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☞ Details: Emergency Rules by Department of Commerce.

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

**ORDER OF THE
DEPARTMENT OF COMMERCE**


**EMERGENCY RULE RELATING TO TAX CREDITS AND EXEMPTIONS FOR
INTERNET EQUIPMENT USED IN THE BROADBAND MARKET**

Exemption From Finding of Emergency

The Legislature, by section 17 (1) (d) in 2005 Wisconsin Act 479, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Pursuant to section 227.24 of the statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper. In accordance with section 17 (1) (d) of 2005 Wisconsin Act 479, this rule will remain in effect until January 1, 2008, or until the Department reports its certifications and determinations under this rule to the Department of Revenue, whichever is sooner.

Dated at Madison this 13
day of February, A.D. 2007,
by the Department of Commerce



for Mary P. Burke, Secretary

The Wisconsin Department of Commerce adopts an order to create chapter Comm 135, relating to tax credits and exemptions for internet equipment used in the broadband market, and affecting small businesses.

Rule Summary

1. Statutes Interpreted

Section 17 (1) in 2005 Wisconsin Act 479

2. Statutory Authority

Section 17 (1) (d) in 2005 Wisconsin Act 479

3. Explanation of Agency Authority

Section 17 (1) (d) in 2005 Wisconsin Act 479 authorizes the Department to promulgate emergency rules for administering a program that will (1) certify businesses as temporarily eligible for tax credits and exemptions for Internet equipment used in the broadband market, and (2) allocate up to \$7,500,000 to these businesses for these tax credits and exemptions.

4. Related Statute or Rule

Sections 71.05 (6) (a) 15., 71.07 (5e), 71.08 (1) (intro.), 71.10 (4) (gy), 71.21 (4), 71.26 (2) (a), 71.28 (5e), 71.30 (3) (es), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5e), 71.49 (1) (es), 77.51 (6m) and (10), 77.54 (48), and 77.92 (4) of the Statutes.

5. Summary of Rule

These rules establish the criteria for administering a program that will (1) certify businesses as temporarily eligible for tax credits and exemptions for Internet equipment used in the broadband market, and (2) allocate up to \$7,500,000 to these businesses for these tax credits and exemptions.

The rules specify who is eligible for the income and franchise tax credits and the sales and use tax exemptions in this program, for Internet equipment used in the broadband market. Eligible equipment is also specified, along with how to apply for the certifications and allocations. Parameters for allocating the authorized total of \$7,500,000 are likewise specified. These parameters emphasize (1) efficiently initiating broadband Internet service in areas of Wisconsin that otherwise are not expected to soon receive this service, and (2) encouraging economic or community development. The rule chapter also describes the time-specific legislative oversight that is established in 2005 Act 479 for these allocations, and describes the follow-up reports that the Act requires from every person who receives a sales or use tax exemption under this chapter.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations

An Internet-based search of the *Code of Federal Regulations*, for financial incentives in expanding the broadband market, found cost-sharing requirements for broadband personal communication services, in 47 CFR 24-Subpart E, but did not reveal any tax credits or tax exemptions for Internet equipment.

An Internet-based search of the 2006 and 2007 issues of the *Federal Register* found rules of the Federal Election Commission relating to financing of Internet communications by political committees, but did not reveal any proposed rules relating to tax credits or tax exemptions for Internet equipment.

7. Comparison With Rules in Adjacent States

An Internet-based search of rules in adjacent states only found rules in Iowa for Internet-based tax benefits. Under sections 18.20(5) and 231.12 of chapters 18 and 231 of the rules of the Iowa Revenue Department, the sales price from charges paid to a provider for access to an on-line computer service is exempt from tax. An "on-line computer service" is one which provides for or enables multiple users to have computer access to the Internet. Also, the furnishing of any contracted on-line service is exempt from Iowa tax if the information is made available through a computer server. The exemption applies to all contracted on-line services, as long as they provide access to information through a computer server.

8. Summary of Factual Data and Analytical Methodologies

The data and methodology for developing these rules were derived from and consisted of incorporating the criteria in 2005 Wisconsin Act 479; incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax-credit verification; soliciting and utilizing input from other state agencies, and from representatives of the stakeholders who are expected to participate in this program; and reviewing Internet-based sources of related federal, state, and private-sector information.

The Department particularly noted that Section 17 (1) (b) in Act 479 allows allocating the tax credits and exemptions only for areas of Wisconsin that are either not served by a broadband Internet service provider or are served by not more than one of these providers. In consultation with the Wisconsin Public Service Commission, the Department learned that the entire state currently has access to satellite-based broadband Internet service from two or more providers of that service. Consequently, the Department interprets Section 17 (1) (b) as excluding satellite-based service from the tax benefits in the Act, and the adopted rules contain that exclusion. However, cell phone or wireless equipment is not excluded.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report

The Department reviewed maps of current, land-based Internet service areas, and solicited input from the corresponding service providers as to their potential for expanding this

service to underserved areas of Wisconsin. Particular emphasis was placed on input relating to minimizing any difficulties for small businesses.

10. Effect on Small Business

The rules are not expected to impose any significant costs on small businesses, because the rules only address applying for and allocation of tax credits and exemptions for increasing the availability of broadband Internet service in underserved areas of the State.

11. Agency Contact Information

Todd Jensen, Wisconsin Department of Commerce, Bureau of Business Finance, 201 West Washington Avenue, Madison, WI, 53703; telephone: (608) 266-3074; E-Mail: Todd.Jensen@commerce.state.wi.us.

File Reference: Comm 135/rules analysis ER

SECTION 1. Chapter Comm 135 is created to read:

Chapter Comm 135

INTERNET EQUIPMENT TAX CREDIT AND EXEMPTION PROGRAM

Comm 135.10 Authority and Purpose. Pursuant to 2005 Wisconsin Act 479, section 17, this chapter sets forth the requirements for obtaining the following from the department:

(1) A certification that a business is eligible for tax credits and exemptions under ss. 71.07 (5e), 71.28 (5e), 71.47 (5e) and 77.54 (48), Stats.

Note: The statute sections listed in this subsection address income and franchise tax credits, and sales and use tax exemptions, for Internet equipment used in the broadband market.

(2) A determination of the maximum amount of tax credits and exemptions that a business may claim for increasing the availability of broadband Internet service in areas of Wisconsin that are either not served by a broadband Internet service provider or are served by not more than one broadband Internet service provider.

Comm 135.20 Definitions. In this chapter:

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

(2) "Internet equipment used in the broadband market" has the meaning given in s. 71.07 (5e) (a) 2., Stats., and includes any hardware or software that is essential for performing the transmission described in that definition. This term does not include any equipment placed in orbit around the earth, or any land-based equipment which transmits to or receives transmissions from that orbiting equipment.

Note: Section 71.07 (5e) (a) 2., Stats., reads as follows: " 'Internet equipment used in the broadband market' means equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction."

