

COMM 69 (98-106) EXEMPTION -
ELEVATOR ACCESS



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Philip Edw. Albert, Acting Secretary

September 28, 1998

Senate Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 98-106

RULE NO.: Comm 69.18 (2) (a)

RELATING TO: Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Philip Edw. Albert', written over a large, stylized graphic element that resembles a signature or a large letter 'P'.

Philip Edw. Albert
Acting Secretary

COM-10536 (R.09/98)

COM-10527 (N.03/97)

September 28, 1998

Senator Brian Rude
President of the Senate
119 Martin L. King Blvd, Rm 102
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Rude and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 98-106

RULE NO.: Comm 69.18 (2) (a)

RELATING TO: Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

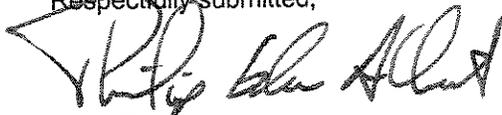
Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,



Philip Edw. Albert
Acting Secretary

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 98-106

RULE NO.: Comm 69.18 (2) (a)

RELATING TO: Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

The rules establish an exemption for elevator access to certain small areas with low occupancy within government-owned or operated buildings or facilities. The rules give more design flexibility to government agencies when they construct new buildings or facilities or do alterations to existing buildings or facilities.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

None were raised

(Continued on reverse side)

3. Nature and estimated cost of preparation of any reports by small businesses.

None required

4. Nature and estimated cost of other measures and investments required of small businesses.

None known

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Comm 69.18 (2) (a)

Relating to: Exemption of elevator access to certain areas within
government-owned or operated buildings or facilities

Clearinghouse Rule No.: 98-106

The Wisconsin Department of Commerce proposes an order to create s. Comm 69.18 (2) (a) 2. c., relating to the exemption of elevator access to certain areas within government-owned or operated buildings or facilities.

ANALYSIS OF PROPOSED RULES

Statutory Authority: ss. 101.02 and 101.13, Stats.

Statutes Interpreted: s. 101.13, Stats.

The proposed rule will exempt in government-owned or operated buildings or facilities elevator access to certain floor levels above or below the accessible ground floor providing these floor levels are less than 500 square feet, are not open to the general public and house no more than 5 people. Examples of these type of floor levels are drawbridge towers and boat traffic towers, lock and dam control stations, train dispatching towers and press box facilities. The reason for the proposed rule change is to make the emergency rule issued on May 15, 1998 a permanent rule. This rule benefits not only school districts, but other small state and local government buildings or facilities as well.

SECTION 1. Comm 69.18 (2) (a) 2. c. is created to read:

Comm 69.18 (2) (a) 2. c. Government-owned or operated buildings or facilities that are less than three stories and that are not open to the general public, if the story above or below the accessible ground floor has a capacity of no more than five persons and is less than 500 square feet. The story above or below the accessible ground floor that is less than 500 square feet shall have a sign stating the maximum capacity and the sign shall be placed in a conspicuous location at the main entrance to the floor level.

Note: Examples may include, but are not limited to, drawbridge towers and boat traffic towers, lock and dam control stations, press boxes, and train dispatching towers.

(END)

EFFECTIVE DATE

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

RULE REPORT

Department of Commerce

Rule No.: Comm 69.18 (2) (a)

Relating to: Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

Agency contact person for substantive questions:

Name Jim Smith

Title Program Manager

Telephone Number 608/266-0251

Agency contact person for internal processing:

Name Diane Meredith

Title Code Consultant

Telephone Number 608/266-8982

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
ss. 101.02 (15) and 101.13
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
Code of Federal Regulations (CFR) Title 28 CFR § 35.151 and CFR 36.406
3. Citation of court decisions which are applicable to the proposed rule(s).
None known

4. Description of the proposed rule(s).

The proposed rule will exempt in government-owned or operated buildings or facilities elevator access to certain floor levels above or below the accessible ground floor providing these floor levels are less than 500 square feet, are not open to the general public and house no more than 5 people. Examples of these type of floor levels are drawbridge towers and boat traffic towers, lock and dam control stations, train dispatching towers and press box facilities.

