



Report From Agency

Rule Report for Legislative Review

Clearinghouse Rule #: 22-025
Subject: Wisconsin Disaster Fund – Eligibility Criteria
Admin Code Reference: WEM 7.03(1)(b)

The statement of scope for this rule, SS 007-22, was approved by the Governor on January 27, 2022, published in Register No. 794A3 on February 21, 2022, and approved by The Adjutant General on February 11, 2022, as required by s. 227.135(2), Stats. The final draft of the rule was approved by the Governor on May 5, 2022, pursuant to s. 227.185, Stats.

Basis and Purpose of the Proposed Rule

Section 323.31, Stats., authorizes the Department of Military Affairs to make payment to local governments, federally recognized tribes and bands and retail electric cooperatives for damages caused by and costs incurred due to a disaster as defined in ch. 323, Stats. The statute also directs the department to promulgate administrative rules establishing the application process and eligibility criteria for payment of the disaster funds. The proposed repeal of WEM 7.03(1)(b), which is currently in place as an emergency rule, will permanently remove the eligibility requirement that entities otherwise entitled to disaster funds must declare an emergency during the disaster period to receive the funds. The proposed repeal was prompted by comments from entities potentially entitled to disaster funds indicating that it is often impossible to declare a disaster during the disaster period because the entities are busy responding to the disaster, working to save lives and preserve property. Additionally, nothing in s. 323.31 requires that an entity declare a disaster to be eligible for funds.

Public Hearing Summary

The department held a public hearing on both the emergency rule and the proposed permanent rule in DeForest on April 28, 2022.

The department did not receive any comments prior to or at the hearing.

Modification to Rule as Originally Proposed as a Result of Public Comments

None.

Department Response to Legislative Council Rules Clearinghouse Recommendations

The Legislative Council Rules Clearinghouse submitted comments on form, style, and placement in administrative code, adequacy of references to related statutes, rules and forms and clarity, grammar, punctuation, and use of plain language. The department has incorporated all of the changes recommended by the Clearinghouse except for the changes recommended in Section 5.b. Section 5.b. suggests that the department make further changes to WEM 7 for clarity. WEM will in fact be starting the process of revamping WEM 7 to address the issues the Clearinghouse report identified, as well as others, soon by submitting a statement of scope. However, because the emergency rule repealing WEM 7.03(1)(b) will expire within a few months, the department wanted to ensure that it moved forward more quickly with a permanent revision to WEM 7 to ensure that there is no gap between the emergency rule and the permanent rule.

Changes to Analysis Prepared under Section 227.14 (2), Stats.

The department has not changed the analysis set forth in the report submitted to the Clearinghouse but has made changes to improve clarity.

Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses as defined in s. 227.114 (1), Stats.

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