

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date March 4, 2024
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Jus 10	
4. Subject Handgun transfers	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.455(2)(gr)
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$Estimated to be less than \$10 million biennially.	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Consistent with Wis. Stat. § 175.35(2)(c), the Wisconsin Department of Justice ("DOJ") must "promulgate rules for firearms restrictions record searches regarding transferees under" Wis. Stat. § 175.35(2). Wisconsin Admin. Code ch. Jus 10 is an existing Administrative Code chapter that includes rules addressing this topic, including Wis. Admin. Code § Jus 10.06(2)(c) and (d). This rule amends chapter Jus 10 of the Administrative Code to make it consistent with existing statutory law in Wis. Stat. § 175.35(2g)(c)4.c. Specifically, in 2015 Wis. Act 22, § 4, the Legislature amended Wis. Stat. § 175.35(2g)(c)4.c. to require that, if DOJ's firearms restrictions record search "indicates that it is unclear whether the person is prohibited under state or federal law from possessing a firearm" and DOJ "needs more time to make the determination," DOJ "shall make every reasonable effort to determine whether the person is prohibited under state or federal law from possessing a firearm and notify the firearms dealer of the results as soon as practicable but no later than 5 working days after the search was requested." Wisconsin Admin. Code § Jus 10.06(2)(c) must be amended to be consistent with this statutory language, and Wis. Admin. Code § Jus 10.06(2)(d) must be repealed for the same reason.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. N/A	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)	

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No economic or fiscal impacts are anticipated for specific businesses, sectors, rate payers, or the State's economy as a whole.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefits of implementing the rule are that it will make Wis. Admin. Code ch. Jus 10 consistent with existing statutory law in Wis. Stat. § 175.35(2g)(c)4.c. and provide consistent and accurate direction for the public regarding handgun transfers.

The alternative to implementing the rule is that chapter Jus 10 will be inconsistent with existing statutory law.

16. Long Range Implications of Implementing the Rule

The long-range implications of implementing the rule are that people transferring handguns will have direction in Wis. Admin. Code ch. Jus 10 that is consistent with existing statutory law.

17. Compare With Approaches Being Used by Federal Government

Federal firearm transfers are governed by the Gun Control Act of 1968, Title 18, United States Code, chapter 44. In 1993, the Gun Control Act of 1968 was amended by the enactment of the Brady Handgun Violence Prevention Act, which required the United States Attorney General to establish the National Instant Criminal Background Check System (NICS). NICS must be contacted by any licensed importer, licensed manufacturer, or licensed dealer of firearms to conduct a firearms restrictions record search to determine whether the transfer of a firearm to any person is permitted under federal and state firearms eligibility laws.

Prior to the enactment of the Brady Handgun Violence Prevention Act, the State of Wisconsin required licensed firearms dealers to contact DOJ to conduct a firearms restrictions record search on any person prior to the sale of a handgun to that person. As a result, upon passage of the Brady Handgun Violence Prevention Act, to conduct a firearms restrictions record search, licensed firearms dealers in Wisconsin continued to contact DOJ for the sale of a handgun, but contact the NICS for the transfer of any other firearm.

28 C.F.R. § 25.6(c)(1)(iv)(B) governs when a licensed firearms dealer may transfer a firearm to a transferee after submitting a firearms restrictions record search to the NICS. Under 28 C.F.R. § 25.6(c)(1)(iv)(B), a “Delayed” response indicates that the firearm transfer should not proceed pending receipt of a follow-up “Proceed” response from the NICS or the expiration of three business days, whichever occurs first. The proposed amendment to Jus 10 will bring the rule in line with Wis. Stat. § 175.35(2g)(c)4.c., which requires that DOJ must notify a firearms dealer of the results of a firearms restrictions record search “as soon as practicable but no later than 5 working days after the search was requested.”

