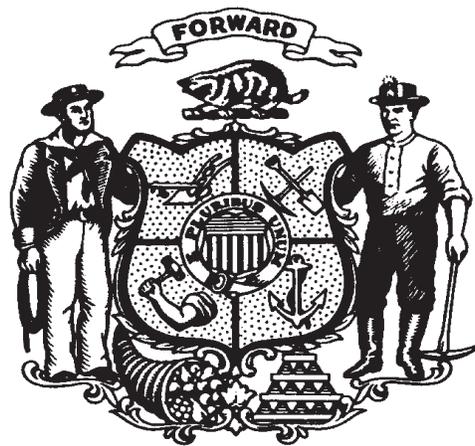


Wisconsin Administrative Register

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NOTICE TO SUBSCRIBERS

Printing of Administrative Code and Register Will End January 1, 2015

As required by 2013 Wisconsin Act 20, state-sponsored printing and distribution of the Wisconsin Administrative Code and Register will end January 1, 2015, and the Code and Register will become electronic-only publications.

Important points:

- The LRB will continue to publish the Code and Register at their present locations on the Legislature's and Legislative Reference Bureau's Internet sites.
- Publication of the Register will occur every Monday rather than the current practice of bimonthly publication.
- Updated and new Code chapters, with insertion and removal instructions, will still be published in the last Register of each month.

Code chapters will be published in the Register as PDF files in the exact format as they are currently printed, including page numbers.

Users can continue loose-leaf notebook use by printing chapters to 3-hole punch paper from any printer or by making arrangements with commercial printers. (Notebooks will no longer be available from the state and the notebook volume for insertion will no longer be designated for published chapters.)

- The format for Internet publication of the Code will not change. The Code will continue to be published in its entirety in both HTML and PDF formats and updated on the first day of each month to reflect changes published in the most recent end-of-month Register.
- An Email notice system is being developed to alert users to changes in only those rules and rulemaking notices that are of interest to the user. RSS feeds providing notice of new Registers and changes to the whole Code, Code chapters grouped by agency, and individual Code chapters are currently available. (For more information on RSS feeds see <https://docs.legis.wisconsin.gov/feed>.) Details on the email notice system will be published in future Registers prior to January 1, 2015.
- The cost of all subscriptions and renewals will be prorated to January 1, 2015 by DOA.

Direct questions on Internet publication to:

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Emergency Rules Now in Effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

Administration

EmR1309 — The Department of Administration hereby adopts an order to create **Chapter Adm 93**, relating to the community development block grant program.

The statement of scope for this rule, SS 041–13, was approved by the Governor on April 15, 2013, and published in Register No. 688 on April 30, 2013, and approved by the Department of Administration Secretary, Mike Huebsch, effective May 13, 2013. This emergency rule was approved by the Governor on June 19, 2013.

Finding of Emergency

Each year the federal government makes funding available to the several states for economic and housing development through a program known as the Community Development Block Grant Program (CDBG). The CDBG is governed under 42 USC 5301 to 5319 and 24 CFR Part 570, and is administered by the US Department of Housing and Urban Development (HUD). Since the dissolution of the Wisconsin Department of Commerce, the Wisconsin Department of Administration (DOA) has received CDBG grants from HUD, and entered into agreements with the Wisconsin Economic Development Corporation (WEDC) for the

administration of those funds. Under this arrangement, state administrative code Chapter Commerce 108 was unneeded, as WEDC operated under substantially similar internal policies. Recently, DOA and WEDC have mutually determined that the expertise of DOA is better suited to administration of CDBG funds, while the expertise of WEDC is best suited to consultation with localities and businesses seeking to access CDBG funds. The parties intend to formalize the transfer of administrative responsibility of CDBG funds to DOA shortly. Consequently, it is imperative for the welfare of the State of Wisconsin that administrative code provisions concerning the CDBG program be made.

Filed with LRB: June 28, 2013
Publication Date: July 1, 2013
Effective Dates: July 1, 2013 through November 27, 2013
Hearing Date: November 18, 2013
Extension Through: January 26, 2014

Agriculture, Trade and Consumer Protection (3)

1. EmR1311 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (c)**, relating to the quarantine of Jefferson County for emerald ash borer.

This emergency rule was approved by the Governor on July 15, 2013.

The blanket statement of scope for this rule, SS 0088–12, was approved by the Governor on November 8, 2012, published in Register No. 683, on November 30, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection as required by s. 227.135 (2), Stats., on December 18, 2012.

