

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapters NR 400, 406, 407 and 445.

3. Subject

Proposed rules related to clarifying, improving efficiency of, and streamlining air program permit processes.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

NA

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 primary objective of the proposed rule is to improve operational efficiency for, and to simplify the permitting processes administered by, the air program, while maintaining consistency with the federal Clean Air Act (CAA) and to address statutorily required rule making.

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 proposed rule could affect any entity that needs an air pollution control construction or operation permit in the state. A request for information concerning potential economic impacts of the proposed rule was sent by email to all air permit holders in the state. The request was also sent to several organizations that represent business in the state including the Small Business Environmental Council, the Printing Council, the Wisconsin Transportation Builders Association, Wisconsin Manufacturers and Commerce, the Wisconsin Paper Council, and the American Council of Engineering Companies of Wisconsin. The information request was sent to the Wisconsin Public Service Commission, to the League of Wisconsin Municipalities and to the Wisconsin Counties Association as representatives of local units of government. The request for information was sent to the Air Management Study Group and to the members of the Air Permit Streamlining Workgroup. These groups include members representing Clean Wisconsin, Sierra Club, Midwest Environmental Advocates, environmental consultants, environmental law attorneys, utilities, and representatives of large and small businesses.

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

The Department provided an opportunity for local governmental units to indicate whether they wished to coordinate with the Department in preparation of the EIA. Although representatives of a military base, two public water utilities, and a county commissioner submitted information on the economic impacts of the rule, none indicated that they wished to coordinate with the Department on the preparation 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)

Fiscal Impacts on the Department's Air Management Program

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

The air management program funds nearly all operation permitting and compliance activities through program revenue generated by annual fees charged to operation permit holders. Funds generated from minor source operation permit holders may only be used for operation permit and compliance related activities at minor sources. This includes all inspections, complaint investigation, compliance and permitting assistance and permit application review. Sources that would choose to operate under the proposed natural minor exemption would no longer be required to pay the annual \$400 fee, potentially reducing the revenue that is available for minor source permit and compliance activities. The Department projects that as many as 650 facilities are those most likely to have interest in operating under the natural minor exemption however, it is anticipated that not all of these sources will opt to switch to the exemption. If all these facilities would take advantage of the exemption, the loss of revenue for minor source permit and compliance activities would be approximately \$260,000 per year. This is nearly a quarter of the total revenue currently collected for the minor source programs.

Economic Impacts on Private Sector Businesses

The purpose of this proposed rule is to clarify, improve efficiency and streamline the air permitting regulations, so it has been assumed that there would be no negative economic impacts for businesses. The air program solicited information from permit holders throughout the state and received 24 responses to the request for information on the economic impacts of the proposed rule. Nineteen of the responses were from private sector businesses holding air permits or permit exemptions. WMC also responded on behalf of business. With the exception of one response, all respondents stated that there would either be no negative economic impacts on their business or that there might be an economic benefit to the rule. Several facilities noted that they would save on the cost of applying for renewal applications. Another stated that the creation of a restricted use engine exemption would benefit them. Many respondents mentioned an economic benefit to the provisions to allow some preconstruction activities to occur prior to receiving a construction permit and several also noted that they are natural minor sources and that their businesses would benefit from an exemption for natural minor sources.

The exception is a manufacturer of large marine engines. This respondent noted that the rule would require application of the best available control technology (BACT) in order to perform testing of engines using fuels with higher sulfur content than currently allowed by state law. The respondent estimated that this provision of the proposed rule would cost the company between \$750,000 and \$1,000,000.

BACT is a case by case determination. The respondent did not provide details on the cost estimates. When a facility is subject to BACT, they must provide an analysis that includes information on various control technologies, and costs to control. Technologic and economic feasibility are both part of a BACT determination. The Department may not impose a BACT that is determined to be economically infeasible.

Marine engine manufacturers are required by federal law to test engines using fuels with higher sulfur contents than allowed by state law. While the department concurs that application of best available control technology could entail a cost to any facility proposing to use high sulfur content diesel fuel, under current rules there is no allowance to test engines using diesel with higher sulfur contents under any circumstances. Aside from this marine engine manufacturer, only facilities wishing to use higher sulfur content fuels would need to apply BACT.

Economic Impacts on Local Governments and Public Entities

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Representatives of two public water utilities, a county commissioner, and a military base also submitted information. All four stated that the rule would have no negative economic impact on their operations.

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

This rule change was undertaken to provide benefits by simplification and streamlining of the permit process. If the rule is not implemented, facilities will not see any economic benefit the department believes would be provided by the proposed rule.

14. Long Range Implications of Implementing the Rule

There may be long term fiscal consequences to the reduced program funds that would result from exempting large numbers of facilities from operation permits. The air program also acknowledges that efficiencies gained by having fewer permitted sources may, at least in part, offset these fiscal impacts.

15. Compare With Approaches Being Used by Federal Government

Several of the proposed rule changes are being made to align existing state rules with federal regulations. These include:

- Changes to s. NR 445.09, Wis. Adm. Code, are necessary because the current state rule is in direct conflict with federal law requiring marine engines to be tested using diesel with a higher sulfur content than allowed by state rule.
- Two federal standards affecting reciprocating internal combustion engines defined several types of limited use engines that are exempt from these federal standards. This proposed rule replaces the state's definition and exemptions for "emergency electric generators" with a new definition and exemptions that includes emergency and other limited use engines as defined in the federal standards.
- Changes are also being proposed to the definition of major source in s. NR 407.02 (4) (b) 27., Wis. Adm. Code, so that wording exactly mirrors that in the federal definition.
- Finally, a change proposed for s. NR 407.15, Wis. Adm. Code, changes the notification waiting period for suspension, revocation, or withdrawal of coverage of a part 70 source from 21 to 30 days as required by 40 CFR Part 70.

All other proposed rule changes pertain to minor sources and minor source construction permitting and non-part 70 source operation permitting are not specifically regulated under the federal Clean Air Act.

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

Illinois and Minnesota are delegated states, so they are directly implementing the federal program and are not implementing their programs through a State Implementation Plan (SIP), as Wisconsin does. Iowa and Michigan, similar to Wisconsin, are SIP approved states, so they are also implementing a federal program, but through their own state rules. It is the goal of SIP-approved states to implement federal programs in accordance with the regulations set out in federal code. The portions of this rule that are being changed to align with federal regulations result in rules similar to those in neighboring states.

Other rule changes proposed are limited to minor source construction permits and minor source operation permits. Wisconsin's neighboring states also have minor source construction permit programs, but state programs are very dissimilar. Similar to Wisconsin, adjacent states provide some construction permit exemptions for certain operations and activities depending on type, size, capacity, hours of operation, emissions or other similar criteria.

All the adjacent states issue minor source operation permits. Generally, these are issued to facilities requesting federally enforceable conditions limiting emissions to less than major source thresholds. These "synthetic minor" operation permit programs are all similar to Wisconsin's. The adjacent states all offer different types of exemptions from operation permitting for natural minor sources. The majority of natural minor sources in neighboring states are not required to obtain an operation permit.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

17. Contact Name

Kristin Hart

18. Contact Phone Number

608/266-6876

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ADMINISTRATIVE RULES
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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