5. Reason for the proposed rule(s).

The reason for the proposed rule changes is to make the emergency rule issued on May 15, 1998 a permanent rule. The proposed rule eliminates the requirement that in government-owned or operated buildings or facilities an elevator must be used to provide access to certain small areas with low capacity. This rule benefits not only school districts, but other small state and local government buildings or facilities as well.

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 69.18 (2) (a)
Amendment No. if Applicable

Subject

Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

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

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

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

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 Department currently enforces building and accessibility requirements in government-owned or operated buildings or facilities. The proposed rule exempts elevator access to certain floor levels above or below the accessible ground floor that are less than 500 square feet, are not open to the general public and houses no more than 5 people. Since the Department must review plans for compliance with all other building and accessibility related elements and features in government-owned or operated buildings or facilities, it is anticipated there will be no fiscal impact on the Department by eliminating the review of just the one feature for accessibility.

Long-Range Fiscal Implications

None known

Agency/Prepared by: (Name & Phone No.)
Commerce/Diane Meredith 6-8982

Authorized Signature/Telephone No.

 (609) 267-0770

Date

9/28/98

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 69.18 (2) (a)

Amendment No.

Subject

Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

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

None known

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$	\$ -
State Operations - Salaries and Fringes		
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds	\$	\$ -
GPR		
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	\$	\$ -
GPR Taxes		
GPR Earned		-
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

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

Commerce/Diane Meredith 266-8982

Authorized Signature/Telephone No. (609) 267-0770



Date 9/28/92

**PUBLIC HEARING COMMENT AND AGENCY RESPONSE
DEPARTMENT OF COMMERCE**

DIVISION OF SAFETY AND BUILDINGS

Rule Number: Comm 69.18 (2) (a)
 Relating To: Exemption of elevator access to certain areas
 within government-owned or operated buildings or
 facilities

Hearing Location: Madison
 Hearing Date: Monday, August 31, 1998

Commenting		Exh. No.	Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
In	For Info.				
Sup.	Opp.				
				(No one provided oral or written testimony on the proposed rule changes)	

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 98-106

RULE NO.: Comm 69.18 (2) (a)

RELATING TO: Exemption of elevator access to certain areas within government-owned or operated buildings or facilities

Agency contact person for substantive questions.

Name: Jim Smith

Title: Program Manager

Telephone No. 266-0251

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority (s.227.15(2)(a))

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments: The examples are intended to identify types of floor areas or stories where access may not be required based on the use of these areas. By using the wording "of buildings or facilities exempt under this subdivision paragraph", it may be construed to exempt an entire building or facility rather than just an area within a building or facility.

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules (s.227.15(2)(d))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms (s.227.15(2)(e))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments: To be consistent with other sections of this chapter and for clarity, the words "buildings or facilities" will be used.
6. Review rules for potential conflicts with, and comparability to, related federal regulations (s.227.15(2)(g))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline (s.227.15(2)(h))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-106

AN ORDER to create Comm 69.18 (2) (a) 2. c., relating to the exemption of elevator access to certain areas within government-owned or operated buildings.

Submitted by DEPARTMENT OF COMMERCE

07-31-98 RECEIVED BY LEGISLATIVE COUNCIL.
08-20-98 REPORT SENT TO AGENCY.

RNS:RJC:kjf;jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-106

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The introductory material from s. Comm 69.18 (2) (a) 2. should not be shown since only subd. 2. c. is being created.

b. The last sentence of subd. 2. c. should be placed in a note to the rule because it is provided for example only and is not substantive. [See s. 1.09 (1), Manual.] In addition, the word "examples" should be modified to better clarify what the items are examples of. For example, "examples" could be modified by the phrase "of buildings exempt under this subdivision paragraph."

