

State of Wisconsin  
Department of Agriculture, Trade and Consumer Protection

**NOTICE OF HEARING**

**Rule Related to Agricultural Producer Security**

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule relating to agricultural producer security. This rule implements Wisconsin's new agricultural producer security law, ch. 126 Stats. The department will hold three hearings at the time and places shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearing, the hearing record will remain open until November 22, 2002 for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4928. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearing. Please make reservations for a hearing interpreter by **October 4, 2002**, by writing to Kevin LeRoy, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4928. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

Hearings are scheduled at:

Tuesday, October 15, 2002, 10:30 a.m. until 12:30 p.m.  
Green Bay State Office Building  
200 North Jefferson Street  
Room 152-A  
Green Bay, WI 54301  
Handicapped accessible

Thursday October 17, 2002, 10:30 a.m. until 12:30 p.m.  
WDATCP Regional Office  
3610 Oakwood Hills Parkway  
Eau Claire, WI 54701-7754  
Handicapped accessible

Tuesday October 22, 10:30 a.m. until 12:30 p.m.  
Wisconsin Department of Agriculture, Trade and Consumer Protection  
Board Room  
2811 Agriculture Drive  
Madison, WI 53718  
Handicapped accessible

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**Analysis Prepared by the Department of Agriculture,  
Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 97.20(4), 100.20(2), 126.49, 126.51  
and 126.81, Stats.  
Statutes Interpreted: ss. 93.15, 97.20, 100.20 and 100.22, Stats., and  
ch. 126, Stats.

This rule implements Wisconsin's new agricultural producer security law (ch. 126, Stats., created by 2001 Wis. Act 16). The new law is designed to protect agricultural producers against catastrophic financial defaults by grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers the new law. This rule amends and repeals current rules, and creates new rules consistent with the new law.

**Background**

Chapter 126, Stats., regulates "contractors" including grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. Contractors must be licensed by DATCP. In most cases, licensed contractors must contribute to Wisconsin's agricultural producer security fund ("fund"). In some cases, fund participation is voluntary. If a contributing contractor defaults on payments to producers, the fund may partially compensate those producers. Fund contributions are based, in part, on the contractor's financial condition.

Some contractors must file security in addition to, or in lieu of, fund contributions. If the contractor defaults, DATCP may use the security to pay a portion of the producer claims. Security requirements are based on the contractor's financial condition and practices. Contractors who are disqualified from the fund, based on financial condition, must file security with DATCP.

**Grain Dealers**

**General**

This rule requires grain dealers to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

## **Financial Statements; Disclosures**

Under ch. 126, Stats., a grain dealer must file annual financial statements with DATCP if the grain dealer does any of the following:

- Annually pays more than \$500,000 for producer grain procured in this state.
- Procures any producer grain in this state under deferred payment contracts.

Grain dealers who are not required to file financial statements with DATCP may choose to file voluntarily. For example, grain dealers with favorable financial ratios may file voluntary financial statements to qualify for lower fund assessments. A grain dealer's financial ratios, including the grain dealer's debt to equity ratio, may affect the following:

- The grain dealer's eligibility to participate in the fund.
- The amount that the grain dealer must contribute to the fund.
- Whether or not the grain dealer must file security with DATCP.

Under this rule, a grain dealer's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate other than an employee.
  - Any note or account that has been receivable for more than one year, unless the grain dealer has established an offsetting reserve for uncollectable notes and accounts receivable.

## **Debt to Equity Ratio; Liability Adjustments**

This rule allows grain dealers to make certain liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. Grain dealers may deduct the following amounts when calculating their liabilities for this purpose:

- Amounts borrowed from a lending institution and deposited with a commodities broker to hedge grain transactions.
- Amounts borrowed from a lending institution to buy grain that has been shipped, if the grain dealer maintains a collectible account receivable on the balance sheet.

- Amounts borrowed from a lending institution to buy grain that is held in inventory and shown as inventory on the balance sheet date.
- Amounts borrowed from a lending institution to buy grain that is held in inventory, if the grain dealer has entered into a contract to sell the grain.
- Amounts borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer holds in inventory on the balance sheet date.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires grain dealers to make security disclosures to grain producers, so that producers understand the extent to which grain payments are secured by the agricultural producer security program. This rule specifies the form in which grain dealers must make the disclosures. A grain dealer must make the disclosures to a producer at all the following times:

- When the grain dealer first procures grain from the producer.
- The first time the grain dealer procures grain from the producer in each new license year.
- The first time the grain dealer procures grain from the producer after any change in circumstances that requires a different disclosure (for example, after a grain dealer begins contributing to the fund).

## **Grain Warehouse Keepers**

### **General**

This rule requires grain warehouse keepers to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### **Grain Warehouse Licensing**

Under ch. 126, Stats., grain warehouse license and fee requirements are based on the grain warehouse capacity. This rule spells out a standard method for calculating grain warehouse capacity, based on the volume of the grain warehouse and a grain "pack factor" specified in this rule.

Under this rule, an applicant for a grain warehouse license must submit a sworn and notarized statement certifying that the information provided in the license application is complete and accurate.

### **Financial Statements; Disclosure Requirements**

Under ch. 126, Stats., a grain warehouse keeper must file a financial statement with DATCP if the grain warehouse keeper has total warehouse capacity of more than 300,000 bushels. Other grain warehouse keepers may file *voluntary* financial statements to qualify for lower fund assessments. A grain warehouse keeper's financial ratios, including the warehouse keeper's debt to equity ratio, may affect the following:

- The warehouse keeper's eligibility to participate in the fund.
- The amount that the warehouse keeper must contribute to the fund.
- Whether or not the warehouse keeper must file security with DATCP.

Under this rule, a grain warehouse keeper's financial statement must disclose and describe all the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets on the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the grain dealer has established an offsetting reserve for uncollectible notes and accounts receivable.
- The total number of bushels of grain in the warehouse keeper's warehouse.
- The total number of bushels of grain forwarded to another warehouse keeper.
- The total number of bushels of grain the warehouse keeper is obligated to store for depositors.
- The warehouse keeper's net grain position for each type of grain.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows grain warehouse keepers to make certain liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. Grain warehouse keepers may deduct, from their liabilities, the following amounts:

- Amounts borrowed from a lending institution and deposited with a commodities broker to hedge grain transactions.
- Amounts borrowed from a lending institution to buy grain that the grain warehouse keeper has sold and shipped, if the grain warehouse keeper maintains a collectible account receivable on the balance sheet.
- Amounts, borrowed from a lending institution, that are secured by grain that the grain warehouse keeper owns, holds in inventory on the balance sheet date, and shows as inventory on the balance sheet.
- Amount borrowed from a lending institution to pay for fertilizer, pesticides, herbicides or seed that the grain dealer holds in inventory on the balance sheet date.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

### **Security Disclosures to Producers**

This rule requires grain warehouse keepers to make security disclosures to grain producers, so that producers understand the extent to which producer grain in storage is backed by the agricultural producer security program. This rule specifies the form in which grain warehouse keepers must make the disclosures. A grain warehouse keeper must give disclosures to a producer at all the following times:

- When the grain warehouse keeper first receives grain from the producer.
- The first time the grain warehouse keeper receives grain from the producer in each new license year.
- The first time the grain warehouse keeper receives grain from the producer after any change in circumstances that requires a different disclosure (for example, after a grain warehouse keeper begins contributing to the fund).

## Milk Contractors

### **General**

This rule requires milk contractors to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply. This rule does *not* change current rules related to milk price discrimination.

### **Financial Statements; Disclosure Requirements**

Under ch. 126, Stats., a milk contractor must file a financial statement with DATCP if the milk contractor has more than \$1.5 million in annual milk payroll obligations to producers. Other milk contractors may file *voluntary* financial statements in order to avoid paying fund assessments or to qualify for lower fund assessments. A milk contractor's financial ratios, including the contractor's debt to equity ratio, may affect the following:

- The milk contractor's eligibility to participate in the fund.
- The amount that the milk contractor must contribute to the fund.
- Whether or not the milk contractor must file security with DATCP.

Under this rule, a milk contractor's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities that are not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any nontrade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the milk contractor has established an offsetting reserve for uncollectable notes and accounts receivable.

### **Debt to Equity Ratio; Liability Adjustments**

This rule allows milk contractors to make certain liability adjustments when calculating their debt to equity ratios, *but only for the purpose of determining fund assessments*. When calculating their liabilities, milk contractors may deduct amounts borrowed from lending institutions in order to carry "aged cheese" in inventory for the period required by the federal standard of identity for that cheese. "Aged cheese" means cheese for which the federal standard of identity prescribes an aging period of at least 4 months.

## **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

## **Security Disclosures to Producers**

This rule requires milk contractors to make security disclosures to milk producers, so that producers understand the extent to which milk payments are backed by the agricultural producer security program. This rule specifies the form in which the milk contractor must make the disclosures. A milk contractor must give the disclosures to a producer at all the following times:

- When the milk contractor first procures milk from the producer.
- In June of each year.

## **Custom Processing for Milk Producers; Exemption**

This rule clarifies that ch. 126, Stats., does not apply to a dairy plant operator who takes temporary custody of producer milk for the sole purpose of providing *custom processing* services to milk producers, provided that all the following apply:

- The producers retain title to the milk and to the processed dairy products made from that milk.
- The operator does not market the milk or processed dairy products, but promptly delivers the processed dairy products to the producers or their agent for consumption or marketing.
- The operator does not commingle producer-owned milk or dairy products with other milk or dairy products.
- The operator provides the custom processing services under a written contract with each producer or the producer's agent. The contract must clearly and conspicuously disclose that:
  - The producer retains title to the milk and dairy products.
  - The producer's milk shipments are not secured under ch. 126, Stats.