(3) "Person" includes any natural person, firm, partnership, limited liability company, joint venture, joint stock company, association, public or private corporation, cooperative, unincorporated cooperative association, any other fiduciary, and any representative appointed by order of any court or otherwise acting on behalf of others. "Person" also includes the owner of a single-owner entity that is disregarded as a separate entity under ch. 71, Stats.

(4) "Underserved area of the state" means an area that is not served by a broadband Internet service provider or is served by not more than one broadband Internet service provider.

Comm 135.30 Internet equipment only. The department shall allocate tax credits and exemptions under this chapter only for Internet equipment used in the broadband market.

Comm 135.40 Applying for certification and allocation. (1) A person who intends, by July 1, 2009, to acquire and operate Internet equipment used in the broadband market, to increase the availability of broadband Internet service in one or more underserved areas of the state may

apply for certification and allocation of tax credits and exemptions. The department shall evaluate applications for certification and allocation on the basis of their responsiveness to the criteria identified under s. Comm 135.50 (3) (a) and (b).

(2) Application to the department for certification and allocation of tax credits and exemptions shall be made on a valid, department-prescribed form.

Note: The application form that is currently valid can be obtained from the department at P.O. Box 7970, Madison, WI, 53707; and may be available by accessing the department's Web site at www.commerce.wi.gov., and searching for the Internet equipment tax credit and exemption program.

(3) (a) Each business entity, including any subsidiaries or parent organizations, may submit only one application, but that application may address any number of service areas.

(b) An application that addresses more than one service area shall treat each of those areas as a separate project, and shall rank those projects in descending order according to their potential for addressing the criteria in s. Comm 135.50 (3) (a) and (b).

(c) The department shall request the following information from applicants:

1. A description of each service area to which the applicant proposes to provide broadband Internet service.

2. A presentation of the evidence by which the applicant claims that each proposed service area is an underserved area of the state.

3. An estimate of the number of subscribers that will be served in each service area.

4. A project schedule for each service area, that includes a date when the proposed service will begin.

5. An estimate of the overall project cost for each service area, including the cost of broadband Internet equipment that will be subject to sales or use taxes.

6. A brief discussion of how the project(s) will promote economic or community development; and initiate or accelerate the provision of broadband Internet service in an area not otherwise likely to gain access to such services.

7. An estimate of the applicant's Wisconsin income or franchise tax liability for each of the 3 tax years after the broadband Internet equipment is acquired.

8. Any other information that the department deems is necessary to evaluate applications under s. Comm 135.50 and allocate available tax exemptions and credits.

(4) All applications shall be completed and either postmarked or delivered to the department, no later than April 13, 2007, unless this deadline is extended by the department.

(5) The department may request supplemental information in response to a submitted application. An applicant shall submit any requested supplemental information no later than the deadline specified in the request.

Comm 135.50 Certification of applicants, and allocation of tax credits and exemptions. (1) After receipt of the applications submitted under s. Comm 135.40, the Department shall certify the applicants that appear likely to address one or more of the criteria in sub. (3) (a) and (b).

(2) In conjunction with certifying an applicant under this section, the department shall initially determine the maximum amount of tax credits and exemptions that the applicant may claim.

Note: Under 2005 Wisconsin Act 479, section 17 (1) (b), The department may not allocate tax credits and exemptions to an applicant unless the allocation of tax credits and exemptions to the applicant is likely to increase the availability of broadband Internet service in areas of Wisconsin that are either not served by a broadband Internet service provider or are served by not more than one broadband Internet service provider.

Note: Departmental certification of an applicant under this section, and any corresponding allocation of tax credits and exemptions, is subject to the legislative oversight prescribed in 2005 Wisconsin Act 479, section 17 (1) (c). Upon completion of that oversight, the department will notify the department of revenue of the resulting certifications and allocations.

(3) (a) Due to the \$7,500,000 maximum total established in 2005 Wisconsin Act 479 for allocations under this chapter, the department may allocate the tax credits and exemptions in a manner that the department believes is most likely to promote economic or community development, and to most effectively initiate broadband Internet service in areas that otherwise are not expected to soon receive broadband service.

(b) In determining the allocation of tax benefits under par. (a), the department shall consider the following:

1. The extent to which the proposed project will occur in an underserved area of the state.
2. The extent to which the proposed service area is economically distressed.
3. The benefit that will result from the proposed project, in proportion to cost.
4. The likely impact the awarding of tax benefits will have on the provision of broadband Internet service in the proposed service area.
5. The ability to achieve geographic diversity of available tax benefits throughout the state.
6. The ability to distribute available tax benefits amongst eligible applicants, for qualified projects.

(c) The department may prorate some or all of the allocations, or cap the allocation to any applicant, in order to broaden the potential for addressing the criteria in pars. (a) and (b).

(4) Following completion of the legislative oversight prescribed in 2005 Wisconsin Act 479, section 17 (1) (c), the department shall inform each applicant of the outcome of their application, and shall make available, upon request, an approved allocation plan.

(5) Reports that are required by s. 77.54 (48) (b), Stats., shall be submitted on a valid, department-prescribed form.

Note: The report form that is required in sub. (5) can be obtained from the department at P.O. Box 7970, Madison, WI, 53707; and may be available by accessing the department's Web site at www.commerce.wi.gov, and searching for the Internet equipment tax credit and exemption program.

Note: Under s. 77.54 (48) (b), Stats., every person who receives a sales or use tax exemption under this chapter must, within 60 days after the end of the year in which the corresponding investment is made, file a report with the department, that provides a detailed description of the investment along with a total of the amount invested. In addition, the department must provide copies of the report to the department of administration, the department of revenue, and the public service commission.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., and 2005 Wisconsin Act 479 section 17 (1) (d), this rule shall take effect as an emergency rule upon publication in the official state newspaper.

(Date of publication: Tuesday, February 20, 2007.)

File reference: Comm 135/rules 2007ER

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 135
Amendment No. if Applicable

Subject
Tax credits and exemptions for Internet equipment used in the broadband market

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

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

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

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rules will not impose any significant costs on the private sector, because the rules only address applying for and allocation of tax credits and exemptions for increasing the availability of broadband Internet service in underserved areas of the State.

Long-Range Fiscal Implications
None

Agency/Prepared by: (Name & Phone No.)
Commerce/Sam Rockweiler 266-0797

Authorized Signature/Telephone No.

Sam Rockweiler 608-266-8972

Date

2-13-07

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

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chapter Comm 135

Amendment No.

Subject

Tax credits and exemptions for Internet equipment used in the broadband market

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

II. Annualized Costs:

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

Sam Rockweiler 266-0797

Authorized Signature/Telephone No.

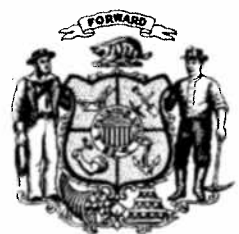
Sam Rockweiler
 608 - 266 - 8976

Date

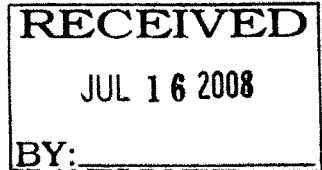
2-13-07



WISCONSIN STATE LEGISLATURE



ORDER OF THE
DEPARTMENT OF COMMERCE



EMERGENCY RULE RELATING TO EMERGENCY ASSISTANCE GRANTS IN THE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that 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.

