STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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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 172, 400, 404, 405, 420, 425, 439, 484, and 494.

3. Subject
Proposed rules related to consistency with U. S. Environmental Protection Agency air pollution regulations and repeal of obsolete rules.

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 objective of this rulemaking is twofold; to address changes needed to maintain consistency with U.S. Environmental Protection Agency (EPA) regulations and to repeal obsolete rule provisions.

The Department is the approved authority in the state to implement and enforce many of the federal regulations under the Clean Air Act. This authority is based on a State Implementation Plan submitted to and approved by U.S. EPA. In order to maintain a sufficient State Implementation Plan, the proposed changes to chs. NR 404 and 405 addressed by this rule package are required by U.S. EPA.

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 anticipates that some portions of the proposed rule could potentially impact any air permit holder in the state. Other entities that may have an interest in the economic impacts of the proposed rule include 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 Public Service Commission of Wisconsin and organizations representing local units of government including the League of Wisconsin Municipalities and the Wisconsin Counties Association may also have an interest. In addition, the Wisconsin the Air Management Study Group, the Air Program's stakeholder working group, may be interested in the economic impacts of this proposed rule. This group includes members representing Clean Wisconsin, Sierra Club, environmental law attorneys, utilities, and representatives of large and small businesses. The Department contacted all these entities, and others, for information on the economic impacts of the proposed rule changes.

11. Identify the local governmental units that participated in the development of this EIA.
No local governmental units asked to participate in, or did participate, in preparation of the final economic impact analysis.

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

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Incurred)

Fiscal Impacts on the Department's Air Management Program

The Department does not anticipate that this proposed rule will have a fiscal impact on the Air Management Program or any other DNR programs.

Economic Impacts on Private Sector Businesses

Sections 3 through 10 and 12 of the board order for AM-15-14 propose rules to adopt the federally established ambient air increment for $PM_{2.5}$. The Department expects that this proposed rule change will have no economic impact for most private sector businesses. An ambient air increment is the maximum increase in the concentration of a pollutant above a base line amount that is allowed to occur. Significant deterioration in air quality is said to occur when the amount of new pollution would exceed the applicable ambient air increment. It is important to note that the National Ambient Air Quality Standard for a pollutant may not be exceeded even where the increase in the concentration of the pollutant is lower than the ambient air increment. The Department may not issue a permit and a business may not begin the construction project until the Department determines that the emissions from the construction project will not cause or exacerbate a violation of an ambient air standard or increment. The Department does not expect that adopting the federally established ambient air increment for $PM_{2.5}$ will have a significant effect on the approvability of construction permits in Wisconsin, and therefore should not have an economic impact on private sector businesses. $PM_{2.5}$ is not emitted directly from most industrial operations. High temperature operations such as fuel burning, engine testing, and metal melting, may emit $PM_{2.5}$ directly. When reviewing minor source construction permit applications for these types of sources, the Department has taken a weight of evidence approach and demonstrated that potential direct emitters of $PM_{2.5}$ have not caused or exacerbated a violation of an ambient air quality standard or the ambient air increment and have therefore not required individual source modeling analyses to make this determination. The Department does not anticipate that a business would have to make design changes or purchase emission control equipment for $PM_{2.5}$ as a result of the proposal to adopt the federal $PM_{2.5}$ ambient air increments.

The Department began including PM2.5 increment analyses in major source air construction permit reviews (PSD permits) when U.S. EPA first adopted the new increment. Applications for major source construction permits in affected areas, must include an increment analysis which requires knowledge of emissions of the affected pollutant from nearby minor sources. Because of the Department’s decision to no longer use individual source dispersion modeling to evaluate increment at minor sources, there may be a slight increase in the time required to prepare a major source application to include information on $PM_{2.5}$ from those nearby minor sources. However, the Department believes this workload would be slight because, aside from combustion units whose emissions are easily estimated, very few sources directly emit $PM_{2.5}$.