## Producer Agents

Chapter 126, Stats., regulates milk contractors who buy producer milk, or who market producer milk as producer agents. A *producer agent* is a person who markets producer milk for producers without taking title to that milk. Under ch. 126, *producer agents* may have lower security and fund participation requirements than other milk contractors. This rule clarifies that a milk contractor does not qualify as a *producer agent*, for purposes of ch. 126, Stats., unless all the following apply:

- The milk contractor procures producer milk in this state solely as the agent of the milk producers.
- The milk contractor does not take title to the producer milk, or to any dairy products made from the producer milk.
- The milk contractor markets the producer milk under a written contract with each milk producer. The contract must clearly and conspicuously disclose all the following:
  - That the milk contractor does not take title to the producer's milk, or any dairy products made from that milk.
  - That the milk contractor receives payments on behalf of the producer, and holds them in trust for the producer.
  - The terms and conditions of payment to the producer.
  - The procedure by which the milk contractor will receive payment on behalf of the producer and make payments to the producer, including any trust fund arrangement.
  - The milk contractor's compensation for serving as the producer's agent, and the method by which the milk contractor will receive that compensation from the milk producer.
  - A security disclosure statement (see below).
- The milk contractor does not process, as a producer agent, more than 5 million pounds of producer milk in any month.
- The milk contractor gives, to each recipient of producer milk marketed by the contractor, a written invoice stating that the milk is producer milk not owned by the milk contractor.
- The milk contractor files a monthly report with DATCP. The milk contractor must file the report on or before the 25<sup>th</sup> day of the month. The report must include all the following:
  - The name and address of each person to whom the milk contractor marketed, in the preceding month, producer milk procured in this state.

- The total pounds of producer milk that the milk contractor marketed to each person in the preceding month.
- The milk contractor's total milk payment obligation to milk producers for producer milk that the contractor marketed in the preceding month.

### **Marketing Processed Dairy Products for Milk Producers**

This rule clarifies that ch. 126, Stats., does not apply to a person who markets only *processed dairy products* for milk producers, provided that the person does not procure, market or process any *raw producer milk*.

### **Milk Payroll Report; Clarification**

Under ch. 126, Stats., an applicant for an annual milk contractor license must report (1) the applicant's total annual payment obligation to milk producers, and (2) the largest obligation incurred at any time during the applicant's last fiscal year. The reported amounts are used to determine fund assessments and security requirements, if any. This rule clarifies that the applicant must report (1) the total amount paid for milk procured during the applicant's last fiscal year, and (2) the largest amount paid for milk procured in any single month during the last fiscal year.

### **Pay Statements to Milk Producers**

Under current rules, dairy plant operators must provide pay statements to milk producers. A pay statement identifies the producer and pay period, the amount of milk received, the grade of the milk, milk test results, the milk price and price adjustments, the gross amount due, the average gross pay per hundredweight less hauling charges, deductions from the gross amount due, and the net amount due.

This rule re-codifies, but does not change, current pay statement requirements for dairy plant operators. This rule requires all milk contractors, not just dairy plant operators, to provide pay statements to milk producers.

### **Milk Contractor Records**

Under current rules, dairy plant operators must keep certain records, including records of milk receipts and payments. This rule re-codifies, but does not change, current record keeping requirements for dairy plant operators. This rule requires all milk contractors, not just dairy plant operators, to keep records.

### **Milk Price Discrimination**

Current rules prohibit milk price discrimination by dairy plant operators. This rule does *not* extend the current rules to apply to other milk contractors. This rule updates some cross-references in the current rules, but does not change the current rules.

## Vegetable Contractors

### **General**

This rule requires vegetable contractors to comply with the new law, ch. 126, Stats. This rule supplements the new law, and amends or repeals rules that no longer apply.

### **Financial Statement; Disclosures**

Under ch. 126, Stats., a vegetable contractor must file annual financial statements with DATCP if the vegetable contractor incurs more than \$500,000 per year in contract obligations to producers. Other vegetable contractors may file *voluntary* financial statements in order to avoid paying fund assessments or to qualify for lower fund assessments. A vegetable contractor's financial ratios may affect the following:

- The vegetable contractor's eligibility to participate in the fund.
- The amount that the vegetable contractor must contribute to the fund.
- Whether or not the vegetable contractor must file security with DATCP.

Under this rule, a vegetable contractor's financial statement must disclose and describe all of the following:

- All notes, mortgages or other long-term liabilities not due or payable within one year.
- Any of the following items that are counted as assets in the financial statement:
  - Any non-trade note or account receivable from an officer, director, employee, partner, or stockholder, or from a member of the family of any of those individuals.
  - Any note or account receivable from a parent organization, a subsidiary, or an affiliate, other than an employee.
  - Any note or account that has been receivable for more than one year, unless the vegetable contractor has established an offsetting reserve for uncollectable notes and accounts receivable.

### **Financial Statement Attachments**

Some of the financial disclosures required by ch. 126, Stats., and this rule may be made in notes or attachments to the financial statement. Under this rule, an attachment to a reviewed or audited financial statement must satisfy the following requirements:

- The attachment must be on the letterhead of the certified public accountant who reviewed or audited the financial statement.
- The certified public accountant who reviewed or audited the financial statement must certify, in the attachment, whether the attachment is reviewed or audited.

## Security Disclosures to Producers

This rule requires vegetable contractors to make security disclosures to producers, so those producers understand the extent to which payments are backed by the agricultural security program. This rule specifies the form in which a vegetable contractor must make the disclosures. A vegetable contractor must include the disclosures in the proposed vegetable procurement contract with each producer.

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## Fiscal Estimate

This rule will allow some contractors to pay smaller assessments to the Agricultural Producer Security Fund. This will cause a slight loss of revenue to the fund.

Chapter 126, Stats., establishes fund assessment rates. A contractor's assessment is generally based on the contractor's financial ratios (including debt to equity ratio) and the amount of grain, milk or vegetables that the contractor procures or stores in this state. DATCP estimates that grain, milk and vegetable contractors will pay a total of approximately \$2 million in assessments each year.

This rule will allow some grain dealers, grain warehouse keepers and milk contractors to reduce their annual assessments by making certain adjustments to their debt to equity ratios. The rule allows these contractors to adjust their debt to equity ratios by deducting certain liabilities that are specifically identified in the rule. Contractors may use their adjusted debt to equity ratios to calculate their fund assessments. The department estimates that the adjustments will reduce total fund contributions by \$50,000 to \$70,000 per year.

You may obtain a complete fiscal estimate by contacting Kevin LeRoy at 608/224-4928.

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## Small Business Analysis

This rule will affect the following small businesses:

- *Agricultural producers.* This rule will benefit agricultural producers by improving and clarifying the producer security program.
- *Grain dealers.* This rule will benefit grain dealers, by allowing them to make liability adjustments when calculating their debt to equity ratio for purposes of ch. 126, Stats. But this rule will also impose some additional requirements on grain dealers (including financial statement disclosures, as well as security disclosures to producers) that may involve some added costs. These requirements are needed for the effective implementation of the agricultural producer security law.
- *Grain warehouse keepers.* This rule will benefit grain warehouse keepers, by allowing them to make liability adjustments when calculating their debt to equity

ratio for purposes of ch. 126, Stats. This rule will also impose some additional requirements on grain warehouse keepers (including financial statement disclosures, as well as security disclosures to depositors) that may involve some added costs. These requirements are needed for the effective implementation of the agricultural producer security law.

- *Milk contractors.* This rule will benefit some cheesemakers by providing a custom processing exemption, and by allowing cheesemakers to make certain liability adjustments when calculating their debt to equity ratio for the purpose of making security fund assessments. But this rule will also impose some additional requirements on milk contractors (including financial statement disclosures, as well as security disclosures to milk producers) that may involve some added costs. The rule spells out minimum standards for milk contractors who wish to qualify as *producer agents*. These requirements are needed for the effective implementation of the agricultural producer security law.
- *Vegetable contractors.* This rule will impose some additional requirements on vegetable contractors (including financial statement disclosures, as well as security disclosures to depositors) that may involve some added costs. These requirements are needed for the effective implementation of agricultural producer security law.

You may obtain a complete fiscal estimate by contacting Kevin LeRoy at 608/224-4928.

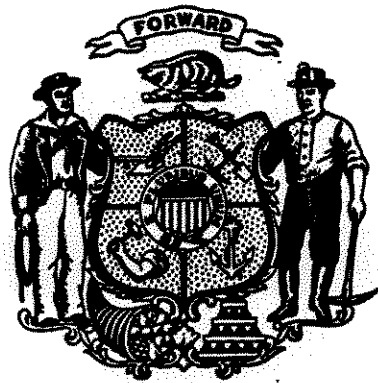
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Dated this 30<sup>th</sup> day of August, 2002

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION

By: Leslie F. L.  
James E. Harsdorf  
Secretary

END



END



State of Wisconsin  
Tommy G. Thompson, Governor

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**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

January 2, 2001

The Honorable Judy Robson, Co-Chair  
Joint Committee for the  
Review of Administrative Rules  
15 South State Capitol  
Madison, WI 53702

The Honorable Glenn Grothman, Co-Chair  
Joint Committee for the  
Review of Administrative Rules  
15 North State Capitol  
Madison, WI 53702

Dear Senator Robson and Representative Grothman:

The Department of Agriculture Trade, and Consumer Protection is asking the Joint Committee for the Review of Administrative Rules to extend the Department's emergency rule relating to security deposits and carpet cleaning for an additional 60 days, until April 17, 2001. Without this extension the emergency rule will end on February 16, 2001.

This emergency rule was promulgated at the direction of the Joint Committee. As requested by the Joint Committee, the Department repealed the "Note" at the end of Wis. Admin. Code § ATCP 134.06(3)(c) and incorporated the substance of the note into a new section of the rule, § ATCP 134.06(3)(d). The emergency rule was published and became effective on July 20, 2000. A copy of the emergency rule is attached.

The Department submitted a Scope Statement for a permanent rule to the DATCP Board on August 17, 2000, and the Board approved the Scope Statement at that meeting. A copy of the Board minutes approving the Scope Statement is attached.

After the Board approved the Scope Statement, the Department began meeting with members of the primary interest groups to discuss how to resolve the security deposit/carpet cleaning issue. The Department held several meetings in the fall and made progress in its discussions with the interest groups. At the November 15, 2000, JCRAR meeting, the department requested, and the Committee granted, the department's request to extend the emergency rule for 60 days, from December 18, 2000 until February 16, 2001.

