

Fiscal Estimate Narratives

DNR 3/5/2004

LRB Number	03-3629/2	Introduction Number	SB-313	Estimate Type	Original
Subject					
Omnibus regulatory reform					

Assumptions Used in Arriving at Fiscal Estimate

Bill Summary:

In sections of the statutes that impact the Department of Natural Resources, this bill modifies the regulation of activities in or near navigable waters, air pollution control, the Smart Growth law, nonmetallic mining, and the development of administrative rules.

1. Significant changes in the regulation of navigable waters include:

a. The bill creates exemptions from regulation for numerous activities that currently require review for impacts to public waters, unless the activities are in waters of special natural resource interest. Waters of special interest would include an estimated 20% of Wisconsin lakes and streams, leaving 80% exempt from review.

b. The bill creates general permits for numerous activities that currently require review for impacts to public waters, including in some cases public notice. Issuance of general permits on a statewide basis is automatic. The permits may be conditioned only to protect adjacent waterfront property owners, avoid interfering with navigation, and protect waters of special natural resource interest. If DNR does not act within 30 days of receipt of an application for a general permit, then the activity is automatically approved.

c. Dredging of non-navigable waters is deregulated.

d. Projects not granted exemptions or general permits are subject to individual permits. These appear to be very few. Rather than review for the full range of public rights for all projects, most projects must only avoid impact to water quality and adjacent waterfront property owners' rights.

e. The bill defines areas of special natural resource interest as state natural areas, outstanding or exceptional resources waters (see NR102 listing), or waters possessing scientific value described in the bill analysis as wild rivers or certain trout streams.

f. The bill changes the public notice procedure.

2. Significant changes in the regulation of air pollution include:

a. The proposed legislation places limits on what the Department may include in a State Implementation Plan (SIP). The proposed legislation restricts the DNR to only include SIP requirements that are necessary to obtain approval from USEPA.

b. The legislation states that the state provisions for ambient air quality can not be more stringent than the federal standards. The language changes provisions on air quality increments.

c. The legislation makes changes to the current nonattainment qualifications. For example, the language prohibits the DNR from designating a county as a nonattainment area unless the DNR is required by the federal Clean Air Act to do so. The legislation also prohibits the DNR from using total suspended particulates as measure to define nonattainment areas. The legislation also creates a 90-day legislative review of nonattainment area documents.

d. The proposed legislation makes a number of significant changes to the new source and operation permitting processes. The new source permits must be revised to incorporate revisions recently made by the USEPA. The time frame and the public comment period for both permits is reduced. The bill provides

that an application for either permit may be reviewed or processed by a private contractor. The bill reduces the renewal notice made by a holder of an operation permit from one year before expiration to six months. The bill requires DNR to exempt minor sources and agricultural sources from obtaining either type of permit. The bill also creates a new permitting category: a registration permit. Finally, the bill requires DNR to consolidate the permits for sources at a facility into one permit, expands permit exemptions, and expands the availability of all permit types.

e. The proposed legislation also makes some changes related to toxic emissions. The statute would limit hazardous air pollutant regulations to their inhalation impact, precluding the department from addressing potential adverse health effects resulting from exposure to air toxics through other pathways, such as ingestion. The bill also deletes the reference to section 112 of the Clean Air Act, which is the hazardous air pollutant ranking list. With this deletion, the federal standards would preempt the state lists. The legislation also includes a revision that would require the Department to find that the substance is not only hazardous but is also known to be an existing health problem in the state.

3. The bill also makes changes in the Smart Growth law, nonmetallic mining, and the development of administrative rules. These changes are described in the fiscal impact section below.

Fiscal Impact:

The net fiscal impact of the bill on the Department is an ongoing cost of \$5,520,000 and 58.3 FTE, a \$5,520,000 loss in revenue, and a one-time cost of \$16,419,600 and 68.5 FTE.

A summary of these costs follows, along with a more detailed narrative.

