

**ORDER OF THE DEPARTMENT OF REVENUE
ADOPTING AN EMERGENCY RULE**

The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting ss.565.02(4)(g) and 565.10(14)(b)3m., Stats., relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Analysis by the Department of Revenue

Statutory authority: ss.227.11(2)(a) and 565.10(14)(b)3m., Stats.

Statutes interpreted: ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats., as created by 1999 Wis. Act 9.

SECTION 1. WGC 61.02(5), (6) and (7) are renumbered WGC 61.02(6), (7) and (9), consistent with Legislative Council Rules Clearinghouse standards to insert, in alphabetical order, the definitions in Section 2.

SECTION 2. WGC 61.02(5) and (8) are created, to provide additional definitions relating to the Wisconsin lottery.

SECTIONS 3, 4 AND 5. WGC 61.04(1)(d) and 61.08(11)(c) and (21)(c) are amended and WGC 61.085 is created, to address the implementation and maintenance of the retailer performance program.

FINDING OF EMERGENCY

The Department of Revenue finds that an emergency exists and that the attached rule order is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Sections 565.02(4)(g) and 565.10(14)(b)3m., Stats., as created by 1999 Wis. Act 9, provide for the implementation of a retailer performance program, effective January 1, 2000. The program may be implemented only by the promulgation of rules.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. The retailer performance program is being implemented retroactively to January 1, 2000, pursuant to Section 9443(1) of 1999 Wisconsin Act 9. Certified copies of this rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

SECTION 1. WGC 61.02(5), (6) and (7) are renumbered WGC 61.02(6), (7) and (9).

SECTION 2. WGC 61.02(5) and (8) are created to read:

WGC 61.02(5) "Retailer performance program" or "RPP" means a program that is designed to provide additional compensation, above the compensation provided under s. 565.10(14)(b)1. or 2., Stats., to retailers who meet certain performance goals identified by the Wisconsin lottery.

(8) "Winning lottery ticket" or "winning lottery share" means either of the following:

(a) For instant scratch tickets under s.565.01(6m)(a)1., Stats., the terms mean any ticket that has been validated by the Wisconsin lottery as a ticket that entitles a player to a prize.

(b) For on-line tickets under s.565.01(6m)(a)2., Stats., the terms mean any ticket that has been identified by a secure method by the Wisconsin lottery as a ticket that entitles a player to a prize.

SECTION 3. WGC 61.04(1)(d) is amended to read:

WGC 61.04(1)(d) ~~The applicant is expected to sell a minimum of 500 tickets a month~~\$400 worth of instant scratch tickets each month, under s.565.01(6m)(a)1., Stats., which shall be represented in any retailer contract or addenda. ~~The executive director administrator may deny a contract to an applicant whose anticipated monthly sales will not meet a minimum of 500 tickets~~\$400 worth of instant scratch tickets each month or whose historical monthly sales are less than ~~500 tickets~~ \$400 worth of instant scratch tickets each month.

SECTION 4. WGC 61.08(11)(c) and (21)(c) are amended to read:

WGC 61.08(11)(c) ~~The retailer shall sell at least 500 tickets a month.~~ \$400 worth of instant scratch tickets each month, under WGC61.04(1)(d).

(21)(c) ~~The retailer failed to sell a monthly minimum of 500 lottery tickets~~ \$400 worth of instant scratch tickets each month, under WGC61.04(1)(d);

SECTION 5. WGC 61.085 is created to read:

WGC 61.085 Retailer performance program. (1) PURPOSE. The retailer performance program or "RPP" is intended to provide additional compensation, above the compensation provided under s. 565.10(14)(b)1. or 2., Stats., to retailers who meet certain performance goals identified by the department. This additional compensation is authorized under ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats.

(a) This program is applicable to lottery retailer sales transactions beginning on January 1st, 2000.

(2) DEFINITIONS. In this section:

(a) "Appropriate quarterly sales history" means the historical sales data that is used to calculate performance of a retail location within the RPP. The appropriate quarterly sales history data may be from either the comparable history quarter as defined under par. (b) or the immediately previous quarter as defined under par. (d).

(b) "Comparable history quarter" means the full sales quarter that is one year prior to the current sales quarter in which the RPP is being administered.

(c) "Gross sales" means the sales data as indicated by Wisconsin lottery accounts receivable documentation of weekly invoicing of the purchase of Wisconsin lottery products by retailers.

(d) "Immediately previous quarter" means the full sales quarter immediately prior to the current sales quarter in which the RPP is being administered.

(e) "Retail location" means the place of business at which lottery products such as instant tickets or terminal generated tickets are sold, as selected under WGC61.04.

(f) "Sales goals incentive" means the component of the RPP that pays incentive to retailers who increase sales in a specified sales quarter or specified fiscal year, or both, when the sales quarter or fiscal year is compared to an appropriate quarterly sales history as defined under par. (a).

(g) "Sales quarter" means a quarter of the Wisconsin lottery fiscal year that is 13 weeks in length. Beginning in fiscal year 2001, the administrator shall determine the start and end dates of all sales quarters of a fiscal year no later than one month prior to the beginning of that fiscal year, and upon request shall provide the calendar dates that define each quarter of a fiscal year. A quarter shall start and end on dates that are consistent with the standard billing cycle that the lottery uses to collect revenue from retailer accounts.

(h) "Short-term incentive" means the component of the RPP that pays incentive to retailers who satisfy a performance expectation as established in short-term incentive features and procedures documentation. Short-term incentives shall have features and procedures documentation as indicated under sub. (4)(c). Short-term incentives shall be designed to support a certain product or product type or to strengthen sales during certain times of the fiscal year.

(i) "Winning ticket incentive" means the component of the RPP that pays an incentive to retailers who sell winning lottery tickets.

(3) ELIGIBILITY. Any retailer may participate in the RPP provided it meets all of the following eligibility requirements:

(a) The retailer shall honor the current retailer contract, including any applicable addenda, and shall sell a minimum amount of instant tickets as indicated under WGC61.08(11)(c).

(b) The retailer may not be a not-for-profit or nonprofit organization as defined in s. 565.10(14)(a), Stats.