Currently under sections Comm 108.06, 108.07, and 108.22 of the Wisconsin Administrative Code, as promulgated under sections 560.04, 560.045, and 560.9809 of the Statutes, the Department may annually use up to 5 percent of its federal Community Development Block Grant (CDBG) funds to repair or replace public infrastructure or facilities, or for emergency services necessitated by a natural disaster or catastrophic event. Also under sections Comm 108.07 and 108.22, the maximum amount of CDBG funds that the Department can award to any local government for a natural disaster or catastrophic event is \$500,000.

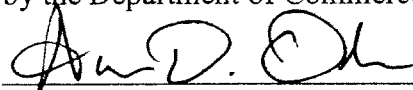
Currently under section Comm 154.06, as promulgated under sections 560.02 (4) and 560.9809 (2) of the Statutes, the Department may annually use up to \$2,000,000 of CDGB funds to address emergency housing needs caused by natural disasters or catastrophic events.

Because of the unprecedented levels of damage to public infrastructure and facilities from the severe storms and widespread flooding that occurred throughout the State in June 2008, the need for emergency assistance to communities far exceeds the \$1.35 Million of CDBG funding that results from the above 5-percent limit, and the need for emergency housing assistance for low and moderate income households far exceeds the above \$2,000,000. Communities and households in 28 of the 30 counties where the Governor has declared a state of emergency are eligible for this CDBG program assistance.

This emergency rule repeals the above limits of 5 percent, \$500,000 and \$2,000,000. This will enable the Department to (1) use any available CDBG funds for emergency assistance with repairing or replacing public infrastructure and facilities, and with repairing or replacing homes damaged by the severe storms and flooding; and (2) base the award amounts on the scope of the damages and destruction in the community and on the funds available.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Dated at Madison this 8th day
of JULY, A.D. 2008,
by the Department of Commerce



for Jack L. Fischer, Secretary

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Charters Comm 108 and 154
Amendment No. if Applicable

Subject

Emergency Assistance Grants in the Community Development Block Grant Program

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

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

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

Local: No local government costs

1. Increase Costs

Permissive Mandatory

2. Decrease Costs

Permissive Mandatory

3. Increase Revenues

Permissive Mandatory

4. Decrease Revenues

Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Due to limited funding, the overall number of CDBG grant awards is not expected to change significantly. The increased workload for grant specialists processing and underwriting more emergency assistance grants will be offset by a decrease in non-emergency grant applications. Therefore, the proposed rule revisions are not expected to have any significant fiscal effect on the Department.

The proposed rules will not impose any significant costs on local governments or the private sector, because CDBG emergency assistance grants also include administrative funds for the local government.

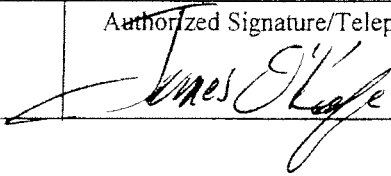
Long-Range Fiscal Implications

None known.

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

Commerce/ Jim O'Keefe 264-7837

Authorized Signature/Telephone No.



Date

7/1/08

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

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chapters Comm 108 and 154

Amendment No.

Subject
 Emergency Assistance Grants in the Community Development Block Grant Program

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

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

NET ANNUALIZED FISCAL IMPACT

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

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

Commerce/Jim O'Keefe 264-7837

Authorized Signature/Telephone No.

James O'Keefe

Date

7/1/08

The Wisconsin Department of Commerce adopts an order to amend Comm Table 108.6-1, 108.07 (5), 108.22 (1), and 154.06 (intro.), relating to emergency assistance grants in the community development block grant program, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Sections 560.02 (4), 560.04, 560.045, and 560.9809

2. Statutory Authority.

Sections 560.02 (4), 560.04, 560.045, and 560.9809

3. Explanation of Agency Authority.

The Department is the designated agency to administer the federally funded Small Cities Community Development Block Grant (CDBG) Program for Wisconsin. These CDBG funds can be used statewide, except in "entitlement" communities that also receive annual CDBG funding directly from the US Department of Housing and Urban Development (cities with populations above 50,000 and, with only a few exceptions, Milwaukee, Dane, and Waukesha Counties). Federal regulations require that the Department submit an Annual Plan describing the State's intended use and distribution of the CDBG funds based on any State regulations and public input. The Wisconsin administrative rules that are authorized by the above statutes set forth the criteria, process, and limitations for distributing CDBG funds.

4. Related Statute or Rule.

The Department has statutes and rules for other programs associated with housing assistance and community development, but none of these programs fund emergency assistance for housing repair or public infrastructure/facility repair or replacement.

5. Plain Language Analysis.

The rules in this order repeal current limits on emergency assistance grants in the CDBG Program. This will enable the Department to (1) use any available CDBG funds for emergency assistance with repairing or replacing public infrastructure and facilities, and with repairing or replacing homes damaged by the severe storms and flooding; and (2) base the award amounts on the scope of the damages and destruction in the community and on the funds available.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

24 CFR 570.483(d) allows the Department to use CDBG funds for activities that address the national objective of meeting an "urgent local need." The criteria under this objective specify that the funded activities must be designed to alleviate existing conditions

which pose a serious and immediate threat to the health or welfare of the community, and which are of recent origin or recently became urgent. In addition, the Department must determine that the state grant recipient is unable to finance the activity on its own, and that other sources of funding are not available to carry out the activity.

7. Comparison With Rules in Adjacent States.

Michigan

Michigan does not set aside or limit the use of CDBG funds for emergency assistance in either state statute or administrative rule or in their Annual Plan submittal to HUD. In the event of a disaster, Michigan amends their Annual Plan to enable CDBG funds to be used for emergency assistance as needed.

Minnesota

Minnesota does not set aside CDBG funds for emergency assistance in either state statute or administrative rule or in their Annual Plan submittal to HUD. In the event of a disaster, Minnesota amends their Annual Plan to enable CDBG funds to be used for emergency assistance. The Minnesota Small Cities Development Program does have a policy to limit CDBG funding to \$1.4 million per community for each event.

Iowa

Iowa does not set aside or limit the use of CDBG funds for emergency assistance by state statute or administrative rule. The current Iowa Annual Plan sets aside 5 percent of the CDBG annual allocation for emergency assistance. Iowa amends their Annual Plan if additional funds are needed.

Illinois

Illinois does not set aside or limit the use of CDBG funds for emergency assistance in either state statute or administrative rule or in their Annual Plan submittal to HUD. In the event of a disaster, Illinois amends their Annual Plan to enable CDBG funds to be used for emergency assistance as needed.

8. Summary of Factual Data and Analytical Methodologies.

There were no factual data or analytical methodologies used to develop the proposed rules.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The proposed rules should have a minimal effect on small business. There were no supporting documents used to determine the effect on small business, and an economic impact report was not prepared.