Function Fiscal Impact

[Costs ongoing unless OT (one-time) is noted]

[Rev = Revenue impact]

1. Reduced revenue from fewer water permits: -9 FTE -\$420,000 -\$420,000 Rev
2. Workload for developing general water permits: + \$176,400 OT and 2 FTE OT
3. Contested case hearings-general water permits: + \$84,900 OT and 1 FTE OT
4. Water permit processing workload: +21.5 FTE +\$1,429,900 +\$107,500 OT
5. Increased water enforcement workload: +4.5 FTE +\$267,600 + \$25,000 OT
6. Workload to determine waters of scientific interest: +13 FTE +\$601,200 +\$7,120,900 OT
7. New Source air permit changes: -10 FTE -\$900,000 -\$1,400,000 Rev
8. Air Mgt. FED 105 Grant: -44.5 FTE -\$3,700,000 -\$3,700,000 Rev
9. Air Mgt. Replacement of Lost FED positions: +44.5 FTE + \$3,700,000
10. Air Operator Permit Time Change: +30 FTE +\$2,520,300 +\$5,040,500 OT + 60 FTE OT
11. Air Rules: + \$544,400 OT + 5.5 FTE OT
12. Hazardous Air Pollutant Determination: +2 FTE +\$200,000
13. Admin. Rule Changes: +6.3 FTE +\$1,764,000 +3,320,000 OT

A. Navigable Waters Regulation

1. Reduced revenue due to the issuance of fewer permits

Because this bill relies more on general permits which are fee exempt, and includes new exemptions, permit

fees are expected to be reduced by 70%. This will reduce revenues annually by an estimated \$420,000, from the current \$600,000 in revenue, and eliminate staff funded by the revenue (see below).

2. Reduced staffing from reduced number of regulated activities

The Department currently has 23 field biologists to process chapter 30 permits and water quality certifications. DNR currently generates fees of approximately \$600,000 annually through the issuance of permits and other related services. Because this bill reduces estimated revenues by 70%, the Department will need to eliminate 9 FTE fee funded Water Management Specialists and the related \$389,200, and \$30,800 in LTE Assistant Water Management Specialists.

3. Increased workload related to developing rules for new general permits and the notice of hearing procedures

The development of the 5 general permits and the notice of hearing procedures as administrative rules will require a one-time expenditure of \$176,400 and 2 FTE to develop. The detail on this estimate follows.

Hourly rates:

Attorney - \$50/hr plus fringe (40.81%) = \$70.40/hr

Section Chief - \$35/hr plus fringe = \$49.28/hr

Chief Biologist - \$28/hr plus fringe = \$39.43/hr

Field Biologist, Senior - \$22/hr plus fringe = \$30.98

280 hours for rule writing by Chief Biologist: $280 \times \$39.43 = \$11,040$

80 hours for rule review by Section Chief: $80 \times \$49.28 = \$3,942$

80 hours for rule review by Attorney: $80 \times \$70.40 = \$5,632$

80 hours for informational hearings by Attorney: $80 \times \$70.60 = \$5,632$

80 hours for informational hearings by Chief Biologist: $80 \times \$39.43 = \$3,154$

Subtotal = \$29,401

Total hours: $600 \times 5 = 3000 \text{ hrs.} = 1.6 \text{ FTE}$

Total dollars: $\$29,401.20 \times 5 \text{ general permits} = \$147,006$

Rule Making Process for General Provision for Notice and Hearing

280 hours for rule writing by Chief Biologist: $200 \times \$39.43 = \$11,040$

80 hours for rule review by Section Chief: $80 \times \$49.28 = \$3,942$

80 hours for rule review by Attorney: $80 \times \$70.40 = \$5,632$

80 hours for informational hearings by Attorney: $80 \times \$70.60 = \$5,632$

80 hours for informational hearings by Chief Biologist: $80 \times \$39.43 = \$3,154$.

Total hours: $600 = 0.33 \text{ FTE}$

Total dollars: \$29,401

Total impact of rule development = \$176,400 2 FTE

4. Increased workload related to legal challenges

The proposed bill substantially modifies Chapter 30 and eliminates many of the existing legal considerations in permitting that are founded in the state constitution and case law that will now either be exempted or authorized via one of 5 general permits. As a result the general permits developed by the department as required under this bill will be challenged resulting in 5 contested case hearings. The estimated one-time cost of this workload is \$84,900 and 1 FTE. The detail on this estimate follows.