Since the November 15th JCRAR meeting, the department has drafted several proposed rule changes and met with representatives from the interest groups on November 21, 2000 and December 21, 2000, to discuss various proposals. The Department expects to meet with the interest groups one more time, in early January 2001, to try to reach a resolution. If the JCRAR extends the emergency rule for 60 days as requested, the Department will have time to meet with the interest groups once more and, if there is progress on the outstanding issues, present a hearing draft rule to the DATCP Board.

The Hon. Judy Robson and the Hon. Glenn Grothman  
January 2, 2001  
Page 2

The Department hopes to present a hearing draft rule to the DATCP Board in February 2001. If the DATCP Board authorizes public hearings on a draft rule, the Department would likely bring a final draft rule to the Board in May or June 2001. If the DATCP Board approves the final draft rule in May or June, the Department would likely refer the final draft rule to the Legislature in June or July 2001. If the Legislature took no action to stop the rule, it would likely be published on September 1 or October 1, 2001.

Thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script that reads "Ben Brancel".

Ben Brancel  
Secretary



DEPARTMENT OF COMMERCE

EMERGENCY RULE RELATING TO THE EFFECTIVE DATE OF REQUIRED UPGRADES  
TO ABOVEGROUND BULK TANKS THAT WERE IN EXISTENCE ON MAY 1, 1991.

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 health, safety and welfare. The facts constituting the emergency are as follows:

Wisconsin Administrative Code Chapter Comm 10, Flammable and Combustible Liquids Code, became effective on 5/1/91. Section Comm 10.345 (2) contains requirements for bulk tanks in existence on that date to be provided with specific containment or leak detection upgrades within 10 years of that date. Some concerns have been expressed on the impact that compliance date could have on heating oil supplies and prices this winter. Construction requirements could result in a substantial number of tanks storing heating oil to be closed during the winter heating season in preparation for the required upgrades.

Based on these concerns, the department has agreed to extend the compliance deadline for 3 months until 8/1/01 if approvable tank system upgrade plans have been submitted to the department by 2/1/01.

These rules are therefore adopted as emergency rules to take effect immediately following 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 28<sup>th</sup>  
day of December, A.D. 2000.

Department of Commerce.



Brenda J. Blanchard, Secretary

SECTION 1. Comm 10.345 (2) (intro.) is amended to read:

Comm 10.345 (2) (intro.) Aboveground Except as provided in par. (e), aboveground outside storage tanks which exceed 5,000 gallons capacity and which were installed prior to May 1, 1991 shall be brought into compliance with either par. (a), (b), (c) or (d) within 10 years of May 1, 1991.

SECTION 2. Comm 10.345 (2) (e) is created to read:

Comm 10.345 (2) (e) 1. a. Tank owners and operators who have not complied with either par. (a), (b), (c) or (d) may operate their existing aboveground bulk storage tank systems through July 31, 2001 only if they have approvable plans for their tank system upgrade submitted to the department by February 1, 2001.

b. Plans submitted under subparagraph a., for an installation that is a consolidation of multiple systems or bulk storage sites, are not approvable unless all the site locations associated with the consolidation are identified by facility name, location and commerce tank regulated objects number in a cover letter submitted with the plans.

2. Tank owners and operators who do not have approvable plans submitted to the department by February 1, 2001 shall take tanks that do not comply with either par. (a), (b), (c) or (d) out of service no later than May 1, 2001 and immediately empty and close the tanks.

3. For the purposes of this section, approvable plans are plans that comply with the specific requirements of this section and the applicable requirements under s. Comm 10.10.

**FISCAL ESTIMATE WORKSHEET**  
Detailed Estimate of Annual Fiscal Effect  
DOA-2047(R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Ch. Comm 10

Amendment No.

**Subject**

Effective Date of Required Upgrades to Aboveground Bulk Tanks That Were In Existence on May 1, 1991

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

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

NET CHANGE IN COSTS      \$ 0      \$ 0

NET CHANGE IN REVENUES      \$ 0      \$ 0

Agency/Prepared by: (Name & Phone No.)  
Commerce/Duane Hubeler 6-1390

Authorized Signature/Telephone No.  


Date  
12/28/00

FISCAL ESTIMATE  
DOA-2048 (R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Ch. Comm 10  
Amendment No. if Applicable

Subject Effective Date of Required Upgrades to Aboveground Bulk Tanks That Were In Existence on May 1, 1991

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

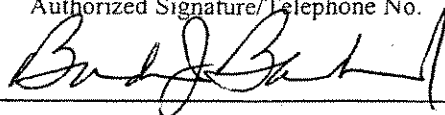
Assumptions Used in Arriving at Fiscal Estimate

The Emergency Rule simply extends by 3 months a deadline to upgrade aboveground bulk tanks. There are no additional enforcement requirements or anything that would affect revenues.

Long-Range Fiscal Implications  
None Known or Anticipated

Agency Prepared by: (Name & Phone No.)  
Commerce/Duane Hubeler 6-1390

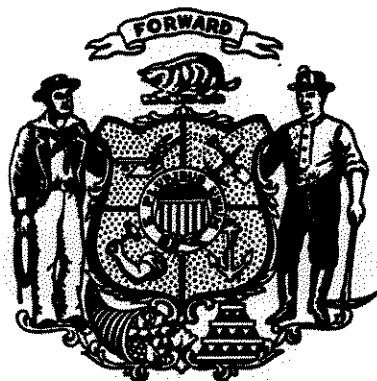
Authorized Signature/Telephone No.



Date

12/28/00

*END*



*END*



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us

Scott McCallum, Governor  
Philip Edw. Albert, Secretary

8/8/02

Gary Poulson  
Assistant Revisor of Statutes  
Suite 800  
131 West Wilson Street  
Madison, Wisconsin 53703-3233

Douglas LaFollette  
Secretary of State  
10th Floor  
30 West Mifflin Street  
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

**TRANSMITTAL OF EMERGENCY RULE ADOPTION**

EMERGENCY RULE NO.: Ch. Comm 118

RELATING TO: Agricultural Development Zone Program

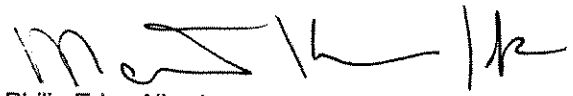
Pursuant to section 227.24 (3), Stats., an agency is required to file a certified copy of every emergency rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

- 1. Order of Adoption.
- 2. Rules Certificate.
- 3. Emergency Rule.

Pursuant to section 227.24 (1)(e), Stats., a plain language analysis and a fiscal estimate is also included.

Respectfully submitted,



Philip Edw. Albert  
Secretary



# RULES CERTIFICATE

## Emergency Rule Department of Commerce

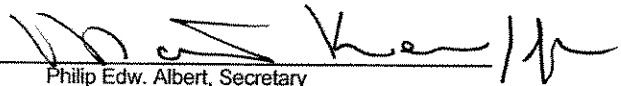
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Philip Edw. Albert, Secretary of the Department of Commerce,  
and custodian of the official records of said department, do hereby certify that the annexed emergency rule  
relating to Ch. Comm 118, Agricultural Development Zone Program  
(Subject)

was duly approved and adopted by this department.

I further certify that said copy has been compared by me with the original on file in the department and  
that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set  
my hand at 201 West Washington Avenue  
in the city of Madison, this 8<sup>th</sup>  
day of August A.D. 2002

  
Philip Edw. Albert, Secretary



**Fiscal Estimate Worksheet — 2001 Session**  
 Detailed Estimate of Annual Fiscal Effect

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number ch. Comm 118

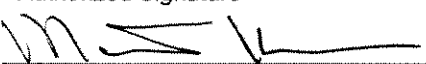
Subject  
 Agricultural Development Zone Program

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

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations — Salaries and Fringes		\$ 0	\$ - 0
(FTE Position Changes)		( 0.00 FTE )	(- 0.00 FTE )
State Operations — Other Costs		0	- 0
Local Assistance		0	- 0
Aids to Individuals or Organizations		0	- 0
<b>Total State Costs by Category</b>		\$ 0	\$ - 0
<b>B. State Costs by Source of Funds</b>			
GPR		\$ 0	\$ - 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		0	- 0
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<b>Increased Revenue</b>	<b>Decreased Revenue</b>
GPR Taxes		\$ 0	\$ - 0
GPR Earned		0	- 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		0	- 0
<b>Total State Revenues</b>		\$ 0	\$ - 0

**Net Annualized Fiscal Impact**

	State	Local
Net Change in Costs	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ 0

Prepared By: Jean M. MacCubbin, Code Consultant	Telephone No. 608-266-0955	Agency Commerce
Authorized Signature 	Telephone No. 266-2125	Date (mm/dd/ccyy) 8/8/02

**Fiscal Estimate — 2001 Session**

- Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number ch. Comm 118

Subject  
 Agricultural Development Zone 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. <input checked="" type="checkbox"/> Increase Costs<br><input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                       | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:

- Towns       Villages       Cities  
 Counties       Others Tribes  
 School Districts       WTCS Districts

Fund Sources Affected

- GPR       FED       PRO       PRS       SEG       SEG-S

Affected Chapter 20 Appropriations

**Assumptions Used in Arriving at Fiscal Estimate**

Section 560.798, Stats., as passed in the 2001/03 biennial budget, establishes an Agricultural Development Zone Program. It requires Commerce to develop rules concerning the designation of one zone and the certification of agricultural businesses within such zone. Ch. Comm 118 relates to establishing the process and defining key terms.

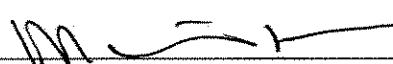
1. State Fiscal Effect

The rule will not significantly increase the workload for the Department of Commerce; this work will be accomplished with existing staffing levels. The agency, however, will absorb these costs by having existing development zone staff attend to this work.

2. Local Fiscal Effect

Under the rules, towns, villages, cities, tribes, and counties, either separately or in concert, may submit applications for designation. These applications are expected to be lengthy documents and may require a significant investment of time for completion. Costs arising from the rules are, however, permissive, since applicants are not required to apply for the program.

**Long-Range Fiscal Implications**

Prepared By: Jean M. MacCubbin, Code Consultant	Telephone No. 608-266-0955	Agency Commerce
Authorized Signature 	Telephone No. 266-2125	Date (mm/dd/ccyy) 8/8/02

**Department of Commerce**  
**Emergency Rule Relating to Agricultural Development Zone Program**

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that adoption of the rule filed in this order is necessary for the immediate preservation of public health, safety and welfare.