4. Adequacy of References to Related Statutes, Rules and Forms

a. The fiscal estimate attached to the rule specifically describes the emergency rule. It should describe the permanent proposed rule.

b. The references to the Code of Federal Regulations in the Rule Report should, it appears, be references to Title 28 CFR.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Current s. Comm 69.18 (2) (a) 1. b. requires government-owned or operated *facilities* to have elevator access. The rule modification exempts certain government-owned or operated

buildings from having elevators. Since many of the examples of things that may be exempt under the rule do not appear to necessarily be conventional buildings, does the use of the term "building" in the rule modification limit the rule unintentionally? Should the rule modification apply to government-owned or operated *facilities*?

b. The words "Administrative Register" in the effective date provision of the rule should not be capitalized.



September 2, 1998

SEP 03 1998

Senator Robert Welch
Co-Chairman
Joint Committee for Review of
Administrative Rules
1 East Main Street, Room 201
Madison, Wisconsin 53707

Representative Glenn Grothman
Co-Chairman
Joint Committee for Review of
Administrative Rules
125 West, State Capitol
Madison, Wisconsin 53707

Dear Senator Welch and Representative Grothman:

As you may know, this Department adopted an emergency rule earlier this spring relating to exemption of elevator access to certain floor levels in government-owned or operated buildings. The emergency rule took effect on May 15, 1998, and is currently in effect. The emergency rule will expire on October 12, 1998, unless an extension is granted by the Joint Committee for Review of Administrative Rules (JCRAR).

Since the adoption of the emergency rule and pursuant to chapter 227, Stats., the Department has filed a proposed permanent rule with the Wisconsin Legislative Council to replace the emergency rule and held a hearing on that rule on August 31, 1998.

The JCRAR requests that agencies make a formal request for an extension prior to the expiration of an emergency rule. Under section 227.19 (4), Stats., the legislative standing committees have 30 days to review the final rule before the agency may adopt the rule. Due to the time factors associated with the rulemaking process in ch. 227, Stats., the permanent rule cannot be adopted and placed in effect prior to the expiration of the emergency rule.

In light of these facts, we respectfully request a 60-day extension of the emergency rule under s. 227.24 (2), Stats., in order to preserve the public safety and provide a smooth and orderly transition from the emergency rule to the permanent rule.

If you have any questions regarding our progress to date or this request, please do not hesitate to contact us. Thank you in advance for your consideration of our request.

Sincerely,

William J. McCoshen
Secretary

WISCONSIN LEGISLATIVE COUNCIL STAFF



AUG 23 1998

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

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CLEARINGHOUSE RULE 98-106

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Submitted by **DEPARTMENT OF COMMERCE**

07-31-98 RECEIVED BY LEGISLATIVE COUNCIL.
08-20-98 REPORT SENT TO AGENCY.

RNS:RJC:kjf;jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 98-106

Comments

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b. The references to the Code of Federal Regulations in the Rule Report should, it appears, be references to Title 28 CFR.

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a. Current s. Comm 69.18 (2) (a) 1. b. requires government-owned or operated *facilities* to have elevator access. The rule modification exempts certain government-owned or operated

buildings from having elevators. Since many of the examples of things that may be exempt under the rule do not appear to necessarily be conventional buildings, does the use of the term “building” in the rule modification limit the rule unintentionally? Should the rule modification apply to government-owned or operated *facilities*?

b. The words “Administrative Register” in the effective date provision of the rule should not be capitalized.

SECTION 1. Comm 69.18 (2) (a) 2. c. is created to read:

Comm 69.18 (2) (a) 2. Elevator access is not required to the following:

c. Government-owned or operated buildings that are less than three stories and that are not open to the general public, if the story above or below the accessible ground floor has a capacity of no more than five persons and is less than 500 square feet. The story above or below the accessible ground floor that is less than 500 square feet shall have a sign stating the maximum capacity and the sign shall be placed in a conspicuous location at the main entrance to the floor level. Examples may include, but are not limited to, drawbridge towers and boat traffic towers, lock and dam control stations, press boxes, and train dispatching towers.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

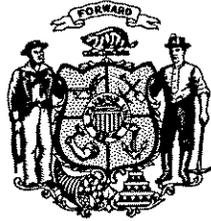
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

AUG 29 1998

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CLEARINGHOUSE REPORT TO AGENCY

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CLEARINGHOUSE RULE 98-106

AN ORDER to create Comm 69.18 (2) (a) 2. c., relating to the exemption of elevator access to certain areas within government-owned or operated buildings.