Finding of Emergency

On June 25, 2013, the Wisconsin Department of Natural Resources positively identified Emerald Ash Borer (EAB) in Walworth County at the University of Wisconsin Whitewater Campus, about 750 meters from the Jefferson County line. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Jefferson County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: July 24, 2013
Publication Date: July 24, 2013
Effective Dates: July 24, 2013 through December 20, 2013
Hearing Date: September 26, 2013

2. EmR1312 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (d)**, relating to the quarantine of Sauk County for emerald ash borer.

The blanket statement of scope for this rule, SS 08–12, was approved by the Governor on November 8, 2012, published in Register No. 683, on November 30, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection (as required by s. 227.135 (2), Stats.) on December 18, 2012.

This emergency rule was approved by the Governor on August 1, 2013.

Finding of Emergency

On July 11, 2013, the United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Sauk County at Mirror Lake State Park. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Sauk County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: August 13, 2013
Publication Date: August 14, 2013
Effective Dates: August 14, 2013 through January 10, 2014
Hearing Date: September 26, 2013

3. EmR1315 — The state of Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (e)**, relating to the quarantines of Dodge, Douglas, and Winnebago counties for emerald ash borer.

This emergency rule was approved by the Governor on August 29, 2013.

The blanket statement of scope for this rule, SS 0088–12, was approved by the Governor on November 8, 2012, published in Register No. 683, on November 30, 2012, and approved by the Board of Agriculture, Trade & Consumer Protection (as required by s. 227.135 (2), Stats.) on December 18, 2012.

Finding of Emergency

The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Watertown, Dodge County on August 1, 2013; in Black Wolf township, Winnebago County on August 6, 2013; and subsequently in Superior, Douglas County on August 13, 2013. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Dodge, Douglas, and Winnebago counties but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too

much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: September 11, 2013
Publication Date: September 11, 2013
Effective Dates: September 11, 2013 through February 7, 2014
Hearing Date: October 11, 2013

Employment Relations Commission

EmR1310 — The Wisconsin Employment Relations Commission hereby creates **Chapters ERC 70, 71, and 80**, relating to annual certification elections.

This emergency rule was approved by the Governor July 3, 2013.

The statement of scope for this rule, SS 045–13, was approved by the Governor on April 19, 2013, published in Register 689, on May 14, 2013, and approved by the Wisconsin Employment Relations Commission on June 3, 2013.

Finding of Emergency

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules into effect so that the Wisconsin Employment Relations Commission can meet its obligation to conduct annual certification elections as required by ss. 111.70 (4) (d) 3. b. and 111.83 (3) (b), Stats.

Filed with LRB: July 15 2013
Publication Date: July 13, 2013
Effective Dates: July 13, 2013 through December 9, 2013

Insurance (2)

1. EmR1306 — The Commissioner of Insurance adopts an order to amend **sections Ins 17.01 (3) and 17.28 (3) (c)** and to repeal and recreate **section Ins 17.28 (6)**, Wis. Admin. Code, relating to Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013, and affecting small business.

This emergency rule was approved by the Governor on June 4, 2013.

The statement of scope for this rule, SS 042–13, was approved by the Governor on April 16, 2013, published in Register No. 688, on April 30, 2013, and approved by the Commissioner on May 10, 2013.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date prior to July 1, 2013, in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to

the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 19, 2012, and the mediation panel fees were established by the Board of Governors at the meeting held on March 20, 2013.

Filed with LRB: June 10, 2013
Publication Date: June 12, 2013
Effective Dates: June 12, 2013 through November 8, 2013
Hearing Date: July 23, 2013
Extension Through: January 7, 2014

2. EmR1314 — The Commissioner of Insurance proposes an order to create **Chapter Ins 6 subch. II, subch. II (title), and sections Ins 6.91 to 6.98**, relating to navigators, nonnavigator assisters, and related entities and affecting small business.

The statement of scope for this rule SS 078–13, was approved by the Governor on July 1, 2013, published in Register No. 691, on July 15, 2013, and approved by the Commissioner on July 26, 2013. This emergency rule was approved by the Governor on August 30, 2013.

Finding of Emergency

In accordance with s. 623.98, Stats., the commissioner may promulgate rules under ss. 227.24 (1) (a) and (3), Stats., without providing evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare and without a finding of emergency. The commissioner intends to publish the proposed rule sufficiently in advance of October 1, 2013 to permit proper licensing, certification, and training of navigators and nonnavigator assisters and to permit proper registration of navigator and nonnavigator assister entities. The commissioner intends to promulgate permanent rules close in time to the emergency rules so not to create a gap in requirements.