Facts constituting the emergency are as follows:

1. In accordance with s. 560.798 (5), Stats., the Department of Commerce has the responsibility to promulgate rules for the operation of an agricultural development zone to provide for the attraction, promotion, retention, and expansion of agricultural businesses in the state.
2. Section 560.798 (3), Stats., makes available certain tax benefits for certified business within an agricultural development zone; tax credits first apply to tax years beginning on or after January 1, 2003.
3. Commerce, being the agency with primary authority for economic development in the state, recognizes that there is a verified need to attract, promote retain, and expand Wisconsin agricultural businesses. For example, over the past 50 years, Wisconsin has experienced an average of six dairy farms leaving production each day.
4. In the year 2001, state milk production declined by more than one billion pounds, resulting in a near 5% decline in milk production.
5. Western states have increased their cheese production, while Wisconsin experiences declining milk production and dairy processing activities; this program would immediately assist Wisconsin in regaining it's prominence in dairy and dairy processing production.
6. The creation of this program combined with other economic development programs in the state is expected to increase the competitiveness of the Wisconsin dairy industry.

This emergency rule is being created in order that the process of designating an agricultural development zone be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Agricultural Development Zone Program.

Pursuant to s. 227.24, Stats., this rule is 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.

Dated at Madison, Wisconsin, this

8 day of August, A.D. 2002  
by the Department of Commerce

  
Philip Edw. Albert, Secretary

The Wisconsin Department of Commerce proposes an order to: create ch. 118 relating to the Agricultural Development Zone Program.

\*\*\*\*\*

**Analysis of Proposed Rules**

**Statutory authority:** s. 560.798, Stats.  
**Statutes interpreted:** s. 560.798, Stats.

Under s. 560.798 (5), Stats., the Department of Commerce has the responsibility of promulgating rules for the operation of the Agricultural Development Zone Program.

This rule is being created in response to 2001 Wisc. Act 16, which provides authority for administering such a program, the designation of an agricultural development zone, the certification of agricultural businesses, and the determination of tax benefits available to certified agricultural businesses.

The following listing highlights the major items contained in this new chapter:

- Creates the process for application and designation of the Agricultural development zone.
- Provides a means for modification of the boundary of an agricultural development zone.
- Creates the process for application and certification of agri-businesses.
- Establishes criteria for eligibility to certify agri-business.
- Creates the process to determine and claim tax benefits and notifications to the Department of Revenue.

\*\*\*\*\*

SECTION 1. Chapter Comm 118 is created to read:

## Chapter Comm 118

### AGRICULTURAL DEVELOPMENT ZONE PROGRAM

Comm 118.01 Purpose, scope and authority.

Comm 118.02 Definitions.

#### Subchapter I—Agricultural Development Zone

Comm 118.10 Application, evaluation and designation.

Comm 118.11 Modification of boundaries.

#### Subchapter II—Certified Business

Comm 118.20 Eligibility for application for business certification.

Comm 118.21 Application and determination.

Comm 118.22 Extension.

Comm 118.23 Revocation.

#### Subchapter III—Tax Benefits

Comm 118.30 Eligibility.

Comm 118.31 Modification.

Comm 118.32 Claims.

#### Subchapter IV - Records

Comm 118.40 Documentation and records.

**Comm 118.01 Purpose, scope and authority. (1) PURPOSE AND SCOPE.** The purpose of this chapter is to establish a procedure for the administration and operation of the agricultural development zone program. The provisions of this chapter shall apply to designating an agricultural development zone and certifying agricultural businesses eligible for tax credits for the attraction, promotion, retention and expansion of agricultural business in the state.

**(2) AUTHORITY.** This chapter relates to the agricultural development zone program as promulgated pursuant to s. 560.798, Stats.

**Comm 118.02 Definitions.** In this chapter:

**(1) "Agricultural business"** means a business that is part of an agricultural business/food processing cluster.

**Note:** Such an agricultural business/food processing cluster includes, but is not limited to, the growing of foods and the processing of agricultural products.

**Note:** Agricultural business includes all of the activities or operations that are involved in the growth, production, processing, manufacturing, distribution, and wholesale and retail sales of agricultural and food products.

**(2) "Agricultural development zone"** means an area designated by the department consistent with the agricultural development zone program as authorized under s. 560.798, Stats.

(3) "Agricultural development zone program" means the program administered under the scope of this chapter as provided in s. 560.798, Stats.

(4) "Area" means a geographic region that is located within a rural municipality which may contain entire counties or portions thereof, and is under the jurisdiction of an eligible applicant.

(5) "Certified business" means a person that conducts an agricultural business-related economic activity in an agricultural development zone and has been certified as eligible for tax benefits by the department under subch. II.

(6) "Department" means the department of commerce.

(7) "Eligible applicant" means the governing body of one or more cities, villages, towns or counties, or the elected governing body of a federally-recognized American Indian tribe or band in the state of Wisconsin. The applicant shall either be or have within its legal boundaries a rural municipality as defined in sub. (11).

(8) "Expanding business" means a person that is making a capital investment such as expansion of existing facilities, construction of new facilities or purchase of new equipment, or is retaining, creating or significantly upgrading jobs.

(9) "New business" means a person that has been in operation for less than one year prior to the date of application for business certification under subch. II and be eligible for tax benefits under subch. III.

(10) "Person" means a natural person, estate, trust, partnership, corporation, tax-option corporation, LLC, insurance company, or trade and business entity of American Indian tribe or band on reservation property or on property held in tribal trust.

(11) "Rural municipality" has the meaning under s. 560.798 (1), Stats.

**Note:** Section 560.798 (1), Stats., reads: '(1) ..."rural municipality" means any of the following: (a) A city, town, or village that is located in a country with a population density of less than 150 persons per square mile.  
(b) A city, town, or village with a population of 6,000 or less.'

(12) "Tax benefit" means a tax credit under s. 560.798 (4) (b) , Stats.

## Subchapter I—Agricultural Development Zones

**Comm 118.10 Application, evaluation and designation. (1) GENERAL.** (a) As specified under s. 560.798 (2) (a), Stats., the department may designate one area in the state as a agricultural development zone. The designation shall be in effect for 10 years from the time the department initially designates an area as an agricultural development zone.

(b) The department may consider designating sub-regions for the administration and operation of the agricultural development zone program.

(c) 1. Except for subd. 2., the department may not designate an agriculture development zone in a county that includes an area designated as a technology zone under s. 560.96, Stats.

2. The department may designate an area as an agricultural development zone when a technology zone includes a municipality that is located within two counties.

**(2) APPLICATION.** Applications for designation as an agricultural development zone shall be submitted to the department by eligible applicants.

**(3) APPLICATION CONTENT.** Each application for designation as a agricultural development zone shall contain all of the following:

(a) The name, address, phone number and designated contact person of the eligible applicant.

(b) A map outlining the specific area where agricultural business development is likely to occur.

(c) A brief description of principal agricultural business development-supporting efforts and activities. This description shall at least include any plan or strategy developed for the attraction, promotion, retention or expansion of agricultural businesses.

**(4) EVALUATION/DESIGNATION** (a) The department shall evaluate any application submitted by an eligible applicant based on the local capacity and organization of the area as it relates to the attraction, promotion, retention and expansion of agricultural business.

(b) Commerce shall designate an area as an agricultural development zone when a favorable determination is made based upon local capacity and organization, and conformance to the provisions of this section.

**(5) NOTIFICATION OF DESIGNATION.** The department shall provide written notification of designation as an agricultural development zone. The date of such notification shall be the beginning date of the agricultural development zone duration as specified under sub. (1).

**(6) TAX BENEFITS.** As specified under s. 560.798, Stats., not more than \$5,000,000 of tax benefits may be claimed in an agricultural development zone for the duration.

**Comm 118.11 Modification of boundaries.** (1) A boundary of an agricultural development zone may be modified by the department upon review of additional information submitted by the agricultural development zone contact since the date of notification.

(2) The modification of an agricultural development zone boundary shall have no effect on the agricultural development zone duration specified under s. Comm 118.10 (1).

## **Subchapter II—Certified Business**

**Comm 118.20 Eligibility for application for business certification.** (1) **GENERAL.** As provided under s. 560.798, Stats., the department may certify persons for tax benefits available under this chapter.

(2) **CRITERIA FOR ELIGIBILITY FOR APPLICATION.** A person located in or planning to be located in an agricultural development zone shall submit an application to the department as specified under s. Comm 118.21. A person shall meet all of the following:

(a) The person's business is new or expanding.

(b) The person's business meets the definition of an agricultural business specified under s. Comm 118.02 (1).

(c) The agricultural development zone contact recommends the person's business for certification.

**Comm 118.21 Application and determination.** (1) **SUBMITTAL.** A person who meets the provisions specified under s. Comm 118.20 (2) shall submit an application to the department which includes at least all of the following:

(a) The name, address and phone number of the person's agricultural business and a designated contact person.

(b) A description of the project.

(c) The appropriate Wisconsin tax identification number of the person.

(d) The names and addresses of other locations outside the agricultural development zone where the person conducts business and a description of the business activities conducted at those locations.

(e) The estimated total investment of the person's business in the agricultural development zone.

(f) The estimated number of full-time jobs that will be created, retained or significantly upgraded in the agricultural development zone because of the person's agricultural business.



(g) The average starting wages and benefits that will be provided to persons hired as a result of the project.

(h) Historical and projected financial information.

(i) Other information as required by the department or the agricultural zone contact.

(2) TAX BENEFIT DETERMINATION. The department shall consider all of the following to establish a tax benefit limit:

(a) The prospects for the project to attract related agricultural business to the area.

(b) The amount of private investment that is likely to result from the project.

(c) The number and quality of jobs that are likely to be retained, created or upgraded as a result of the project.

(d) The competitive effect of the tax benefits on other agricultural businesses in the area.

(e) Whether the project is likely to occur or continue without allocation of the tax benefits available under this chapter.

(f) The financial soundness of the agricultural business.

(g) Whether the project will likely positively affect an area's economic distress.

(h) Whether the project will result in dislocation of an agricultural business from one municipality to another.

(j) Any other factors that the department may consider relevant.

