to promulgate rules implementing ch. 285, Stats., and to prepare and implement the State Implementation Plan for the prevention, abatement and control of air pollution in the state. The Department is also required to promulgate by rule ambient air quality standards similar to the federal standards. In 1997 USEPA promulgated a new ambient air quality standard for ozone (an 8-hour ozone standard). The Department is promulgating this new ambient air standard into state rules. In addition, this order includes minor changes to the state ambient air standards for sulfur oxides and nitrogen dioxides to make them consistent with the federal standards and moves the definition of "air standard" to ch. NR 400 to make the definition applicable throughout chs. NR 400 to 499 and to remove ambiguity regarding the use of that term in the air program rules.

While Wisconsin is required by statute to promulgate by rule ambient air quality standards, similar to the federal standards, not all adjacent states follow this approach. Illinois, Iowa and Minnesota have incorporated the federal ambient air quality standards and methodologies into their state administrative rules, like Wisconsin. Michigan, however, relies on the federal standards and has not incorporated those standards into its state rules.

In light of the statutory requirement to promulgate by rule ambient air quality standards similar to the federal standards, the Department relies on the federal data and the analytical methodologies EPA used to develop and promulgate the ambient air quality standards.

The promulgation of the new ambient air quality standards does not have any direct effect on businesses, including small businesses. Once the new standards are promulgated and USEPA has designated nonattainment areas for the new standards, the Department is required to develop a state implementation plan to ensure that the ambient air quality standards are attained and maintained in all areas of the state. The future development of that state implementation plan may result in the development of emission limitations for specific categories of sources or the implementation of emission control technologies which may affect businesses, including small businesses. Those changes would occur through the development of additional rule packages, which will include an analysis of the effect on the private sector, including small businesses.

The consent of the Attorney General and the Revisor of Statutes will be requested for the incorporation by reference of additional appendices of 40 CFR part 50 into ch. NR 484.

SECTION 1. NR 404.02(2) is renumbered 400.02(19m).

SECTION 2. NR 404.02(8) is amended to read.

NR 404.02(8) "Reference method" means a ~~monitoring method which has been~~ of sampling and analyzing the ambient air for an air pollutant that is specified by the U.S. environmental protection agency as a reference method in 40 CFR part 50, Appendices A to K N, incorporated by reference in s. NR 484.04(2), a method that has been designated as a reference method in accordance with 40 CFR part 53, or which a method that has been so designated by the department. It does not include a method for which a reference method designation has been canceled in accordance with 40 CFR 53.11 or 53.16.

SECTION 3. NR 404.04(2)(a)1. and 2. and (b) and (5) are amended to read:

NR 404.04(2)(a)1. ~~80 micrograms per cubic meter (0.03 ppm)~~ 0.030 ppm -annual arithmetic mean.

2. ~~365 micrograms per cubic meter (0.14 ppm)~~ - maximum 24-hour average concentration, not to be exceeded more than once per year.

(b) *Secondary standard.* The secondary standard for sulfur oxides, measured as sulfur dioxide, is: ~~1300 micrograms per cubic meter (0.5 ppm)~~ - maximum 3-hour average concentration, not to be exceeded more than once per year.

(5) OZONE: PRIMARY AND SECONDARY STANDARDS. The primary and secondary standards for ozone are:

(a) 0.12 ppm (235 micrograms per cubic meter) — maximum 1-hour average concentration. The 1-hour ozone standards are attained when the expected number of days per calendar year with maximum hourly average concentrations above the designated level is equal to or less than one, as determined by the methodology of 40 CFR part 50, Appendix H, incorporated by reference in s. NR 484.04(4).

SECTION 4. NR 404.04(5)(b) is created to read:

NR 404.04(5)(b) 0.08 ppm — maximum 8-hour concentration. The 8-hour ozone standards are attained when the arithmetic mean of the fourth highest daily maximum 8-hour concentration at an ambient air quality monitoring site is less than or equal to 0.08 ppm, as determined by the methodology of 40 CFR part 50, Appendix I, incorporated by reference in s. NR 484.04(4m).

SECTION 5. NR 404.04(6) is amended to read:

NR 404.04(6) NITROGEN DIOXIDE: PRIMARY AND SECONDARY STANDARDS. The primary and secondary standards for nitrogen dioxide are: ~~100 micrograms per cubic meter (0.05-0.053 ppm)~~ (100 micrograms per cubic meter) - annual arithmetic mean.

SECTION 6. NR 404.06(2) is amended to read:

NR 404.06(2) REFERENCE METHODS. Ambient air quality monitoring which utilizes a reference monitoring method shall use monitoring methods which conform to the federal reference methods which are specified in 40 CFR part 50, Appendices A to ~~K~~ N, incorporated by reference in s. NR 484.04(2), or which have been so designated by the department.

SECTION 7. NR 484.04(2) and (4) are amended to read:

CFR Appendix Referenced	Title	Incorporated by Reference For
NR 484.04		
(2) 40 CFR part 50 Appendices A to K <u>N</u>		NR 404.02(8) NR 404.06(2)
(4) 40 CFR part 50 Appendix H	Interpretation of the <u>1-Hour Primary and Secondary</u> National Ambient Air Quality Standards for Ozone	NR 404.04(5)(a)

SECTION 8. NR 484.04(4m) is created to read:

CFR Appendix Referenced	Title	Incorporated by Reference For
NR 484.04		
(4m) 40 CFR part 50 Appendix I	Interpretation of the 8-hour Primary and Secondary National Ambient Air Quality Standards for Ozone	NR 404.04(5)(b)

SECTION 9. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 10. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 22, 2004.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)