Submitted by **DEPARTMENT OF COMMERCE**

07-31-98 RECEIVED BY LEGISLATIVE COUNCIL.
08-20-98 REPORT SENT TO AGENCY.

RNS:RJC:kjf;jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-106

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. The introductory material from s. Comm 69.18 (2) (a) 2. should not be shown since only subd. 2. c. is being created.
- b. The last sentence of subd. 2. c. should be placed in a note to the rule because it is provided for example only and is not substantive. [See s. 1.09 (1), Manual.] In addition, the word "examples" should be modified to better clarify what the items are examples of. For example, "examples" could be modified by the phrase "of buildings exempt under this subdivision paragraph."

4. Adequacy of References to Related Statutes, Rules and Forms

- a. The fiscal estimate attached to the rule specifically describes the emergency rule. It should describe the permanent proposed rule.
- b. The references to the Code of Federal Regulations in the Rule Report should, it appears, be references to Title 28 CFR.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. Current s. Comm 69.18 (2) (a) 1. b. requires government-owned or operated *facilities* to have elevator access. The rule modification exempts certain government-owned or operated

buildings from having elevators. Since many of the examples of things that may be exempt under the rule do not appear to necessarily be conventional buildings, does the use of the term “building” in the rule modification limit the rule unintentionally? Should the rule modification apply to government-owned or operated *facilities*?

b. The words “Administrative Register” in the effective date provision of the rule should not be capitalized.

SECTION 1. Comm 69.18 (2) (a) 2. c. is created to read:

Comm 69.18 (2) (a) 2. Elevator access is not required to the following:

c. Government-owned or operated buildings that are less than three stories and that are not open to the general public, if the story above or below the accessible ground floor has a capacity of no more than five persons and is less than 500 square feet. The story above or below the accessible ground floor that is less than 500 square feet shall have a sign stating the maximum capacity and the sign shall be placed in a conspicuous location at the main entrance to the floor level. Examples may include, but are not limited to, drawbridge towers and boat traffic towers, lock and dam control stations, press boxes, and train dispatching towers.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

Department of Commerce

Emergency Rule for the Design and Construction of Accessible Buildings and Facilities

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of the rule included in this order is necessary for the immediate preservation of public peace, health, safety and welfare. The facts constituting the emergency are as follows:

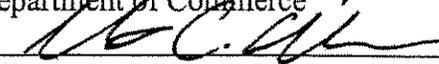
The Wisconsin Administrative Code, chapter Comm 69, establishes design and construction requirements for accessibility in all buildings and facilities. Chapter Comm 69 is based on the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Titles II and III of the federal Americans with Disabilities Act. A number of public school districts are in the process of constructing press boxes at athletic fields. In accordance with both the federal and state rules, an elevator must be used to provide access to a press box. This requirement causes a serious financial hardship on the school districts, since the press boxes involved will be very small and will accommodate only a few people. The federal ADAAG standards are in the process of being revised to exempt state and local government buildings that are not open to the general public from providing elevator access to floor levels that are less than 500 square feet and accommodate less than 5 persons.

The Joint Committee for Review of Administrative Rules (JCRAR) held a hearing on March 31, 1998 to receive public comments on the rules in chapter Comm 69 that requires vertical access to press box facilities. On May 6, 1998, the JCRAR held an executive session to consider this issue and has requested the agency to promulgate an emergency rule adopting the federal exemption for certain publicly controlled facilities, such as press boxes, from vertical access for people with disabilities. The emergency rule is to be promulgated no later than May 15, 1998.

