STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
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MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
X Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Wisconsin Administrative Code Chapter Trans 400; Wisconsin Environmental Policy Act Procedures for Department Actions

3. Subject
This rule implements the Wisconsin Environmental Policy Act, s. 1.11, Stats., by establishing the policy and procedures by which the Wisconsin Department of Transportation (Department) will evaluate and consider the environmental effects of its major actions.

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
X Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
X Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes X No

9. Policy Problem Addressed by the Rule
The Wisconsin Environmental Policy Act (WEPA) requires the department to prepare a detailed statement assessing the environmental impact of major agency actions. The National Environmental Policy Act (NEPA), contains similar requirements for federal agencies when, for example, they fund or approve state transportation projects. Accordingly, the department prepares an environmental impact statement (EIS), or other appropriate environmental documentation, that complies with WEPA and NEPA when developing its transportation projects.

The department implements WEPA under Trans 400, which local units of government must also follow for department-reimbursed projects. To maximize availability of federal funds and for regulatory consistency, Trans 400 was written to parallel the National Environmental Policy Act (NEPA) regulations promulgated by various federal agencies, principally the Federal Highway Administration (FHWA), at 23 CFR pt. 771.

Recent updates to federal law, rules and guidance, including the federal transportation funding bill MAP-21 and FHWA's NEPA regulations and guidance, have incorporated provisions that are intended to streamline and allow innovation in the environmental review process. As a result, Trans 400 potentially imposes more restrictive procedural requirements on the department than state statute or federal laws require. The proposed updates would incorporate recent federal streamlining provisions to re-establish consistency between federal and state rules for environmental documents related to transportation.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
This rule will affect the department when preparing environmental documentation for transportation projects. This rule will also affect local government units (including counties, cities, villages and towns) when preparing environmental documentation for transportation projects that are intended to be funded through the department under the local roads improvement program, s. 86.31, Stats.

11. Identify the local governmental units that participated in the development of this EIA.
None.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed rulemaking is anticipated to have no direct effect on any specific business, business sectors, or public utility rate payers.

This rulemaking will benefit local units of government by providing more streamlined and innovative approaches to NEPA/WEPA environmental reviews under Trans 400, when they pursue state- or federally-funded transportation projects under s. 86.31, Stats.

The state's economy as a whole can be expected to benefit indirectly from the expedited environmental review process for transportation projects proposed under this rulemaking. Implementation and compliance costs, which will be borne by the department and local units of government, are expected to decrease due to fewer procedural requirements in the environmental review process.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

This rulemaking is anticipated to make Trans 400 consistent with updated federal laws and rules. This will eliminate the potentially more restrictive procedural provisions of Trans 400, which were prompted by prior (and now outdated) federal requirements. This has the anticipated benefit of streamlining and allowing innovation in the environmental review process for many state and local transportation projects. The alternative would be to allow Trans 400 to remain more restrictive than federal rules and far more restrictive than the basic requirements of WEPA.

14. Long Range Implications of Implementing the Rule

None are known or anticipated.

15. Compare With Approaches Being Used by Federal Government

The federal government has adopted streamlining provisions to reduce the procedural requirements of the environmental review process for certain federally-funded transportation projects. The proposed updates to Trans 400 are intended to make the state rule consistent with the federal provisions.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

IL – Illinois does not have a state-level environmental policy act that requires documentation like WEPA and Trans 400. Illinois DOT follows FHWA NEPA regulations when seeking federal funds for transportation projects. The Illinois DOT's project development guidance applicable to environmental documents is available here (accessed Sep. 15, 2016): http://www.idot.illinois.gov/assets/uploads/files/doing-business/manuals-split/design-and-environment/bde-manual/Chapter%2022%20General%20Environmental%20Procedures.pdf

IA – Iowa does not have a state-level environmental policy act that requires documentation like WEPA and Trans 400. The Iowa DOT follows FHWA NEPA regulations when seeking federal funds for transportation projects. The Iowa DOT's environmental documentation overview is available here (accessed Sep. 15, 2016): http://www.iowadot.gov/ole

MI – Michigan does not have a state-level environmental policy act that requires documentation like WEPA and Trans 400. The Michigan DOT follows federal NEPA regulations when seeking federal funds for transportation projects. The Michigan DOT's EIS guidance is available here (accessed Sep. 15, 2016): http://www.michigan.gov/mdot/0,4616,7-151-9621_11058_22978_45537-162643--,00.html.

MN – Minnesota does have a state-level environmental policy act like WEPA, found at Minn. Stat. §§ 116D.01 to 116D.06. Unlike Wisconsin's Trans 400, Minnesota's implementing rules apply generally to all state agencies. Minnesota's rules are found at Minn. Admin. R. ch. 4410. The Minnesota DOT also has policy-level guidance for environmental documentation, available here (accessed Sep. 15, 2016): http://www.dot.state.mn.us/planning/hpdp/

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17. Contact Name	18. Contact Phone Number
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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No