(3) NOTIFICATION. (a) For a person located in an agricultural development zone. If the department determines that the person is eligible to be certified for tax benefits under the standards as provided in sub. (2), the department shall notify the person of its certification in an agricultural development zone and enter into an agreement as specified under s. 560.798 (3) (b), Stats.

(b) A person planning to be located in an agricultural development zone. In order to be eligible to be certified for tax benefits under the standards as provided in sub. (2), the person's business shall be located in an agricultural development zone. When the business is located in an agricultural development zone, the department shall notify the person of its certification in an agricultural development zone and enter into an agreement as specified under s. 560.798 (3) (b), Stats.

**(4) CERTIFICATION DISALLOWED IN CERTAIN CASES.** No person may be certified under s. 560.798, Stats., if the proposed new business, expansion of an existing business or other proposed economic activity in an agricultural development zone would do either of the following:

(a) Result in the direct loss of full-time jobs at another of the person's agricultural business located in this state but not located within an agricultural development zone.

(b) Likely result in the direct transfer of employees from a business location in this state to a business location in an agricultural development zone, unless it is determined by the department that the total number of full-time jobs provided by the person in this state would be reduced if the person were not certified under s. 560.798, Stats., or if the situation is extraordinary.

**Comm 118.23 Revocation.** (1) The department shall revoke the certification of a person's agricultural business certified under s. 560.798 (3), Stats., for either of the following circumstances:

(a) Submittal of false or misleading information in order to obtain certification under this chapter.

(b) Cessation of operations as an agricultural business within an agricultural development zone.

(2) When certification has been revoked, the department shall so notify the department of revenue.

### **Subchapter III—Tax Benefits**

**Comm 118.30 Eligibility.** The actual amount of tax benefit that a person may be eligible to claim shall be determined by the department in accordance with subch. II.

**Comm 118.31 Modification.** (1) **INCREASE TAX BENEFITS.** The department may, on the request of a certified business and on the recommendation of the agricultural development zone contact, increase the limit of tax benefits established for the certified business, if the department does all of the following:

(a) Considers the tax credit benefits awarded to all certified businesses in an agricultural development zone such that not more than \$5,000,000 in tax credits may be claimed in an agricultural zone.

(b) Revises the certification and provides a copy of the revised form to the department of revenue and to the certified business.

(2) **DECREASE TAX BENEFITS.** (a) The department may reduce the limit of tax benefits as established under s. Comm 118.30 or sub. (1) if the department determines that the information on which the limit is based was inaccurate or significantly misestimated.

(b) The department shall revise the certification and provide a copy of the revised form to the department of revenue and to the certified business.

**Comm 118.32 Claims. (1)** A certified business may file for tax benefits using forms acceptable to the department of revenue. Agricultural development zone tax benefit claims shall include at least all of the following:

- (a) A copy of the certification issued by the department.
- (b) A copy of a statement from the department verifying the tax benefit claim under sub. (3).
- (c) The state employer tax identification number.
- (d) The North American Industry Classification System code (NAICS) for that business.

**Note:** For additional information on NAICS, refer to U.S. Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503; phone (202) 395-3093; fax (202) 395-7245.

- (e) Any forms required by the department of revenue.

(2) Prior to filing for tax benefits under sub. (1), a certified business shall complete and file with the department an annual project report supporting the tax benefit claim to the department on a form prescribed by the department. The annual project report shall include all of the following:

- (a) The information required under ss. 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), and 71.47 (1dm) or (1dx), Stats.
- (b) The status of the certified business' project including, without limitation, the number of jobs created, retained or significantly upgraded, the total amount invested and other information relating to the tax benefits claimed by the certified business.

- (c) Documentation of investments.
- (d) Any other information as requested by the department.

(3) (a) The department shall verify the tax benefit claim. The department may request additional information from the certified business to support the claim.

(b) No person may file for tax benefits under this chapter without the written approval of the department.

## Subchapter IV - Records

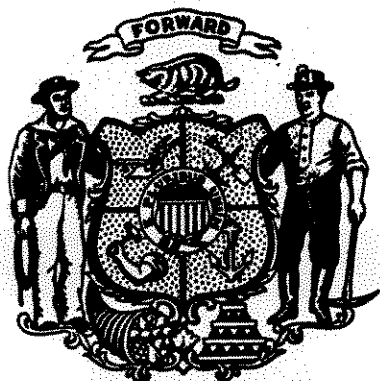
**Comm 118.40 Documentation and records.** Certain documents, records, information and other materials submitted to the department with an application under this chapter may not be subject to disclosure and may be removed or separated from records that may be disclosed under s. 19.36 (6), Stats.

- (1) Trade secret information shall not be subject to disclosure under s. 19.36 (5), Stats.
- (2) Tax documents shall not be subject to disclosure under s. 71.78, Stats.
- (3) Social security and federal employer identification numbers shall not be subject to disclosure under 5 USC 552a and other applicable federal law.
- (4) Private financial information shall not be subject to disclosure as determined in a balancing test by the legal custodian of the department.

**Note:** Any forms referred to in this chapter are available without a fee on request from the Department of Commerce, Bureau of Enterprise Development, 201 W. Washington Avenue, P.O. Box 7970, Madison, WI 53707-7970; phone (608) 266-7123; fax (608) 266-8969; or on the Commerce webpage at <http://www.commerce.state.wi.us/CD/CD-bed.html>.

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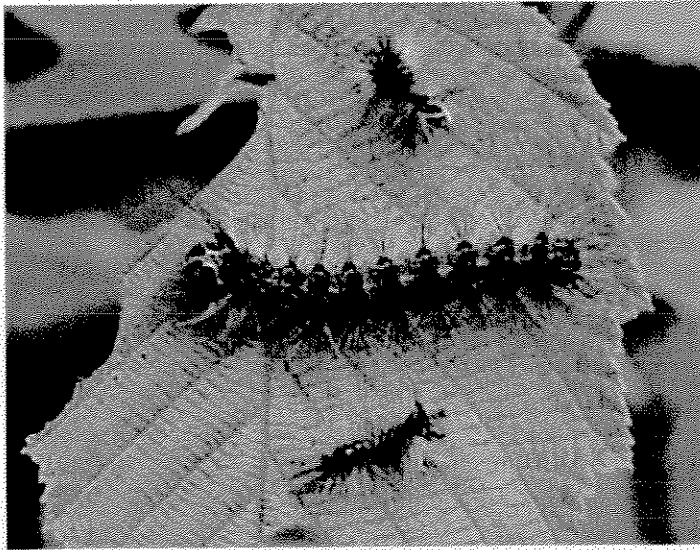
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Legislative Review of Gypsy Moth Suppression Rule  
11/7/02 9:00 am. 411 S Capitol  
Presenting: Darrell Zastrow and Dr. Andrea Diss

1. Gypsy moth is an exotic, invasive species, which defoliates a variety of trees.
  - The gypsy moth has been established throughout the northeastern United States for many years.
  - The gypsy moth is now established in eastern counties of the state.
  - When established the gypsy moth goes through periodic outbreaks. Populations explode and forests can be stripped of leaves in late June. The stress of heavy defoliation can cause the death of some trees.
  - When outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels.
2. The purpose of this rule is to establish the procedures for participation by landowners for a federally cost-shared, voluntary gypsy moth suppression program.
  - The rule was drafted by the DNR with assistance from federal and state agencies, UW-Madison, and the County and Town Associations.
  - An emergency rule was adopted on November 10, 2000.
  - A final rule was adopted on August 1, 2001.
3. The rule conforms to requirements for eligibility under the USDA Forest Service cost sharing requirements – including the requirement to remove spray blocks due to an objector.
4. In the DNR suppression program, the pesticide typically used is *Bacillus thuringiensis kurstaki* (Btk).
  - This naturally occurring pesticide affects only caterpillars and is broken down by sunlight within 10 days of application.
5. All sites proposed for the suppression program are checked for the presence of rare species that could be negatively affected by the Btk spray.
  - If such species are present, the state program has access to the viral insecticide Gypchek, which only affects gypsy moth.
  - Gypchek is not commercially available and only state suppression programs have access to this product.
6. In 2001 about 1,400 acres and in 2002 about 6,000 acres respectively were successfully treated in the DNR suppression program to prevent defoliation.



