

TO: Wisconsin Legislators

FROM: Cooperative Network
Midwest Food Processors Association, Inc.
Wisconsin Cheese Makers Association
Wisconsin Dairy Products Association
Wisconsin Manufacturers & Commerce
Wisconsin Paper Council

DATE: July 13, 2010

RE: Clearinghouse Rule 10-035, DNR Phosphorous Regulations

As representatives of the dairy, food processing, manufacturing and paper industries in Wisconsin, we are writing to call your attention to a very expensive phosphorous regulation recently adopted by the Natural Resources Board. Clearinghouse Rule 10-035 is expected to cost *more than \$3 billion statewide*, without achieving a meaningful benefit to water quality.

Because of the rule's substantial cost, limited benefit, and hasty process for enactment, we are asking that the Legislature take the time to determine whether Clearinghouse Rule 10-035 is the most effective way to reduce phosphorous loading in Wisconsin water bodies, while at the same time protecting Wisconsin jobs and our economy. The information below is intended to provide you with important information about the impact of this rule. Please contact any of our organizations if you have any questions or need additional information.

How does this rule change current phosphorous regulations?

Point sources (businesses and municipalities with a DNR discharge permit) are already subject to phosphorous limitations of 1.0 milligrams per liter under NR 217.04 of the Wisconsin administrative code. The proposed rule would establish much more stringent phosphorous limitations for point sources, including 0.10 milligrams per liter (90% reduction) for discharges into rivers, 0.075 milligrams per liter for streams, and .04 milligrams per liter (96% reduction) for lakes.

How much phosphorous comes from point sources?

According to the DNR, an average of 20% of the phosphorous loading into Wisconsin water bodies is attributable to point sources. The remaining 80% comes from non-point sources which are not regulated by this rule. Because the rule only targets 20% of the phosphorous impairment, it will not result in a meaningful improvement to water quality.

How much is this rule expected to cost?

By all estimates, Clearinghouse rule 10-035 will be incredibly expensive. A study prepared for Wisconsin's municipal wastewater treatment plants predicted the rule would cost between *\$2.9 billion*

*and \$4.9 billion*¹. Those costs would be passed along to homeowners and businesses in the form of higher water fees. Another study found the treatment costs for the dairy and cheese industry to range from \$1.3 million to \$4.3 million *per facility*.² The DNR predicts the rule will cost industrial dischargers up to \$440 million, and will cost municipalities up to \$1.3 billion.³ We ask legislators to consider whether spending billions of dollars to regulate 20% of the phosphorous impairment is an effective and affordable approach to addressing this problem.

Who will pay the cost of this rule?

The rule regulates point source dischargers of phosphorous, which are primarily municipal wastewater treatment facilities, paper mills, food processors, dairy processors and cheese makers. The rule's multi-billion dollar cost for municipalities will be passed along to homeowners and businesses in the form of higher water rates. For example, the municipal cost study predicted a cost up to \$600 million for Milwaukee Metropolitan Sewerage District customers, and up to \$295 million for customers of the Green Bay Metropolitan Sewerage District.

Although businesses of all types that are serviced by a municipal water utility will pay higher fees because of this rule, certain industries will be hit with direct costs to comply with Clearinghouse Rule 10-035. Paper mills and food processing facilities are likely to face multi-million dollar costs if they must meet the stringent phosphorous limits described above. These industries are already under extremely intensive competitive pressures based upon product cost, and are not in the position to absorb significant new expenses if they hope to remain competitive and keep jobs in Wisconsin.

What are our neighboring states doing?

While some surrounding states have proposed establishment of phosphorous standards, none have set standards for lakes, reservoirs, rivers and streams as this rule does. More importantly, ***no other Midwest state has proposed establishment of discharge limits for phosphorous***. Wisconsin simply cannot afford to be the only state in our region that punishes businesses and jobs with multi-billion dollar phosphorous regulations that fail to address the predominant source of phosphorous impairment. The viability of Wisconsin jobs will be threatened if Wisconsin employers are forced to bear the considerable costs of this rule, while competitors in other states remain immune from the "phosphorous penalty."

A better approach would involve Wisconsin petitioning the EPA to use its authority under the Clean Water Act to establish a uniform national set of regulations that strike an equitable balance between point and non-point sources of phosphorous.

What can Legislators do to help?

As written, this rule will impose severe financial hardships on Wisconsin homeowners and businesses at a time when they can least afford it – without achieving a meaningful benefit to statewide water quality. The rule was rushed through the Natural Resources Board's rulemaking process in a three-month period, which is not an adequate amount of time to fully address concerns regarding the enormous cost and limited benefit. Legislative hearings on this rule would allow for a more deliberative approach, and would present an opportunity to attempt to mitigate the rule's financial impact.

¹ Opinions of Probable Cost for Achieving Lower Effluent Phosphorous Concentrations at Wastewater Treatment Plants in Wisconsin. Strand Associates, Inc. August 2008.

² Potential Impact of Proposed Phosphorous Regulations on the Dairy Industry in Wisconsin. The Probst Grout, LLC. April 2010.

³ Department of Natural Resources Fiscal Estimate, Sections III & IV. March 2010