(c) The retailer shall satisfy any qualifying requirements specific to each component of the RPP. If a retailer fails to satisfy the requirements specific to a component of the RPP, the retailer may not be considered qualified for that component of the RPP. A retailer shall qualify for each component separately, and qualifying for one component of the RPP may not affect qualifying for another component.

(4) DESIGN. The retailer performance program shall consist of 3 components, the winning ticket incentive, the sales goals incentive, and the short-term incentive described as follows:

(a) *Winning ticket incentive.* The expected performance of the winning ticket incentive component of the RPP is the selling of winning lottery tickets. To qualify for the winning ticket incentive, a retailer shall satisfy the eligibility requirements as stated in sub. (3). An incentive shall be paid to a retailer for selling any winning lottery ticket where the stated prize value of the winning lottery ticket is \$600 or greater. The incentive shall be paid as follows:

1. For winning lottery tickets, 2% of the stated prize value shall be paid on each prize, up to a maximum of \$100,000 per winning lottery ticket.

2. For lottery television program tickets, \$30 shall be paid on each winning lottery ticket.

(b) *Sales goals incentive.* The sales goals incentive component of the RPP shall pay a retailer an incentive based on an increase in the amount of sales over the appropriate quarterly sales history as defined under sub. (2)(a) or the appropriate fiscal year in the case of jackpot terminal-generated games under subd. 3. The incentive shall be tracked, measured and paid based on one of 3 product types. For each product type,

a retailer shall satisfy eligibility requirements as stated in sub. (3) and qualify for the product type under sub. (5). For the three product types, instant ticket sales, non-jackpot terminal-generated sales and jackpot terminal-generated sales, the retailer shall receive incentives calculated as follows:

1. For the instant ticket sales product type, the retailer shall receive an incentive calculated by comparing a sales quarter against the appropriate quarterly sales history as defined under sub. (2)(a) to determine if a sales increase has occurred. If a sales increase has not occurred, no incentive may be paid. If a sales increase has occurred, the retailer shall receive up to 10% of the sales increase. The administrator may adjust the payment percentage to a lower percentage under sub. (7) to ensure that appropriate funding authority is maintained within the current fiscal year. Any adjustment made shall consider historical sales and incentive information and shall be applied equally to all retailers. Information regarding the details of any adjustment shall be made available upon request.

2. For the non-jackpot terminal-generated sales product type, the retailer shall receive an incentive calculated by comparing a sales quarter against the appropriate quarterly sales history as defined under sub. (2)(a) to determine if a sales increase has occurred. If a sales increase has not occurred, no incentive may be paid. If a sales increase has occurred, the retailer shall receive up to 10% of the sales increase. The administrator may adjust the payment percentage to a lower percentage under sub. (7) to ensure that appropriate funding authority is maintained within the current fiscal year. Any adjustment made shall consider historical sales and incentive information and shall be applied equally to all retailers. Information regarding the details of any adjustment shall be made available upon request.

3. For the jackpot terminal-generated sales product type, the retailer shall receive an incentive calculated by comparing a fiscal year against the previous fiscal year to determine if a sales increase has occurred. If a sales increase has not occurred, no incentive may be paid. If a sales increase has occurred, the retailer shall receive up to 10% of the sales increase. The administrator may adjust the payment percentage to a lower percentage under sub. (7) to ensure that appropriate funding authority is maintained within the current fiscal year. Any adjustment made shall consider historical sales and incentive information and shall be applied equally to all retailers. Information regarding the details of any adjustment shall be made available upon request.

Note: For the fiscal year which ends on June 30th, 2000, "fiscal year 2000," the Wisconsin lottery shall use the appropriate historical data from the fiscal year which ended on June 30th, 1999, "fiscal year 1999," to determine a one-half fiscal year goal for the jackpot terminal-generated game product type under subd. 3.

(c) *Short term incentive.* The short-term incentive is defined under sub. (2)(h) and shall pay a retailer an incentive based on the achievement of expected performance. Performance expectations shall be related to the increasing of sales of lottery products and may be different for each short-term incentive offered to retailers. The administrator may not offer more than 4 short-term incentives in one fiscal year. A short-term incentive may not continue from one fiscal year into another fiscal year. The administrator shall determine whether short-term incentives are offered. The expected performance, and all other information important to the development of a specific short-term incentive, shall be indicated in a document that shall represent the features and procedures of the short-term campaign. The features and procedures document shall be published to the retailers no later than 21 calendar days prior to the start date of the incentive and shall include the following:

1. A statement of the requirements for a retailer to qualify for the program. The requirements for qualification for short-term incentives shall be as consistent as possible with other aspects of the RPP.

2. A statement of the expected performance of a retailer who participates in the short-term incentive.

3. A statement of the start and end dates of the program and the expected time period that the plan will run, not to exceed 13 weeks.

4. A statement of how much funding may be made available for payment under the plan, not to exceed \$100,000 per short-term incentive.

5. A detailed explanation of how the incentive is calculated, to be consistent with other aspects of the RPP where appropriate.

6. A detailed explanation of how incentive payment will be made, where payment shall be made no later than the last Thursday of the month following the last day of the sales quarter in which the short-term incentive ends.

7. Any other features or procedures determined by the administrator to be appropriate.

(5) QUALIFICATION FOR PRODUCT TYPES. (a) To qualify for the jackpot terminal-generated sales product type, a retail location shall have no less than 52 weeks of sales history in the previous fiscal year.

(b) To qualify for instant ticket sales or non-jackpot terminal-generated sales product type, a retail location shall meet the qualification criteria for that product type. Each product type shall be reviewed separately to determine if an appropriate quarterly sales history as defined under sub. (2)(a) is available to satisfy the criteria. The criteria are as follows:

1. For a retail location, if there is appropriate quarterly sales history as defined under sub. (2)(a), which is based on comparable history quarter sales data as defined under sub. (2)(b), the retailer shall be considered qualified for that product type.

2. If no comparable history quarter as defined under sub. (2)(b) exists for a retail location, the administrator shall substitute sales history from the immediately previous quarter as defined under sub. (2)(d).