Filed with LRB: September 5, 2013
Publication Date: September 10, 2013
Effective Dates: September 10, 2013 through February 6, 2014
Hearing Date: September 27, 2013

Natural Resources (5)

Fish, Game, etc., Chs. NR 1—

1. EmR1210 (DNR # WM–09–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.001 (25c), 10.02 (1), 10.06 (5) and (8) (intro.), 10.07 (2) (b) 2., 10.07 (2m) (intro.) and (e) (intro.), 10.07 (2m) (f) (intro.), 10.09 (1), 10.13 (1) (b) 9., 10.13 (1) (b) 15., 10.13 (1) (b) 16., 10.145 (intro), 10.145 (3) to (8), 12.10 (intro.), 12.10 (1) (a) 4., 12.10 (1) (b) 2., 12.15 (13) and 19.25** and to create **sections NR 10.001 (22q), 10.001 (23a), 10.001 (23am), 10.001 (23b), 10.001 (26g), 10.001 (33), 10.01 (3) (j), 10.07 (1) (m), 10.07 (2m) (em), 10.07 (2m) (g) 3., NR 10.07 (4), 10.13 (1) (b) 15m., 10.13 (1) (b) 18., 10.145 (1m), (1u) and Note, sections NR 10.16 (5), 10.295, 12.15 (11) (e), 12.60 to 12.63, 12.64 (1) (a) and (b) (intro.) 1., 12.64 (1) (b) 2. and 3., 12.64 (1) (b) 4. and 5., 12.64 (2) (a) to (c), 12.64 (2) (d), 12.64 (3) and 12.65**, relating to the wolf hunting and trapping season and regulations and a depredation program.

This emergency rule was approved by the Governor on August 10, 2010.

The statement of scope for this rule, SS 023–12, was approved by the Governor on April 12, 2012, published in Register No. 676, on April 30, 2012, and approved by the Natural Resources Board on May 23, 2012.

Finding of Emergency

A non–statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: August 15, 2012

Publication Date: August 18, 2012

Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

2. EmR1215 (DNR # WM–16–12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate **section NR 10.01 (3) (h) 1.**, relating to the coyote hunting season.

This emergency rule was approved by the Governor on August 30, 2012.

The statement of scope for this rule, SS 038–12, was approved by the Governor on May 29, 2012, published in Register No. 678, on June 14, 2012, and approved by the Natural Resources Board on June 27, 2012.

Finding of Emergency

A non–statutory provision, Section 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: September 14, 2012

Publication Date: October 1, 2012

Effective Dates: October 1, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

3. EmR1313 (DNR # WMH–07–13(E)) — The Wisconsin Natural Resources Board proposes an order to repeal **section NR 10.06 (9) (b)**; to amend **section NR 10.01 (1) (v)**; to repeal and recreate **sections NR 10.01 (1) (b) to (u) and 10.12 (3) (c)**; and to create **section NR 10.12 (3) (e)**, relating to migratory bird hunting regulations.

This emergency rule was approved by the Governor on August 30, 2013.

The statement of scope for this rule, SS 018–13, was approved by the Governor on February 18, 2013, published in Register No. 687, on March 14, 2013, and approved by the Natural Resources Board on April 24, 2013.

Statutory Authority

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule–making authority allows the department to promulgate rules related to migratory game bird hunting. Additional statutory authority is found in ss. 23.11, 29.192 and 29.041, Stats. The emergency rule making process is established in s. 227.24, Stats.

Filed with LRB: September 4, 2013

Publication Date: September 6, 2013

Effective Dates: September 6, 2013 through February 2, 2014

Hearing Date: October 28, 2013

4. EmR1319 (DNR # WM-22-13(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.275 (intro.) and 45.09 (1)** and to create **sections NR 10.13 (Note) and 10.275**, relating to hunting and trapping in state parks.

This rule was approved by the Governor on October 31, 2013.

The statement of scope for this emergency rule, SS 083-13, was approved by the Governor on July 15, 2013, published in Register No. 691 on July 31, 2013 and approved by the Natural Resources Board on August 14, 2013.

Finding of Emergency

The department finds that putting this rule into effect prior to the time it would take effect using the permanent rule process is necessary to protect the public safety and welfare. By restricting gun and archery hunting to certain areas, and trapping to certain areas and methods, this rule will prevent those activities in locations where they may jeopardize the safety and welfare of visitors to the Wisconsin State Park System.