The proposed rule eliminates the requirement that in government owned or operated buildings an elevator must be used to provide access to certain small areas with low capacity. The emergency rule benefits not only school districts, but other small state and local government buildings as well.

This rule is therefore adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes as provided in section 227.24, Stats.

Dated at Madison, Wisconsin
this 15th day of May, A. D. 1998
Department of Commerce


for William J. McCoshen, Secretary

SECTION 1. Comm 69.18 (2) (a) 2. c. is created to read:

Comm 69.18 (2) (a) 2. Elevator access is not required to the following:

c. Government owned or operated buildings that are less than three stories and that are not open to the general public, if the story above or below the accessible ground floor has a capacity of no more than five persons and is less than 500 square feet. The story above or below the accessible ground floor that is less than 500 square feet shall have a sign stating the maximum capacity and the sign shall be placed in a conspicuous location at the main entrance to the floor level. Examples may include, but are not limited to, drawbridge towers and boat traffic towers, lock and dam control stations, press boxes, and train dispatching towers.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect on the date of publication in the official state newspaper.



September 2, 1998

SEP 03 1998

Senator Robert Welch
Co-Chairman
Joint Committee for Review of
Administrative Rules
1 East Main Street, Room 201
Madison, Wisconsin 53707

Representative Glenn Grothman
Co-Chairman
Joint Committee for Review of
Administrative Rules
125 West, State Capitol
Madison, Wisconsin 53707

Dear Senator Welch and Representative Grothman:

As you may know, this Department adopted an emergency rule earlier this spring relating to exemption of elevator access to certain floor levels in government-owned or operated buildings. The emergency rule took effect on May 15, 1998, and is currently in effect. The emergency rule will expire on October 12, 1998, unless an extension is granted by the Joint Committee for Review of Administrative Rules (JCRAR).

Since the adoption of the emergency rule and pursuant to chapter 227, Stats., the Department has filed a proposed permanent rule with the Wisconsin Legislative Council to replace the emergency rule and held a hearing on that rule on August 31, 1998.

The JCRAR requests that agencies make a formal request for an extension prior to the expiration of an emergency rule. Under section 227.19 (4), Stats., the legislative standing committees have 30 days to review the final rule before the agency may adopt the rule. Due to the time factors associated with the rulemaking process in ch. 227, Stats., the permanent rule cannot be adopted and placed in effect prior to the expiration of the emergency rule.

In light of these facts, we respectfully request a 60-day extension of the emergency rule under s. 227.24 (2), Stats., in order to preserve the public safety and provide a smooth and orderly transition from the emergency rule to the permanent rule.

If you have any questions regarding our progress to date or this request, please do not hesitate to contact us. Thank you in advance for your consideration of our request.

Sincerely,

for William J. McCoshen
Secretary

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD CREATING RULES

SEP 0 10 1998

The State of Wisconsin Natural Resources Board proposes an order to create NR 749 relating to the assessment and collection of fees for providing assistance regarding the remediation and redevelopment of contaminated lands.

RR-43-98(E)

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 227.11(2) and ch. 292, Stats.

Statutes interpreted: ch. 292, Stats.

This order creates ch. NR 749, Wis. Adm. Code which establishes a flat fee for persons requesting Department assistance under ch. 292, Stats. The 1997-99 Biennial Budget contained a major initiative in the area of Brownfields cleanup and redevelopment. The budget authorized the Department to collect fees, by rule, to offset the cost for much of the assistance currently provided and for the new services created in the budget.

In order to help successfully implement the Brownfields initiative, the budget allocated 7 new program revenue positions to the Remediation and Redevelopment Program which brings the total number of RR program revenue positions to 10. Promulgation of ch. NR 749 will allow the Department to devote these additional resources toward implementing this initiative.