10. Effect on Small Business.

The amended rules are not expected adversely effect small business. Grants to repair or replace public infrastructure and facilities would only have a positive impact.

11. Agency Contact Person.

Jeanne Storm, Wisconsin Department of Commerce, Division of Housing and Community Development, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 264-6110; e-mail Jeanne.Storm@Wisconsin.gov

File reference: Comm 108 and 154/rules, analysis-e

SECTION 1. Comm Table 108.6-1 is amended to read:

TABLE 108.06-1
ANNUAL DISTRIBUTION OF CDBG FUNDS BY GRANT PROGRAM
(Partial table)

Grant Program	Percent of CDBG Funds Set Aside
Emergency grant program (CDBG-EMER)	Up to 5% Available Funds

SECTION 2. Comm 108.07 (5) is amended to read:

Comm 108.07 (5) The maximum amount of CDBG funds that may be awarded to any local government for a natural disaster or catastrophic event as specified under subch. VI shall be \$500,000 per based on the scope of the event and funds available.

SECTION 3. Comm 108.22 (1) is amended to read:

Comm 108.22 (1) The maximum amount of CDBG funds that may be awarded to any local government under this subchapter shall be \$500,000 for each based on the scope of the natural disaster or catastrophic event and funds available.

SECTION 4. Comm 154.06 (intro.) is amended to read:

Comm 154.06 Emergency grants. The department may use up to \$2,000,000 annually from the program funds for emergency housing needs arising from a natural disaster or catastrophic event. A local government interested in applying for an emergency grant under this section shall provide the department with written notice of intent to apply within 90 days after the natural disaster or catastrophic event. The department shall develop emergency fund application requirements as necessary. Applications will be evaluated based on:

(END)

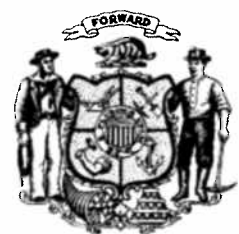
EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper. **(July 16, 2008)**

File reference: Comm 108 and 154/rules 2008e, w.date

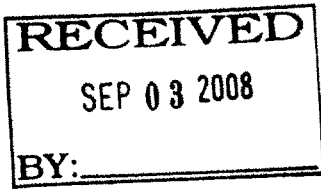


WISCONSIN STATE LEGISLATURE



ORDER OF ADOPTION

Emergency Rule Department of Commerce



Pursuant to authority vested in the Department of Commerce by section(s) 101.02 (15), 101.63 (1) and

101.149 Stats., the Department of Commerce creates; amends;

repeals and recreates; repeals and adopts an emergency rule of Wis. Admin. Code chapter(s):

Comm 20-25 (number) Uniform Dwelling Code (Title)

Comm 60-66 (number) Wisconsin Commercial Building Code (Title)

Pursuant to section 227.24 (1)(c), Stats., the attached emergency rule shall take effect on _____

October 1, 2008

Adopted at Madison, Wisconsin this
date: 8/28/08

DEPARTMENT OF COMMERCE
A. O. H.
Deputy Secretary

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 21.095 & 62.1200
Amendment No. if Applicable

Subject
Carbon Monoxide Alarms

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

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

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

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rules implement mandates imposed by 2007 Wisconsin Act 205 regarding the installation and maintenance of carbon monoxide alarms in buildings accommodating residential type occupancies where people sleep or lodge, excluding hospitals and nursing homes. The rules will not increase the department's revenue or cost with respect to administration or enforcement over that imposed by the Act.

The Act and the rules affect the owners of commercial buildings where people sleep or lodge and tourist room houses (rental cabins) where fuel burning appliances are installed. The types of commercial buildings affected include apartment buildings, condominiums, hotels, motels, fraternities, sororities, dormitories, convents, seminaries, community based residential facilities, home shelters and tourist rooming houses (rental cabins). The department does not believe that the rules will increase the effect on owners over that imposed by the Act. Battery or plug-in type carbon monoxide detectors typically range in cost from \$25 to \$50. New construction installation costs for a hard-wired type carbon monoxide alarm with battery backup ranges in cost from \$65 to \$85 and \$90 to \$110 if interconnection is involved. Combination carbon monoxide alarms and smoke alarms are also available. The use of combination carbon monoxide alarms and smoke alarms should result in installation and labor cost savings over that for separate systems.

Long-Range Fiscal Implications

No long range fiscal implications are anticipated.

Agency/Prepared by: (Name & Phone No.)
Commerce/James Quast, 266-9292

Authorized Signature/Telephone No.

James Quast 6-8976

Date

8/28/08

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

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 21.095 & 62.1200

Amendment No.

Subject

Carbon Monoxide Alarms

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
A. State Costs By Category		
State Operations - Salaries and Fringes	\$ 0	\$ -
(FTE Position Changes)	(0 FTE)	(- FTE)
State Operations - Other Costs	0	-
Local Assistance	0	-
Aids to Individuals or Organizations	0	-
TOTAL State Costs By Category	\$	\$ -
B. State Costs By Source of Funds		
GPR	\$ 0	\$ -
FED	0	-
PRO/PRS	0	-
SEG/SEG-S	0	-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$ 0	\$ -
GPR Earned	0	-
FED	0	-
PRO/PRS	0	-
SEG/SEG-S	0	-
TOTAL State Revenues	\$ 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/James Quast, 266-9292

Authorized Signature/Telephone No.

James Quast 6-8976

Date

8/28/08

DEPARTMENT OF COMMERCE

**EMERGENCY RULE RELATING TO
CARBON MONOXIDE DETECTORS**

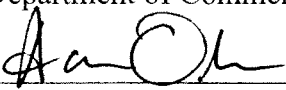
Basis for Issuance of Emergency Rules

Under the nonstatutory provisions of 2007 Wisconsin Act 205, the Department of Commerce is directed to issue emergency rules that implement provisions of the Act. The Act specifically states: "Notwithstanding section 227.24 (1) (a) and (3) of the statutes, neither the department of commerce or the department of health services is required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection."

The Act mandates the installation and maintenance of carbon monoxide alarms in buildings accommodating certain types of residential occupancies and within which fuel burning appliances are located. Residential occupancies include tourist rooming houses, bed and breakfast establishments, and any public building that is used for sleeping or lodging, such as, hotels, motels, condominiums, apartment buildings, dormitories, fraternities, sororities, convents, seminaries, community based residential facilities, home shelters, but not hospitals and nursing homes. The Act requires the installation of carbon monoxide alarms in new buildings as of October 1, 2008. The owners of existing buildings will have until April 1, 2010 to install the carbon monoxide alarms. The Act also provides for the omission of carbon monoxide alarms in certain instances which are further clarified by the administrative rules.

Pursuant to section 227.24 (1) (c), Stats., this rule is adopted as an emergency rule to take effect on October 1, 2008.

Dated at Madison this 28th
day of AUGUST, 2008,
by the Department of Commerce.