3. If no appropriate quarterly sales history as defined under sub. (2)(a) can be determined, either by using data from a comparable history quarter or from an immediately previous quarter, the retail location may not be considered qualified for the program. The administrator shall review qualification under each product type no less often than quarterly so that retail locations that become qualified may be included for incentive payments as soon as possible.

(6) PAYMENT OF INCENTIVES. The RPP incentives shall be paid in the following manner:

(a) The winning ticket incentive shall be paid no later than the last Thursday of the month following the last day of the quarter in which the incentive is earned. This incentive may be paid more frequently if the administrator determines that a more frequent schedule is not prohibitive to the effective operation of Wisconsin lottery activities and does not have a negative impact upon the appropriate funding authority of the program.

(b) The sales goals incentive shall be paid no later than the last Thursday of the month following the last day of the quarter in which the incentive is earned, except for the jackpot terminal-generated games which shall be paid no later than the last Thursday of the month following the last day of the fiscal year in which the incentive is earned. The sales goals incentive may be paid more frequently if the administrator

determines that a more frequent schedule is not prohibitive to the effective operation of Wisconsin lottery activities and does not have a negative impact upon the appropriate funding authority of the program.

(c) The short-term incentive shall be paid no later than the last Thursday of the month following the last day of the quarter in which the incentive is earned. This incentive may be paid more frequently if the administrator determines that a more frequent schedule is not prohibitive to the effective operation of Wisconsin lottery activities and does not have a negative impact upon the appropriate funding authority of the program.

(7) FUNDING AUTHORITY. The administrator shall monitor the expenditures of the RPP no less often than quarterly, to ensure that the funding authority is not exceeded. Prior to the payment of incentives under sub. (4)(b), the administrator may implement a pre-payment adjustment to ensure that funding authority for the RPP is not exceeded, by reducing the payment of incentives earned from an unexpectedly large jackpot or from an unexpectedly large increase in instant ticket or non-jackpot ticket sales. Any pre-payment adjustment in any product type shall be implemented as indicated under sub. (4)(b), to limit the incentive paid so that the payments do not exceed the funding available or negatively impact the payment of earned incentives in the other components of the RPP.

(8) RIGHT TO APPEAL. In the event the administrator terminates the eligibility or qualification of a retailer under RPP, or in the event the retailer disputes their payments from the RPP, the retailer is entitled to an appeal in accordance with the provisions set forth under WGC61.10.

(9) REPORT. The administrator shall document the total payments made to retailers under the RPP as defined under WGC61.02(5). The report shall include a

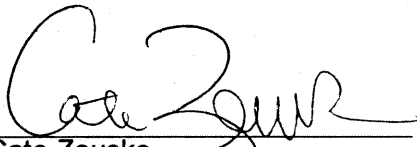
breakdown of any incentives paid under the winning ticket incentive, the sales goals incentive and the short-term incentive. The report shall be available within 90 days of the completion of a fiscal year.

Note: Section WGC61.085 interprets ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats.

The rules contained in this order shall take effect upon publication in the official state newspaper, as provided in s. 227.22(2)(c), Stats.

DEPARTMENT OF REVENUE

Dated: Feb 24, 2000

By: 
Cate Zeuske
Secretary of Revenue

FISCAL ESTIMATE FORM

EMERGENCY RULE

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule # WGC 61.02, 61.04, 61.08, and 61.085

Subject

State Lottery Retailer Performance Program

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.566 (8) (b) and (r)

Assumptions Used in Arriving at Fiscal Estimate:

The proposed emergency rule order relates to the adoption of the Retailer Performance Program by the Wisconsin lottery. This rule amends existing rules consistent with Legislative Council Clearinghouse standards. WGC 61.02(5) and (8) are created in order to provide definitions relating to the Wisconsin lottery Retailer Performance Program. WGC 61.04(1)(d), 61.08(11)(c) and 21(c) are amended and WGC 61.085 is created to address the implementation and maintenance of the Retailer Performance Program. The proposed emergency rule clarifies the Department's interpretation of recently enacted statutes.

It is expected that the Retailer Performance Program will increase lottery sales revenue; however, retailer compensation costs will likely increase as well. It is expected that every \$1 of additional revenue generated by the incentive program will result in a \$0.25 expense for retailer compensation related to the incentive program and other administrative expenses. However, sufficient data on the outcome of retailer performance programs in Wisconsin and other states do not exist. Thus, the net increase in lottery revenue based upon the potential increase in sales revenue and the corresponding rise in retailer compensation costs is unknown.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	2/24/00

FISCAL ESTIMATE WORKSHEET

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Detailed Estimate of Annual Fiscal Effect

1999 Session

LRB #

INTRODUCTION #

Admin. Rule #
WGC 61.02,
61.04, 61.08, and
61.085

Subject
State Lottery Retailer Performance Program

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other Costs	See Text	-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	See Text	-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S	See Text	-
TOTAL State Revenues	\$ See Text	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ See Text	\$
NET CHANGE IN REVENUES	\$ See Text	\$

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	2/24/00

SENATOR JUDITH B. ROBSON
CO-CHAIR
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(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR
P.O. BOX 8952
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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

July 25, 2000

BY INTER-D

Secretary Kate Zeuske
Department of Revenue
125 South Webster Street
Madison, Wisconsin

Re: Emergency Rule WGC 61

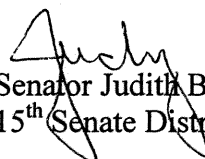
Dear Secretary Zeuske:


We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on July 25, 2000. At that meeting, the JCRAR received public testimony regarding Emergency Rule WGC 61, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Based on that testimony, the committee adopted a motion extending the effective period of Emergency Rule WGC for 60 days. The committee approved the motion on a 5 to 2 vote.

