

TO: Don A. Brown, Clerk, Illinois Pollution Control Board
FROM: Cary Shepherd, Illinois Environmental Council
RE: Docket R19-6, Comments on the Adoption of Lead Air Quality Standards
DATE: January 10, 2019

Executive Summary

The adoption of the National Ambient Air Quality Standards (“NAAQS”) by the Illinois Environmental Protection Agency (“the Agency”) is a statutorily mandated action. However, the Agency – and the Pollution Control Board – have the discretion to exceed the bare minimum requirements imposed by the Federal Government. In the interest of protecting vulnerable populations from serious health problems, we are asking that you do so here with respect to lead.

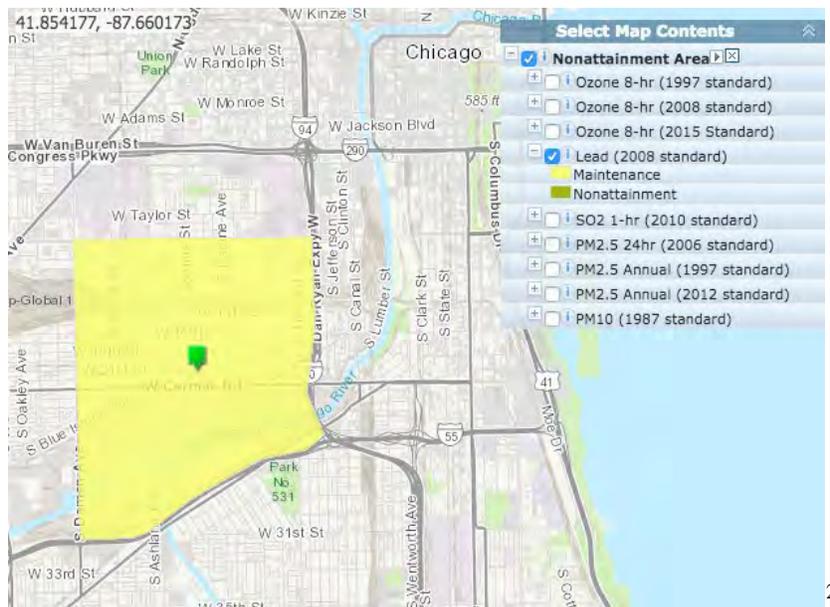
Adoption of the 2008 lead NAAQS coupled with the revocation of the 1978 NAAQS for lead in the regions of Pilsen/Chicago and Granite/Venice City Townships will mark the next regulatory step in keeping Illinois in compliance with the most recent lead NAAQS. Baseline compliance, however, should not prevent us from continuing to take aggressive measures to control lead - especially in communities which have been burdened with some of the highest rates of lead pollution in Illinois for decades, and still are burdened by other pollutants.

As such, if the Pollution Control Board (“the Board”) adopts the proposed changes in compliance with federal standards, we believe it is important to protecting public health that the Board also require the Agency to continue its work in reducing other sources of lead pollution and more rigorously monitor the air quality, with a special emphasis on the communities most burdened by lead exposure. Fortunately, the US EPA recently released the *Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts*; this program offers an excellent opportunity for the Agency to make forward progress, and we recommend that the Agency engage with this program in regions impacted by the new lead NAAQS in order to ensure continued progress towards improved public health.

Issue at Hand

The relevant regulation proposed by the Illinois Environmental Protection Agency (“the Agency”) is “the revocation of the 1978 NAAQS for lead” in Docket R19-6.¹ This regulation marks the final step in bringing all of Illinois into attainment status for lead air pollution based on the 2008 NAAQS that have already been adopted.

While adoption of this regulation is unlikely to cause any additional lead pollution in Illinois, some parts of Illinois such as Pilsen in Chicago, Granite City Township and Venice City Township have had such significant lead pollution problems in past years that additional vigilance is crucial to protecting the public health. These areas, along with their NAAQS status, are displayed below.

