

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Chapter NR 150- Environmental Analysis and Review Procedures for Department Actions

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3. Subject

Implementation of Wisconsin Environmental Policy Act, s. 1.11, Wis. Stats.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

None.

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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

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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)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes       No

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9. Policy Problem Addressed by the Rule

Chapter NR 150 was revised and went into effect April 1, 2014. An emergency rule is needed to clarify the procedures for the review and analysis of new administrative rules in order to assure that the intent of the ch. NR 150 revision is being met and potential procedural questions do not invalidate the years of work and public engagement on new rules packages, and for additional housekeeping changes to ensure that the intent of the recent ch. NR 150 rewrite is being met, all in a manner that is consistent with past WEPA compliance approaches that have been upheld by the courts.

The pre-2014 version of ch. NR 150 classified the promulgation of most administrative rules as "Type 3 actions", a classification requiring some form of public notice and no additional environmental analysis as part of the formal rules process. The rule changes now being proposed would be simple changes to clarify that emergency rules are "minor actions", requiring no additional environmental analysis, and that the process for developing permanent rules is an "equivalent analysis action" under the new ch. NR 150, similar to how they were treated under the old ch. NR 150.

In addition, the revision includes clarification changes regarding strategic analysis requirements, minor actions, and procedures for publishing determinations. Consistent with the intent of the previous version of ch. NR 150, the emergency rule clarifies that a strategic analysis is required for review of significant policies, but for other policies or issues the strategic analysis can be used as a discretionary tool. The list of minor actions, not requiring additional environmental analysis, has been expanded to include actions that originally were intended to be outlined in program guidance. The proposed revisions in the emergency rule would clarify in rule the list of activities.

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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.

Businesses that may be affected by this rule revision include mainly those that are required to apply for WDNR permits for projects that exhibit the potential to have "significant effects upon the quality of the human environment" (due to major air emissions, wastewater discharges, water withdrawals, etc.). However, ch. NR 150 is primarily an administrative process that applies internally to WDNR, so impacts to businesses are minimal. In addition, most environmental review data is also required under permit review procedures, so in general little to no additional cost is imposed by the environmental impact statement process.

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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)

Not required for emergency rules. Wis. Stat. s. 227.137(5)

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

DNR staff will have more clarity regarding the implementation of ch. NR 150 and regarding the required review process for promulgating administrative rules. DNR staff and the public will have more clarity regarding publication requirements and WEPA compliance determinations for various permits and plan approvals.

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14. Long Range Implications of Implementing the Rule

No long range implications, since it is an emergency rule, and can only be in place for up to 270 days.

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15. Compare With Approaches Being Used by Federal Government

This revised rule is similar to the existing rule, in that it substantially follows the guidelines of the federal Council on Environmental Quality as directed by s. 1.11, Wis. Stats.

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

Neighboring states have significant differences in their related laws, so the opportunity to gain from their experience is limited. For example, Minnesota requires that counties also follow WEPA-like analysis procedures, whereas Wisconsin counties have no such requirements. Illinois' law covers only actions conducted by the state itself, whereas in Wisconsin, WEPA applies to all actions, including actions permitted or regulated by the state.

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17. Contact Name	18. Contact Phone Number
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**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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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)

None.

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

None.

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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:

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

Not applicable.

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5. Describe the Rule's Enforcement Provisions

This rule carries no enforcement provisions. Disputes regarding the need to conduct an EIS analysis have judicial avenues of appeal.

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

- Yes    No
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