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,


Senator Judith B. Robson
15th Senate District


Representative Glenn Grothman
59th Assembly District

JBR:GG:da



State of Wisconsin • DEPARTMENT OF REVENUE

JUL 10 2000

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

July 10, 2000

Honorable Judy Robson
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 115 South State Capitol
PO Box 7882
Madison WI 53707-7882

Honorable Glenn Grothman
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 15 North State Capitol
PO Box 8952
Madison WI 53708

Re: Emergency Rule Extension –
Chapter WGC 61

Dear Senator Robson and Representative Grothman:

To provide for additional time necessary to promulgate a permanent rule, I am requesting under s. 227.24(2)(a) a 60-day extension of the emergency rule revising ch. WGC 61, relating to the Lottery Retailer Performance Program. This extension will help to prevent any lapse in coverage until the permanent rule becomes effective. This emergency rule expires July 31, 2000.

A permanent rule is being developed but the public hearing information has not yet been summarized for the Legislative Committee review. Since the permanent rule cannot be in place before the emergency rule expires, a 60-day extension of the emergency rule is necessary.

A copy of the initial Order of the Department of Revenue Adopting An Emergency Rule is attached, for your information. A brief analysis explaining the need for the rule follows.

Analysis

Statutory authority: ss. 227.11(2)(a) and 565.10(14)(b)3m., Stats.

Statute interpreted: ss. 565.02(4)(g) and 565.10(14)(b)3m., Stats., as created by 1999 Wis. Act 9.

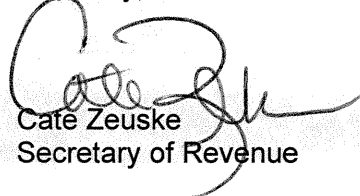
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SECTION 2. WGC 61.02(5) and (8) are created, to provide additional definitions relating to the Wisconsin lottery.

SECTIONS 3, 4 AND 5. WGC 61.04(1)(d) and 61.08(11)(c) and (21)(c) are amended and WGC 61.085 is created, to address the implementation and maintenance of the retailer performance program.

Thank you for your consideration in this matter.

Sincerely,



Cate Zeuske
Secretary of Revenue

CZ:jjj

Enclosure

cc: Donald J. Schneider, Senate Chief Clerk
Charles Sanders, Assembly Clerk

SENATOR JUDITH B. ROBSON
CO-CHAIR

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 25, 2000

BY INTER-D

Senator Fred Risser
Senate President
Room 220 South

Representative Scott Jensen
Speaker of the Assembly
Room 211 West

Re: Emergency Rule WGC 61
Emergency Rule HFS 103 (Medicaid Purchase Plan)
Emergency Rule ETF 20.25(1)

Dear Senator Risser and Representative Jensen:

We are writing pursuant to § 227.24(2)(c), *Stats.*, to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on July 25, 2000. At that meeting, the JCRAR received public testimony regarding the following emergency rules:

- Emergency Rule WGC 61, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery;
- Emergency Rule HFS 103, relating to the Medicaid Purchase Plan; and
- Emergency Rule ETF 20.25(1), relating to the distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the non-statutory provisions of 1999 Wisconsin Act 11.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule WGC 61 for 60 days. The committee approved the motion on a 5 to 2 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule HFS 103 (Medicaid Purchase Plan) for 60 days. The committee approved the motion on a 7 to 0 vote.

Based on the public testimony at the hearing, the committee adopted a motion extending Emergency Rule ETF 20.25(1) for 60 days. The committee approved the motion on a 7 to 0 vote.

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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

September 20, 2000

BY INTER-D

Secretary Cate Zeuske
Department of Revenue
125 South Webster Street
Madison, WI

Re: Emergency Rule WGC 61 (relating to implementation and maintenance of the retailer performance program of the Wisconsin lottery)

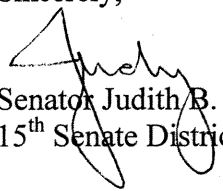
Dear Secretary Zeuske:


We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on September 20, 2000. At that meeting, the JCRAR received public testimony regarding Emergency Rule WGC 61, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Based on that testimony, the committee adopted a motion extending the effective period of Emergency Rule WGC 61 for 33 days. The committee approved the motion on an 8 to 1 vote.

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,


Senator Judith B. Robson
15th Senate District


Representative Glenn Grothman
59th Assembly District

JBR:GG:da

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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

Emergency Rule Extension Motion Form

Last Modified May2000

Date 9/20/00 Location 201 SE
Moved by Robson, Seconded by Grobschmidt

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule WGC 61 by 33 days, at the request of the Department of Revenue.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator SHIBLISKI			✓
4. Senator WELCH	✓		
5. Senator SCHULTZ	✓		
6. Representative GROTHMAN		✓	
7. Representative GUNDERSON	✓		
8. Representative SERATTI	✓		
9. Representative KREUSER	✓		
10. Representative BLACK	✓		
Totals			

Motion Carried

Motion Failed

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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

Emergency Rule Extension Motion Form

Last Modified May2000

Date: July 25, 2000 Location: 300 Southeast, State Capitol

Moved by Robson, Seconded by Schultz

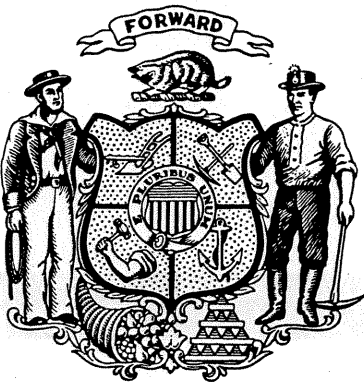
THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule WGC 61 by 60 days, at the request of the Department of Revenue.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator SHIBLISKI	✓		
4. Senator WELCH		✓	
5. Senator SCHULTZ	✓		
6. Representative GROTHMAN		✓	
7. Representative GUNDERSON			
8. Representative SERATTI			
9. Representative KREUSER			
10. Representative BLACK	✓		
Totals			

Motion Carried

Motion Failed

END



END

TAX 11.20

Sales Tax Exemption for Waste Reduction and Recycling Activities

**60-day extension requested by
Dept. of Revenue**



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

July 26, 1999

Honorable Judy Robson
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 115 South State Capitol
PO Box 7882
Madison WI 53707-7882

Honorable Glenn Grothman
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 15 North State Capitol
PO Box 8952
Madison WI 53708

Re: Emergency Rule Extension - Tax 11.20

Dear Senator Robson and Representative Grothman:

To provide for additional time necessary to promulgate a permanent rule, I am requesting under s. 227.24(2)(a) a 60-day extension of the emergency rule creating Tax 11.20, relating to waste reduction and recycling. This extension will help to prevent any lapse in coverage until the permanent rule becomes effective. This emergency rule expires August 24, 1999.