Filed with LRB: November 7, 2013
Publication Date: November 15, 2013
Effective Dates: November 15, 2013 through April 13, 2014

5. EmR1320 (DNR # FH-27-13(E)) — The Wisconsin Natural Resources Board proposes an order to create **Chapter NR 85**, relating to development of a competitive grant program for cities, villages, towns, counties, federally recognized Indian tribes or bands located in this state, and fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters.

This rule was approved by the Governor on November 8, 2013.

The statement of scope for this emergency rule, SS 104-13, was approved by the Governor on August 12, 2013, published in Register No. 692 on September 1, 2013 (August 31, 2013), and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency — Exemption

2013 Wisconsin Act 20, the 2013-15 state budget, included the following nonstatutory language: The department of natural resources may promulgate emergency rules under section 227.24 of the statutes implementing sections 29.739 and 29.740 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated for walleye population maintenance and enhancement grants remain in effect until June 30, 2016, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating this rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

Filed with LRB: November 14, 2013
Publication Date: November 21, 2013
Effective Dates: November 21, 2013 through June 30, 2016, or the date on which permanent rules take effect, whichever is sooner.
Hearing Date: December 12, 2013 and December 19, 2013

Safety and Professional Services (2)

Professional Services, Chs. SPS 1-299

1. EmR1307 — The Wisconsin Department of Safety and Professional Services adopts an order to repeal **section SPS 81.04 (1) (c) 3. and 4.**, and to amend **section SPS 81.04 (2)**, relating to reciprocity.

This emergency rule was approved by the Governor on May 20, 2013.

The statement of scope for this rule, SS 012-13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by the Department of Safety and Professional Services on February 28, 2013.

Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows:

Title XI of the Federal Financial Institutions Reform and Recovery Enforcement Act of 1989, as amended by the Dodd-Frank Act of 2010, dictates reciprocity requirements for real estate appraisers in each state. The federal body that oversees reciprocity requirements is the Appraisal Subcommittee (ASC). Currently, Wis. Admin. Code s. SPS 81.04 is not in compliance with the federal legislation. The Code must be brought into compliance by July 1, 2013. At that time, the ASC will conduct an audit to determine which states are in compliance. If Wisconsin is designated “out of compliance,” then federally regulated financial institutions may not engage a Wisconsin certified or licensed appraiser to perform an appraisal of property for a federally related transaction and other states will not be required to recognize Wisconsin credentialed appraisers seeking reciprocity. In order to implement the federally mandated reciprocity requirements before July 1, 2013, an emergency rule is needed.

Filed with LRB: June 12, 2013
Publication Date: June 18, 2013
Effective Dates: June 18, 2013 through November 14, 2013
Extension Through: January 13, 2014

2. EmR1308 — The Wisconsin Department of Safety and Professional Services adopts an order to create **section SPS 34.04 (2) (a) 4.**, relating to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators, and affecting small business.

This emergency rule was approved by the Governor on May 29, 2013.

The statement of scope for this rule, SS 080-12, was approved by the Governor on October 2, 2012, published in Register No. 682 on October 31, 2012, and approved by the Department of Safety and Professional Services on December 4, 2012.

Finding of Emergency

The Department of Safety and Professional Services (DPS) finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows:

Under section SPS 34.02 (1), private security personnel, private detectives, and private investigators or special

investigators, who are seeking a firearms permit from the Department must obtain a certificate of firearms proficiency. Section SPS 34.02 (2) mandates that the certification be received from a Department–approved firearms–proficiency certifier pursuant to section SPS 34.04.

Section SPS 34.04 currently accepts only those certifier applicants who have received training as a police or security firearms instructor and who have either (1) current approval as a firearms instructor by the Wisconsin Law Enforcement Standards Board (LESB); (2) current certification as a law enforcement firearms instructor by the National Rifle Association, Inc., (NRA) or; (3) approval on or after January 1, 1995, as a firearms instructor by the LESB or NRA and have completed a refresher course presented by a regional training school approved by the LESB or the NRA.

Due to enactment of 2011 Wisconsin Act 35 (commonly referred to as the concealed carry law), which became effective on November 1, 2011, there is a greater need for additional entities who can provide training and approve applicants as firearms proficiency certifiers. Section 175.60 (4) of the Statutes currently allows technical colleges, colleges, and universities to provide this training for concealed–carry purposes. No such provision is made as it relates to private security personnel, private detectives, and private investigators or special investigators, for carrying a weapon openly. Moreover, the training needed for DSPS firearms certifiers differs significantly from that needed and provided by the LESB curriculum and under 2011 Act 35. To that end, a new standard needs to be developed and implemented, separate and distinct from the LESB standards. Because the need to approve applicants for firearm proficiency certifiers is immediate and pressing, emergency rules are warranted.