Contested Case Hearings for 5 Separate General Permits

32 hours of case preparation by Attorney: $32 \times \$70.40 = \$2,252$

32 hours of case preparation by Section Chief: $32 \times \$49.28 = \$1,576$

32 hours of case preparation by Chief Biologist: $32 \times \$39.43 = \$1,261$

32 hours of case preparation by two field biologists: $64 \times \$30.98 = \$1,982$

32 hours of contested case hearing by Attorney: $32 \times \$70.40 = \$2,252$

32 hours of contested case hearing by Section Chief: $32 \times \$49.28 = \$1,576$

32 hours of contested case hearing by Chief Biologist: $32 \times \$39.43 = \$1,261$

32 hours of contested case hearing by two field biologists: $64 \times \$30.98 = \$1,982$

Subtotal = \$14,148
Total hours: 320 X 5 = 1500 hrs. = 0.8 FTE
Total dollars: \$14,148.48 x 5 hearings = \$70,742

Contested Case Hearings for General Provision for Notice and Hearing
32 hours of case preparation by Attorney: 32 x \$70.40 = \$2,252
32 hours of case preparation by Section Chief: 32 x \$49.28 = \$1,576
32 hours of case preparation by Chief Biologist: 32 x \$39.43 = \$1,261
32 hours of case preparation by two field biologists: 64 x \$30.98 = \$1,982
32 hours of contested case hearing by Attorney: 32 x \$70.40 = \$2,252
32 hours of contested case hearing by Section Chief: 32 x \$49.28 = \$1,576
32 hours of contested case hearing by Chief Biologist: 32 x \$39.43 = \$1,261
32 hours of contested case hearing by two field biologists: 64 x \$30.98 = \$1,982

Total hours: 320 = 0.18 FTE
Total dollars: \$14,148

Combined total dollars for contested case hearings: \$84,900 1 FTE

Although a decision will be rendered by an Administrative Law Judge from DOA, it is anticipated that the ALJ's decision will be appealed to the Circuit Court, then to the Court of Appeals and potentially appealed to the Supreme Court. The hours and expenses associated with all appeals will be charged to an account that the Department has to pay for Department of Justice expenses. Because the Department pays for DOJ's services, the time spent defending the Departments general permits will reduce the amount of time DOJ normally spends on Environmental Enforcement cases by approximately 50%.

5. Increased workload related to permit processing

The Department accepts 6000 permits submitted for review annually. This fiscal estimate assumes that, of the 6000 permit actions, 1000 (17%) will be individual permits and water quality certifications; 3500 permit actions (58%) will be covered under one of the general permits; jurisdictional determinations will need to be made for the remaining 1500 actions but 750 (12.5%) will be exempt under the proposed bill. The remaining 750 (12.5%) will involve some type of wetland impact requiring either a confirmation letter of compliance with water quality certification or individual water quality certification. The increase in permit processing workload is estimated to require an additional 21.5 FTE and \$1,429,200 annually, and \$107,500 in one-time costs. The detail on this estimate follows.

Assumptions: 6000 permit actions
1000 individual permit and water quality certification decisions:
Completeness Review: 1000 x 3 hr. = 3000 hrs/1825 hrs = 1.64 FTE
Individual decisions: 1000 x 20 hr. = 20,000 hrs/1825 hrs = 10.96 FTE
3500 General permits
Completeness Review: 3500 x 0.5 hr. = 1750 hrs = 0.96 FTE
Individual decisions 3500 x 8 hr. = 28,000 hrs = 15.34 FTE
1500 remaining permit actions
Jurisdictional determinations: 1500 x 2 hrs = 3000 hrs/1825 = 1.64 FTE
Wetland water quality certifications: 750 x 8hrs = 6000 hrs/1825 = 3.29 FTE
Additional jurisdictional inquiries:
1500 inquiries x 2hrs = 3000 hrs/1825 = 1.64 FTE
Total FTE = 35.5 FTE

23 FTE – 9 FTE = 14 FTE
35.5 FTE – 14 FTE = 21.5 FTE needed

WMS-Entry - \$14.768/hr plus fringe = \$20.79 x 2080 hrs = \$ 43,243
Supplies = \$ 3000
Computer = \$ 5000
Subtotal = \$ 51,243
22,360 LTE hours x \$14.90 (salary + fringe) = \$403,400
LTE supplies: 21.5 LTE x \$1,500 = \$ 32,300