SECTION 1. Chapter NR 749 is created to read:

CHAPTER NR 749
FEES FOR PROVIDING ASSISTANCE; REMEDIATION AND REDEVELOPMENT PROGRAM

NR 749.01 PURPOSE. The purpose of this chapter is to establish fees to offset the department's costs of providing assistance under ch. 292, Stats. The department's authority to impose fees is found in ss. 292.11(7)(d)2., 292.13(3), 292.21(1)(c)1.d., 292.35(13) and 292.55(2), Stats.

NR 749.02 APPLICABILITY. This chapter applies to persons seeking department assistance under ch. 292, Stats., except that those persons seeking department assistance under s. 292.15, Stats., shall comply with ch. NR 750.

NR 749.04 FEES. (1) When a person requests the department to review a document listed in Table 1, the person requesting this assistance shall pay to the department the applicable fees. A person may request that department assistance be provided in either written form or in the form of oral comments. Appropriate fees shall accompany all requests for specific department assistance. Department assistance will not be provided unless the applicable fee accompanies the request for assistance. These fees are not proratable or refundable.

Note: If the NR 700 series rules require that a document be submitted to the department, such as in s. NR 716.09(1), but the person does not specifically request a department review of the document, then a review fee is not required.

Note: The department has prepared a document which provides additional information and

guidance for implementing this rule. A copy can be obtained by contacting the Bureau for Remediation and Redevelopment, Public Information Requests, P.O. Box 7921, Madison, WI 53707.

(2) If the department determines that a request for assistance does not contain enough information to render an opinion, or that the request is incomplete or inaccurate in some other manner, the department will notify the applicant of the reasons for this decision.

TABLE 1 - FEE SCHEDULE

Type of Letter or Assistance	Statutory Citation	Fee
Tax Cancellation Agreement	ss. 75.105(2)(d) and 292.55	\$ 500
Negotiated Agreements	s. 292.11(7)(d)2.	1000
Off-site Letters	s. 292.13(3)	500
Lender Assessments	s.292.21(1)(c)1.d.	500
Negotiation and Cost Recovery	s. 292.35(13)	(a)
General Liability Clarification Letters	s. 292.55	500
Lease Letters - Single Properties	s. 292.55	500
Lease Letters - Multiple Properties	s. 292.55	1000
Case Close-out Actions under ch. NR 726 ^(b)	s. 292.55	750
Site Investigation Workplan	s. 292.55	500
Site Investigation Report	s. 292.55	750
Site Specific Soil Cleanup Standards; NR 720.19 Reports	s. 292.55	750
Remedial Action Options Report	s. 292.55	750
Remedial Design Reports	s. 292.55	750
Operation and Maintenance Reports	s. 292.55	300
Construction Documentation Report	s. 292.55	250
Long-term Monitoring Plans	s. 292.55	300
No Further Action Letters under ch. NR 708 ^(c)	s. 292.55	250
Other Technical Assistance	s. 292.55	500

(a) Local governmental units in the negotiation and cost recovery process in s. 292.35, Stats., shall pay fees for each service requested.

(b) All requests for case closure need to be accompanied by the review fee in order to be considered complete.

(c) Immediate actions associated with spill cleanup activities, including department signoff on the spill reporting form, do not require a review fee.

Note: The department will not review Phase I or Phase II Environmental Assessments, unless they are part of the Voluntary Party Liability Exemption process in s. 292.15, Stats., or as part of a lender requesting this review in accordance with s. 292.21(1)(c)1.d., Stats.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on August 26, 1998

The rules shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin September 1, 1998

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)

LRB or Bill No./Adm. Rule No.
NR 749

Amendment No. if Applicable

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/94)

Subject
Fee Assessment Structure for Department Activities Under Wis. Stat. Ch. 292

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
20.370 (2) (dh)

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF RULE - The 1997-99 Biennial Budget (1997 Wisconsin Act 27) contained a major initiative in the area of Brownfields cleanup and redevelopment. To enable the Department to implement the Brownfields initiative, the Legislature authorized the Department to promulgate rules to collect fees to cover the costs for much of the Brownfields-related assistance currently provided and for the newly-created Brownfields services, and the Legislature authorized 7.0 program revenue FTE for the Remediation and Redevelopment (RR) Program, increasing to 10 the total RR program revenue FTE. Promulgating Ch. NR 749 will allow the Department to devote these authorized resources to implementing the Brownfields initiative.