, Deputy Secretary

The Wisconsin Department of Commerce adopts an order to renumber Comm 66.0911; to amend Comm 20.24 (1) and (2); and to create s. Comm 21.095, Comm 20.24 Table 20.24-14, Comm 62.1200, Comm 62.3500 (3) (e), Comm 62.3500 (3) Note, Comm 66.0911 (title) and Comm 66.0911 (2), relating to carbon monoxide alarms and affecting small business.

Analysis of Rule

1. Statutes Interpreted

Statutes Interpreted: ss. 101.02 (15) and 101.63 (1), Stats., and s. 101.149, Stats., as created by 2007 Wisconsin Act 205.

2. Statutory Authority

Statutory Authority: ss. 101.02 (1) and (15) (a) and 101.63 (1), Stats., and s. 101.149, Stats., as created by 2007 Wisconsin Act 205.

3. Related Statute or Rule

Statutes: ss. 101.12 (1), Stats.,
Administrative Rules: Chapters Comm 60-66, Wisconsin Commercial Building Code
Chapters Comm 20-25, Uniform Dwelling Code

4. Explanation of Agency Authority

Under the statutes cited, the Department of Commerce protects public health, safety, and welfare by promulgating comprehensive requirements for design, construction, use and maintenance of public buildings and places of employment and adopts rules that establish uniform, statewide standards for the construction of 1- and 2-family dwellings. 2007 Wisconsin Act 205 specifically directs the Department to address carbon monoxide alarms involving these types of buildings.

5. Summary of Proposed Rules

The rules establish minimum requirements for the installation and maintenance of carbon monoxide alarms in buildings accommodating residential type occupancies where people sleep or lodge, excluding hospitals and nursing homes, that reflect the statutory mandates of 2007 Wisconsin Act 205. Specifically, the rules would:

For new tourist rooming houses (cabins under the scope of Uniform Dwelling Code) (October 1, 2008), Comm 21.095

- Require the installation of carbon monoxide alarms where any type of fuel burning appliances are installed.
- Require the carbon monoxide alarms to be continuously powered by the building's electrical service with battery backups.

For new commercial buildings: (October 1, 2008),

- Require the installation of carbon monoxide alarms where any type of fuel burning appliances are installed. Comm 62.1200 (2) (a)
- Require the carbon monoxide alarms to be continuously powered by the building's electrical service with battery backups. Comm 62.1200 (2) (c)

For existing commercial buildings (Buildings existing on October 1, 2008 or reviewed and receiving department plan approval under the rules effective prior to October 1, 2008)

- Require the installation of carbon monoxide alarms by April 1, 2010.
- Do not dictate the type of power sources for the carbon monoxide alarms, thereby allowing batteries, electrical outlet plug-ins or wired to the building's electrical service.
- Allow the omission of carbon monoxide alarms provided there are no attached garages and all of the fuel burning appliances are of sealed combustion type either under warranty or annually inspected for carbon monoxide emissions. Comm 62.1200 (2) (a) 4.

The rules require carbon monoxide alarms to be listed and labeled identifying conformance to UL 2034, Underwriters Laboratories Inc, Standard for Safety Single and Multiple Station Carbon Monoxide Alarms.

Under the federal Americans with Disabilities Act, ADA, and the federal Fair Housing Law certain carbon monoxide alarms may be required to have both audible and visual alarm features.

Owners of existing tourist rooming houses will need to install and maintain carbon monoxide alarms in accordance with s. 101.149 (2) and (3), Stats., by April 1, 2010.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations

An internet-based search of code of federal regulations and the federal register did not identify any federal requirements for the installation and maintenance of carbon monoxide alarms in residential buildings.

7. Comparison with Rules in Adjacent States

An Internet-based search carbon monoxide alarm regulations for the states of Illinois, Iowa, Michigan and Minnesota found the following:

- Illinois under Public Act 094-0741, the Carbon Monoxide Alarm Detector Act, has required the installation of carbon monoxide alarms in all occupancies and structures which have sleeping rooms since January 1, 2007.
- Iowa requires the installation of carbon monoxide alarms in foster care facilities.
- Michigan has not enacted any carbon monoxide alarm regulations at this time.
- Minnesota statute, 299F.50, requires carbon monoxide alarms in all single family homes and multifamily apartments units; new construction as of January 1, 2007; existing single family homes as of August 1, 2008 and existing multi-family and apartment buildings as of August 1, 2009.

8. Summary of Factual Data and Analytical Methodologies

In developing the rules the Department reviewed the language of 2007 Wisconsin Act 205 in conjunction with the Department's broad authority under ss. 101.02 (15) and 101.63 (1), Stats., to protect public health and safety regarding the construction of public buildings, places of employment and one- and two- family dwellings to be used as tourist rooming houses. The current administrative rules for the installation of fire alarms (smoke detectors) were used as a model for these proposed rules pertaining to carbon monoxide alarms. The Department also analyzed the complexities of compliance under several scenarios where fuel burning appliances are added or replaced during the life of the building, such as residential condominiums.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report

The proposed rules implement mandates imposed by 2007 Wisconsin Act 205. The Act affects the owners of commercial buildings where people sleep or lodge and tourist room houses (rental cabins) where fuel burning appliances are installed. The types of commercial buildings affected include apartment buildings, condominiums, hotels, motels, bed and breakfast establishments, fraternities, sororities, dormitories, convents, seminaries, community based residential facilities, and home shelters. The department does not believe that the rules will increase the effect on small businesses over that imposed by the Act. Battery or plug-in type carbon monoxide alarms typically range in cost from \$25 to \$50. New construction installation costs for a hard-wired type carbon monoxide alarm with battery backup ranges in from \$65 to \$85 and \$90 to \$110 if interconnection is involved. Combination carbon monoxide alarms and smoke alarms are also available. Smoke alarms are currently required for residential occupancies. The use of combination carbon monoxide alarms and smoke alarms should result in installation and labor cost savings over that for separate systems.

An economic impact report has not been required to be prepared.

10. Agency Contact.

James Quast, Program Manager, jim.quast@wisconsin.gov, (608) 266-9292

SECTION 1. Comm 20.24 (1) and (2) are amended to read:

Comm 20.24 (1) CONSENT. Pursuant to s. 227.21 (2), Stats., the attorney general ~~and the revisor of statutes have~~ has consented to the incorporation by reference of the standards listed in Tables 20.24-1 to ~~20.24-12~~ 20.14-14.

(2) ADOPTION OF STANDARDS. The standards referenced in Tables 20.24-1 to ~~20.24-12~~ 20.14-14 are incorporated by reference into this chapter.

Note: Copies of the adopted standards are on file in the offices of the department and the legislative reference bureau. Copies of the standards may be purchased through the respective organizations listed in Tables 20.24-1 to ~~20.24-12~~ 20.14-14.