Filed with LRB: June 13, 2013
Publication Date: June 13, 2013
Effective Dates: June 13, 2013 through November 9, 2013
Hearing Date: August 6, 2013
Extension Through: January 8, 2014

Safety and Professional Services — Controlled Substances Board

EmR1318 — The Controlled Substances Board adopts an order to create **section CSB 2.36**, relating to scheduling controlled substances.

This emergency rule was approved by the Governor on September 20, 2013.

The statement of scope for this rule, SS 062–13, was approved by the Governor on May 29, 2013, published in Register 690 on June 15, 2013, and approved by the Controlled Substances Board on July 15, 2013.

Finding of Emergency

The Controlled Substances Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Brown County District Attorney’s office has provided the Controlled Substances Board with information relevant to emergency scheduling and the commencement of a prosecution concerning a controlled substance analog. UR–144, XLR–11, and AKB48 are pharmacologically

similar to Schedule I substances THC and JWH–018. By sharing pharmacological similarities with the Schedule I substances, synthetic cannabinoids pose a risk both to the individual user and other affected individuals. UR–144, XLR–11, and AKB48 are being marketed as “legal” alternatives to marijuana. This characterization (and the reputation as potent herbal intoxicants) has increased their popularity and prevalence.

The Controlled Substances Board finds that scheduling of UR–144, XLR–11, and AKB48 on an emergency basis is necessary to avoid an imminent hazard to public safety. The substances are not included in any other schedule and no exemption or approval is in effect for the substance under 21 USC 355.

On May 16, 2013, the U.S. Department of Justice Drug Enforcement Administration emergency scheduled UR–144, XLR11, and AKB48 as Schedule I, illegal drugs under the Controlled Substances Act.

Filed with LRB: October 17, 2013
Publication Date: October 13, 2013
Effective Dates: October 13, 2013 through October 12, 2014
Hearing Date: November 11, 2013

Workforce Development

Unemployment Insurance, Chs. DWD 100–150

EmR1316 — The Wisconsin Department of Workforce Development hereby adopts an order to repeal **sections DWD 126.02 (2), (3), and (4), 126.03 (1), 126.04, 126.05, 127.01 (2) (b), (f) to (i), and (3), 127.02 (intro.), (1), (2), (3), and (4), 127.02 (5) and (10), and 127.08**; to renumber and amend **section DWD 126.02 (1)**; to amend **sections DWD 126.01, 126.03 (intro.) and (2), 127 (title), 127.01 (1), (2) (intro.), (a), (c), and (d), 127.02 (7), (9), and (11), 127.04 (title), (1), and (2), 127.05, 127.06 (1), (2), and (3), 127.07 (title) and (1), 128.01 (2) (a), and 129.01 (1) and (2)**; to repeal and recreate **sections DWD 127.01 (2) (j) and 127.07 (2)**; and to create **sections DWD 126.02 (Note), 126.03 (3), (4), (5), (6), and (7), 127.01 (2) (em), 127.02 (12), 127.04 (1m) (e), and 127.06 (1) (c)**, relating to unemployment insurance work registration, work search, and benefit claiming procedures.

This emergency rule was approved by the Governor on September 20, 2013.

The statement of scope for this emergency rule, SS 106–13, was approved by the Governor on August 14, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Workforce Development on September 11, 2013.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of the facts constituting the emergency are:

- (1) In order to fulfill the new statutory directives to require claimants for unemployment insurance benefits to increase their number of weekly work search actions from two to at least four;
- (2) In order to simplify the process and compliance with respect to requirements for unemployment insurance claimants to register for work;
- (3) In order to execute the new statutory requirement to request additional information from claimants;

- (4) In order to improve the unemployment insurance trust fund balance and thereby relieve employers of the burden of additional taxation;
- (5) In order to better assist unemployment insurance benefit claimants to obtain gainful employment; and,
- (6) In order to promote the improvement in the Wisconsin economy as a result of the immediate implementation of legislative directives with respect to the unemployment insurance program contained in 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

Adoption of the emergency rule will ensure that these legislative directives are implemented within the time-frame envisioned with enactment of 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

Effective Dates: September 29, 2013 through February 25, 2014, except that changes to ss. DWD 126.03 and 127.02 take effect after the Secretary determines the Department has the technological ability to implement the changes.

