



| GENERAL INFORMATION | | |
|----------------------|---|----------------------------|
| Rule No. PI 7 | Relating to Technical changes to PI 7 as a result of 2017 Wisconsin Act 108 review of administrative rules and other changes | Rule Type Permanent |

| SIGNATURE | | |
|---|---|-------------------------|
| State Superintendent Review <input type="checkbox"/> Approved. <i>Begin Drafting Rule</i> <input type="checkbox"/> Disapproved. <i>Reason for Disapproval</i> | State Superintendent Signature ➤ | Date Signed Mo./Day/Yr. |

NARRATIVE

Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor’s approval for the statement of scope for this rule. *Coyne v. Walker*, 2016 WI 38, 368 Wis. 2d 444.

1. Finding/nature of the emergency (Emergency Rule only).

N/A

2. A description of the objective of the proposed rule.

The objective of this rule is to make technical updates to existing DPI rules, which include eliminating rules that are duplicative of statute, as a result of the Department’s review of administrative rules required in 2017 Wisconsin Act 108. As such, a technical change is needed to subch. II of PI 7, which assists districts in calculating the amount of compensation to be provided in parent contracts for use by school districts in transporting pupils. The Department proposes amending s. PI 7.04 (3) because it is duplicative of s. 121.55 (1) (b), Stats., which provides for a parent contract as a method of providing pupil transportation for any student. Additionally, the Department also proposes amending s. PI 7.06 (1), which relates to the dispute resolution or appeal process undertaken with parent contracts for transportation and is also duplicative of s. 121.55 (1) (b), Stats.

Further, the Department has also identified further technical changes which do not meet the criteria listed in the report required of agencies under 2017 Act 108, but are necessary for clarifying current rule language around the process for parent contract disputes. For example, s. PI 7.06 (2) and (3) contain the criteria the Department would use to determine the type of compensation a parent receives for transportation of pupils to public and private schools under s. PI 7.04, relating to parent contracts for transportation of pupils to public and private schools, and PI 7.05, relating to parent contracts for transportation of pupils to private schools, which should be moved to those sections for ease of information.

3. A description of the existing policies and new policies included in the proposed rule and an analysis of policy alternatives.

Under 2017 Wisconsin Act 108, each state agency that has promulgated rules in the Wisconsin Administrative Code is required to submit a biennial report to the Joint Committee for Review of Administrative Rules. The report must list the rules for which the following circumstances apply: 1) the rule is deemed unauthorized; 2) the authority to promulgate has been restricted; 3) the rule is deemed obsolete or has been rendered unnecessary; 4) the rule is duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a court ruling; and 5) the rule is deemed to be economically burdensome. Per 2017 Act 108, the report must also describe the agency’s actions, if any, to address each of the rules listed and must include an explanation for any listed rule for which the agency has not taken any action. The proposed rules listed in this statement of scope are technical changes to rules with provisions that meet the criteria listed in the report (note: it has been deemed that the applicable provisions of PI 7 had met the criteria under s. 227.29 (1) (d), i.e., rules that are duplicative of a state statute).

The proposed rule changes are technical in nature and do not contain any substantive changes in policy. The rule changes are designed to update DPI rules by deleting obsolete rule provisions, duplicative language, and dates that have passed, and conforming DPI rules with recent statutory changes and agency practice and terminology. Without these rule changes, the Department will continue to administer the rules as they currently exist, but may create confusion for persons impacted by each rule as many provisions in rule are currently obsolete or out of date.

NARRATIVE (cont'd)

4. The statutory authority for the proposed rule.

The Department is required to determine the amount of compensation to be designated to parent contracts pursuant to s. 121.55 (1) (b), Stats. Under s. 227.11 (2) (a) (intro.), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” See also, *Wisconsin Ass'n of State Prosecutors v. Wisconsin Employment Relations Comm'n*, 2018 WI 17, ¶ 42 (“statutory mandates are also statutory authorizations, and authorization of an act also authorizes a necessary predicate act.”) (internal quotation marks omitted). As such, the proposed rule is necessary for the Department to effectively implement and administer parent contracts for pupil transportation under s. 121.55, Stats.

5. An estimate of the amount of time agency employees will spend developing the proposed rule and of other resources needed to develop the rule.

The amount of time needed for rule development by Department staff and the amount of other resources necessary are indeterminate but is expected to be minimal.

6. A description of all of the entities that will be affected by the proposed rule.

No entities should be affected by this rule change since the change will only be done to eliminate redundant language from current rule and clarify existing language.

7. A summary and preliminary comparison of any existing or proposed federal regulation that addresses or is intended to address the activities to be regulated by the proposed rule.

N/A

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses).

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.