SECTION 2. Comm 20.24 Table 20.24-14 is created to read:

Table 20.24-14

UL	Underwriters Laboratories, Inc 333 Pfingsten Road Northbrook, IL 60062-2096
Standard Reference Number	Title
2034-2005	Single and Multiple State Carbon Monoxide Alarms

SECTION 3. Comm 21.095 is created to read:

Comm 21.095 Carbon monoxide alarms. (1) (a) Listed and labeled carbon monoxide alarms with battery secondary power supplies shall be installed and maintained in dwellings to be utilized as licensed tourist rooming houses and which contain fuel-burning appliances in accordance with s. 101.149 (2) and (3), Stats.

Note: Section 101.149 (2) and (3), Stats., reads:

(2) INSTALLATION REQUIREMENTS. (a) Except as provided in par. (b), the owner of a residential building shall install a carbon monoxide detector in all of the following places not later than the date specified under par. (c):

1. In the basement of the building if the basement has a fuel-burning appliance.
2. Within 15 feet of each sleeping area of a unit that has a fuel-burning appliance.
3. Within 15 feet of each sleeping area of a unit that is immediately adjacent to a unit that has a fuel-burning

appliance.

4. In each room that has a fuel-burning appliance and that is not used as a sleeping area. A carbon monoxide detector shall be installed under this subdivision not more than 75 feet from the fuel-burning appliance.

5. In each hallway leading from a unit that has a fuel-burning appliance, in a location that is within 75 feet from the unit, except that, if there is no electrical outlet within this distance, the owner shall place the carbon monoxide detector at the closest available electrical outlet in the hallway.

(b) If a unit is not part of a multiunit building, the owner of the residential building need not install more than one carbon monoxide detector in the unit.

(c) 1. Except as provided under subd. 2., the owner of a residential building shall comply with the requirements of this subsection before the building is occupied.

2. The owner of a residential building shall comply with the requirements of this subsection not later than April 1, 2010, if construction of the building was initiated before October 1, 2008, or if the department approved the plans for the construction of the building under s. 101.12, Stats., before October 1, 2008.

(d) Any carbon monoxide detector that bears an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization satisfies the requirements of this subsection.

(e) The owner shall install every carbon monoxide detector required by this subsection according to the directions and specifications of the manufacturer of the carbon monoxide detector.

(3) MAINTENANCE REQUIREMENTS. (a) The owner of a residential building shall reasonably maintain every carbon monoxide detector in the residential building in the manner specified in the instructions for the carbon monoxide detector.

(b) An occupant of a unit in a residential building may give the owner of the residential building written notice that a carbon monoxide detector in the residential building is not functional or has been removed by a person other than the occupant. The owner of the residential building shall repair or replace the nonfunctional or missing carbon monoxide detector within 5 days after receipt of the notice.

(c) The owner of a residential building is not liable for damages resulting from any of the following:

1. A false alarm from a carbon monoxide detector if the carbon monoxide detector was reasonably maintained by the owner of the residential building.

2. The failure of a carbon monoxide detector to operate properly if that failure was the result of tampering with, or removal or destruction of, the carbon monoxide detector by a person other than the owner or the result of a faulty alarm that was reasonably maintained by the owner as required under par. (a).

(b) For the purposes of this section:

1. "Fuel-burning appliance" means a device that is permanently installed in a dwelling and burns fossil-fuel or carbon based fuel where carbon monoxide is a combustion by-product, including stoves, ovens, grills, clothes dryers, furnaces, boilers, water heaters, heaters, fireplaces and stoves.

2. "Tourist rooming house" has the meaning as given under s. HFS 195.03 (20).

Note: Section HFS 195.03 (20) reads: "Tourist rooming house" means all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under ch. HFS 197.

(2) Carbon monoxide alarms shall be wired to the dwelling's electrical service.

(3) Carbon monoxide alarms within a dwelling unit shall be interconnected so that activation of one alarm will cause activation of all alarms within the dwelling unit.

(4) Carbon monoxide alarms shall conform to UL 2034.

(5) Violation of the provisions of this section shall be subject to the penalties provided under s. 101.149 (8), Stats.

Note: Section 101.149 (8), Stats., reads:

(8) PENALTIES. (a) If the department of commerce or the department of health and family services determines after an inspection of a building under this section or s. 254.74 (1g) that the owner of the building has violated sub. (2) or (3), the respective department shall issue an order requiring the person to correct the violation within 5 days or within such shorter period as the respective department determines is necessary to protect public health and safety. If the person does not correct the violation within the time required, he or she shall forfeit \$50 for each day of violation occurring after the date on which the respective department finds that the violation was not corrected.

(b) If a person is charged with more than one violation of sub. (2) or (3) arising out of an inspection of a building owned by that person, those violations shall be counted as a single violation for the purpose of determining the amount of a forfeiture under par. (a).

(c) Whoever violates sub. (4) is subject to the following penalties:

1. For a first offense, the person may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both.

2. For a 2nd or subsequent offense, the person is guilty of a Class I felony.

SECTION 4. Comm 62.1200 is created to read:

Comm 62.1200 Carbon monoxide alarms. These are department rules in addition to the requirements in IBC chapter 12:

(1) DEFINITIONS. In this section:

(a) "Dwelling unit" has the meaning as given in s. 101.61 (1), Stats.

Note: Section 101.61 (1) reads: "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(b) "Fuel-burning appliance" means a device that is permanently installed in a building and burns fossil-fuel or carbon based fuel where carbon monoxide is a combustion by-product, including stoves, ovens, grills, clothes dryers, furnaces, boilers, water heaters, heaters, fireplaces and stoves.

(c) "Residential building" has the meaning as given in s. 101.149 (1) (b), Stats.

Note: Section 101.149 (1) (b) reads: "Residential building" means a tourist rooming house, a bed and breakfast establishment, or any public building that is used for sleeping or lodging purposes. "Residential building" does not include a hospital or nursing home.

(d) "Sealed combustion appliance" means a listed appliance that acquires all air for combustion through a dedicated sealed passage from the outside to a sealed combustion chamber and all combustion products are vented to the outside through a separate dedicated sealed vent.

(e) "Sleeping area" has the meaning as given in s. 101.145 (1) (b), Stats.

Note: Section 101.145 (1) (b) reads: "Sleeping area" means the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

(2) INSTALLATION. (a) 1. Listed and labeled carbon monoxide alarms shall be installed at locations specified in s. 101.149 (2), Stats., and maintained in accordance with s. 101.149 (3), Stats., in buildings, including buildings existing on October 1, 2008, which are residential buildings or include residential buildings, and contain fuel-burning appliances, except as provided in subd. 4.

Note: Section 101.149 (2) and (3), Stats., reads:

(2) INSTALLATION REQUIREMENTS. (a) Except as provided in par. (b), the owner of a residential building shall install a carbon monoxide detector in all of the following places not later than the date specified under par. (c):

1. In the basement of the building if the basement has a fuel-burning appliance.
2. Within 15 feet of each sleeping area of a unit that has a fuel-burning appliance.
3. Within 15 feet of each sleeping area of a unit that is immediately adjacent to a unit that has a fuel-burning appliance.
4. In each room that has a fuel-burning appliance and that is not used as a sleeping area. A carbon monoxide detector shall be installed under this subdivision not more than 75 feet from the fuel-burning appliance.
5. In each hallway leading from a unit that has a fuel-burning appliance, in a location that is within 75 feet from the unit, except that, if there is no electrical outlet within this distance, the owner shall place the carbon monoxide detector at the closest available electrical outlet in the hallway.