Sections 14 and 15 of the board order for AM-15-14, the portion of the rule that removes the significant monitoring concentration for $PM_{2.5}$, will not result in any change to the method of reviewing air permits in Wisconsin, and therefore is not anticipated to have any economic impact. One requirement for major source construction permit applicants is to provide an estimate of pre-construction air quality, including up to one-year of site specific ambient air monitoring data. The significant monitoring concentration was originally established in federal law to allow a dispersion modeling analysis to be used to demonstrate that the potential increase of ground level pollutant concentration is small enough that site specific pre-construction monitoring is not required. The U. S. EPA removed the significant monitoring concentration for $PM_{2.5}$ from its rules and the Department now is proposing this change to maintain consistency with federal law. Removal of the significant monitoring concentration will not have an effect on major source construction

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permit applicants as Wisconsin maintains a wide spread, federally compliant network of $PM_{2.5}$ ambient monitors that are used to assess pre-construction air quality for major source construction permit applicants in all parts of the state.

Sections 11 and 13 and 16 of the board order is the portion of the rule that specifically names oxides of nitrogen (NOx) as a precursor to ozone. Because the Department recognizes NOx as an ozone precursor under current rules and considers NOx emissions when reviewing federally required permits, the proposed rules do not constitute a change in Department policy or procedures and therefore the proposed rules will not have any economic impact.

Section 1 of the board order for AM-15-14, the portion of the rule that proposes to amend the definition of volatile organic compounds (VOCs) to exclude additional substances, will align the state and federal definitions of VOC. Coating, painting, printing and other types of businesses that use organic compounds will no longer be required to count the listed substances as VOCs. This proposed change will not have a negative economic impact and may, in fact, have an economic benefit to businesses that emit VOCs, including being able to qualify for construction and operation permit exemptions or to show the business qualifies for coverage under a general or registration permit.

Sections 17 through 24 of the board order for AM-15-14 involve repealing the stage 2 vapor recovery regulations and related grant rules in ch. NR 172 for gas stations in Southeastern Wisconsin. These changes will not have any economic impact on businesses in Wisconsin because the state has not been implementing the rule since 2012, as required under s. 285.31, Wis. Stats. The U.S. EPA authorized states to remove these rules from state implementation plans, which Wisconsin did in 2013. Grant funding for removal of Stage 2 Vapor Recovery systems was available through the end of the 2 year budget cycle ending on June 30, 2015. This proposed rule is simply the last stage of cleaning up these now obsolete requirements.

Economic Impacts on local governments and public entities

The Department does not anticipate that local governments and public entities will be economically impacted by the implementation of the proposed rules.

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

This rule change was undertaken to align state regulations with Clean Air Act regulations. The Department is the approved authority in the state to implement Clean Air Act permit programs and Department rules must be consistent with U.S. EPA regulations to maintain that authority. If the state does not make the proposed rule changes, the U. S. EPA may potentially disapprove portions of the state's permit program and could take over review and issuance of permits. The Department believes that it is better equipped at this time than U.S. EPA to efficiently and effectively issue quality air permits in the state without causing undue delays to business needs. This is a significant benefit of adopting these proposed rule changes.

14. Long Range Implications of Implementing the Rule

The Department does not anticipate any long term fiscal or economic implications to implementing the rule.

15. Compare With Approaches Being Used by Federal Government

All of the changes being proposed in this rule are necessary to align state rules with federal regulations.

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

Illinois and Minnesota are direct delegated states, implementing the federal program immediately after federal rules are effective, 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. This proposed rule implements changes needed to align with federal regulations and,

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thus, result in rules similar to those in neighboring states.

17. Contact Name	18. Contact Phone Number
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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 proposed rule is expected to have no impact for many businesses and it may create, for small businesses that regularly emit VOCs such as printers, coaters, spray painting operations, and autobody repair shops, an economic benefit. Because emissions of certain compounds will no longer be considered VOC emissions, small business emitting these compounds may be able to qualify for construction and operation permit exemptions or may become eligible for coverage under a more streamlined permit option such as a general or registration permit.

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

Because the Department does not expect a negative economic impact on small businesses, no data sources were examined for this 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:

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

No special methods are being incorporated into the rule to reduce impacts. The Department does not believe there will be negative economic impacts to small business.

5. Describe the Rule's Enforcement Provisions

NA

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

☐ Yes ☒ No