

Report From Agency

WISCONSIN DEPARTMENT OF MILITARY AFFAIRS, WISCONSIN EMERGENCY MANAGEMENT

In the Matter of Rulemaking to Update Wisconsin Administrative Code
Chapter WEM 1 for Establishment of a Fee Payment Structure

Clearinghouse Rule No. 23-032

REPORT TO LEGISLATURE

I. Basis and Purpose of the Proposed Rule

The proposed rule repeals, amends, and recreates some of the existing provisions of Wis. Admin. Code ch. WEM 1 (WEM 1) and introduces a new section. The proposed changes to WEM 1 all pertain to the amount of fees owners and operators at facilities that have hazardous chemicals are statutorily required to pay and the procedures for making such payments. These modifications align with the requirements of § 323.60, which directs WEM to promulgate rules essential for implementing the Emergency Planning and Community Right-to-Know Act (EPRCA). Furthermore, these rules are aimed at establishing fees at levels designed to cover WEM's administrative expenses as well as grants awarded under s. 323.61, Stats.

Most notably, the updates seek to raise notification and inventory fees to accommodate substantial inflation since the original rule's promulgation in 2010. This adjustment is vital to ensure sustainable funding for the state EPCRA program and grants to counties, aligning with the requirements of ss. 323.60 and 323.61, Stats. To achieve this, the proposed updates not only increase facility fees to offset inflation since 2010 but also establish a mechanism for annual fee recalculations. The updates also aim to provide clarity on form submission methods, specify when fees and reports are deemed submitted, and replace the reference to s. 166.20(1)(gm), Stats., with the current definition of petroleum-related facilities exempt from certain fees as outlined in s. 323.60(7)(dm), Stats.

II. Summary of Public Comments

DMA did not receive any public comments at the August 3, 2023, public hearing.

III. Appearance at the Public Hearing

No individuals made appearances or provided oral comments during the public hearing.

IV. Modifications Made

As outlined in Section VI, modifications to the final rule language and treatment of rule sections were implemented by DMA in response to feedback received from the Legislative Council.

V. Changes to Rule Analysis and Fiscal Estimate

The rule analysis and fiscal estimate remain unchanged.

VI. Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse provided feedback on various aspects, including statutory authority, form, style and placement in the administrative code, and adequacy of references to related statutes, rules, and forms, as well as clarity, grammar, punctuation, and use of plain language. DMA has duly integrated all the recommended changes suggested by the Clearinghouse.

VII. Final Regulatory Flexibility Analysis

The anticipated changes in the proposed rule are not expected to result in a significant economic impact on small businesses. The affected businesses are relatively few in number, and those within that category with fewer than 10 employees are currently exempt from the rule. Approximately 94% of the facilities will experience an increase ranging from \$60 to \$145 per year, attributable to the one-time 30% increase. The fiscal estimate and economic impact analysis conducted by DMA confirm that the proposed rules will not impose an economic burden on small businesses. WEM has submitted a statement along with supporting analysis to the Small Business Regulatory Review Board for potential comments on this matter.

VIII. Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not generate a report on the proposed rule.