FISCAL IMPACT -

I. **Fiscal Impact to State Government** - The impact to state government is estimated as follows:

- A. Revenues - Table A (attached) contains the Department's estimate of the annual number of requests for assistance and the associated annual revenues. Based on the projected number of requests and the associated fees, the annual revenue is estimated at \$993,250/year.
- B. Expenditures - There are no increased Departmental expenditures associated with this proposal. The associated position and expenditure authority were requested in 1997 Wisconsin Act 27. There may be a cost to other state agencies if they specifically request Department assistance.

II. **Fiscal Impact to Local Government** - The impact to local government is estimated as follows:

- A. Revenues - None.
- B. Expenditures - Based on experience and existing information, applications from local units of government are estimated to account for approximately 10% of the applications received annually. This results in a total projected cost to local units of government of \$99,325/year.

Long-Range Fiscal Implications

None.

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

Joe Polasek, 266-2794

Authorized Signature/Telephone No.

Joe Polasek by EE

266-2794

Date

7/24/98

FISCAL ESTIMATE WORKSHEET

1997 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. NR 749	Amendment No.
---	---------------

Subject
Fee Assessment Structure for Department Activities Under Wis. Stat. Ch. 292

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$	\$
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$ 0	\$ 0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues:	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS	993,250	
SEG/SEG-S		
TOTAL State Revenues	\$ 993,250	\$ 0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 99,325
NET CHANGE IN REVENUES	\$ 993,250	\$ 0

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

Joe Polasek, 266-2794

Authorized Signature/Telephone No.

Joe Polasek by EE

266-2794

Date

7/24/98

20

TABLE A - ESTIMATED ANNUAL REVENUE GENERATION

Type of Letter or Assistance	Estimated Number of Submittals	Fee	Sub-total
Tax Cancellation Agreement	5	500	2500
Negotiated Agreements	5	1000	5000
Off-site Letters	75	500	37500
Lender Assessments	25	500	12500
Negotiation and Cost Recovery	2	1000 (*)	2000
General Liability Clarification Ltrs.	50	500	25000
Lease Letters - Single Properties	20	500	10000
Lease Letters - Multiple Properties	5	1000	5000
Case Close-out Actions	1000	750	750000
Site Investigation Workplan	20	500	10000
Site Investigation Report	20	750	15000
Site Specific Soil Cleanup Standards; NR 720.19 Reports	40	750	30000
Remedial Action Options Report	30	750	22500
Remedial Design Reports	10	750	7500
Operation and Maintenance Reports	5	300	1500
Construction Documentation Rept.	5	250	1250
Long-term Monitoring Plans	20	300	6000
No Further Action Letters	100	250	25000
Other Technical Assistance	50	500	25000
GRAND TOTAL:			\$993,250

(*) Estimated cost for the services requested.

Department of Commerce

Emergency Rule for the Design and Construction of Accessible Buildings and Facilities

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of the rule included in this order is necessary for the immediate preservation of public peace, health, safety and welfare. The facts constituting the emergency are as follows:

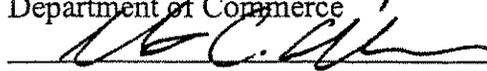
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The proposed rule eliminates the requirement that in government owned or operated buildings an elevator must be used to provide access to certain small areas with low capacity. The emergency rule benefits not only school districts, but other small state and local government buildings as well.

This rule is therefore adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes as provided in section 227.24, Stats.

Dated at Madison, Wisconsin
this 15th day of May, A. D. 1998
Department of Commerce



for William J. McCoshen, Secretary

SECTION 1. Comm 69.18 (2) (a) 2. c. is created to read:

Comm 69.18 (2) (a) 2. Elevator access is not required to the following:

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(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect on the date of publication in the official state newspaper.
