

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
DETERMINATION OF WEPA COMPLIANCE
FOR BOARD ORDER SS-14-12**

FINDINGS OF FACT

1. In June of 2012, the Department received authorization from the Natural Resources Board (Board) to proceed with the rulemaking related to analytical test methods and procedures for the analysis of wastewater and biosolids.
2. The Department prepared proposed rules as Board Order SS-14-12.
3. The Department made a preliminary determination that promulgation of the proposed rules constituted a Type III action under s. NR 150.03(6)(b)3.b., Wis. Adm. Code.
4. In December of 2013, the Board approved the Department's request to publish a public hearing notice and hold public hearings on proposed rules in Board Order SS-14-12.
5. In the Notice of Public Hearing dated January 14, 2014, for the proposed rules, the Department included its preliminary determination that adoption of the proposed rules would not involve significant adverse environmental effects and would not need an environmental analysis under ch. NR 150, Wis. Adm. Code. The Notice included a statement that, based on comments received, an environmental analysis may be prepared before proceeding with the adoption of the proposed rules.
6. Public hearings were held at Eau Claire, Green Bay and Madison on January 27, 2014. The public comment period closed that same day.
7. No comments were received on the Department's preliminary determination that an environmental analysis under ch. NR 150, Wis. Adm. Code, would not be needed.
8. Effective April 1, 2014, ch. NR 150, Wis. Adm. Code, was repealed and recreated.
9. Under current NR 150.10(1m)(a) the Department must conduct a strategic analysis for all new or revised administrative rules if the rule involves unresolved conflicts concerning alternative uses of available resources and the Department has substantial discretion in formulating important provisions of the rule.
10. The proposed rules in Board Order SS-14-12 do not involve unresolved conflicts concerning alternative uses of available resources.
11. The current s. NR 150.20(1) establishes that an environmental analysis is required for all department actions except those specifically exempt by statute.
12. The current s. NR 150.20(2)(b) provides that an equivalent analysis for a specific action can satisfy the requirement for an environmental analysis.
13. The rulemaking process for Board Order SS-14-12 contained procedures for evaluating the environmental impacts of the proposed rules and provided for public disclosure and multiple opportunities for public input.

CONCLUSIONS OF LAW

14. A strategic analysis under the current s. NR 150.10 (1m), Wis. Adm. Code, is not required for Board Order SS-14-12 because proposed rules do not involve unresolved conflicts concerning alternative uses of available resources.
15. The rulemaking process for Board Order SS-14-12 constitutes an equivalent analysis action, under current s. NR 150.20(2)(b), Wis. Adm. Code.

DETERMINATION

16. The Department has complied with WEPA, pursuant to both the former ch. 150, and the current s. NR 150.35(1) and (1m), Wis. Adm. Code, for Board Order SS-14-12.