Gypsy moth caterpillars



Female gypsy moth laying eggs



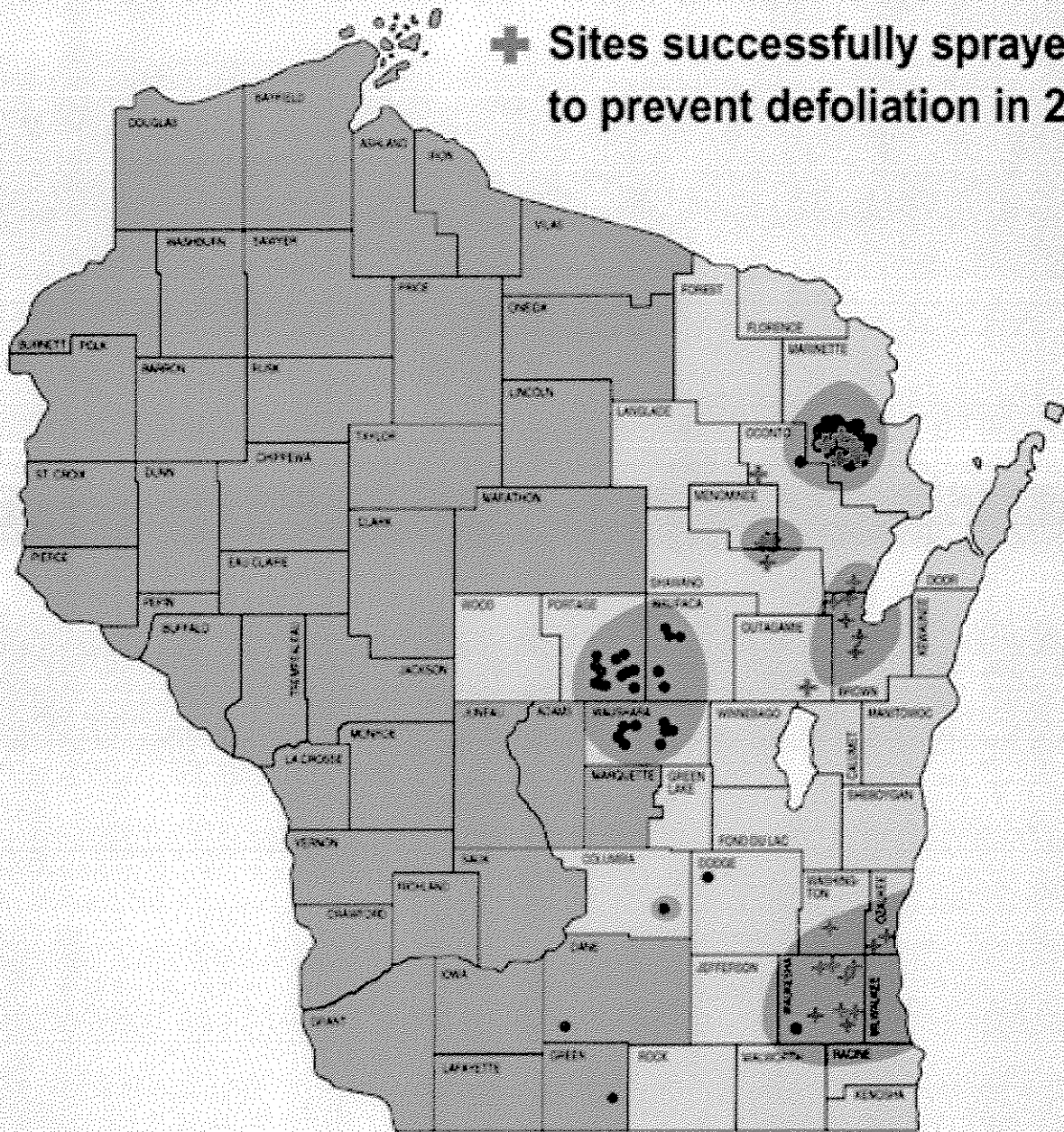
Tree trunk showing numerous egg masses



Gypsy moth defoliation in Marinette County

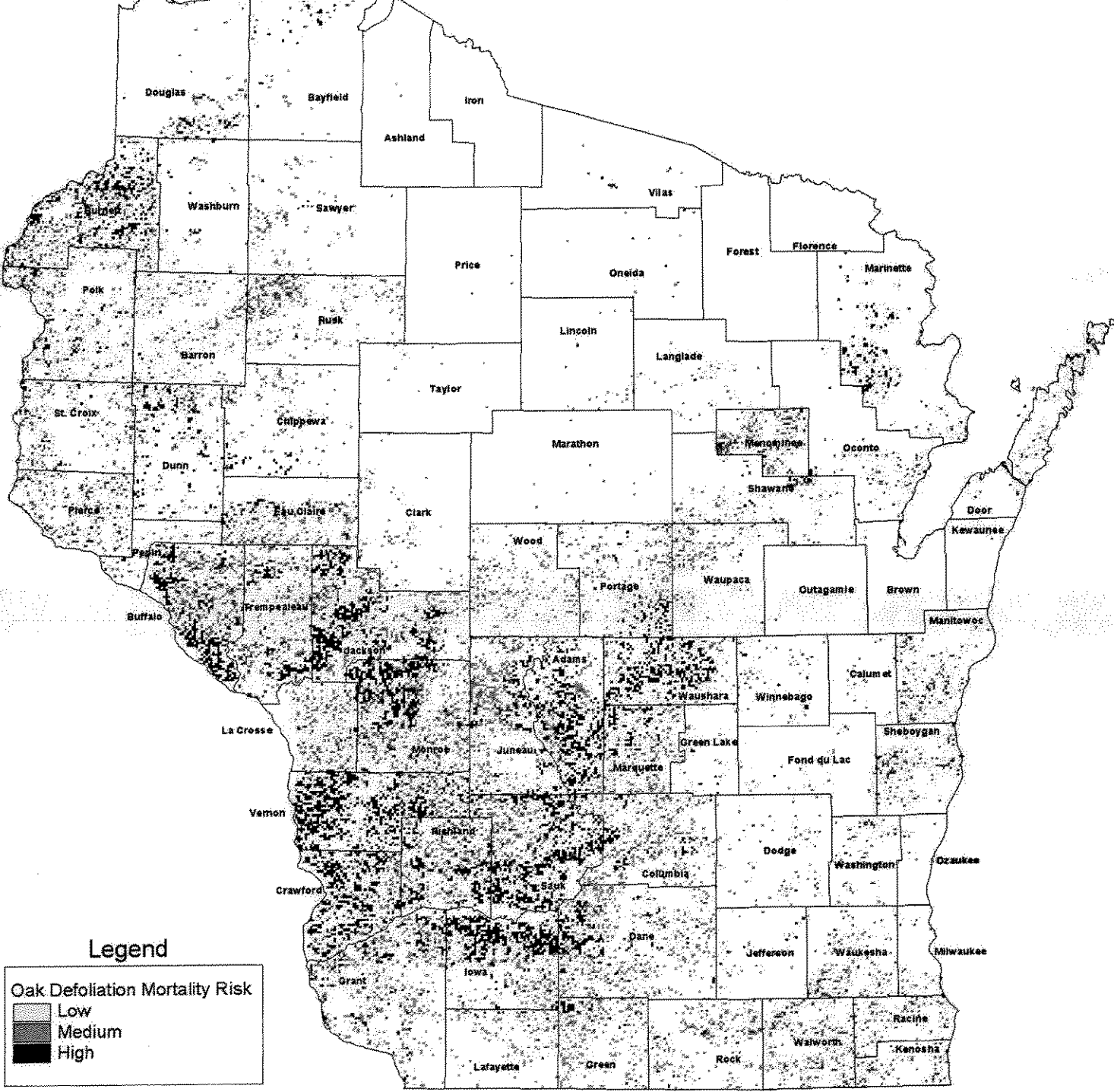
# Gypsy Moth Distribution

- Uninfested
- Infested
- Defoliated in 2002
- Areas within which defoliation could occur in 2003
- + Sites successfully sprayed to prevent defoliation in 2002





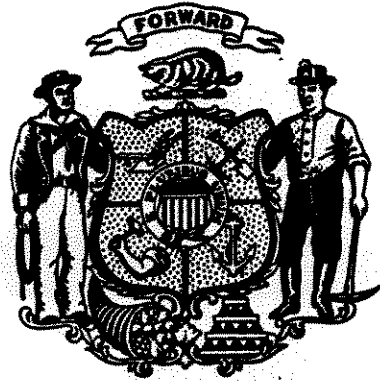
# Risk Of Oak Mortality Due To Defoliation



Legislative Review of Gypsy Moth Suppression Rule  
11/7/02 9:00 am. 411 S Capitol

1. The goal of the suppression program is minimize public concerns over large gypsy moth populations and to prevent stress or mortality of defoliated trees.
  - This goal can be achieved by reducing outbreaks of gypsy moth below the level where they cause significant defoliation.
  
2. This rule allows the DNR to offer communities and individuals an aerial spray treatment and cost sharing to pay for the treatment and preparatory work.
  - Without the rule we would not be able to facilitate federal cost sharing.
  - Most communities and individuals would have difficulty attracting a private applicator for < 500 acres.
  - Most communities and individuals would have difficulty satisfying stringent DATCP rules on pesticide application in residential areas.
  - Costs per acre for suppression applications would likely increase.
  
3. Criteria of eligibility for the program were chosen to ensure low costs and effective treatment.
  - Criteria were developed under the Coordinated Gypsy Moth Program which include five state and federal agencies
  - Minimum egg mass density, tree cover and percentage of favored species criteria target the greatest cost effective impact to prevent defoliation.
  - Outbreaks and defoliation can be predicted the previous fall using surveys of egg mass numbers. Treatments are planned based on survey results.
  - The 40-acre minimum block size was chosen to minimize the risk of spray failure due to re-infestation while allowing for smaller blocks. Where re-infestation from surrounding land is not possible due to inappropriateness of the habitat, the program does allow publicly owned properties down to 20 acres to be treated. Inappropriate habitat for gypsy moth includes crop fields, parking lots, playing fields, bodies of water, malls or any other land uses that don't provide trees for feeding. (Example: 20-acre oak dominated park surrounded by an agricultural landscape)
  - Treating populations through an aerial application before they are high enough to cause defoliation is a waste of money. There is no evidence that such treatments prevent future outbreaks.
  
4. DNR is considering a proposed rule change that would extend that 20-acre exception to privately owned blocks.
  - A reduction in the minimum size of blocks to 20 acres regardless of surrounding habitat is logistically possible, however, re-infestation and possible defoliation would be more likely in such small blocks, particularly in large forested blocks with very high populations of gypsy moth.
  - Generally speaking, the larger the treatment block, the more effective the treatment.

END



END



APR 16 2001

## Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum  
Governor

Terrence D. Mulcahy, P.E.  
Secretary

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

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

April 12, 2001

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 RR 1**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans RR 1. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "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  
Alice Morehouse  
Mike Goetzman  
Ruben Anthony  
Jane Carrola  
Dennis Leong

## **STATEMENT OF SCOPE**

### **DESCRIPTION OF THE OBJECTIVE OF THE RULE:**

This rule making will amend Trans RR 1.04(3), relating to qualifications for rustic road designation, by deleting a reference to ch. Trans 76, which was repealed in 1997, dealing with functional classification.

### **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 purpose of the Rustic Roads program is to identify, designate and preserve a system of lightly traveled roads for the enjoyment of the traveling public.

Trans RR 1.04 defines a set of criteria that a potential rustic road should have in order to be nominated. Criteria in this section include: (1) definition of "rustic" characteristics; (2) specification that the route be a low-volume road; (3) requirement that the road not be scheduled or anticipated for major improvement; (4) requirement that the proposed route currently does not have high density development along it; (5) a minimum length requirement of 2 miles, and (6) specifying that the land adjacent to the rustic road should have appropriate zoning so that its rustic character and low density development be preserved.

Trans RR 1.04(3) is also part of the set of defining criteria, referencing the now repealed ch. Trans 76 on highway functional classification system. This chapter used a type of classification system that grouped streets and highways according to the type of service they provided, ranging from mobility to land access function. At the upper end of the system, principal arterials emphasize traffic mobility with long uninterrupted travel and at the lower end, local streets and roads emphasize access.

