

Clearinghouse Rule 07-080

PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to repeal Chapter Adm 44 of the Wisconsin Administrative Code relating to Energy Conservation and Efficiency and Renewable Resource Programs.

Analysis by the Department of Administration

Statutes Interpreted: ss. 16.957(1), (2) and (3), Stats.

Statutory Authority: ss. 16.004(1), 16.957(2)(c) 4 and 5, and 227.11, Stats.

Explanation of agency authority: The proposed elimination of Chapter Adm 44 complies with 2005 Wisconsin Act 141 that transferred all the responsibilities governed by the rule to the Public Service Commission.

Related statute or rule: None

Plain language analysis: The Department proposes to repeal Chapter Adm 44. 2005 Wisconsin Act 141 amended s. 16.957, Stats., to exclude energy conservation and efficiency and renewable resource programs from Department duties effective July 1, 2007. The same Act created a similar set of responsibilities for the Public Service Commission also effective July 1, 2007. Separately, the Public Service Commission is preparing a proposal to fulfill its new responsibilities as they become effective. The proposed rule repeal brings an existing rule into conformity with a statute that has been changed to no longer require the Department's involvement in the energy conservation and efficiency and renewal resource programs. Therefore, pursuant to s. 227.16(2)(b), Stats., the Department will not hold public hearings regarding this rule.

Summary of, and comparison with, existing or proposed federal regulations: No known existing or proposed federal regulations comparable to the proposed rules.

Comparison with rules in adjacent states: Each of the four states adjacent to Wisconsin operates energy efficiency and renewable energy programs, albeit with substantial variation in strategies and methods.

- The Minnesota Department of Commerce operates the "conservation improvement program" under Minnesota Rule, Chapter 7690. This rule specifies the "procedures to be followed by public utilities in submitting, and by the department [of Commerce] in analyzing and selecting, proposals for conservation improvement programs and to provide for the participation of other interested persons in developing conservation improvement programs." Minnesota Rule, Chapter 7635 establishes the requirements for "Major regulated utilities to offer their residential utility customers services related to the promotion of energy conservation." This is similar to the Wisconsin

system that will become effective in July 2007 that requires utilities to develop and deliver energy efficiency and renewable energy programs subject to oversight by a state agency.

- The Iowa Utilities Board, under the Iowa Department of Commerce, oversees energy efficiency and renewable programs under several administrative rules. The Iowa Administrative Code (IAC) [199] Chapter 28 – Iowa Supplemental Energy Conservation Plan covers a voluntary plan for the “small- to medium-sized energy suppliers.” IAC [199] Chapter 35 provides implementation governance for gas and electric utilities required by statute to be rate-regulated and to provide the (Iowa Utilities) board the necessary information to review each utilities assessment of potential, to develop specific capacity and energy savings performance standards for each utility and to evaluate the appropriateness of each utility’s energy efficiency plan. IAC [199] Chapter 36 requires that “Each non-rate regulated gas and electric utility shall file energy efficiency plans...” Lastly, IAC [565] Chapter 18 establishes the State Energy Program under the Environmental Services Division of the Department of Natural Resources.
- The Michigan Low Income and Energy Efficiency Fund is overseen by the Michigan Public Service Commission in the Department of Labor and Economic Growth, generally through Commission orders. Funding is through the utility rate base. Michigan Rule 460.2401 – 2414 provides standards to be followed by public utilities that choose to deliver residential conservation programs. Unlike Wisconsin, Michigan does not mandate that the state’s utilities provide energy efficiency programs.
- The Illinois Department of Commerce and Economic Development operates energy efficiency and renewable energy programs in that state. There are no rules governing the efficiency programs. Illinois Administrative Code Title 86 Revenue, Part 517 provides rules by which the Department of Revenue collects a Renewable Energy Resources and Coal Technology Development Assistance Charge. Half of this charge is used to fund a Renewable Energy Resources Trust Fund administered by the Department of Commerce and Economic Opportunity. Illinois Administrative Code Title 32, Energy, Chapter 1, Part 130 covers the Illinois Renewable Fuels Development Program.

Summary of factual data and analytical methodologies: See plain language analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: Not applicable—rule is being repealed.

Effect on small business: None.

Agency contact person:

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Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the agency contact person listed above and via the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov>

Initial Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the repeal of this rule is not expected to negatively impact on small businesses. A similar set of energy conservation and efficiency and renewable resource programs is anticipated to be maintained by non-municipal electric utilities with oversight by the Public Service Commission with no break in service to customers or small businesses.

Fiscal Estimate: None

TEXT OF RULE:

SECTION 1. Chapter Adm 44 is repealed.

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

Dated: August 15, 2007

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Michael L. Morgan
Secretary of Administration