

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 106.06 (2), 106.06 (6), 106.10 and 106.145

3. Subject

Related directly to the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program that regulates wastewater discharges. WT-30-10

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

None.

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 purpose of these rule additions and amendments is to make sections of NR 106, which deal with the procedures for calculating water quality based effluent limitations for point source discharges in the Wisconsin Pollutant Discharge Elimination System (WPDES) Permit program, consistent with federal regulations. In a letter dated July 18, 2011, U.S. Environmental Protection Agency (EPA) identified 75 potential issues with Wisconsin's statutory and regulatory authority for the WPDES permit program. EPA directed the department to either make rule changes to address these inconsistencies or obtain a statement from the Attorney General's Office verifying that the existing rules are consistent with federal regulations. The department believes adoption of these rule changes (referred to as Rule Package 3) will address EPA's concerns identified in four of the issues.

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.

Notice soliciting comments regarding potential economic impacts of these proposed rule changes has been sent to all industrial and municipal facilities currently regulated by a WPDES Permit.

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

Local and regional wastewater treatment facilities are being solicited for comments in the development of this EIA.

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 department anticipates there may be moderate financial effects on municipal wastewater treatment facilities and industrial facilities with permitted wastewater discharges.

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

On July 18, 2011, the Department received a letter from EPA identifying seventy five issues or potential inconsistencies with Wisconsin's authority to administer its National Pollutant Discharge Elimination System (NPDES) approved permit program. These proposed rule revisions address some of EPA's issues regarding Chapter NR 106. Implementing the proposed rule revisions will ensure that the State's regulations are consistent with and in compliance with federal regulations.

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14. Long Range Implications of Implementing the Rule

Implementing the Administrative Rule revisions as proposed in this rule package will align Wisconsin's WPDES regulations with federal regulations.

15. Compare With Approaches Being Used by Federal Government

In a November 6, 2000 Federal Register Notice, EPA objected to provisions in ss. NR 106.06(2), 106.06(6) and 106.06(10) as inconsistent with the federal Water Quality Guidance for the Great Lakes System required by section 118(c) of the Clean Water Act, 33 U.S.C. 1268(c). See Identification of Approved and Disapproved Elements of the Great Lakes Guidance Submission from the State of Wisconsin, and Final Rule, 60 Fed. Reg. 66502 to 66511 (November 6, 2000). Section 118(c) requires all Great Lakes states, including Wisconsin, to adopt procedures consistent with the federal guidance. In a February 17, 2009 letter, EPA objected to the department's mercury reasonable potential rule as inconsistent with federal requirements.

Implementing the Administrative Rule revisions as proposed will align Wisconsin's WPDES regulations with federal regulations.

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

All of the other EPA Region 5 states (Illinois, Indiana, Michigan, Minnesota and Ohio) are subject to EPA regulations implementing the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) Program. All other states bordering the Great Lakes system (Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Pennsylvania), are subject to the GLI. See 40 CFR Part 132 (setting forth requirements that Great Lakes States must adopt). The proposed rules will align Wisconsin's WPDES regulations with federal regulations.

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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)

The potential impacted facilities include facilities with non-contact cooling water outfalls or certain substances present in their intake water. Some of these facilities do not currently have treatment processes and may require upgrades or modifications to the facility to meet effluent limitations. Small businesses without treatment processes would be more likely to have economic impacts from changes required to meet WPDES permit limits. The potentially impacted industries also include power plants and industries, especially those that discharge to Lake Michigan. Impacts to these facilities by this rule are influenced by over promulgation and/or court cases that require the Department to currently use these procedures in determining Water Quality Based Effluent Limits.

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

DNR's System for Wastewater Applications, Monitoring and Permits (SWAMP) was used to compile existing WPDES permit holders with non-contact cooling water discharge outfalls. These data were used to determine which facilities may have impact from this rule. Many of the provisions of the proposed rule revision are already implemented by the Department when setting water quality based limits as required by EPA under Federal law.

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

This rule does not specify monitoring frequency or compliance schedule timelines to allow for case by case assessment to ensure adequate environmental protection and reasonable reporting requirements. Consideration was made for difference within and outside the Great Lakes Basin that include additional considerations outside the Great Lakes Basin as allowed under Federal Code.

5. Describe the Rule's Enforcement Provisions

Enforcement provisions are not included in the subsections of the rule effected by the proposed order. These provisions are located in other portions of administrative rule not proposed for revision in this proposed rule order.

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

- Yes No
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