A permanent rule is being developed but has not yet been forwarded to the Legislative Council Rules Clearinghouse. Since the permanent rule cannot be in place before the emergency rule expires, a 60-day extension of the emergency rule is necessary.

A copy of the initial Order of the Department of Revenue Adopting An Emergency Rule is attached, for your information. A brief analysis explaining the need for the rule follows.

Analysis

Statutory authority: ss. 227.11(2)(a) and 227.26(2)(b), Stats.

Statute interpreted: s. 77.54(26m), Stats.

Honorable Judy Robson
Honorable Glenn Grothman
Page 2

SECTION 1. Tax 11.20 is created, to address the sales and use tax exemptions for waste reduction and recycling activities.

Thank you for your consideration in this matter.

Sincerely,



Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules\1120 Emergency - Extension - JCRAR

Enclosure

cc: Donald J. Schneider, Senate Chief Clerk
Charles Sanders, Assembly Clerk



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

September 22, 1999

Honorable Judy Robson
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 115 South State Capitol
PO Box 7882
Madison WI 53707-7882

Honorable Glenn Grothman
Co-Chair, Joint Committee for Review
of Administrative Rules
Rm 15 North State Capitol
PO Box 8952
Madison WI 53708

Re: Emergency Rule Extension - Tax 11.20

Dear Senator Robson and Representative Grothman:

To provide for additional time necessary to promulgate a permanent rule, I am requesting under s. 227.24(2)(a) a second 60-day extension of the emergency rule creating Tax 11.20, relating to waste reduction and recycling. This extension will help to prevent any lapse in coverage until the permanent rule is developed. This emergency rule expires October 23, 1999.

A permanent rule is being developed but has not yet been forwarded to the Legislative Council Rules Clearinghouse. Since the permanent rule is not yet in place, another 60-day extension of the emergency rule is being requested.

A copy of the initial Order of the Department of Revenue Adopting an Emergency Rule is attached, for your information. A brief analysis explaining the need for the rule follows.

Analysis

Statutory authority: ss. 227.11(2)(a) and 227.26(2)(b), Stats.

Statute interpreted: s. 77.54(26m), Stats.

Honorable Judy Robson
Honorable Glenn Grothman
Page 2

SECTION 1. Tax 11.20 is created, to address the sales and use tax exemptions for waste reduction and recycling activities.

Thank you for your consideration in this matter.

Sincerely,


Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules\1120 Emergency - Extension2 - JCRAR

Enclosure

cc: Donald J. Schneider, Senate Chief Clerk
Charles Sanders, Assembly Clerk

2/25/99 put in rule form
3/25/99 promulgation
7/29/99 1st extension - 60 days

SENATOR JUDITH B. ROBSON
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2253

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

October 20, 1999

Cate Zeuske, Secretary
Department of Revenue
125 S. Webster
Madison, WI 53708

Dear Secretary Zeuske:

The Joint Committee for the Review of Administrative Rules met in Executive Session on October 20m, 1999 and adopted the following motion:

Emergency Rule Tax 11.20

Relating to sales tax exemptions for machinery used in the process of recycling. Submitted by the Department of Revenue.

Moved by Representative Grothman, seconded by Senator Robson that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Tax 11.20 by 60 days, at the request of the Department of Revenue.

Ayes: (8) Representatives Grothman, Seratti, Kreuser, and Black; Senators Robson, Grobschmidt, Darling, and Welch.

Noes: (0)

Absent: (2) Senator Shibilski and Representative Gunderson.

Motion Carried: Extension Granted.

8 Ayes, 0 Noes, 2 Absent

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Judith Robson
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JBR:GSG:mjg

cc:Secretary of State Doug LaFollette, Revisor of Statutes Gary Poulson



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2253

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Emergency Rule Extension Motion Form

October 20, 1999

415 Northwest, State Capitol

Moved by Grobschmidt, Seconded by Robson

THAT, pursuant to s. 227.24(2)(a), stats., the Joint Committee for Review of Administrative Rules extend the effective period of emergency rule Tax 11.20 by 60 days, at the request of the Department of Revenue.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	X		
2. Senator GROBSCHMIDT	X		
3. Senator SHIBLISKI			X
4. Senator WELCH	X		
5. Senator DARLING	X		
6. Representative GROTHMAN	X		
7. Representative GUNDERSON			X
8. Representative SERATTI	X		
9. Representative KREUSER	X		
10. Representative BLACK	X		
Totals			

(by phone)

Motion Carried

Motion Failed

**ORDER OF THE DEPARTMENT OF REVENUE
ADOPTING AN EMERGENCY RULE**

The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.54(26m), Stats., relating to the sales and use tax treatment of machinery and equipment used in waste reduction and recycling activities.

Analysis by the Department of Revenue

Statutory authority: ss. 227.11(2)(a) and 227.26(2)(b), Stats.

Statute interpreted: s. 77.54(26m), Stats.

SECTION 1. Tax 11.20 is created, to address the sales and use tax exemptions for waste reduction and recycling activities.

PROMULGATION OF EMERGENCY RULE

On February 25, 1999, the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26(2)(b), Stats., directed the Department of Revenue to use the emergency rule making process to promulgate as an emergency rule, within 30 days, its policies interpreting s. 77.54(26m), Stats.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

SECTION 1. Tax 11.20 is created to read:

Tax 11.20 Waste reduction and recycling. (1) STATUTORY EXEMPTION.

Section 77.54(26m), Stats. exempts the gross receipts from the sale of and the storage, use or other consumption of "...waste reduction or recycling machinery and equipment, including parts therefor, exclusively and directly used for waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. The exemption applies even though an economically useful end product results from the use of the machinery and equipment. For the purposes of this subsection, "solid waste" means garbage, refuse, sludge or other materials or articles, whether these materials or articles

are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities.”