1st year: \$46,243.20 x 21.5 FTE = \$ 994,200
One-time computer: \$5,000 X 21.5 = \$ 107,500
LTE support = \$ 435,700

1st year total = \$1,537,400

2nd year: \$46,243.20 x 21.5 FTE = \$ 994,200

LTE support = \$ 435,700

2nd year total = \$1,429,900

6. Increased workload related to enforcement

The new exemptions created by this bill combined with the new general permits will result in an increase of enforcement actions because applicants will assume they can go forward with their project without checking into the specific and general provisions contained within the new law and general permits. Based on field verified studies, the Department estimates approximately 35 % of the permits issued are not complied with by applicants or their contractors. Because of the exemptions and general permits, the Department anticipates the non-compliance rate will increase. 35.5 Water Management Specialists currently devote approximately 5% of their time to enforcement activities, and it is assumed they will need to spend 15% on enforcement, for an increase in workload of 10% for both Fisheries and Habitat staff and Environmental Enforcement staff. The fiscal impact will total 4.5 FTE and \$267,600 annually, and \$25,000 in one-time costs. The detail on the estimate follows.

Fisheries and Habitat Enforcement Workload

1825 hrs x 10% = 182.5 hrs x 35.5 WMS = 6479 hrs/1825 = 3.5 FTE increase

WMS-Entry - \$14.768/hr plus fringe = \$20.79 x 2080 hrs = \$43,243

Supplies = \$ 3000

Computer = \$ 5000

Subtotal = \$51,243

3,640 LTE hours x \$14.90 (salary + fringe) = \$54,236

LTE supplies: 3.5 LTE x \$1,500 = \$ 5,250

1st year: \$51,243.20 x 3.5 FTE = \$179,351

LTE support = \$ 59,486

1st year total = \$238,837

2nd year: \$46,243.20 x 3.5 FTE = \$161,851

LTE support = \$ 59,486

2nd year total: \$221,337

Environmental Enforcement Workload

Because many Chapter 30 permits and all wetland water quality certification enforcement cases go through the stepped enforcement process with Environmental Enforcement, there will also be an increase in workload for environmental enforcement staff. There are currently 10 Environmental Enforcement Officers performing this work.

1825 hrs x 10% = 182.5 hrs x 10 EE staff = 1825/1825 = 1 FTE increase

EE staff-Entry - \$14.768/hr plus fringe = \$20.79 x 2080 hrs = \$43,243.20

Supplies \$3000

Computer \$5000

Subtotal \$51,243.20

1st year total: \$51,243.20 x 1 FTE = \$51,243.00

2nd year total: \$46,243.20 x 1 FTE = \$43,243.00

7. Determinations of areas of scientific interest

Assumptions: Jurisdiction for individual permits are limited to outstanding & exceptional resource waters or an area that possesses significant scientific value as determined by the Department. Approximately 20% of Wisconsin's lakes and streams would currently fall under the category of an "area of special natural resource interest". However, numerous Wisconsin lakes and streams would have to be inventoried to determine if they would possess "significant scientific value". The cost of the inventory is estimated to be

\$7,120,900 on a one-time basis, with an ongoing annual cost of \$601,200 and 13 FTE. The detail on this estimate follows.

Lakes

There are 900 lakes less than 100 acres with public access that need to be inventoried the first year to determine significant scientific value. Once baseline data is established they will need to be monitored on a 5-year cycle (180 lakes per year). It is estimated that it will take 60 hours per lake to inventory.

60 hrs/lake x 180 lakes = 10,800 hours per year. 10,800/1825 hours = 6 FTE annually.

Initial baseline data collection: 10,800 hours x 5 years = 54,000 hours

54,000 hours less 10,800 hours of FTE hours = 43,200 hours of LTE staff time needed to complete baseline data in first year.