Hearing Date: November 4, 2013

Workforce Development

Employment and Training, Chs. DWD 805–830

EmR1317 — The Wisconsin Department of Workforce Development hereby adopts an order to create **Chapter**

DWD 801, relating to workforce training grants under the Wisconsin Fast Forward program.

This emergency rule was approved by the Governor on September 20, 2013.

The statement of scope for this rule, SS 109–13, was approved by the Governor on August 15, 2013, published in Register No. 692 on August 31, 2013, and approved by the Department of Workforce Development on September 11, 2013.

Finding of Emergency

The Department of Workforce Development (DWD) finds that an emergency exists and emergency rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. The reason for the emergency is:

DWD proposes to create new rules in Chapter DWD 801 to implement the program of workforce training grants enacted by 2013 Wisconsin Act 9. DWD held a public hearing on the permanent rule for this new program on July 15, 2013, and has made revisions to the text of the proposed permanent rule in response to the comments received. It would now benefit the public welfare to proceed with the rules in emergency form so that the program can begin this fall.

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

Effective Dates: October 1, 2013 through February 27, 2014

Hearing Date: November 5, 2013

Scope Statements

Insurance

SS 147-13

This statement of scope was approved by the Governor on November 18, 2013.

Rule No.

Sections Ins 17.01 (3) and 17.28 (6). (Revise)

Relating to

Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, for the fiscal year beginning July 1, 2014.

Rule Type

Emergency and Permanent.

1. Description of the Objective of the Rule

The office of the commissioner of insurance's objective is to establish the annual fees that participating health care providers must pay to fund the injured patients and families compensation fund ("fund") as required by Wis. Stat. s. 655.57 (3), and set the mediation panel fees for the fiscal year beginning July 1, 2014, as required by Wis. Stat. s. 655.61.

2. Description of Existing Policies Relevant to the Rule and of New Policies Proposed to be Included in the Rule and an Analysis of Policy Alternatives; the History, Background and Justification for the Proposed Rule

The policies as set forth in the statutes require the office of the commissioner of insurance to promulgate a rule to establish the amount of fees to be paid into the fund annually as approved by the board of governors of the fund ("board"). The fees included in the proposed rule will address both the annual assessments for the coverage provided to the participating health care providers, and the mediation fund fees which are collected by the fund and paid to the director of state courts for the operations of the medical mediation panels.

3. Statutory Authority for the Rule (Including the Statutory Citation and Language)

The fund was established by and is operated as provided in Wis. Stat. ch. 655. The commissioner of insurance, with approval by the board, is required to annually set the fees for the fund and the medical mediation panel by administrative rule. Wis. Stat. s. 655.004, states that the director of state courts and the commissioner may promulgate such rules under Wis. Stat. ch. 227, as are necessary to enable them to perform their responsibilities under this chapter. Pursuant to Wis. Stat. s. 655.27 (3) (b), the commissioner, after approval by the board, shall by rule set the mediation panel fees, and Wis. Stat. s. 655.61, requires that the board, by rule to set fees that are charged to health care providers that are sufficient to provide the necessary revenue to fund the medical mediation panels. Finally, Wis. Stat. s. 601.41 (3), provides that the commissioner shall have rule-making authority under Wis. Stat. s. 227.11 (2).

4. Estimate of the Amount of Time that State Employees will Spend to Develop the Rule and of Other Resources Necessary To Develop the Rule

120 hours of time including the time of state employees and members of the board.

5. Description of all Entities that this Rule may have an Economic Impact on

All health care providers that are participants in the fund, as set forth in Wis. Stat. s. 655.002 (1), are required to pay annual assessments for payment of claims that arise in each given year consistent with the provisions of Wis. Stat. ch. 655. For the fiscal year beginning July 1, 2014 it is anticipated that the board will approve fund fees at the December 18, 2013, board meeting and mediation panel fees at the March 2014 board meeting.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule

There is no existing or proposed federal regulation addressing any medical malpractice fund like the Wisconsin fund.

7. Statement of Scope for Permanent and Emergency Rule

The fund issues invoices for the following fiscal year in June of each year. In order for the invoices to correctly reflect the decreased assessment that was approved by the board, a rule must be promulgated and take effect prior to June 15, 2014. Due to the length of time that may be required to promulgate the rule, the scope is being submitted for both the permanent rule and an emergency rule to ensure that procedures are in place to promulgate the rule on an emergency basis to ensure that the invoices can be issued reflecting the decreased assessments approved by the board while the permanent rule can proceed without negative impact on the fund.