(b) If a unit is not part of a multiunit building, the owner of the residential building need not install more than one carbon monoxide detector in the unit.

(c) 1. Except as provided under subd. 2., the owner of a residential building shall comply with the requirements of this subsection before the building is occupied.

2. The owner of a residential building shall comply with the requirements of this subsection not later than April 1, 2010, if construction of the building was initiated before October 1, 2008, or if the department approved the plans for the construction of the building under s. 101.12, Stats., before October 1, 2008.

(d) Any carbon monoxide detector that bears an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization satisfies the requirements of this subsection.

(e) The owner shall install every carbon monoxide detector required by this subsection according to the directions and specifications of the manufacturer of the carbon monoxide detector.

(3) MAINTENANCE REQUIREMENTS. (a) The owner of a residential building shall reasonably maintain every carbon monoxide detector in the residential building in the manner specified in the instructions for the carbon monoxide detector.

(b) An occupant of a unit in a residential building may give the owner of the residential building written notice that a carbon monoxide detector in the residential building is not functional or has been removed by a person other than the occupant. The owner of the residential building shall repair or replace the nonfunctional or missing carbon monoxide detector within 5 days after receipt of the notice.

(c) The owner of a residential building is not liable for damages resulting from any of the following:

1. A false alarm from a carbon monoxide detector if the carbon monoxide detector was reasonably maintained by the owner of the residential building.

2. The failure of a carbon monoxide detector to operate properly if that failure was the result of tampering with, or removal or destruction of, the carbon monoxide detector by a person other than the owner or the result of a faulty alarm that was reasonably maintained by the owner as required under par. (a).

2. The installation of carbon monoxide alarms in accordance with s. 101.149 (2) and (3), Stats., shall be throughout the entire building where a portion of the building includes a residential building.

3. The 75-foot installation limit specified under s. 101.149 (2) (a) 5., Stats., shall be measured from the door of the unit.

4. The installation of carbon monoxide alarms is not required in buildings if construction of the building was initiated before October 1, 2008, or if the department approved the plans for the construction of the building under s. Comm 61.30, provided the building does not have an attached enclosed garage and either of the following circumstances applies:

a. All of the fuel-burning appliances in the building are of a sealed-combustion type that are covered by the manufacturers' warranties against defects.

b. All of the fuel-burning appliances in the building are of sealed-combustion type that are inspected in accordance with sub. (3) or rules promulgated by the department of health services under s. 254.74 (1) (am), Stats.

(b) 1. Carbon monoxide alarms shall conform to UL 2034.

2. Carbon monoxide alarms shall be listed and labeled identifying conformance to UL 2034.

(c) Carbon monoxide alarms to be installed in a building shall be wired to the building's electrical service and include battery secondary power supplies, if either of the following conditions applies:

1. Plans for the construction of the building were submitted for review under s. Comm 61.30 on or after October 1, 2008.

2. Construction of the building was initiated on or after October 1, 2008, if plans were not required to be submitted and approved under s. Comm 61.30.

(d) Carbon monoxide alarms to be installed within a dwelling unit shall be interconnected so that activation of one alarm will cause activation of all alarms within the dwelling unit, if either of the following conditions applies:

1. Plans for the construction of the building were submitted for review under s. Comm 61.30 on or after October 1, 2008.

2. Construction of the building was initiated on or after October 1, 2008, if plans were not required to be submitted and approved under s. Comm 61.30.

(3) INSPECTION OF SEALED COMBUSTION APPLIANCES. (a) The owner of a building shall be responsible for arranging the inspection of sealed combustion appliances and the vents and chimneys serving the appliances under subd. (2) (a) 4. b.

(b) Pursuant to subd. (2) (a) 4. b., the inspection of the sealed combustion appliances, vents and chimneys shall be for the purpose of determining carbon monoxide emission levels.

(c) Pursuant to subd. (2) (a) 4. b., the inspection of the sealed combustion appliances, vents and chimneys shall be performed at least once a year.

(d) For the propose of subd. (2) (a) 4. b., the inspection of the sealed combustion appliances, vents and chimneys shall be performed by an individual who holds a certification issued under ch. Comm 5 as an HVAC qualifier.

(e) If upon inspection the carbon monoxide emissions from a fuel burning appliance, vent or chimney are not within manufacturer's specifications, the appliance may not be operated until repaired or carbon monoxide alarms are installed in accordance with s. 101.149 (2) and (3), Stats.

(4) PENALTIES. Violation of the provisions of this section shall be subject to the penalties provided under s. 101.149 (8), Stats.

Note: Section 101.149 (8), Stats., reads:

(8) PENALTIES. (a) If the department of commerce or the department of health and family services determines after an inspection of a building under this section or s. 254.74 (1g) that the owner of the building has violated sub. (2) or (3), the respective department shall issue an order requiring the person to correct the violation within 5 days or within such shorter period as the respective department determines is necessary to protect public health and safety. If the person does not correct the violation within the time required, he or she shall forfeit \$50 for each day of violation occurring after the date on which the respective department finds that the violation was not corrected.

(b) If a person is charged with more than one violation of sub. (2) or (3) arising out of an inspection of a building owned by that person, those violations shall be counted as a single violation for the purpose of determining the amount of a forfeiture under par. (a).

(c) Whoever violates sub. (4) is subject to the following penalties:

1. For a first offense, the person may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both.

2. For a 2nd or subsequent offense, the person is guilty of a Class 1 felony.

SECTION 5. Comm 62.3500 (3) (e) is created to read:

Comm 62.3500 (3) (e) UL 2034 – 2005, Single and Multiple State Carbon Monoxide Alarms.

SECTION 6. Comm 62.3500 (3) Note is amended to read:

Comm 62.3500 (3) Note: ANSI/ASAE standards may be purchased from the American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659.

ASTM standards may be purchased from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

NFPA standards may be purchased from the National Fire Protection Association, One Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

UL standards may be purchased for Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096.

Copies of the standards adopted under this section are on file in the offices of the department and the legislative reference bureau.

SECTION 7. Comm 66.0911 is renumbered Comm 66.0911 (1).

SECTION 8. Comm 66.0911 (1) (title) is created to read:

Comm 66.0911 Other requirements. (1) ELEVATOR RECALL.

SECTION 9. Comm 66.0911 (2) is created to read:

Comm 66.0911 (2) CARBON MONOXIDE ALARMS. This is a department rule in addition to the requirements in IEBC section 911: A building or a portion of a building changed to be or include a residential building as defined under s. 101.149 (1) (b), Stats., shall be provided with carbon monoxide alarms in accordance with s. Comm 62.1200.