Fish Biologist, Entry - \$14.768/hr plus fringe = \$20.79 x 2080 hrs = \$43,243

Supplies \$ 3000

Computer \$ 5000

Subtotal \$51,243

43,200 LTE hours x \$14.90 (salary + fringe) \$643,680

LTE Supplies: 41.5 LTE x \$1,500 = \$ 62,250

\$51,243.20 x 6 FTE = \$ 307,459

1st year total (one-time) \$1,013,389

2nd year total (ongoing): \$46,243.20 x 6 FTE = \$ 277,459

Streams

There are 22,613 perennial streams in the state. Currently the greatest number of streams are identified as 1st order streams (14,744 having a total stream length of 9,530 miles). Of those 1st order streams, 2,143 having a length of 1,499 miles would be considered areas of special natural resource interest. The remaining 12,601 1st order streams having a length of 8,031 miles would be the highest priority to inventory to determine if they would possess "significant scientific value". The estimated hours required to inventory a stream are 32 (2 monitoring stations per stream requires 4 staff at 8 hrs to complete a stream or 32hrs/stream). 12,601 streams @ 32 hrs/stream = 403,232 hrs required for first year, equal to 7 FTEs and 375 LTEs on a one-time basis. On an ongoing basis, 400 streams per year would be monitored by 7 FTEs and 21 LTEs, with the goal of eventually inventorying all perennial streams to determine if they possess significant scientific value.

7 FTEs and 390,432 LTE hrs are required to inventory streams in the first year.

Fish Biologist, Entry - \$14.768/hr plus fringe = \$20.79 x 2080 hrs = \$43,243

Supplies \$ 3000

Computer \$ 5000

Subtotal \$51,243

390,432 LTE hours x \$14.90 (salary + fringe) \$5,817,437

LTE supplies: 375 LTE x \$1,500 = \$ 562,500

\$51,243.20 x 7 FTE = \$ 358,702

1st year total (one-time): \$6,738,639

7 FTEs and 21,840 LTE hours are required to monitor and evaluate streams the 2nd year and after.

\$46,243.20 x 7 FTE = \$323,702

21,840 LTE hours x \$14.90 (salary + fringe) \$325,416

LTE supplies: 21 LTE x \$1,500 = \$ 31,500

2nd year total (ongoing): \$680,618

B. Fiscal Impacts in Air Management

The proposed legislation has multiple effects on the regulation of air pollution.

1. New Source Review:

The proposed legislation eliminates new source review construction permit requirements for some sources. This will decrease costs to the Department as fewer permits will need to be issued. In FY03 there were approximately 200 new source permits that generated approximately \$2,200,000. It is assumed that this bill, due to changes based on the modification language and the major/minor source definitions, for example, will reduce the new source permits by 64%. The new total of permits will be 72 and the revenue will be \$800,000. The loss of construction permit authority is expected to decrease revenue to the bureau by \$1,400,000 per year and result in the loss of 10 FTEs supported by that revenue. The salary, fringe, and supplies associated with the 10 FTE, at an average of \$90,000 annually, would be \$900,000.

New source analyses must currently be done within 120 days for major sources, and 30 days for a minor source; the bill shortens this time to 60 days and 15 days. It is assumed the remaining staff of 9.5 FTE (19.5 current minus the 10 FTE mentioned above) will be sufficient to complete the fewer new source permits if the time frame to process is cut in half.

Note that new source permit spending authority and staff are used to match the Federal Air Pollution Control 105 grant. See federal impact below.

2. Federal 105 Pollution Control Grant:

It is assumed that the legislation would put at risk the Department's continued receipt of Federal Section 105 Pollution Control Grant funding.

Since spending authority from the new source program is used for part of the current match to acquire the Section 105 Grant funds the Bureau receives from USEPA, the loss of match coupled with restrictions on activities the bureau performs to meet eligibility requirements may result in the loss of the 105 Grant. Aspects of the proposed legislation that place the Section 105 Grant at risk include: provisions that make it unlikely the bureau could submit timely SIP revisions to USEPA; and provisions prohibiting the ability to draft rules needed to meet rate of progress provisions required in SIPs.

This grant is currently \$3,700,000 and includes funding for 43 Air Management FTEs, 1.5 Law Enforcement FTEs, and approximately \$520,000 associated with DNR administration salary, fringe, and supplies. According to the most recent grant application, the 43 Air Management FTE is 26% of the Air Management staff. This staff completes work in the following areas: statewide air quality monitoring network, the development of State Implementation Plans for correcting identified problems, complaint investigations, compliance, asbestos efforts, mercury efforts, rule promulgation, surveillance and enforcement program, and program administration and management.