(2) CONDITIONS FOR EXEMPTION. The exemption under sub. (1) shall apply if all of the following conditions are met:

- (a) The item is a piece of machinery or equipment or a part for the machinery or equipment.
- (b) The machinery or equipment is used exclusively in waste reduction or recycling activities.
- (c) The machinery or equipment is used directly in waste reduction or recycling activities.
- (d) The waste reduction or recycling activity does one or more of the following:
 1. Reduces the amount of solid waste generated.
 2. Reuses solid waste.
 3. Recycles solid waste.
 4. Composts solid waste.
 5. Recovers energy from solid waste.

Note: Waste reduction and recycling activities do not include the collection, transportation or storage of the solid waste.

Note: In a decision dated June 25, 1992 in the case of *Wisconsin Department of Revenue vs. Parks-Pioneer Corporation* the Wisconsin Court of Appeals, District IV, held that lugger and roll-off boxes, tarps, bands, hoists, scales and hose used by Parks-Pioneer in its business of collecting, preparing, sorting, weighing and processing scrap were not used directly in waste reduction or recycling activities. The Court stated that “The scrap is recycled after it is collected and transported to the plant.” Under this interpretation, machinery and equipment used in the collecting, transporting and weighing of recyclable materials do not qualify for exemption under s. 77.54(26m), Stats.

(3) MACHINERY AND EQUIPMENT WHICH QUALIFY FOR EXEMPTION.

Machinery and equipment used exclusively and directly in waste reduction or recycling activities which qualify for the exemption under sub. (1) include the following:

(a) Equipment in a foundry used exclusively to clean sand so the sand can be reused.

(b) Furnaces designed and used exclusively to burn waste oil and heat a building.

(c) Machinery and equipment used exclusively to pulverize trees and brush into small pieces which remain on the ground to compost.

(d) Machinery and equipment used exclusively to chop up branches, bark, stumps and brush into small chips which will be reused.

(e) A road reclaimer/stabilizer used exclusively to cut and grind up asphalt roads so that the resulting materials can be used as a sub-base for a new road.

(4) MACHINERY AND EQUIPMENT WHICH DO NOT QUALIFY FOR EXEMPTION. Machinery and equipment which do not qualify for the exemption under sub. (1) because they are not used exclusively and directly in waste reduction or recycling activities include the following:

(a) A can crusher which an individual uses to crush aluminum cans at the individual's personal residence.

(b) Dumpsters, bins and covers for dumpsters and bins which are used to collect and transport recyclable materials.

(c) Shelving in a bookstore that sells used books and other goods.

(d) Equipment used to recover freon, but not reuse it.

The rules contained in this order shall take effect upon publication in the official state newspaper as provided in s. 227.22(2)(c), Stats.

DEPARTMENT OF REVENUE

Dated: March 22, 1999

By: Cate Zeuske
Cate Zeuske
Secretary of Revenue

e:rules/1120 Emergency - Order

EMERGENCY RULE

1999 Session

FISCAL ESTIMATE

ORIGINAL UPDATED

DOA-2048 N(R10/98)

CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

TAX 11.20

Amendment No. if Applicable

Subject

Sales and Use Tax Treatment of Machinery and Equipment Used in Waste Reduction and Recycling Activities.

Fiscal Effect

State: No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No Local Government Costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed order adopts an emergency rule interpreting s. 77.54 (26m), Stats., relating to the sales and use tax treatment of machinery and equipment used in waste reduction and recycling activities. This rule clarifies the Department's interpretation of existing statutes and does not change current policy. Therefore, the rule has no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

John T. Stott, (608) 266-9706

Authorized Signature/Telephone No.

Yeang-Eng Braun

(608) 266-2700

Yeang-Eng Braun

Date

3/23/99

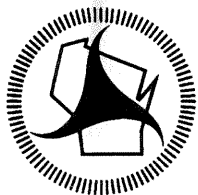
END



END

Trans 4
**Relating to requiring the use of a fully allocated
cost methodology when evaluating bids solicited
for transit service in a competitive process.**

60-day extension request



MAY 24 2000

Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

May 23, 2000

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
15 South, State Capitol
Madison, Wisconsin 53702

The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: EMERGENCY RULE EXTENSION

Dear Senator Robson and Representative Grothman:


I am writing to request an extension for the Wisconsin Department of Transportation's emergency administrative rule ch. Trans 4, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process, pursuant to § 227.24(2)(am), Stats. The initial emergency rule was mandated by 1999 Wis. Act 9, and pursuant to that Act in s. 9150(2bm)(b), the Department was exempt from the finding of emergency requirement. The emergency rule expiration date is July 1, 2000.

Status of Permanent Rule. Based on testimony provided at the public hearing, the Department agreed to extend the written comment period another 30 days to address additional concerns expressed by persons attending the hearing, thereby necessitating this request for a sixty (60) day emergency rule extension. The Final Draft of the permanent rule is anticipated to be submitted for legislative committee review by June 5, 2000.

The extension of the emergency rule is necessary due to the lapse between its expiration date and the effective date of the permanent rule. Because of the unforeseen delay in submitting the rule for legislative committee review, it is also anticipated a second emergency rule extension request may be necessary. I am enclosing a copy of the emergency rule.

Please consider this request at your June meeting. A Department representative will attend the meeting. **Please contact me at 267-3703 to confirm your schedule.** I have also taken the liberty of sending courtesy copies of this request to both the Assembly and Senate Transportation Committees. Thank you for your cooperation.

Sincerely,



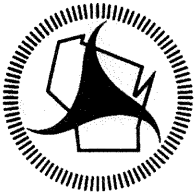
Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: The Honorable Fred Risser/President, Wisconsin State Senate
The Honorable Scott Jensen/Speaker, Wisconsin State Assembly
Senator Roger Breske
Representative David Brandemuehl
Mike Goetzman
Alice Morehouse
Ernie Wittwer
Linda Lovejoy
Richard Martin
Gary Poulson

JUL 07 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
15 South, State Capitol
Madison, Wisconsin 53702

July 6, 2000

The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **EMERGENCY RULE EXTENSION – 2ND REQUEST**

Dear Senator Robson and Representative Grothman:

I am writing to request a second and final extension for the Wisconsin Department of Transportation's emergency administrative rule ch. Trans 4, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process, pursuant to § 227.24(2)(am), Stats. The initial emergency rule was mandated by 1999 Wis. Act 9, and pursuant to that Act in s. 9150(2bm)(b), the Department was exempt from the finding of emergency requirement. The initial emergency rule expiration date was July 1, 2000.