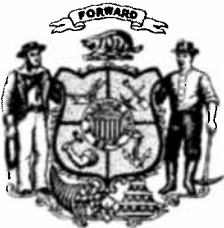
(END)

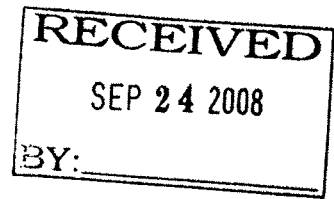
EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule on October 1, 2008.



WISCONSIN STATE LEGISLATURE





**ORDER OF THE
DEPARTMENT OF COMMERCE**

**EMERGENCY RULE RELATING TO ALLOCATION OF VOLUME CAP ON
TAX-EXEMPT PRIVATE ACTIVITY BONDS**

Finding of Emergency and Rule Analysis


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

The facts constituting the emergency are as follows. Because of widespread disruption of the housing markets, Congress has enacted the Housing and Economic Recovery Act of 2008 (the "Act"), which contains various relief measures relating to housing. Section 3021 of the Act creates a special one-time additional allocation of volume cap for calendar year 2008, to be used for the issuance of single-family housing bonds and multifamily housing bonds no later than December 31, 2010.

Under section 560.032 of the Statutes, the Department of Commerce is charged with allocating to Wisconsin issuers the private activity bond volume cap allocated to Wisconsin under the Internal Revenue Code of 1986, 26 USC 146. This emergency rule is necessary to implement the special allocation of volume cap under the Act, as described above.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Dated at Madison this 19th day
of September, A.D. 2008,
by the Department of Commerce



Aaron Olver, Deputy Secretary

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 113
Amendment No. if Applicable

Subject

Allocation of volume cap on tax-exempt private activity bonds

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

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

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

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory
- 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 rules are not expected to have a significant fiscal effect on the Department because they simply allocate new tax-exempt bonding authority of \$175.4 million to the Wisconsin Housing and Economic Development Authority for calendar year 2008.

The rules are likewise not expected to impose any significant costs on the private sector.

Long-Range Fiscal Implications
None known.

Agency/Prepared by: (Name & Phone No.)
Commerce/Louie Cornelius 266-8629

Authorized Signature/Telephone No.

Louie Cornelius

Date

9/19/08

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

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chapter Comm 113

Amendment No.

Subject
 Allocation of volume cap on tax-exempt private activity bonds

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

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$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
TOTAL State Costs By Category	\$0	-\$0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$0	-\$0
GPR Earned	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
TOTAL State Revenues	\$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/Louie Cornelius 266-8629

Authorized Signature/Telephone No.

Louie Cornelius

Date

9/19/08

The Wisconsin Department of Commerce adopts an order to create section Comm 113.03 (4) relating to the one-time allocation for calendar year 2008 of private activity bond volume cap under section 146(d) of the Internal Revenue Code of 1986, awarded to Wisconsin pursuant to the federal Housing and Economic Recovery Act of 2008, and affecting small businesses.

Rule Summary

1. Statutes Interpreted.

Section 560.032.

2. Statutory Authority.

Section 560.032.

3. Explanation of Agency Authority.

Section 560.032 of the Statutes requires the Department to promulgate rules for establishing and administering a system, under 26 USC 146, for allocating the federal volume cap on tax-exempt private activity bonds, as defined under 26 USC 141 (a), among various Wisconsin issuers, including the Wisconsin Housing and Economic Development Authority (WHEDA).

4. Related Statute or Rule.

The Department has statutes and rules for several programs associated with housing assistance and community development – such as chapter Comm 154, Small Cities Community Development Block Grants for Housing; and chapter Comm 108, Community Development Block Grant Program – but only chapter Comm 113 contains rules relating to allocating a volume cap on tax-exempt private activity bonds for housing.

5. Plain Language Analysis.

The rules in this order allocate to WHEDA for calendar year 2008 the one-time additional \$175.4 million in tax-exempt bonding authority that has been awarded to Wisconsin for single-family and multifamily housing activities, under section 3021 of the federal Housing and Economic Recovery Act of 2008.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

Section 3021 of the federal Housing and Economic Recovery Act of 2008 amends subsection (d) of section 146 of the Internal Revenue Code to create a special one-time increase in the allocation of volume cap for calendar year 2008, to be used for the issuance of single-family housing bonds and multifamily bonds. Notice 2008-79 from the Internal Revenue Service specifies the amount of the increase that is allocated to each State.

7. Comparison With Rules in Adjacent States.

Michigan

According to staff in the Michigan Department of Revenue, Michigan has statutes that address allocation of their volume cap for tax-exempt private activity bonds, and they are administering the allocation directly under those statutes rather than under corresponding rules. Consequently, no rulemaking is anticipated for administering their one-time, 2008 volume cap increase of \$315.4 million.

Minnesota

According to staff in the Minnesota Department of Finance and Employee Relations, Minnesota has statutes that address allocation of their volume cap for tax-exempt private activity bonds, and they are administering the allocation directly under those statutes rather than under corresponding rules. Consequently, no rulemaking is anticipated for administering their one-time, 2008 volume cap increase of \$162.7 million.

Iowa

According to staff in the Iowa Finance Authority, Iowa has statutes and corresponding rules that address allocation of their volume cap for tax-exempt private activity bonds, and they are administering the allocation under those statutes and rules. However, no rulemaking is anticipated for administering their one-time, 2008 volume cap increase of \$96.6 million.

Illinois

Section 30 ILCA 345 of the Illinois statutes designates the Governor's Office as the entity charged with allocating their volume cap for tax-exempt private activity bonds, and specifies that the guidelines and procedures which are issued by the Governor's Office govern and control the administration of the allocation process in accordance with section 30 ILCA 345. The one-time, 2008 volume cap increase for Illinois is \$402.4 million.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of reviewing the criteria in section 3021 of the federal Housing and Economic Recovery Act of 2008; a summary of the Act, from the National Council of State Housing Agencies; and Notice 2008-79 from the Internal Revenue Service.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary documents that were used to determine the effect of the rules on small business were the federal Housing and Economic Recovery Act of 2008; a summary of the Act, from the National Council of State Housing Agencies; and Notice 2008-79 from the Internal Revenue Service.

No economic impact report was prepared.

10. Effect on Small Business.

The rules are expected to result in only beneficial effects on small business because the rules only address a temporary increase in WHEDA bonding authority for single-family and multifamily housing activities.

11. Agency Contact Person.

Tarna Gahan-Hunter, Wisconsin Department of Commerce, Bureau of Policy and Budget, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-9382; e-mail tarna.gahanhunter@Wisconsin.gov.

File reference: Comm 113/rules, analysis-e

SECTION 1. Section Comm 113.03 (4) is created to read:

Comm 113.03 (4) There is allocated to WHEDA for the calendar year 2008, the volume cap allocated to Wisconsin pursuant to s. 3021 of the Housing and Economic Recovery Act of 2008, to be utilized by WHEDA for single-family housing bonds or multifamily housing bonds. WHEDA shall certify to the department promptly after issuance the total amount of private activity bonds issued pursuant to this allocation.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper. **(September 27, 2008)**

File reference: Comm 113/rules 2008e w.date