In order to continue the work currently associated with the FED 105 Grant, if the program is lost due to the lack of available match and the restrictions mentioned above, the Department assumes that the 44.5 FTE would be funded by GPR dollars. This would require the creation of 44.5 GPR FTE and \$3,700,000 in GPR funding.

3. Operation Permits:

Operation permits must currently be acted on within 180 days; the bill reduces this time to 30 days. It is assumed that the the Department would meet the operation permit deadline by prioritizing work as follows: the highest priority work would be the permit backlog, then compliance-related activities, and finally, permit renewals. The current number of backlogged operation permits is approximately 250. There are currently 30 permit writers in Air Management who focus on operation permits. It is assumed in order to meet the 30 day action date the number of staff working on operation permits will need to increase. In order to finish the backlog, it is assumed that an additional 60 FTE will be needed, with half of those required on an ongoing basis and half on a one-time basis. At the average salary of \$28 per hour, this would equate to \$3,494,400 in salary, \$1,426,100 in fringe, and \$120,000 in supplies; the new 60 FTE would equal \$5,040,500. After the operation permits are complete, the same 60 FTE would focus on renewals and compliance. After these functions are completed it is assumed the increased 60 FTE would be reduced to 30 FTE, which when added to the existing 30 FTE would allow a total of 60 FTE to complete operation permits within the 30 days deadline.

Note also that the current emission fees could not support any increased number of FTE, LTE, or contract dollars.

4. Registration Permits:

The bill includes language creating a new registration permit. It is unknown what the total fiscal effect of this new permit will be.

5. Rules:

There are a number of rule changes required by the bill. The rule changes will have a one-time impact on the Department workload totalling 5.5 FTE , \$533,400 salary and fringe, and \$11,000 supplies.

Assumptions for this estimate follow:

There are two categories of rules: simple and complex.

In simple rules, the air permit writer's time is averaged at about 180 hours per rule. Other Air Management staff is about 40 hours. Environmental Analysis is about 10 hours. Legal Services time is about 80 hours. In complex rules, the air permit writer's time is averaged at about 1000 hours per rule. Other Air Management staff is about 400 hours. Environmental Analysis is about 40 hours. Legal Services time is about 300 hours.

Permit Writer - \$28/hr plus fringe = \$39.43/hr
Section Chief - \$35/hr plus fringe = \$49.28/hr
Environmental Analyst - \$22/hr plus fringe = \$30.98
Attorney - \$50/hr plus fringe = \$70.40/hr

Simple rules found in the bill include rule changes related to SIP rules, HAP rules, and the new source permit changes incorporating the federal standards. This bill will require at least 3 simple rule changes.

Complex rules found in the bill include rule changes related to permit waivers, exemptions, modifications, the general permits, the new registration permits, and streamlining. This bill would require at least 6 complex rule changes.

Simple:

180 hours permit writer X \$39.43 = \$7,100
40 hours section chief X \$49.28 = \$2,000
10 hours EA staff X \$30.98 = \$300
80 hours attorney X \$70.40 = \$5,600
Total hours = 310 and Total dollars = \$15,000 X 3 simple rule changes = 900 hours and \$45,000 which translated to .5 FTE and \$45,000

Complex:

1000 hours permit writer X \$39.43 = \$39,400
400 hours section chief X \$49.28 = \$19,700
40 hours EA staff X \$30.98 = \$1,200
300 hours attorney X \$70.40 = \$21,100
Total hours = 1,740 and Total dollars = \$81,400 X 6 complex rule changes = 10,400 hours and \$488,400 which translated to 5 FTE and \$488,400

6. Assessing USEPA Changes:

The bill includes provisions to maintain information and regularly assess the changes proposed by USEPA. Since these assessments are currently done, the provisions of the bill will continue with existing staff levels.

7. Contractors:

The bill includes a provision that new source permits and operation permits can be processed by certified contractors. This may provide some relief to DNR staff who would have processed these applications. It is not clear from the bill how those contractors will be paid.

8. Changes to permit renewal time:

A permittee must apply for a renewal in 12 months before expiration; the new bill shortens this to 6 months. The fiscal effect of this change is unknown.

