

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to amend Comm 131.30 (1) (b) 2. and the Comm 131 Appendix 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 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 would make chapter Comm 131 consistent with the changes that were made to section 560.125 of the Statutes by 2007 Wisconsin Act 20. Prior to this Act, and under the current rules that have been in effect since July 1, 2006, (1) an approved applicant paid 30 percent of the eligible costs for each idling reduction unit, unless the Department required payment of a higher percentage; (2) the Department annually funded units for a limited percentage of an applicant's truck tractors, and the percentage decreased as the number of owned tractors increased from 1 to 500; (3) the Department annually funded up to the greater of either 25 units or units for 5 percent of the owned truck tractors, for an applicant who owned and operated from 501 to 2500 truck tractors; and (4) the Department annually funded units for up to 3 percent of the owned truck tractors, for an applicant who owned and operated more than 2500 truck tractors.

Under the changes enacted in 2007 Act 20, (1) the applicant must pay at least 50 percent of the eligible costs for each idling reduction unit, (2) the 25-unit limit is now 30 units, (3) the

limit for more than 2500 truck tractors is now the greater of either 3 percent or 125 units, and (4) the annual limit on the number of units that an applicant could receive funding for, which was applied during each of the first two years of the program, is now the limit for the period from July 1, 2007, to June 30, 2011.

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 new heavy-duty diesel engines by 90 percent and 95 percent below current standard levels, respectively. This national program includes stringent, new emission standards that took 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 from existing diesel engines *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, for fiscal year 2008, Congress appropriated funds for the first time under the federal Energy Policy Act of 2005 to help reduce emissions from heavy-duty diesel engines. Through the National Clean Diesel Campaign, the EPA can award grants totaling \$49.2 million in fiscal year 2008, to states and other eligible entities to build diesel emission reduction programs across the country. According to the EPA, the emissions from the millions of diesel engines already in use are linked to thousands of premature deaths, hundreds of thousands of asthma attacks, millions of lost work days, and numerous other health impacts every year.

7. Comparison With Rules in Adjacent States

No adjacent State has a grant program 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 Michigan and 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. Due to the availability of the EPA grants described above, the adjacent States are expected to begin implementing grant programs for diesel idling reduction within the next year or two.

8. Summary of Factual Data and Analytical Methodologies

The data and methodology for developing the proposed rules consisted of incorporating the changes that are needed to achieve consistency with the changes which were made to section 560.125 of the Statutes by SECTIONS 3564p to 3564t of 2007 Wisconsin Act 20.

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

The Department considered the applications and resulting grants that were processed during the initial, 2007, funding cycle of the program.

10. Effect on Small Business

Small businesses which own diesel truck tractors and which apply for grants under chapter Comm 131, as amended by the proposed rules, may receive a smaller benefit than they would have received without enactment of 2007 Wisconsin Act 20. 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

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12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to srockweiler@commerce.state.wi.us, no later than June 2, 2008. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File Reference: Comm 131/rules analysis PH
