

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 10/01/18
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 158	
4. Subject Fee for Monitoring Radiation Emissions in the Vicinity of Nuclear Power Plants	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected None
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$ The total cost of the rule to impacted businesses during the first year of implementation would be \$198,000.  The proposed rule applies only to the three nuclear plant sites in Wisconsin. The rule would a) increase the annual environmental monitoring base fee for an operating nuclear power plant (ex: Point Beach) from \$95,000 to \$128,000, and b) establish a required \$70,000 base environmental monitoring fee for a decommissioning nuclear power plant (ex: Kewaunee). There would be no fee or environmental monitoring for a decommissioned site (ex: LaCrosse Boiling Water Reactor by SFY 20). As a result, the total cost of the rule during the first year of implementation would be \$198,000 (Point Beach = \$128,000, Kewaunee - \$70,000, LaCrosse BWR = \$0).	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The Legislature requires the department to conduct environmental sampling in order to monitor radiation emissions in any area of the state within 20 miles of a nuclear power plant. The purpose of sampling is to determine whether radiological releases from nuclear power plants pose public health concerns to the state and its residents. Section 254.41, Stats., requires the department to establish an annual fee for sampling, which is assessed to owners of nuclear power plants. The statute also authorizes the department to adjust the fee by rule.  The current sampling requirements and fee structure are set forth in ch. DHS 158. The rule was created at a time when all three nuclear plants in Wisconsin (Point Beach Nuclear Power Plant, Kewaunee Nuclear Power Plant, LaCrosse Boiling Water Reactor) were operational. Since that time, only the Point Beach plant remains operational. The Kewaunee plant has permanently ceased operation and moved spent reactor fuel to an adjacent spent fuel storage installation, and the LaCrosse plant is completing its decommissioning. Spent fuel is considered high-level radioactive waste.  Although the department is required to continue monitoring these sites by statute, ch. DHS 158 was formulated to apply only to nuclear power plants that "operate" in Wisconsin. This has had the unintended effect of constraining and	

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jeopardizing the Department's ability to monitor plants that are shutdown and in various stages of decommissioning, but which continue to pose risks of radiological release to the state and its residents.

The department has continued monitoring these sites by accepting reduced fees paid voluntarily. However, this funding is projected to decline and may terminate altogether. The department therefore proposes to correct ch. DHS 158 in order to establish a sampling program that adequately protects the state and its residents from risk of radiological release.

There are no reasonable alternatives to the proposed rulemaking. The proposed revisions are necessary to implement the sampling program established by the Legislature in s. 254.41, Stats. If DHS 158 is not corrected, the department may be unable to conduct sampling necessary to protect the state and its residents from risk of radiological releases.

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12. 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.

In developing the proposed rule, the department established an advisory committee composed of representatives from Dairyland Power Cooperative / La Crosse Boiling Water Reactor, Dominion Energy / Kewaunee Nuclear Plant, and NextEra Energy / Point Beach Nuclear Plant. The department also published a solicitation in the Administrative Register on 07/30/18, requesting comments on the economic impact of the rule. The commenting period lasted until 08/13/18. The department received written comments from both Dominion Energy and NextEra Energy.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None.

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14. 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 rule only applies to the three nuclear plant sites in Wisconsin. The rule proposes to replace the current \$95,000 em base fee for an operating nuclear power plant with a two tier fee structure that applies to both operating and decommissioning plants. The fees may be increased each year at the annual rate of inflation to address cost increases. The environmental monitoring fee for the one operating nuclear power plant in Wisconsin (Point Beach) would increase by 25 percent (from \$102,400 in SFY 18 to \$128,000). The proposed \$70,000 annual em fee for a decommissioning nuclear plant would replace the voluntary fee paid by the Kewaunee plant (\$68,267 in SFY 18) to support the state environmental monitoring program. There would be no fee or environmental monitoring for a decommissioned site, such as the LaCrosse Boiling Water Reactor, which is expected to be fully decommissioned by SFY 20.

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

The proposed rule revision will address current program deficits and ensure that the Department has sufficient revenue to maintain environmental monitoring programs around operating and decommissioning nuclear power plants that meet the requirements of s. 254.41, Stats.

There are no reasonable alternatives to the proposed rule. A fee increase is necessary to ensure the Department is able to conduct monitoring required by the Legislature under s. 254.41., Stats.

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16. Long Range Implications of Implementing the Rule

The proposed rule revision will address current program deficits and ensure that the Department has sufficient revenue to maintain environmental monitoring programs around nuclear power plants that meet the requirements of s. 254.41, Stats.

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17. Compare With Approaches Being Used by Federal Government

This proposed rule does not conflict with any existing or proposed federal regulations. The Nuclear Regulatory Commission (NRC) is responsible for regulating nuclear power plants. NRC regulations require each nuclear plant to monitor the environment around their respective plant for radiation emissions. In addition to the NRC required monitoring, the department independently monitors the environment around the nuclear plants affecting Wisconsin, as required by s. 254.41, Stats. The NRC has no authority or regulations governing or affecting the fees that states can charge and has no authority to prohibit a state from establishing independent monitoring around the nuclear plants, outside of the plant boundaries.

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

The State of Illinois monitors the environment for radiation emissions around the nuclear plants affecting the state. Illinois law authorizes the state to assess each nuclear plant an annual fee to support state environmental radiation monitoring and radiological emergency preparedness activities. The fiscal year 2018 fee was \$1.903 million per operating reactor, or \$3.806 million for a typical, two reactor site. The fiscal year 2018 fee for a shutdown reactor was \$1.404 million per reactor.

Michigan law authorizes the state to monitor the environment for radiation emissions around the nuclear plants that affect Michigan. The nuclear utilities are required to reimburse the state for the actual costs of conducting environmental monitoring around their sites. In fiscal year 2018, the state of Michigan billed the three affected utilities a total of \$1,527,550 to support state environmental radiation monitoring and radiological emergency preparedness activities.

There is no requirement in Iowa law for the state to independently monitor radiation emissions around nuclear plants.

Minnesota law authorizes independent state monitoring for radiation emissions around interim spent (reactor) fuel storage installations (ISFSI). There are two nuclear plants in Minnesota with an ISFSI. The state assesses the owner of each nuclear plant an annual fee of \$35,000 to support monitoring activities around their ISFSI sites.

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### 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)

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

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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

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5. Describe the Rule's Enforcement Provisions

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

- Yes     No
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