There is no definition for the term "arterial" or "collector" in state statutes or in the Administrative Code. The criteria in Trans RR 1.04 are considered to be sufficient for selection of roads appropriate for inclusion in the rustic roads program without the need to include functional classification as a factor.

Therefore, Trans RR 1.04(3) will be amended to delete the reference to ch. Trans 76.

### **STATUTORY AUTHORITY FOR THE RULE:**

s. 83.42, Stats.

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

20 hours

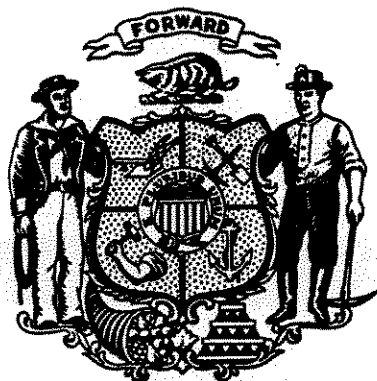
Signed at Madison, Wisconsin, this 12<sup>th</sup> day  
of **April**, 2001.



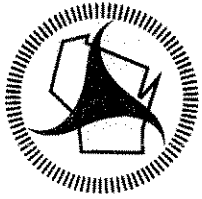
---

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

END



END



JUN 06 2001

## Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum  
Governor

Terrence D. Mulcahy, P.E.  
Secretary

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

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-Mail: [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)

June 4, 2001

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 205**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 205. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Senator Judy Robson, Co-Chair/JCRAR  
Representative Glenn Grothman, Co-Chair/JCRAR  
Alice Morehouse  
Mike Goetzman  
Ruben Anthony  
Doug Dalton  
Beth Cannestra



## STATEMENT OF SCOPE

### **DESCRIPTION OF THE OBJECTIVE OF THE RULE:**

This rule making will amend ch. Trans 205, relating to county trunk highway standards, to eliminate obsolete references to ch. Trans 76 in ss. Trans 205.02(5) and 205.03.

### **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 rule making will clarify that functional classification maps maintained by the Department control which engineering design criteria apply to particular highways.

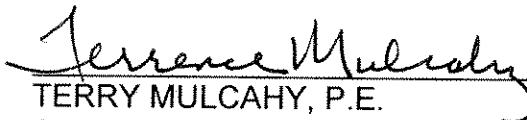
### **STATUTORY AUTHORITY FOR THE RULE:**

ss. 84.01(5), (9), (15) and (23), 86.14(1) and 83.42(1), Stats.

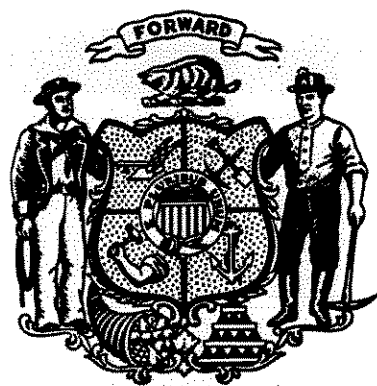
### **ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:**

2 hours

Signed at Madison, Wisconsin, this 31 day  
of May, 2001.

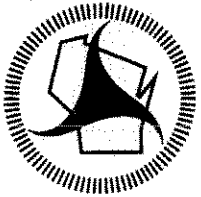
  
TERRY MULCAHY, P.E.  
Secretary  
Wisconsin Department of Transportation

*END*



*END*

DEC 18 2001



## Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum  
Governor

Terrence D. Mulcahy, P.E.  
Secretary

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

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FAX: 608-267-6734  
E-Mail: [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)

December 12, 2001

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 276**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 276. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Senator Judy Robson, Co-Chair/JCRAR  
Representative Glenn Grothman, Co-Chair/JCRAR  
Alice Morehouse  
Mike Goetzman  
Doug Van Buren  
Jeffrey Lorentz  
Loralee Brumund  
Pete Rusch

## STATEMENT OF SCOPE

### **DESCRIPTION OF THE OBJECTIVE OF THE RULE:**

This rule making will explain and clarify motor carrier weighing procedures at permanent weighing facilities operated by the Department of Transportation, Division of State Patrol (DSP) and private scales.

### **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:**

Chapter Trans 276, relating to size and weight of vehicles and vehicle combinations, identifies and designates highways where overlength vehicles and combinations of vehicles can be operated and clarifies state and federal rules affecting the weight, width and length of vehicles and combinations of vehicles and the number of vehicles in combination.

The proposed amendment to Trans 276 will explain and clarify weighing procedures referenced in s. 348.15(5), Stats., as being "performed in accordance with and under conditions accepted as good weighing technique and practice" by incorporating the weighing techniques identified in the DSP "Weight Enforcement Manual." These techniques are currently incorporated into DSP motor carrier weighing procedures and are taught by the Wisconsin State Patrol Academy to State Patrol and non-State Patrol law enforcement officers who also enforce motor carrier weight limitations specified in Wisconsin statutes and federal rules.

### **STATUTORY AUTHORITY FOR THE RULE:**

ss. 85.16(1) and 227.11(2)(a), Stats.

The statutes to be interpreted by this rule making are ss. 348.01(2)(am) and 348.15(5), Stats., relating to weighing motor carriers and general terms of enforcement of weight limitations for motor carriers.

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

100 hours

Signed at Madison, Wisconsin, this 12<sup>th</sup> day of  
December, 2001.

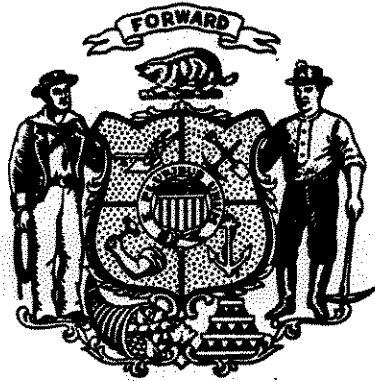


TERRY MULCAHY, P.E.

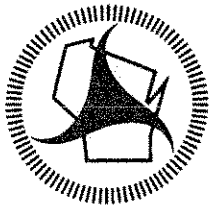
Secretary

Wisconsin Department of Transportation

*END*



*END*



## Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum  
Governor

Thomas E. Carlsen, P.E.  
Acting 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

August 12, 2002

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 313**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 313. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Senator Judy Robson, Co-Chair/JCRAR  
Representative Glenn Grothman, Co-Chair/JCRAR  
Alice Morehouse  
Mike Goetzman  
Bob Young  
Loralee Brumund  
Julie Clark  
Dennis Hughes

## STATEMENT OF SCOPE

### **DESCRIPTION OF THE OBJECTIVE OF THE RULE:**

This rule making will amend DOT administrative rules, relating to ignition interlock devices (IIDs) and driver licensing, to implement a statewide ignition interlock program and to develop a pilot project. The proposed statewide IID program will update reporting requirements for vendors and service providers to improve coordination and cooperation between the Department, assessment agencies and law enforcement.

### **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:**

Section 110.10, Stats., as created by 1999 Wis. Act 109, requires DOT to provide for all of the following by rule:

- (1) Create a process for the selection of persons to install, service and remove IIDs from motor vehicles;
- (2) Provide for a periodic review of the fees charged to the owner of a vehicle for the installation, service and removal of an IID;
- (3) Require IID providers in Wisconsin to establish pilot programs involving the voluntary use of IIDs;
- (4) Require IID providers to provide DOT and designated law enforcement any IID installation, tampering, service and failure reports in a timely manner; and
- (5) Require IID providers to notify DOT of any IID tampering, circumvention, bypass or violation resets and other relevant data recorded in the IID's memory, with DOT subsequent notification to the assessment agency of such information.

In this rule making, DOT proposes to meet these requirements as follows:

- (1) **Create a process for the selection of persons to install, service and remove IIDs from motor vehicles.** Current rules require manufacturers of IIDs to carry product liability insurance and agree to indemnify the state for claims arising out of the use of IIDs. No other criteria for determining whether a person is qualified to install, service or remove IIDs exist.

DOT proposes to meet the legislative requirements by establishing criteria for the selection of an installer or service technician including background checks for criminal history, technical training and other relevant criteria. Training requirements should reduce the risk of an installer damaging an IID customer's vehicle and help ensure safe installation practices. The criminal history checks requirement would be used to screen persons convicted of sexual offenses, fraud, or repeat OWI violations, to protect the public and prevent repeat OWI offenders from learning how to circumvent the devices.

- (2) **Provide for a periodic review of the fees charged to the owner of a vehicle for the installation, service and removal of an IID.** The proposed

rule making will establish a schedule for vendors to submit their fee schedule to DOT for review, with administrative followup procedures for non-compliance. The Department proposes to require IID vendors to notify DOT of any changes to their fee schedule (before/within X days after) changes to the fees. DOT will post a list of authorized IID vendors and their fees on its internet site. Any changes in fees would be posted on the Department internet site before the fees become effective so the customers can compare the services and rates of authorized vendors.

The policy alternatives are to require vendor notification of fee schedule changes periodically to DOT or conducting site visits. Conducting site visits would consume scarce administrative resources. Submission of fee schedule changes to DOT for internet posting allows the Department to monitor fee changes and thereby address consumer protection concerns. Additionally, monitoring IID program fee schedule changes by requiring the posting of vendor fees on DOT's internet site allows the Department to effectively utilize limited administrative resources.

- (3) **Require IID providers in Wisconsin to establish pilot programs involving the voluntary use of IIDs.** IID vendors may already install IIDs on vehicles of persons who are not required by law to have such a device on their vehicle. DOT proposes to gather data from vendors who install IIDs on vehicles of persons who are not required by law to have the device on their vehicle. The Department proposes to collect vendor data to facilitate possible future study to determine whether IID voluntary use reduces drunk driving among non-regulated population (e.g., company fleet vehicle drivers, teenage drivers, and first offense OWI offenders).

The alternative to requiring that vendors share data with DOT is to continue current practice whereby vendors may install IIDs on vehicles of persons who are not required by law to have the device on their vehicle without reporting. However, absent a requirement that vendors participate in the program and report information to DOT, the Department would not be able to effectively gather the data and potentially study the effects of IID voluntary use in that population.