Contact Person

Julie E. Walsh, Senior Attorney, 608-264-8101.

Insurance

SS 148-13

This statement of scope was approved by the Governor on November 15, 2013.

Rule No.

Chapter Ins 40. (Revise)

Relating to

Holding company reporting requirements for insurers and affecting small businesses.

Rule Type

Permanent.

1. Detailed Description of the Objective of the Rule

The objective of the rule change is to modify the reporting requirements for licensed insurers that are a part of an

insurance holding company system. Wisconsin's current rule generally follows the National Association of Insurance Commissioners' (NAIC) Insurance Holding Company System Regulatory Model Act (Model Act) and Insurance Holding Company System Model Regulation (Model Regulation). The NAIC recently made changes to its Model Act and Model Regulation to modernize the regulation by better addressing transactions involving complex insurance holding company organizations and insurers licensed in multiple jurisdictions. Wisconsin must adopt certain of those changes in substantively the same form as the NAIC Model Act and Model Regulation if the Wisconsin Office of the Commissioner of Insurance (OCI) is to remain a state insurance regulatory agency that is accredited by the NAIC. It is a goal of the OCI and a benefit to domestic insurers for OCI to maintain its accreditation because as an NAIC accredited state, domestic insurers are only subject to certain filing requirements with OCI and financial examination by OCI. Without accreditation, domestic insurers could be subject to financial examination and filing requirements for all jurisdictions in which they operate. This could include examination from all 50 state jurisdictions for some insurers. Without accreditation, the cost of doing business for Wisconsin's domestic insurance industry would increase because their regulation by other states would increase. In order to maintain accreditation, OCI must adopt certain standard regulations developed by the NAIC. In addition, the changes are similar to those adopted or that will be adopted in other states and work to promote uniformity for insurance holding company systems operating across multiple states.

2. Description of Existing Policies Relevant to the Rule and of New Policies Proposed to be Included in the Rule and an Analysis of Policy Alternatives; the History, Background, and Justification for the Proposed Rule

The existing ch. Ins 40, Wis. Admin Code, sets forth the reporting standards for (a) the acquisition of control or merger with a domestic insurer, (b) the annual registration of holding company information, and (c) the standards for reporting transactions within an insurance holding company system. The additions and changes to the rule include changes to the type and amount of information that is reported by the domestic insurance industry to the OCI under each of the reports required by ch. Ins 40, Wis. Admin. Code, including information that is not now reported but that would give the OCI information on the significant risks potentially faced by members of the domestic insurance industry and give the OCI the tools that it needs to monitor significant risks. The rule changes contemplated generally follow the changes made to the NAIC Model Rule and Model Act that are required for accreditation.

The changes also include minor additions and edits to the existing rule that help clarify the types of transactions that are subject to the holding company reporting requirements and the form of those reporting requirements.

The existing s. Ins 16.01, Wis. Admin. Code, provides a framework for the regular annual billing of domestic insurers, except for town mutuals and cooperative associations, to fund the costs of administering examinations. It also provides that domestic insurers located outside of Wisconsin may be billed an additional amount to cover the higher travel costs associated with their examinations. The proposed rule change would provide that an insurer that is the subject of a supervisory college may be billed for additional costs in a similar manner.

3. Detailed Statutory Authority for the Rule (Including the Statutory Citation and Language)

The statutory authority for these rules are ss. 227.11 (2) (a) and 601.41 (3), Wis. Stats., which provide for the commissioner's rule making authority in general, and specifically, ss. 617.11 (1), 617.21 (1) (d), (2) (a), (b), 601.48 (1), (2) and 601.45 (1), Wis. Stats. Section 617.11 (1), Wis. Stats., provides that an insurer shall report "information concerning the insurer and its affiliates that the commissioner requires by rule" and "the commissioner may promulgate rules prescribing the timing of reports under this subsection, including, but not limited to, requiring periodic reporting and the form and procedure for filing reports." Section 617.21 (1) (d), Wis. Stats., provides that regarding transactions with affiliates, the transaction must comply "with any other standard that the commissioner prescribes by rule." Section 617.21 (2) (a), Wis. Stats., provides that "the commissioner may promulgate rules requiring a domestic insurer, a person attempting to acquire or having control of a domestic insurer and affiliates of a domestic insurer to report a transaction or a group or series of transactions" that are material and involve a domestic insurer or an affiliate. Section 617.21 (2) (b), Wis. Stats., provides that transactions with affiliates may not be entered into unless the transaction is reported "to the commissioner in the form and by the date before the effective date of the transaction that are prescribed by the commissioner by rule." Section 601.48 states that the commissioner may participate in the activities and affairs of "organizations so far as it will, in the judgment of the commissioner, enhance the purposes of chs. 600 to 655" and the commissioner "may exchange information and data and consult with other persons in order to improve and carry out insurance regulation." Section 601.45 (1), Wis. Stats., provides that the reasonable costs of examination "shall be paid by examinees . . . either on the basis of a system of billing for actual salaries and expenses of examiners and other apportionable expenses, including office overhead, or by a system of regular annual billings to cover the costs relating to a group of companies, or a combination of such systems, as the commissioner may by rule prescribe."