9. Risk assessments for hazardous air pollutants:

The bill prohibits DNR from promulgating an emission standard for a hazardous air contaminant for which EPA has not promulgated a standard unless the Department conducts a public health risk assessment. The assessment would need to find that the DNR plan reduces risks in the most cost-effective manner practicable.

It is estimated that it would take 2.0 additional FTE with a salary, fringe, and supply of \$200,000 to carry out the the steps required to make the finding. The steps include:

- a. Identifying sources that emit the substance. This would require a survey of all manufacturers in Wisconsin or requests for information or some other procedure to obtain this information. Since these substances are not regulated yet, industry does not report emissions of these substances to the department or other agency.
- b. Quantifying and characterizing the emissions from those sources identified. The department would probably request this information from industry, but may need to do this work.
- c. Assessing the air quality impact from each source through dispersion modeling. This requires obtaining site specific information from each source, setting up the model and running it.
- d. Assessing the risk factors from each source for each pollutant.
- e. Evaluating alternative options for reducing risk, which could be a very labor intensive process, depending on the particulars of the pollutant and the sources. The department experience with coal dust and diesel generators is that this process could take the equivalent of two months of time each. It requires engineering expertise and considerable interaction with stakeholders. However, for many other chemicals the analysis may be relatively straightforward.

Two variables that would affect the cost are:

- a. The degree of analytical rigor required. Since it is likely that one or more of these findings could be litigated, the analysis would need to be rigorous and based on real data rather than educated assumptions.
- b. The number of hazardous substances. This estimate is based on the assumption that the department would conduct such an analysis every three years as proposed under NR 445 revisions and evaluate approximately 30 substances.

C. Changes in Administrative Rule Process

Economic Impact Reports

The bill requires an agency to prepare an economic impact report for a proposed administrative rule if requested to do so by persons or groups who may be economically affected by the rule.

It is estimated that the Department develops 40 administrative rules per year, and that 50% of these, or 20, would require an economic impact report. It is assumed the Department would need to contract for the development of the reports for 120 hours of work for a simple report at a cost of \$100/hour, or \$12,000 per report. The cost of a complex report would be \$40,000, assuming 400 hours of work. It is assumed half of the reports would be simple and half complex. The annual cost for the reports is estimated to be \$520,000 (10 X \$40,000 plus 10 X \$12,000).

The bill also allows certain entities affected by an existing or proposed agency guideline or policy to request an economic impact report for any existing or proposed agency guideline or policy. DNR has countless existing and proposed guidelines and policies. If even a small percentage are the subject of economic impact reports, there would be a significant cost to the agency. It is assumed that on a one-time basis, there would be 25 reports requested of each of the Department's 5 major program divisions, for a total of 125 reports. It is assumed 60 would be simple and 65 would be complex. Using the costs and assumptions described in the previous paragraph, the one-time cost of these economic impact reports would be \$3,320,000. It is assumed that on an ongoing basis there would be 30 reports requested per year. It is assumed 15 would be simple and 15 would be complex. Using the costs and assumptions described in the previous paragraph, the ongoing cost of these economic impact reports would be \$780,000.

Additional Information Provided in Rules

The bill requires that additional justification and information be provided for proposed administrative rules. This information would include an analysis of fiscal impacts on the private sector, a summary of relevant legal interpretations, a summary of related existing and anticipated federal regulatory programs, and factual data and studies that support the rule. The Department assumes there would be an additional 160 hours of work required for an estimated 20 simple administrative rules annually, and an additional 320 hours of work required for an estimated 20 complex rules annually. At an hourly rate of \$40, the annual cost of this requirement would be \$384,000 (9,600 hours X \$40) and 5.3 FTE (9,600/1800 hrs).

DOA Review

The bill requires DOA review of certain proposed administrative rules, and of the economic impact reports described above for rules, guidelines and policies. The bill also requires review of all proposed administrative rules by the Governor. It is assumed the Department would spend 60 hours per rule or economic impact report working with DOA in their review of an estimated 20 rules per year, for a total of 1,200 hours. It is assumed the Department would spend 20 hours per administrative rule working with the Governor and his staff in the review of 40 administrative rules per year, for a total of 800 hours. Assuming an average cost per hour of \$40, the annual cost to the Department for these provisions would be \$80,000 for 2,000 hours or approximately 1 FTE.

