

# Biz, environmental groups clash over proposed water regs during hearing

Posted on Wednesday, Nov 29, 2023

Wisconsin Manufacturers & Commerce urged a GOP-controlled Assembly committee to modify or object to proposed surface water pollution regulations.

But the DNR argued failing to approve the rule could lead the federal government to step in.

The proposed revision updates the state's antidegradation policy. It seeks to protect surface water by regulating new or increased pollutant discharges under federal requirements in the Clean Water Act.

WMC has threatened to go to court to block the regulations, which it argues exceed what state law allows. While DNR has estimated two-year costs at \$2.5 million, WMC has estimated the costs at more than \$56 million.

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During yesterday's Jobs, Economy and Small Business Development Committee hearing, GOP state Rep. Jerry O'Connor asked DNR officials about WMC's threat of legal action, which he said makes him "take pause."

Adrian Stocks, DNR water quality program director, said he wasn't aware of any potential lawsuits. He said changes were made to address WMC's concerns, including requiring the use of a "less degrading" alternative to a specific pollutant, if possible, rather than the "least degrading" option.

O'Connor, R-Fond du Lac, said he would like to see any issues resolved before the rule leaves committee "so we don't end up with lawsuits which, frankly, that ends up spending a lot of taxpayer money."

Stocks said the Environmental Protection Agency has indicated the state's policy is "deficient" and fails to incorporate changes to federal antidegradation policy in 2015. He noted EPA has the authority to object to and take authority over draft permits, which could lead to permit delays.

Craig Summerfield, WMC director of environmental & energy policy, told lawmakers state law limits rulemaking costs to no more than \$10 million over any two-year period, arguing the rule can't be advanced without legislative approval.

"We urge the committee to consider requesting germane modifications to the rule or object to the rule if DNR is unwilling to consider reasonable modifications," Summerfield said.

Some of the changes Summerfield proposed included expanding an exemption for concentrated feeding operations and restoring a higher threshold for pollutant discharges before an antidegradation review is triggered. An antidegradation review is required for certain facilities seeking wastewater or stormwater permits.

Rep. Kristina Shelton, D-Green Bay, asked what Summerfield thought of the possibility that increased EPA involvement could lead to higher costs for businesses.

"The EPA hasn't ordered Wisconsin to do anything. And moreover, we'd like to see additional pushback by the DNR against the EPA as we've seen the DNR do in other instances," Summerfield said.

Shelton questioned Summerfield's comments.

"I just don't understand why we would want to further delay and muck up the process when the state can incorporate these changes," she said.

Rob Lee, staff attorney at Midwest Environmental Advocates, argued not approving the rule could hurt Wisconsin businesses.

"I think there does become a real risk of EPA ordering DNR to take corrective action, there's a possibility of EPA promulgating its own rules for Wisconsin that may be more harmful than industry and businesses and have a greater impact on them," Lee said.

He said another possibility, though less likely, could be that EPA withdraws DNR's authority to administer wastewater and stormwater permits.