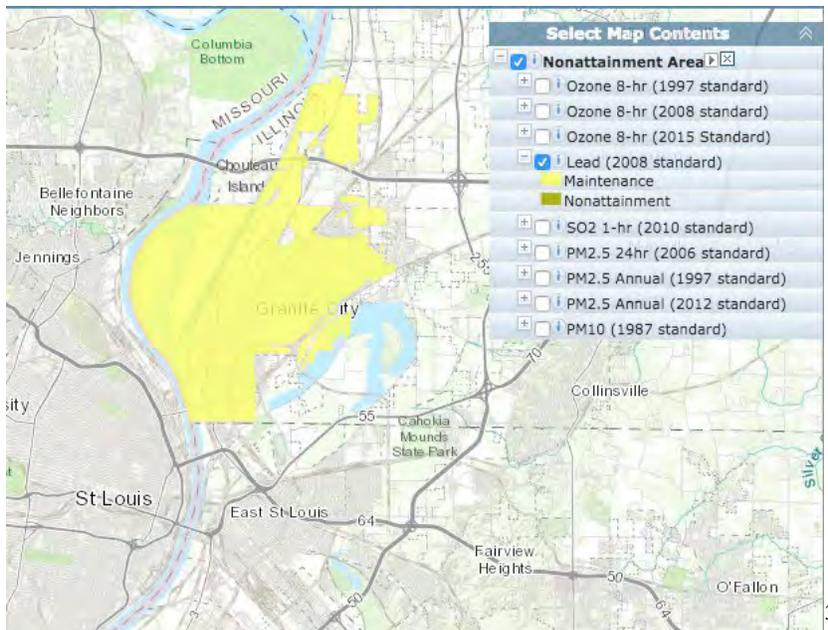


(Pilsen, Chicago region. This area was recently designated to be in “maintenance” for lead pollution.)

¹Illinois Register, Volume 42,

http://www.cyberdriveillinois.com/departments/index/register/volume42/register_volume42_issue47.pdf (last visited January 10, 2019).

² US EPA, Enviromapper, <https://geopub.epa.gov/myem/efmap/index.html?ve=9,41.883514,-87.632450&pText=Chicago.%20Illinois> (last visited January 10, 2019).



(Granite City Township & Venice City Township. This area was recently designated to be in “maintenance” for lead pollution.)

Given the serious impact of heightened exposure to lead pollution and contamination, it is the opinion of the Illinois Environmental Council, and other members of the environmental community in Illinois, that while this regulatory step should be undertaken, it should be done in conjunction with the establishment of proper safeguards to protect the public health of residents from ongoing lead exposures; a comprehensive approach to addressing lead is needed.

Relevant Law & Applicable Facts

Right of Residents to a Healthful Environment

At the core of this issue is the right of every Illinois resident to live in a healthy environment. “The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations.” *Illinois Constitution, Article XI*. Exposure to lead pollution is relevant to whether a healthful environment has been provided. The World Health Organization “has identified lead as 1 of 10 chemicals of major public health concern,” stating lead is responsible for “significant public

³ US EPA, Enviromapper, <https://geopub.epa.gov/myem/efmap/index.html?ve=9,41.883514,-87.632450&pText=Chicago,%20Illinois> (last visited January 10, 2019).

health problems in many parts of the world” and has the “highest burden [] in low- and middle-income [regions].”⁴

Sadly, the correlation between lower-income areas and high levels of lead contamination and pollution holds true in the two areas recently designated as in attainment for the National Ambient Air Quality Standards for lead pollution. For example, the Pilsen neighborhood in Chicago is in the 90th percentile in Illinois for estimated levels of lead paint and in the 83rd percentile in the state for low-income population.⁵ This connection is largely due to the relationship between lower income residents and older housing.

Additionally, lead is a long-term cumulative impact pollutant in which people exposed can be gradually harmed by exposure from multiple sources. Given the extensive history of lead pollution in the two regions that have been recently designated as in attainment, any additional lead exposure would constitute a threat to the health of those living in the region.

Given the serious health implications posed by lead, it is safe to say that the rights of residents in areas impacted by high levels of lead exposure is in question.

Authority of the Illinois Pollution Control Board to Act

The Board has the right to “modify[] a proposed rule following receipt of comments” and we are asking that the board do so here. 415 ILCS 5/28. While this is an “identical in substance rule”, the board is required to “[w]herever appropriate... reflect any consistent, more stringent regulations adopted pursuant to the rulemaking requirements...”. 415 ILCS 5/7.2(a)(6). Given the public health implications of lead pollution, we are asking that the Board take this path here.

Modification of Proposal by the Illinois Environmental Protection Agency

In the event that the Agency were to commit to taking the steps outlined in the section below to protect residents against lead pollution, this would be a reasonable alternative to a modification by the Board of the proposed regulation. Specifically, if the Agency were to submit comments committing to this path, the Illinois Environmental Council would be willing to support those comments before the Board, and offer any additional resources we can provide to assist in the success of their actions.

⁴ Lead Poisoning and Health, World Health Organization <https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health> (last visited Jan 9, 2019).

⁵ US EPA, EJSCREEN Report, https://ejscreen.epa.gov/mapper/ejscreen_report.aspx?geometry={%22x%22:-87.659943,%22y%22:41.853643,%22spatialReference%22:{%22wkid%22:4326}}&distance=1.0&unit=9035&areatype=&areaid=&f=report (last visited Jan 9, 2019).

Requests of the Board and the Agency

In order to ensure that the revocation of the 1978 NAAQS for lead does not lead to a loss in public health gains and instead continues to move us forward in combating lead, we are requesting that the Board make two additions to the proposed regulations, consistent with their authority under 415 ILCS 5/28.

