

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 400 Air Pollution Control Definitions, NR 405 Prevention of Significant Deterioration, NR 408 Construction Permits for Direct Major Sources in Nonattainment Areas, and NR 410 Air Permit, Emission, and Inspection Fees

3. Subject

Proposed rules relating to consistency with federal major source permit review requirements and clean-up of rules related to the former indirect source permit program.

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
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 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 No

9. Policy Problem Addressed by the Rule

The DNR is proposing to amend definitions in chs. NR 400, 405, and 408, Wis. Adm. Code, related to the major new source permit review program for both attainment and nonattainment areas. Definitions proposed to be amended include PM2.5 emissions, PM10 emissions, major modification, and regulated New Source Review (NSR) air contaminant. These changes do not represent a policy problem, but are being proposed in response to deficiencies identified by the U.S. Environmental Protection Agency (EPA), and are necessary to maintain approval of the state implementation plan.

The DNR is also proposing to repeal several rule provisions whose purpose was in support of an indirect source permit program. This permit program was previously implemented through ch. NR 411, which was repealed through legislative action. The provisions include several definitions and permit fees in chs. NR 400 and 410, Wis. Adm. Code, respectively. These proposed changes do not represent a policy problem, but are appropriate since the purpose of the rules affected was only related to ch. NR 411.

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.

The businesses that were contacted for comment were all those listed as major sources by the WDNR. Additionally, Wisconsin Manufacturers and Commerce, Wisconsin Paper Council, and the Wisconsin Utilities Association were contacted.

11. Identify the local governmental units that participated in the development of this EIA.

None

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)

The proposed changes to the new source review program are being made to ensure consistency with federal regulations and implementation policy governing this permit program. DNR believes that the proposed rule changes will not have an economic impact on any of the entities listed or on the state's economy as a whole because there will be no change from the way DNR currently implements the requirements. In response to a request for information on the economic impacts

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of the proposed rules, three companies responded that they had no input because they believed the proposed rules would not have an economic impact on them. One commenter responded that the proposed rule provided economic benefit and asked the DNR to consider providing an analysis of the benefit. Additionally, the commenter felt that the proposed rules addressed broader policy issues whose economic benefits should be analyzed. DNR does not believe the proposed rules provide economic benefit. The economic benefit from the repeal of ch. NR 411 occurred when the chapter was repealed through legislative action and is not due to the clean-up action. Testimony, including an estimate of the costs associated with the indirect source permit program, was given at the time of the legislative action. The portions of the rule package associated with the major new source review program found in chs. NR 405 and 408 are amendments to ensure that the rules align with current practice as well as U.S. EPA policy and do not represent changes in implementation. The economic impact analysis speaks to the economic impacts of the proposed rules, not the underlying statutes that give DNR the authority for rulemaking.

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

The alternative to this rule action is to keep the rules as they are which U.S. EPA has already identified as an inconsistency with the major source permit program. In the Federal Register, U.S. EPA stated that they are under obligation to promulgate a Federal Implementation Plan (FIP) addressing the disapproved portions of the associated state implementation plan within 2 years. The Federal Register states that the FIP will not be promulgated if DNR rectifies the deficiencies within the 2 year timeframe. Not repealing sections of chs. NR 400 and 410 in response to the repeal of NR 411 by the legislature would potentially create confusion and perpetuate an inconsistency with DNR rules.

14. Long Range Implications of Implementing the Rule

The proposed rule changes to the new source review program do not represent changes in operation by WDNR, so there are no long term implications. The proposed rule changes to the indirect source fee structure are of a clean-up nature and also have no long term implications.

15. Compare With Approaches Being Used by Federal Government

The purpose of the proposed changes related to the major source permit program is to ensure state rules are consistent with federal regulations. The federal government does not have regulations for an indirect source permit program.

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

Illinois and Minnesota are states delegated by the U.S. EPA to implement the federal air pollution program, so they are directly implementing the federal program. Iowa and Michigan, similar to Wisconsin, are SIP-approved states, so they are also implementing a federal program, but through their own state rules and regulations. It is the goal of SIP-approved states to implement federal programs in accordance with federal regulations. The majority of this rule package addresses changes necessary to comply with federal regulations. Those changes not dictated by federal regulations are associated with the repeal of fees related to the indirect source program which is no longer existing in Wisconsin, thereby addressing a current internal inconsistency.

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Fiscal Estimate & Economic Impact Analysis

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
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