

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, and 407.

3. Subject

Proposed rules related to clarifying and improving efficiency of, and streamlining air program permitting 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, Badger State Sheriffs' Association, Wisconsin Sheriffs and Deputy Sheriffs Association 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 and other nongovernmental organizations. 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 wish to coordinate with the Department in preparation of the 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)

Economic Impacts on Private Sector Businesses:

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The purpose of this proposed rule is to clarify, improve efficiency and streamline the air permit processes, so there should be no negative economic impacts for businesses. The proposed rule clarifies existing permit exemptions, expands eligibility of some exemptions, and creates an exemption for incineration of confiscated drugs by law enforcement. Sources that qualify for new or expanded permit exemptions will see an economic benefit. Facilities may find that they would save on the cost of preparing permit applications. An economic benefit is also expected based on the provisions to allow some preconstruction activities to occur prior to receiving a construction permit.

Economic Impacts on Local Governments and Public Entities:

The proposed rule changes are not expected to have a negative economic impact on local governments and public entities. An exemption from permit requirements is being created for incineration of confiscated drugs by law enforcement. It is expected that this exemption will have no negative economic impact to local law enforcement. The Barron County Waste to Energy Facility, which is permitted to incinerate confiscated drugs, commented that this exemption could have a negative affect on their competitiveness but felt that, for state citizens overall, the exemption would lower costs of disposal of confiscated drugs by lowering transportation costs.

Fiscal Impacts on the Department's Air Management Program:

The air management program funds nearly all permitting and compliance activities through program revenue generated by annual fees charged to operation permit holders and construction permit fees for those applying for construction permits. The changes being made to the construction and operation permit exemptions are not expected to significantly impact the number of permits required. Fees charged for construction permit review and for review of exemption from construction permits are proportional to workload. Some reduction in annual revenue generated from sources becoming exempt from operation permitting annual fees may occur. Overall, the rule is not expected to pose a significant impact on the revenue of the construction or operation permit programs.

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

This 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. Clarification of permit exemptions is expected to result in greater consistency in exemption determinations. This provides a more even playing field for competing businesses and may result in lower consulting fees due to simplification of requirements. The creation of an exemption for incineration of confiscated drugs by law enforcement is expected to result in an economic benefit for law enforcement agencies by reducing confiscated drug storage, transportation, and disposal costs for local law enforcement. If the rule is not implemented, facilities will not see the economic benefits provided by the proposed rule.

14. Long Range Implications of Implementing the Rule

The program does not anticipate long range fiscal or economic impacts from implementation of this rule.

15. Compare With Approaches Being Used by Federal Government

The exemptions being clarified, expanded or added apply only to minor source permitting and as such, do not conflict with federal rules. Federal permitting regulations don't apply to sources that would be exempted under this rule package.

The department is proposing rule changes to the list of activities that do not constitute commencing construction to align with federal definition and guidance so that the provision is approvable by EPA into Wisconsin's State Implementation Plan.

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Several revisions proposed under the scope statement of the rule package were examined but will not be pursued. Each decision considered approaches being used by the federal government and include:

- Not defining Cause or Exacerbate. The term is not defined in federal rules and defining the term is not expected to provide additional streamlining to the permit process.
- Not defining Shutdown. The term is not defined in federal rules and defining the term is not expected to provide additional streamlining to the permit process.

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

Illinois and, until recently, 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. SIP-approved states must 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 vary widely from each other. 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 minor sources.

17. Contact Name

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18. Contact Phone Number

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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)

The proposed rule is not expected to have a negative economic impact on small businesses.

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

DNR's Small Business Environmental Assistance Program keeps records of assistance provided to small businesses. The program also has extensive records of the numbers of permits and permit exemptions processed each year.

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

The proposed rule will allow sources seeking minor construction permits to begin certain preconstruction activities prior to permit issuance. Small businesses are more likely to qualify for this exclusion because they generally have lower air pollution emissions. The ability to begin certain preconstruction activities before receiving a permit can have substantial economic benefit, especially if the activities need to be completed before the Wisconsin winter precludes preconstruction activities. Such weather related delays can hold up the beginning of construction for months after permit issuance.

Clarification of permit exemptions is expected to assist small business by providing a more even playing field for competing businesses and may result in lower consulting fees due to simplification of requirements.

5. Describe the Rule's Enforcement Provisions

The rule does not contain any new enforcement provisions. The provisions proposed in this rule will be enforced using the existing compliance and enforcement statutory and regulatory authorities.

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

- Yes No
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