- (4) **Require IID providers to provide DOT and designated law enforcement any IID installation, tampering, service and failure reports in a timely manner.** Currently, IID vendors or service providers are required to share installation, removal, tampering, circumvention, bypass and violation reset reports with local law enforcement. Vendors or service providers must report within three working days installation or removal of IIDs to the Department or to the sheriff of the county where the driver resides. The vendor or service provider reports the removal or installation in a specific form designated by the Division of Motor Vehicles, which is mailed to the DMV office in Madison.

To address the timeliness concern expressed in s. 110.10(4), Stats., DOT proposes to review the time periods for submission of the reports in the current rule. The Department may also require IID installers to electronically report



installation, removal, or any indication of tampering, circumvention, bypass and violation resets when installing, removing or servicing IIDs to DOT, law enforcement and district attorneys.

Without reporting timelines DOT, law enforcement and district attorneys would be unable to respond on a timely fashion to potential IID violations. Untimely reports make it difficult for law enforcement to allocate resources to investigate possible violations. Requiring installers or service providers to electronically report installation, removal, tampering, circumvention, bypass and violation resets may prove to be an effective way to distribute the information to DOT, law enforcement and district attorneys at minimum taxpayer cost.

- (5) **Require IID providers to notify DOT of any IID tampering, circumvention, bypass or violation resets and other relevant data recorded in the IID's memory, with DOT subsequent notification to the assessment agency of such information.** DOT proposes the establishment of a mechanism for notification of the assessment agency that administers the IID violator's driver safety plan. When vendor or service provider reports indicate IID tampering, circumvention, bypass, violation resets, or removal, DOT will make such information available to the assessment agency.

The Department also proposes to consider screening reports gathered by vendors, or have vendors screen reports before its submission to DOT, so that only reports that appear to definitely establish a violation are reported to the assessment agency.

An alternative to DOT screening reports is to provide all reports to assessment agencies and allow them to do the screening. This alternative could bury assessment agencies in paper, consume their limited resources and detract from their main purpose. Removal, tampering, circumvention, bypass and violation resets reports from vendors may lead to licensing actions by the Department or non-compliance findings by assessment agencies or treatment facilities.

This rule making, in addition to the foregoing, is also intended to: (1) improve administrative procedures to enable ignition interlock providers to comply with regulatory requirements more efficiently, (2) update regulations regarding the responsibilities of the Department, vendors and service providers, and (3) establish driver license processes related to drivers whose operating privileges or vehicles are subject to IID restrictions.

**STATUTORY AUTHORITY FOR THE RULE:**

s. 110.10, Stats., as created by 1999 Wis. Act 109.

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

Approximately 120 hours.

Signed at Madison, Wisconsin, this 12 day  
of **August**, 2002.

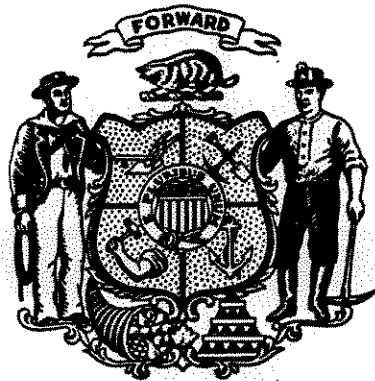
*Pat G* FOR

THOMAS E. CARLSEN, P.E.

Acting Secretary

Wisconsin Department of Transportation

END



END



Scott McCallum, Governor  
Raymond G. Boland, Secretary

STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS

30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7843

PHONE: (608) 266-1311 1-800-947-8387 (WIS VETS)


WEB SITE: <http://dva.state.wi.us>

E-MAIL: [Headquarters@dva.state.wi.us](mailto:Headquarters@dva.state.wi.us)

FAX: (608) 267-0403

DATE: August 12, 2002

TO: Members of the Legislature  
Chief Clerk of the Senate  
Chief Clerk of the Assembly

FROM:  Raymond G. Boland, Secretary  
Department of Veterans Affairs

RE: Personal Loan Program

I am providing you with a copy of an order adopting emergency rules and a fiscal estimate for the increased loan activity anticipated as a result of increasing the maximum loan amount under the personal loan program to the statutory maximum of \$15,000. The order was published on August 5, 2002 and filed with the secretary of state and the revisor of statutes on August 12, 2002.

**ORDER OF THE DEPARTMENT  
OF VETERANS AFFAIRS  
ADOPTING EMERGENCY RULES**

The Wisconsin Department of Veterans Affairs adopts an order to amend VA 12.02(7) and (16), relating to the maximum loan amount under the personal loan program.

Analysis prepared by the Department of Veterans Affairs.

Statutory authority: ss. 45.356(2), (3), and (7)(c), Stats.

Statutes interpreted: ss. 45.356(2) and (3), Stats.

The amendment of VA 12.02(7) and (16) will enable the Department to make larger individual loans under the personal loan program. The loans will be underwritten under current underwriting standards so that creditworthy applicants will be identified. However, applicants who can justify the need for a loan up to \$15,000 under any statutory purpose will be able to secure that amount rather than arbitrarily restricting the loan amount to \$10,000.

**Text of the Rule**

**SECTION 1** VA 12.02(7) is amended to read:

**(7) MAXIMUM AMOUNT AND USE OF LOAN.** A person may have more than one personal loan program loan at the same time. Except as provided under s. VA 12.02(16), a person's indebtedness to the department may not exceed ~~\$10,000~~ \$15,000 under the personal loan program. Except as provided under s. VA 12.02(16), a person's total indebtedness to the department may not exceed \$15,000 under the personal loan program, the economic assistance loan program under s. 45.351(2), 1995 Stats., and the veterans trust fund stabilization program under s. 45.356, 1995 Stats. A personal loan program loan may not be used to refinance any portion of an existing personal loan program loan or a veterans trust fund stabilization loan under s. 45.356, 1995 Stats.

**SECTION 2** VA 12.02(16) is amended to read:

**(16) INDEBTEDNESS OF MARRIED VETERANS.** Notwithstanding the limitations of s. VA 12.02(7), eligible veterans who are married to each other may have indebtedness to the department in an amount up to ~~\$20,000~~ \$30,000 under the personal loan program and total indebtedness to the department up to \$30,000 under the personal loan program, the economic assistance loan program under s. 45.351(2), 1995 Stats., and the veterans trust fund stabilization loan program under s. 45.356, 1995 Stats., subject to the indebtedness limitations for an individual veteran delineated at ss. 45.356(2) and 45.356(8), Stats.

**Finding of Emergency**

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

The Department administers a personal loan program that may be used by veterans and their dependents for various statutory purposes. The purposes include debt consolidation, payment of delinquent child support,

education expenses, and medical and funeral expenses, and the purchase of a mobile home or business property. The current maximum loan amount, set by the Department at sec. VA 12.02(7), Wis. Adm. Code, is \$10,000. The permissible statutory maximum loan amount may be \$15,000, as set by the Department by administrative rule.

The Department proposes to raise the amount to the statutory maximum for several compelling reasons. Raising the maximum loan amount will help stimulate the economy by providing additional resources for veterans and their families. Due to the state of the economy, veterans and their families have a significant need for financial assistance in the form of below market interest rate loans. Additionally, the personal loan program is the primary source of revenue for the veterans trust fund. Immediate infusion of additional assets in the form of personal loans will provide significant financial support for the trust fund. It is expected that increasing the maximum loan amount will result in approximately \$4,000,000 of new loan assets over the 8-month period in which it would take to promulgate this rule change using the regular promulgation procedure.

This rule shall take effect on the date of publication in the official state newspaper, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, July 23, 2002.



---

Raymond G. Boland, Secretary  
Wisconsin department of Veterans Affairs

FISCAL ESTIMATE

DOA-2048 N(R10/94)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

Maximum loan amount under the personal loan 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 Costs - May be possible to Absorb Within Agency's Budget  Yes  No

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

Decrease Costs

Local:  No local government costs

- |                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. <input type="checkbox"/> Increase Costs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>3. <input type="checkbox"/> Increase Revenues</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>5. Types of Local Governmental Units Affected:</p> <p><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities</p> <p><input type="checkbox"/> Counties <input type="checkbox"/> Others _____</p> <p><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

20.485 (2) (yn)

Assumptions Used in Arriving at Fiscal Estimate


This administrative rule amendment will allow the Department of Veterans Affairs to increase the maximum loan to a veteran under the personal loan program from \$10,000 to \$15,000 for each qualified veteran. It also increases the total allowable indebtedness for personal loans from the department from \$20,000 to \$30,000 for a married couple where both are eligible veterans.

It was initially projected that the demand for the personal loan program would be \$15,000,000 per fiscal year. However, the demand for FY 02 was only \$7,600,000. The interest earned from these loans support the other programs funded from the Veterans Trust Fund. Based on current demand it is estimated that increasing the maximum loan amount to \$15,000 will increase total demand by approximately \$4,000,000 per fiscal year. This increase in demand can be absorbed within the current appropriated budget for the program.

Long-Range Fiscal Implications

This rule change would increase the long-term demand for the program by about \$6,000,000 per fiscal year. The increased amount of loans each fiscal year will generate greater interest income for the Veterans Trust Fund. It is not possible to determine the amount of additional interest income at this time since it is not know what level of demand for the personal loan program will be sustained in the future.

Agency/Prepared by: (Name & Phone No.)  
Ken Abrahamsen (266-0117)

Authorized Signature/Telephone No.  
 (266-2256)

Date  
08/09/02

# FISCAL ESTIMATE WORKSHEET

2001 Session

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

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. VA 12.02 (7), (16)	Amendment No.
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Subject

Maximum loan amount under the personal loan 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:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		( FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations		6,000,000	-
<b>TOTAL State Costs by Category</b>		<b>\$ 6,000,000</b>	<b>\$ -</b>
<b>B. State Costs by Source of Funds</b>			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S		6,000,000	-
<b>III. State Revenues -</b>			
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		Indeterminate	-
SEG/SEG-S			-
<b>TOTAL State Revenues</b>		<b>\$</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

NET CHANGE IN COSTS	\$ 6,000,000	\$
NET CHANGE IN REVENUES	\$ Indeterminate	\$

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Date  
08/09/02