On June 21, 2000, JCRAR met and approved the Department's first request for extension of this rule for an additional 60 days, thereby expiring on August 30, 2000.

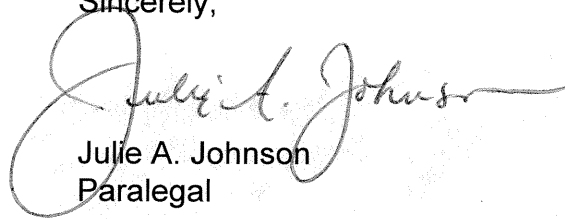
Status of Permanent Rule. As stated in my May 23, 2000 letter, based on testimony provided at the public hearing, the Department agreed to extend the written comment period another 30 days to address additional concerns expressed by persons attending the hearing, thereby necessitating the initial request for a 60 day emergency rule extension. The Final Draft of the permanent rule was submitted for legislative committee review on June 9, 2000. The committee review period expires on July 20, 2000.

The extension of the emergency rule by an additional **32 days** is necessary due to the lapse between its expiration date and the effective date of the permanent rule,

which is anticipated to be October 1, 2000. Because of the unforeseen delay in submitting the rule for legislative committee review, it was anticipated that a second emergency rule extension request would be necessary. I am enclosing a copy of the emergency rule.

Please consider this request at your August meeting. A Department representative will attend the meeting. **Please contact me at 267-3703 or e-mail me at julie.johnson@dot.state.wi.us to confirm your schedule.** I have also taken the liberty of sending courtesy copies of this request to both the Assembly and Senate Transportation Committees. Thank you for your consideration.

Sincerely,



Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Senator Roger Breske
Representative David Brandemuehl
Mike Goetzman
Alice Morehouse
Ernie Wittwer
Linda Lovejoy
Richard Martin
Gary Poulson

The Wisconsin Department of Transportation Adopts an Emergency Order to renumber TRANS 4.04(4)(b)4. and 5., and create TRANS 4.04(4)(b)4. and 6., relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process.

**ORDER ADOPTING
EMERGENCY RULE**

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 85.20(3) and 227.11(2), Stats.

STATUTE INTERPRETED: s. 85.20, Stats.

General Summary of Emergency Rule. Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9, section 9150(2bm), requires the Department to adopt an emergency rule to amend Chapter Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

Pursuant to 1999 Wis. Act 9, section 9150(2bm)(b), the Department is not required to provide evidence that the rule is necessary for the preservation of the public peace, health, safety or welfare, and is not required to provide a finding of emergency.

Initial Fiscal Estimate. No fiscal effect is anticipated from the promulgation of this proposed rule.

Initial Regulatory Flexibility Analysis. This proposed rule has no significant impact on small businesses.

Copies of Emergency Rule and Contact Person. Copies of this emergency rule are available without cost upon request by writing to Richard A. Martin, Department of Transportation, Division of Transportation Investment Management, Bureau of Transit and Local Roads, 4802 Sheboygan Avenue, Room 933, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-6812. Alternate formats of the proposed rule will be

provided to individuals at their request. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351.

TEXT OF EMERGENCY RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 85.20(3) and 227.11(2), Stats., the department of transportation hereby amends ch. Trans 4, Wisconsin Administrative Code, interpreting s. 85.20, Stats., relating to the use of fully allocated costs in the competitive bid process.

SECTION 1. Trans 4.04(4)(b)4. is renumbered Trans 4.04(4)(b)5.

SECTION 2. Trans 4.04(4)(b)4. is created to read:

Trans 4.04(4)(b)4. When a publicly owned mass transit system responds to a request for proposal issued by a local public body under s. Trans 4.04(4)(b)3., the cost proposal shall include an analysis of fully allocated costs that will be used as the basis for evaluating costs when ranking proposals. The analysis shall include all of the publicly owned system's costs measured in accordance with generally accepted accounting principles, regardless of whether these costs are otherwise paid for through other public financial assistance, including operating subsidies and capital grants. When the public body which owns the mass transit system has prepared a cost allocation plan in accordance with United States office of management and budget circular A-87, or OMB circular A-87, costs of the public body shall be allocated in accordance with that plan. When the public body which owns the mass transit system has not prepared a cost allocation plan in accordance with OMB circular A-87, costs which are allocable to the mass transit system shall be determined using the principles

outlined in OMB circular A-87. Expenses of the transit system shall be allocated to segments of service considered using the following categories:

a. Costs that depend on the number of vehicle hours operated, including particular operators salaries and fringe benefits.

b. Costs that depend on the number of vehicle miles traveled, including fuel costs, maintenance costs and maintenance personnel salaries and fringe benefits.

c. Costs that depend on the maximum number of vehicles that are in service during the day, including administrative and capital costs.

SECTION 3. Trans 4.04(4)(b)5. is renumbered Trans 4.04(4)(b)7.

SECTION 4. Trans 4.04(4)(b)6. is created to read:

Trans 4.04(4)(b)6. When a contract is awarded based on bids, the proposed costs shall be reduced by an allowance for operating and capital costs subsidized through other state and federal grants.

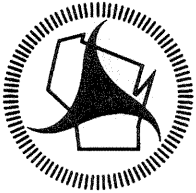
(END OF RULE TEXT)

Effective Date. This rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Signed at Madison, Wisconsin, this 7 day of December, 1999.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation



AUG 28 2000

Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of the Secretary
4802 Sheboygan Ave., Rm. 120B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-1113
FAX: 608-266-9912
E-Mail: sec.exec@dot.state.wi.us

August 24, 2000

The Honorable Judith Robson
Senate Co-Chair
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Robson:

I apologize for the Department of Transportation's lack of preparedness for yesterday's Joint Committee for Review of Administrative Rules Hearing on TRANS 4.

