
Modifications From Agency

DATE: January 25, 2022

TO: Michael J. Queensland
Senate Chief Clerk
Room B20 Southeast, State Capitol
PO Box 7882
Madison, WI 53707-7882

Edward A. Blazel
Assembly Chief Clerk
17 West Main Street, Room 401
Madison, WI 53703

FROM: Amy Pechacek, Secretary-designee
Department of Workforce Development

SUBJECT: **Notice and Report for Resubmission of Proposed Rule
Technical Education Equipment Grants
Clearinghouse Rule 20-015**

Pursuant to s. 227.19 (4) (b) 3m. and 4., Stats., the Department of Workforce Development is resubmitting for legislative review the attached proposed rule with germane modifications for Clearinghouse Rule 20-015. The governor approved this proposed rule on June 10, 2021. The analysis required under s. 227.14 (2), Stats., is included in the proposed rule. Also attached is the Fiscal Estimate & Economic Impact Analysis and the Rules Clearinghouse report and comments.

Basis and Purpose

2017 Wisconsin Act 59 created s. 106.275, Stats, which allows the Department to award technical education equipment grants to school districts. As required under s. 106.275 (4) (b), Stats., the Department is proposing this rule to establish procedures and requirements for school districts to apply for the grants, the Department to award the grants, and school districts to file reports about the grants they receive.

Public Hearings

The Department did not hold a preliminary public hearing and comment period on the proposed rule. The Department held a combined public hearing on the proposed rule and emergency rule

EmR2001 on May 29, 2020. There were no appearances and no comments relevant to the proposed rule were filed.

Changes to the Analysis or Fiscal Estimate

The Department revised the analysis to indicate the date of the public hearing and to state that no comments were filed. The Department also revised the analysis to reflect the germane modifications described below. The Department made no other changes to the analysis or fiscal estimate.

Responses to Rules Clearinghouse

The Rules Clearinghouse made comments regarding 1) Statutory Authority and 2) Form, Style and Placement in the Administrative Code. The Department revised the proposed rule as recommended by the Rules Clearinghouse in its comments on Form, Style and Placement in the Administrative Code.

For Statutory Authority, the Rules Clearinghouse made the following comment:

Sections DWD 802.04 and 802.05 create an application procedure, specify required content, and establish evaluation criteria for a grant application, while s. DWD 802.09 enumerates information that a grantee must include in reports to the agency. However, apart from specific requirements already present in the statute, the proposed rule provisions generally provide that procedure, content, evaluation criteria, and reported information will be determined within a “Grant Program Announcement” (GPA) document issued by the agency.

Because s. 106.275 (4), Stats., specifically directs the department to promulgate rules to establish application procedures and requirements, as well as award procedures and criteria, the department should explain what authority it has to create such requirements within a GPA, rather than promulgating the requirements within the rule.

Department response:

The Department opted to promulgate rules for the technical education equipment grants that followed the long-standing procedures under ch. DWD 801, the Wisconsin Fast Forward grant program.

Final Regulatory Flexibility Analysis and Response to SBRRB

The Department determined that the proposed rule will have no significant economic effect on small businesses as defined in s. 227.114 (1), Stats. Therefore, the Department did not submit the proposed rule to the Small Business Regulatory Review Board (SBRRB) and a final regulatory analysis is not required.

Germane Modifications

After a meeting requested by the chair of the Assembly Committee on Workforce Development, the Department made a germane modification to proposed s. DWD 802.05 (2) (b) regarding the awarding of points for applications with private source matching funds.

After a meeting requested by the co-chairs of the Joint Committee for the Review of Administrative Rules, the Department recalled the proposed rule and made the following germane modifications:

- The Department revised the definition of "Grant Program Announcement" or "GPA" in proposed s. DWD 802.03 (5).
- The Department imposed additional requirements on grant applicants in proposed s. DWD 802.04 (2) (c), (d), and (e).
- The Department imposed additional requirements on its evaluations of grant applications in proposed s. DWD 802.05 (2) (a) and (b) and Note. The additional requirements include evaluating applications against specified criteria and making available grant evaluation rubrics and scoresheets.
- The Department corrected a cross-reference in proposed s. DWD 802.05 (3).