

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to create chapter Comm 131 relating to diesel truck idling reduction grants, and affecting small business.

Analysis of Proposed Rules

1. Statutes Interpreted

Section 560.125

2. Statutory Authority

Section 560.125 (4) (f) and (5m)

3. Explanation of Agency Authority

Section 560.125 (5m) of the Statutes, as created by 2005 Wisconsin Act 25, requires the Department to promulgate rules for administering a diesel truck idling reduction grant program under section 560.125 of the Statutes. Section 560.125 (4) (f) of the Statutes authorizes the Department to impose conditions on the receipt of grants issued in this program.

4. Related Statute or Rule

Chapter Comm 48 regulates petroleum products, including diesel fuels, in Wisconsin.

5. Summary of Rule

The proposed rules specify who is eligible for receiving a grant in this program, for purchasing and installing diesel truck idling reduction equipment. Eligible costs are also specified, along with how to apply for the grants. Parameters for awarding the grants are likewise specified. These parameters include (1) disallowing grants to any applicant who is failing to comply with any conditions imposed on any previous grant received in this program; and (2) alerting applicants that the Department may (a) refuse to award grants for idling reduction equipment on truck tractors that do not have a sleeper berth, (b) annually allocate up to 25 percent of the grant funding to applicants who own and operate 50 or fewer truck tractors, (c) preferentially direct funding to an applicant who owns a fleet for which no previous grant has been awarded under this chapter, and (d) set cutoff dates for accepting applications, and then prorate the awards to the applicants if the total funding requested in the applications exceeds the available revenue.

During implementation of this grant program in 2006 through an emergency rule, the Department readily confirmed its expectation that the applications for funding would

dramatically exceed the available revenue. The Department likewise expects that the applications in future years will significantly exceed the available revenue. Consequently, in order to improve its ability to disperse the awards as equitably as possible, and to enhance the broadness of the associated field testing, the Department has revised the proposed rules from the emergency rule, to include options for (1) preferentially directing awards to applicants who have not previously received these grants, and (2) requiring applicants to pay more than 30 percent of the eligible costs.

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

Various federal regulations address efforts to decrease emissions of air contaminants or to decrease the use of energy, by motor vehicles.

Particularly pertinent to the proposed rules is a regulation published by the U.S. Environmental Protection Agency (EPA) in the January 18, 2001, *Federal Register*, under Title 40, Parts 69, 80, and 86, in the *Code of Federal Regulations*. Through this regulation, the EPA has established a comprehensive national control program for reducing particulate matter and nitrogen-oxide emissions from heavy-duty diesel engines by 90 percent and 95 percent below current standard levels, respectively. This national program includes stringent, new emission standards that will begin to take effect in model year 2007, and a corresponding significant reduction of the level of sulfur in diesel fuels, which is needed to enable engine components to consistently meet the emission standards.

Extensive federal efforts related to this national program are also underway for reducing these emissions *by reducing diesel engine idling* – such as (1) the EPA’s National Clean Diesel Campaign, which is aggressively promoting diesel idling reduction nationwide; (2) the National Transportation Idle-Free Corridors project, as sponsored by the EPA’s SmartWay™ Transport Partnership, which aims to eliminate all unnecessary long-duration diesel truck and locomotive idling at strategic points along major transportation corridors; (3) the Clean Cities Program in the U.S. Department of Energy (DOE), which includes addressing research and development for diesel idling reduction technologies, and corresponding funding of national and state-level demonstration projects; (4) the *National Idling Reduction Network News*, as published monthly by the DOE’s Argonne National Laboratory, which summarizes current events and developments nationwide relating to diesel idling reduction; and (5) the Congestion Mitigation and Air Quality Improvement Program in the U.S. Department of Transportation’s Federal Highway Administration, which funds retrofitting of heavy-duty diesel engines that results in reducing nitrogen-oxide emissions in air-quality-related nonattainment or maintenance areas. In addition, Sections 792 and 793 of the federal Energy Policy Act of 2005 authorize the EPA to provide \$200 million per year, for fiscal years 2007-2011, for grants and loans to states and other eligible entities to achieve significant reductions in diesel emissions, and those funds can be used in programs that use verified technology to reduce long-duration idling of medium- and heavy-duty diesel trucks.

7. Comparison With Rules in Adjacent States

In reviewing available sources, such as the *National Idling Reduction Network News*, and the *Compendium of Idling Regulations* by the American Transportation Research Institute, and in discussing corresponding efforts with staff in Minnesota and the EPA, Department staff did not

find any rules in adjacent states that address grants for purchasing and installing diesel truck idling reduction equipment. However, under corresponding statutory criteria, Minnesota began providing loans in 2005 that can be used for this purpose, through its Small Business Environmental Improvement Loan Program. Related efforts in Iowa, Illinois and Michigan include (1) sponsoring of workshops in March 2006 in Michigan, and in May 2006 in Illinois, in conjunction with the EPA's Midwest Clean Diesel Initiative; and (2) enactment of legislation in Illinois in June 2006 that prohibits diesel vehicles of 8000 pounds or more from idling within the metropolitan areas of Chicago and East Saint Louis, for more than 10 minutes within any 60-minute period, except for various exemptions.

8. Summary of Factual Data and Analytical Methodologies

The data and methodology for developing these proposed rules consisted of (1) incorporating the detailed, prescriptive criteria in section 560.125 of the Statutes; (2) soliciting and utilizing input from representatives of the stakeholders who are expected to participate in this program; (3) discussing similar efforts to reduce diesel truck idling, with corresponding staff in Minnesota, Pennsylvania, and the EPA; and (4) reviewing Internet-based sources of related federal, state, and private-sector information.

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

The Department considered the potential for owners of large truck fleets to quickly exhaust the available grant funds, as based on the number of trucks in each of the 10 largest fleets in Wisconsin. The Department therefore plans to annually allocate up to 25 percent of the grant funding to applicants who own and operate 50 or fewer truck tractors, in order to field-test the effectiveness of the program and the idling reduction equipment across the complete spectrum of the trucking industry in Wisconsin.

10. Effect on Small Business

The proposed rules are not expected to impose any significant costs on small businesses, because the rules only address how the Department will award grant funds for diesel truck idling reduction equipment.

11. Agency Contact Information

Tom Coogan, Wisconsin Department of Commerce, Bureau of Entrepreneurship, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-9214; e-mail Thomas.Coogan@wisconsin.gov

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