Due to a funeral in the transit community, the Department was represented by staff with specific knowledge on the aspect of the rule seeking an extension — fully allocated costs — but were unprepared to answer more general questions on TRANS 4. For that, the Department apologizes to the members of the Committee and stands ready to answer any and all questions on TRANS 4.

If you have questions, please contact Rod Clark, director of the Bureau of Transit and Local Roads, at (608) 266-2963 or me at (608) 266-1114.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Cook".

Robert J. Cook
Executive Assistant

SENATOR JUDITH B. ROBSON
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2253

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

June 23, 2000

Terry Mulcahy, Secretary
Department of Transportation
4802 Sheboygan Avenue
Madison, WI 53705

Dear Secretary Mulcahy :

The Joint Committee for the Review of Administrative Rules met in Executive Session on June 21, 2000 and adopted the following motion:

Emergency Rule Trans 4

Relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process. Submitted by the Department of Transportation.

Moved by Representative Grothman, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Trans 4 by 60 days, at the request of the Department of Transportation.

Ayes: (10) Representatives Grothman, Gunderson,
Seratti, Kreuser and Black; Senators Robson, Grobschmidt,
Shibilski, Schultz and Welch.

Noes: (0)

Absent: (0)

Motion Carried: Extension Granted.
10 Ayes, 0 Noes, 0 Absent.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

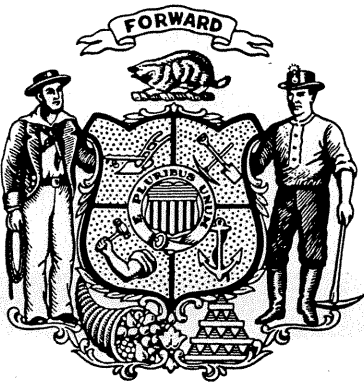
Senator Judith B. Robson
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

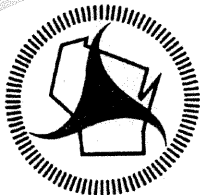
JBR:GSG:mjg

cc: Secretary of State Doug LaFollette
Revisor of Statutes Gary Poulson

END



END



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
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Madison, WI 53707-7910

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FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

JUN 08 REC'D

June 7, 1999

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 100

Dear Mr. Poulson:
Gary

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 100. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

Julie A. Johnson
Julie A. Johnson
Paralegal

Enclosures

- cc: Richard G. Chandler/DOA State Budget Director
- Senator Judy Robson, Co-Chair/JCRAR
- Representative Glenn Grothman, Co-Chair/JCRAR
- Sandy Beaupre
- Mike Goetzman
- Roger Cross
- Bill Hoebel
- John Alley

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making will amend Ch. Trans 100 to incorporate the significant changes in the financial responsibility laws mandated by 1997 Wisconsin Act 84.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

The current rule was created in 1985 and last updated in April 1994. Language throughout the current rule refers to the revocation of operating and registration privileges for failure to comply with the provisions of the safety responsibility law following a motor vehicle accident. Act 84, effective May 1, 2000, changes all revocations under Ch. 344, Stats., to suspensions.

Judgments arising out of uninsured motor vehicle accidents which are certified to DOT by the courts under s. 344.05, Stats., are also affected by Act 84. These judgments will result in the suspension of the uninsured's operating and registration privileges instead of the revocations under current law. Ch. Trans 100 currently contains no references to these judgments. This rule making will establish procedures for processing suspensions resulting from nonpayment of a judgment.

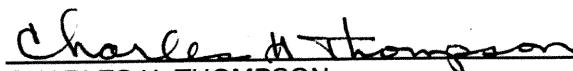
STATUTORY AUTHORITY FOR THE RULE:

ss. 85.16(1) and 227.11, Stats.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

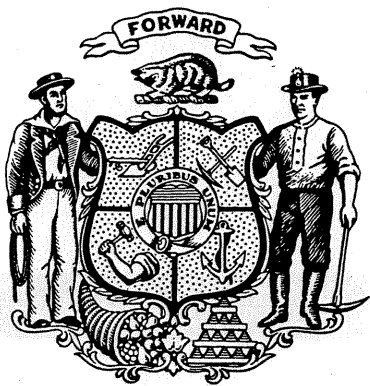
75 hours

Signed at Madison, Wisconsin, this 4 day of June, 1999.

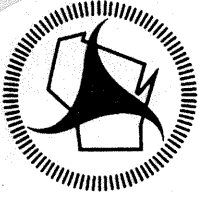


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

END



END



Wisconsin Department of Transportation

www.dot.state.wi.us

JUN 22 2000

2

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
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June 21, 2000

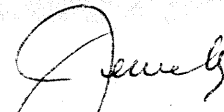
Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 260/261**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 260/261. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,



Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Roger D. Cross
David Schumacher
Mike Cass
Tom Cantwell
Kathleen Nichols
Carson Frazier

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

Chapter Trans 260 governs single trip permits for mobile homes/manufactured homes. Chapter Trans 261 governs multiple trip permits for mobile homes/manufactured homes. The proposed amendments will redefine the dimensions allowable under multiple trip permits, and require local highway authority route approval under single trip permits.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Current allowable dimensions for multiple trip permits are outdated, considering recent changes in manufactured housing design. New configurations exceed the dimensions for multiple trip permits, and require single trip permits. By redefining the allowable dimensions, we should reduce the number of single trip permits needed, which will reduce workload in DMV and also reduce permit turnaround time, which will benefit industry. DOT issues all permits for mobile home transport. However, much of the movement is on local highways, for which DOT has very limited information regarding structure clearances, roadside impediments, etc. We require local authority route approval on some mobile home permits, and this proposal will extend that approval to single trip mobile home permits. In this way, safety of the load and the public is improved, as we can be more certain that designated route will clear structures and roadside impediments.

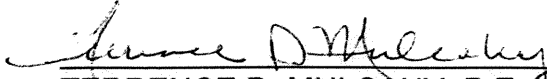
STATUTORY AUTHORITY FOR THE RULE:

s. 348.25(3), Stats.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

Approximately 300 hours

Signed at Madison, Wisconsin, this 21 day
of **June**, 2000.



TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation