

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 151 - Runoff Management and NR 243 - Animal Feeding Operations

3. Subject

WT-15-16 - New agricultural performance standards for farms that apply manure in areas of the state with shallow soils over Silurian bedrock (sensitive areas).

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

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 the proposed revisions to ch. NR 151, Wis. Adm. Code, and limited incorporation by reference of those proposed revisions to ch. NR 243 is to establish agricultural nonpoint source performance standards targeted to abate nonpoint source pollution in areas of the state with shallow soils overlaying Silurian bedrock. Pursuant to s. 281.16(3)(a), Stats., the Department of Natural Resources is directed to promulgate by rule nonpoint source performance standards and prohibitions that are designed to comply with state surface water quality standards and ground water standards. The Department has found that groundwater and surface water standards will not be attained by simply implementing the statewide performance standards and prohibitions in Silurian bedrock areas and that targeted performance standards are necessary to attain groundwater and surface water standards.

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 Department convened a technical advisory committee to provide input on the performance standards. The technical advisory committee included farm representatives, custom manure applicators, nutrient management planners, environmental advocacy groups, county land conservation departments, researchers, and DATCP, among others. The technical advisory committee did not directly coordinate with the Department on development of this EIA but discussions at technical advisory committee meetings included comments regarding potential costs.

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

Dane County and Kewaunee County land conservation departments participated in the technical advisory committee.

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)

This rule package proposes agricultural performance standards that will apply in Silurian bedrock areas, including: manure prohibitions; reduced manure spreading rates; incorporation and injection requirements; fertilizer and manure application timing requirements; manure pathogen reduction requirements; soil depth verification; and manure and fertilizer setback requirements from public and private wells and from direct conduits to groundwater. Farms within the

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following counties may have Silurian bedrock areas; Brown, Calumet, Dodge, Door, Fond du Lac, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Walworth, Washington, and Waukesha.

Within the Silurian bedrock area, the rule sets forth spreading rates and practices that vary according to the depth to bedrock. Not all of these practices are required to be applied together throughout the sensitive area. Instead, the practices to follow are dependent on soil depth ranges over Silurian bedrock, including 0-2 feet, 2-3 feet, 3-5 feet, and 5-20 feet. The total number of farmers affected and the total number of acres of cropland where changes in practices may be required are unknown. In addition, because the rule provides options for compliance, total costs are difficult to assess. CAFOs that operate in the Silurian bedrock area will be required to comply with the standards in the rule through their WPDES permit. Non-permitted farms that operate in the Silurian bedrock area will be required to comply in certain circumstances. Where construction of appropriate best management practices is needed for compliance and those practices are eligible for cost-sharing, non-permitted farms will be required to comply only where cost share is offered. Non-permitted farms may be required to adopt certain changes absent cost share if a local unit of government adopts a local ordinance requiring farms to adopt changes consistent with the rule. The Department has prepared a preliminary draft economic analysis for review and comment; the preliminary analysis is attached. The economic impact is estimated to be moderate (less than \$20 million).

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
Implementation of the proposed rule will help protect groundwater from pathogen contamination to protect public health. Benefits to protection of groundwater and public health are significant but have not been quantified. The average cost to replace a contaminated well is \$12,000 per well. The rule includes alternatives because it provides farmers with options on how to comply. One alternative to implementing the rule is to do nothing; this alternative does not ensure that water quality standards will be met in the areas identified in the rule. Another alternative is to expand the rule provisions to apply to more sensitive areas statewide; the Department chose to propose rule revisions targeted to those areas of the state identified as most vulnerable for contamination.

14. Long Range Implications of Implementing the Rule
The protection of public health and avoidance of groundwater contamination is a long term benefit. For farmers, changes in practice may be required. For non-permitted operators, those changes will be required only if accompanied by cost share dollars for those practices that are eligible for cost share.

15. Compare With Approaches Being Used by Federal Government
The federal government does not directly regulate discharges to groundwater in Silurian bedrock areas.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
This rule is consistent with neighboring states in creating manure spreading setback requirements for direct conduits to groundwater. The proposed rule is tailored to the conditions present in Wisconsin's Silurian bedrock.

17. Contact Name

18. Contact Phone Number

This document can be made available in alternate formats to individuals with disabilities upon request.

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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)

See section 12 above. The impacts to small businesses are expected to be the same as impacts to other businesses.

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

See section 12 above and the attached preliminary draft economic analysis.

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:

The rule allows options and flexibility for ways to comply with the new requirements.

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

The requirements vary based on soil depth. The more restrictive requirements only apply to the most vulnerable areas, and become less restrictive as soil depth increases. Within each soil depth there is flexibility in compliance.

5. Describe the Rule's Enforcement Provisions

Permitted CAFO farms will be required to comply with this rule through their WPDES permit. Non permitted farms may be required to comply in limited circumstances when cost sharing is required and available through state grant programs, or when cost sharing is not required. Local units of government may implement this rule through an ordinance.

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

- Yes No
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