

**STATEMENT OF SCOPE**  
**DEPARTMENT OF HEALTH SERVICES**

**Rule No.:** DHS 158

**Relating to:** Fee for monitoring radiation emissions in the vicinity of nuclear power plants

**Rule Type:** Permanent

**Type of Statement of Scope:**

Original

**1. Finding/nature of emergency (Emergency Rule only):**

None

**2. Detailed description of the objective of the proposed rule:**

The Department of Health Services (“department”) proposes to repeal and recreate ch. DHS 158 to meet the following objectives:

1. Develop a new environmental monitoring fee structure to reflect the mix of operating, shutdown and active decommissioning nuclear plants being monitored for radiological releases.

2. Add a definition for “nuclear power plant.”

3. Ensure sufficient funding to conduct statutorily mandated environmental sampling around nuclear power plant sites that could pose public health concerns to Wisconsin and its residents.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

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 release 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 (Point Beach Nuclear Power Plant, Kewaunee Nuclear Power Plant, La Crosse Boiling Water Reactor) were operational in Wisconsin. Since that time, one plant has begun active decommissioning, while two other plants have ceased operation and moved spent reactor fuel to adjacent spent fuel storage installations. 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 jeopardizing the Department’s ability to monitor plants that are

shutdown or that are being actively decommissioned, 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.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

The department's authority for revising the rule is explicitly granted by the Legislature in s. 254.41, Stats., which reads:

**Radiation monitoring of nuclear power plants.** The department shall take environmental samples to test for radiation emission in any area of the state within 20 miles of a nuclear power plant. The department shall charge the owners of each nuclear power plant in the state an annual fee of \$30,000 per plant, commencing in fiscal year 1983-84, to finance radiation monitoring under this section. The department may change this annual fee by rule.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

The department will require approximately 400 hours of staff time to promulgate the rule. The department will form an ad hoc advisory group consisting of representatives of the three utilities that own nuclear power plants in Wisconsin.

**6. List with description of all entities that may be affected by the proposed rule :**

The three utility companies that own nuclear power plants in Wisconsin, as follows:

- Dairyland Power (La Crosse Boiling Water Reactor)
- Dominion Energy (Kewaunee nuclear plant)
- Next Era Energy (Point Beach nuclear plant)

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

Chapter DHS 158 has no corollary in federal regulation.

**8. Anticipated economic impact of implementing the rule :**

The proposed rule is anticipated to have little to no economic impact if promulgated. The new fee structure will be based on projected program costs over the next three fiscal years to conduct an environmental radiation monitoring program around the nuclear power plants impacting Wisconsin. Although there may be a fee increase for some types of facilities, fees for the different categories of plants (operating, shut down, decommissioning) are not expected to differ by more than 25% from the mandated or voluntary fees currently paid by the plants.

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