

## **EXCLUSIVE REPORTS**

From the July 16, 2004 print edition

### **Partly cloudy on emissions**

**Expanded toxin list may hurt manufacturers**

Rich Rovito

Some Wisconsin companies are facing costly compliance measures to meet a revised air pollution rule covering manufacturers and utilities in the state.

The revised Wisconsin Department of Natural Resources rule adds more than 100 substances to the list of regulated emissions.

Prior to the revisions, Wisconsin Manufacturers & Commerce estimated that the rule could impact more than 1,000 Wisconsin companies. After the DNR revised the rule, the Madison-based organization, which has more than 4,300 members, couldn't provide an updated estimate on the figure.

WMC also had previously estimated that plants owned by Wisconsin companies would be forced to spend an average of \$163,700, or a one-time overall cost of \$200 million, to determine whether pollution-control devices needed to be installed.

The list of toxic substances that the DNR requires companies to monitor has risen to 535 under a revised rule that went into effect July 1. The rule adds 103 substances to the list and sets more stringent emission standards for 130 currently regulated substances.

At that same time, five substances were removed and less stringent standards were set for 86 substances already subject to regulation.

The revised rule allows a three-year compliance phase-in period for existing facilities, but new facilities must immediately comply with the rule.

While DNR officials say manufacturers with up-to-date environmental processes have nothing to fear, business executives are concerned about the financial impact on some Wisconsin manufacturers.

#### **More permits**

For example, facilities that previously didn't need an air permit to operate may now need one, said Bob Heitzer of Slinger, a citizen member of the DNR-appointed Toxic Advisory Committee, which reviewed the rule. He also serves as program chair for the Southeast Wisconsin Chapter of the Federation of Environmental Technologists.

The new rule also requires an in-depth review of a company's raw materials used in manufacturing processes to determine which newly regulated substances are being used, he said. The expanded rule also could cause companies to spend more on capital improvements, including increasing smokestack heights.

Since the revised rule covers far more substances than federal regulations governing air emissions, it also could affect the state's ability to maintain existing manufacturing companies or attract new ones, Heitzer said.

"Wisconsin is at more of a disadvantage than it was before," he said.

Examples of common pollutants already on the DNR list include formaldehyde, chlorine, phosphorous, benzene, cadmium and other volatile organic compounds. The expanded list includes substances such as flour.

"It's a little bit of overkill," Heitzer said.

Companies with emissions high enough to fall under the new rules could have to spend millions more to acquire control technologies to comply with the pollution standards.

The figures were based on an earlier proposal by the DNR to add 189 substances to the list of toxic materials. The costs won't be as great considering that DNR pared down the list, said Jeffrey Schoepke, director of environmental policy for Wisconsin Manufacturers & Commerce.

WMC didn't prepared revised estimates, but concerns about costs to companies prompted the DNR to take another look at the rule, Schoepke said.

"They disagreed with our numbers, but didn't disagree with our conclusions," he said.

Companies must perform due diligence to determine if they emit regulated compounds that were added to the list and test for levels of emissions, said Dave Seitz, project director for RMT Inc., a Brookfield environmental engineering and consulting firm. Embedded in the rule are emission thresholds based on stack heights, Seitz said.

"It's a complicated rule," he said.

#### **Streamlined process**

Caroline Garber, chief of environmental analysis and outreach for the DNR's Bureau of Air Management, acknowledges that companies could face added costs as a result of the revised rule.

"It would only be costly if they have emissions that exceed the standards and have to put in pollution control equipment," she said.

The majority of due diligence costs will be borne by companies that currently lack sophisticated record-keeping procedures, Garber said.

"For the companies that already track the chemicals they use, it's not a big deal," she said.

The DNR also has "significantly streamlined" the regulatory process, helping to reduce costs for companies, Garber said. The rule contains a "safe harbor" provision for companies that discover, through their own future due diligence, that they are emitting a substance on the DNR list that hadn't previously been reported. No retroactive penalties would be imposed in such situations, she said.

The rule needed to be updated, given that no comprehensive changes had been made since the state began regulating so-called air toxins in 1988, Garber said. Revisions to the rule were made to reflect advances in scientific and medical knowledge pertaining to certain substances, she said.

Facilities must report the new substances and use the new reporting level thresholds for the next emission report, due March 1, 2005.

State environmental groups have mixed feelings about the rule changes.

"In general, this program is very important because it is a way to prevent toxic air pollution in Wisconsin above and beyond the federal law," said Melissa Scanlan, executive director of Midwest Environmental Advocates, a Madison organization that offers legal and technical assistance on environmental issues to governmental entities and community-based groups.

On the positive side, the revised rule has been expanded to include the agriculture industry, a major source of pollution in Wisconsin, Scanlan said.

On the other hand, she said, the rule contains a provision that doesn't allow state standards to be more stringent than federal regulations for a specific category, such as foundry emissions.

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