First, we are requesting that the Board mandate extensive community-based, fenceline air monitoring of lead pollution. This is particularly important in the areas that have only recently reached attainment, but should be conducted in all Illinois communities that have been exposed to lead pollution. Fenceline air monitoring “and other advances in measurement technology are improving the ability to protect air quality and public health. They are assisting industry to fix leaks and reduce their operating costs, helping air quality managers improve inventories of air pollution emissions, and assisting regulators with enforcement and compliance of the nation’s air quality standards.”⁶ Put another way, proper air monitoring will ensure that the original measurements demonstrating a safe level of air lead pollution are still accurate; they will also help identify lead “hotspots” where people live that have not traditionally been monitored by the state’s monitoring network for NAAQS compliance purposes, and so have slipped under the regulatory radar. US EPA’s recent identification of the Whiting Metals facility in Indiana very close to the Illinois border as violating the Clean Air Act due to its high emissions of lead shows the importance of more closely monitoring the lead pollution of specific facilities of concern, and of using that monitoring data to ensure that the air people breathe is in fact at pollutant levels below the NAAQS.⁷ As an additional benefit, since lead is measured along with other metals, such fenceline air monitoring can help identify other air toxics issues in these environmental justice regions historically burdened by industrial pollution.

One method by which the Board may impose such a requirement is to mandate that the Agency create a public comments process by which Illinois residents are able to request air monitoring in certain areas and provide reasoning for their request.

Second, we are requesting that the Board require the Agency to work in conjunction with the United States EPA in the administration of *The Federal Action Plan to Reduce Childhood*

⁶ See US EPA, Fenceline Monitoring, <https://www.epa.gov/sciencematters/fenceline-monitoring>.

⁷ See US. EPA, EPA in Indiana, Whiting Metals, available at <https://www.epa.gov/in/whiting-metals>.

Lead Exposures and Associated Health Impacts, which is a new program designed to reduce lead exposure through collaboration between the federal, state and local governments. The Agency should strive to implement this program with a particular emphasis in the areas identified above that have been the most impacted by lead air pollution. The Action Plan has four primary goals, all of which serve the purpose of improved protection from lead pollution for communities. The goals of the program are outlined below.

1. Reduce Children's Exposure to Lead Sources
2. Identify Lead-Exposed Children and Improve Their Health Outcomes
3. Communicate More Effectively with Stakeholders
4. Support and Conduct Critical Research to Inform Efforts to Reduce Lead Exposures and Related Health Risks

As a component of the Action Plan, it may also be prudent to test both the levels of lead in the water of these areas as well as the blood lead levels of residents. While this is not strictly tied to the monitoring of air quality, it is relevant to protecting the public health. Moreover, the latter is mandated for children enrolled in Medicaid⁸, who make up a substantial portion of the children in the Pilsen and Granite City areas.

Given that the US EPA is organizing and managing implementation of the Action Plan, we believe that asking the Agency to participate in this program, and to do so with a focus on the regions in Illinois that have been most burdened by lead pollution, is a reasonable request that would not unduly burden the Agency. If properly implemented, it could lead to significant public health gains for residents of environmental justice communities.

Alternatively, in the event that the Agency or the Board does not believe now is the appropriate time to impose additional requirements on the Agency due to the transitioning in State administrations, we ask that the Board's decision be delayed until such requirements can be reasonably imposed. Given that the scheduled effective date for the revocation of the 1978 lead NAAQS is March 28, 2019, the Board's final decision could be temporarily delayed until the Agency can properly consider the above recommendations without significantly impacting the timeline for adoption of the proposed regulations.

⁸ See Lead Screening, available at <https://www.medicaid.gov/medicaid/benefits/epsdt/lead-screening/index.html> (last visited January 10, 2019).

Conclusion

In sum, the Illinois Environmental Council is grateful to the Agency and the Board for their work in reducing lead pollution, and we applaud their efforts thus far. However, there is a great deal more that must be done on lead pollution and we call on the Agency to act on the urgent need to address lead pollution. The simplest form of our request is to ask that the Agency continue to make forward progress to reduce lead pollution and contamination, especially in the environmental justice communities that have been burdened with higher lead exposure than the rest of Illinois. These comments offer our guidance on ensuring that vulnerable populations are properly protected from lead pollution in future years.

Co-Signing Organizations

Representatives from the following organizations have reviewed the above comments and agree with the substance of the recommendations contained herein. The comments are not intended to reflect universal consensus on any point amongst signatories. These contents reflect deliberation regarding aspects the signatories believe are important to environmental protection and public health.

- Citizens' Greener Evanston
- Elevate Energy
- Illinois Environmental Council
- Little Village Environmental Justice Organization
- Natural Resources Defense Council
- Pilsen Environmental Rights and Reform Organization
- Respiratory Health Association

These comments have been prepared by the Illinois Environmental Council. For questions or other communications please contact Cary Shepherd at cshepherd@ilenviro.org.