D. Changes in Smart Growth Law

The bill makes changes in local government implementation of Smart Growth plans related to extraction of nonmetallic mineral resources. This change is not expected to have a fiscal effect on the Department, but may impact local governments. See local government fiscal effect section below.

E. Nonmetallic Mining

The bill states if a municipality requires an operator to provide financial assurance for nonmetallic mining reclamation, the county must give a credit (in the form of certificate of deposit, irrevocable letter of credit, irrevocable trust, or others) for the value of the financial assurance toward the amount that the operator is required to provide under the county ordinance.

No fiscal effect is anticipated because the relevant Section 282, creates s.295.13 (4) and in so doing adds language that explicitly prohibits the perceived redundant "double burden" by a municipality and by a county upon nonmetallic mines operators with regard to the posting of financial assurance to guarantee the reclamation of such mines. Although the intention of creating s.295.13 (4) is clear (no redundant financial assurance for nonmetallic mining reclamation), the change, in effect, serves to provide explicit statutory language for something that is already implicit. Current law and administrative code, Ch. NR 135, do not allow for redundancy in the administration of reclamation programs including financial assurance. Indeed, only one jurisdiction may administer a reclamation program and may do so only after enacting a nonmetallic mining reclamation ordinance.

F. Local Fiscal Impact

1. Increased workload for local units of government in the regulation of navigable water/shoreland permitting

The bill essentially delegates many activities currently regulated under the Chapter 30 program to local municipalities, with the exception of activities in "areas of special natural resource interest". Permits for grading in excess of 10,000 square feet would be reviewed and approved by local units of government under this bill. DNR currently processes 540 grading permits annually. Current workload estimates show that it takes 25 hours to process a grading permit. Local units of government would now be responsible for approximately 13,500 hours of additional workload to process grading permits. This workload would equal 7.4 FTE. At an estimated hourly cost of \$20, the increased cost to local units of government would be \$307,700 annually.

Reduced state review may result in more pressure on local governments to do an independent review of other state shoreland zoning decisions. Local units of government have shoreland zoning authority but generally do not perform an independent review of projects reviewed by the state.

As more and more activities become the direct responsibility of the local municipality, proposals such as the installation of bridges and culverts will fall between the cracks due to inadequate staffing at the local level.

2. Impact of Smart Growth change

The bill requires that, before a Smart Growth plan takes effect, local units of government must notify all owners and leaseholders of property who may extract nonmetallic mineral resources from a property if the plan changes the allowable use or intensity of use of the property. This provision will increase local government administrative costs, but those costs cannot be estimated at this time.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 03-3629/2		Introduction Number SB-313	
Subject			
Omnibus regulatory reform			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
\$16,419,600 and 68.5 FTE :\$5,040,500 and 60 FTE for air permits, \$544,400 and 5.5 FTE for developing air rules, \$7,120,900 to determine areas of scientific interest, \$261,300 and 3 FTE related to water reg. permit rules, \$3,320,000 for economic impact reports, and \$132,500 for perm. property.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$8,364,400		-4,369,200
(FTE Position Changes)	(121.8 FTE)		(-63.5 FTE)
State Operations - Other Costs	2,118,600		-650,800
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$10,483,000		\$-5,020,000
B. State Costs by Source of Funds			
GPR	7,762,700		
FED			-3,700,000
PRO/PRS	2,720,300		-1,320,000
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
	Increased Rev		Decreased Rev
GPR Taxes	\$		\$
GPR Earned			
FED			-3,700,000
PRO/PRS			-1,820,000
SEG/SEG-S			
TOTAL State Revenues	\$		\$-5,520,000
NET ANNUALIZED FISCAL IMPACT			
	<u>State</u>		<u>Local</u>
NET CHANGE IN COSTS	\$5,463,000		\$307,700
NET CHANGE IN REVENUE	\$-5,520,000		\$
Agency/Prepared By		Authorized Signature	
DNR/ Joe Polasek (608) 266-2794		Joe Polasek (608) 266-2794	
		Date	
		3/5/2004	