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois handgun transfers are governed by the Firearm Owners Identification Card (FOID) Act, 430 Ill. Comp. Stat. 65. The FOID Act provides for the Firearm Transfer Inquiry Program, which requires the Illinois Department of State Police to conduct background checks on potential transferees to identify anything that would disqualify them from acquiring or possessing a firearm. The Illinois Department of State Police “shall provide, during the initial dealer inquiry, an approval, denial, or conditional denial of the transfer.” 20 Ill. Admin. Code § 1235.90. The time period for the Illinois Department of State Police “to respond shall begin at the time the inquiry is received.” Id. When the Illinois Department of State Police “provides a conditional denial, the dealer shall not transfer the firearm until an approval is provided by the [Illinois Department of State Police] or the length of time prescribed in Section 24-3 of the Criminal Code of 1961 [720 Ill. Comp. Stat. 5/24-3] has been exceeded.” Id. The time provided in 720 Ill. Comp. Stat. 5/24-3 is 72 hours.

Iowa: As of July 1, 2021, a person in Iowa attempting to purchase a handgun through a federal firearms licensee without presenting a permit to acquire or a permit to carry is required to undergo a check through NICS. Iowa Code § 724.15 governs the acquisition of pistols or revolvers, and it provides that “to acquire a pistol or revolver from a federally

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licensed firearms dealer, an unlicensed person is required to”: (1) “have a valid permit to acquire,” (2) have “a valid permit to carry weapons,” or (3) “the person must complete a satisfactory national instant criminal background check pursuant to 18 U.S.C. § 922(t).” Iowa Code § 724.15.1. To receive a permit to carry or a permit to acquire, an individual may apply to the sheriff in his or her county of residence. Iowa Code §§ 724.10.1, 724.11.1, 724.17.1. Permits to carry shall be approved or denied within 30 days of receipt of an application. Iowa Code § 724.11.4. Permits to acquire will be issued immediately, unless the applicant is disqualified, and will be valid three days after the date of the application and invalid five years after the date of issuance. Iowa Code §§ 724.19, 724.20.

Michigan: As of February 13, 2024, Michigan law requires anyone who purchases a pistol or firearm to first obtain a license. Mich. Comp. Laws § 28.422(1)(a), (b). Authorities who issue licenses include “[t]he commissioner or chief of police of a city, township, or village police department.” Mich. Comp. Laws § 28.422(3). Issuing authorities must “with due speed and diligence issue licenses to purchase . . . unless the individual has probable cause to believe that the applicant would be a threat to the applicant or other individuals, or would commit an offense with the firearm that would violate a law of [Michigan] or another state or the United States.” Id. If issued, a license must be used within 30 days or it becomes void. Mich. Comp. Laws § 28.422(4).

Minnesota: In Minnesota, “every person who agrees to transfer a pistol or semiautomatic military-style assault weapon” must report certain personal information about the transferee “in writing to the chief of police of the organized full-time police department of the municipality where the proposed transferee resides” or “to the appropriate county sheriff if there is no such local chief of police.” Minn. Stat. § 624.7132, subd. 1. “If the proposed transferee presents a valid transferee permit” or “a valid permit to carry,” the transferor need not file a transfer report. Minn. Stat. § 624.7132, subd. 8.

After receiving this report, the chief of police or sheriff will run necessary background checks and notify the transferor and proposed transferee in writing as soon as possible if it is determined that the transferee is disqualified. Minn. Stat. § 624.7132, subds. 2.–3. This notification shall specify the grounds for disqualification and set forth a transferee’s appeal rights. Minn. Stat. § 624.7132, subd. 3. No person may deliver a pistol or semiautomatic military-style assault weapon to a proposed transferee until 30 days after the date the agreement to transfer is delivered to a chief of police or sheriff. Minn. Stat. § 624.7132, subd. 4. However, a chief of police or sheriff may waive the waiting period if he or she: (1) “determines the proposed transferee is not disqualified prior to the waiting period concluding,” or (2) “finds that the transferee requires access to a pistol or semiautomatic military-style assault weapon because of a threat to the life of the transferee or of any member of the household of the transferee.” Id. If a waiver is to be made under option (2), the chief of police or sheriff must first determine that the transferee is not prohibited from possessing a firearm under state or federal law. Id.

19. Contact Name Clayton P. Kawski, Assistant Attorney General	20. Contact Phone Number 608-266-8549
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Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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