4. Estimates of the Amount of Time that State Employees will Spend to Develop the Rule and of Other Resources Necessary to Develop The Rule

400 hours and no other resources are necessary to develop the rule.

5. Description of all Entities that may be Impacted by the Rule

The proposed rule changes will affect Wisconsin-licensed insurers that are members of a holding company system and affiliates of those insurers. It would also affect persons attempting to acquire control of Wisconsin-licensed insurers.

6. Summary and Preliminary Comparison of any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Rule

The Office is unaware of any proposed or existing federal laws or regulations that are intended to address the activities to be regulated by the proposed rule change.

7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

_____ yes

no

local/statewide economic impact (choose one)

minimal or none (< or = \$50,000)

moderate (\$50,000—\$20,000,000)

significant (>\$20,000,000)

For many insurers, there will be little or no effect. For insurers that are part of a holding company system, an annual Enterprise Risk Report would be required of the ultimate controlling person. Also, persons attempting to acquire control of an insurer would have to file a pre-acquisition report. These additional filing requirements are expected to have a minimal economic impact. For insurers that are the subject of a supervisory college, the annual assessment can be expected to increase slightly.

Contact Person

Richard Wicka, Deputy Chief Legal Counsel,
Richard.Wicka@wi.gov, (608) 261-6018.

Safety and Professional Services — Marriage & Family Therapy, Professional Counseling & Social Work Examining Board

SS 149-13

This statement of scope was approved by the Governor on November 15, 2013.

Rule No.

Chapters MPSW 1, 2, 10. (Revise)

Relating to

Definition of psychotherapy.

Rule Type

Permanent.

1. Finding/Nature of Emergency (Emergency Rule Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the rule is to consolidate and conform the definition of psychotherapy to one definition which matches the statutes.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to Be Included in the Rule, and an Analysis of Policy Alternatives

Currently there is a definition of psychotherapy which is for all the MPSW chapters, yet two of the sections have their own definition to be applied to those MPSW chapters which relate to their sections. The section definitions do not conform to the definition in ch. 457, Wis. Stats. This rule would have only one definition for all MPSW chapters which is identical to the definition in statute.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 15.08 (5) (b). Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not

inconsistent with the law relating to the particular trade or profession.

5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

50 hours.

6. List with Description of all Entities that may be Affected by the Proposed Rule

MPSW Board credential holders.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

None.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

None. This rule is not likely to have a significant economic impact on small businesses.

Contact Person

Sharon Henes, Administrative Rules Coordinator, (608) 261-2377.

Safety and Professional Services — Marriage & Family Therapy, Professional Counseling & Social Work Examining Board

SS 150-13

This statement of scope was approved by the Governor on November 15, 2013.

Rule No.

Chapter MPSW 4. (Revise)

Relating to

Supervised pre-certification and pre-licensure social work practice.

Rule Type

Permanent.

1. Finding/Nature of Emergency (Emergency Rule Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to update the rule to clarify, remove obsolete dates, ensure language conforms to the statutes and to specify any additional classifications of supervisors who are approved by the Social Worker Section.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The supervisor provision in the rule creates confusion and needs clarity. In addition, it references a 2002 date and has redundancy. The statute lists people who can supervise applicants during the pre-licensure social work practice. The statute also allows others people who meet the requirements

specified in the rules. This rule would allow for the Social Worker Section to identify classifications or other requirements for those persons not enumerated by the statute to be considered approved by the Social Worker Section.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 15.08 (5) (b). Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

Section 457.03 (3) The examining board shall upon the advice of the social worker section...promulgate rules establishing minimum standards for educational programs that must be completed for certification or licensure under this chapter and for supervised clinical training that must be completed for licensure as a clinical social worker...and approve educational programs and supervised clinical training programs in accordance with those standards...establishing appropriate educational, training, experience, examination and continuing education requirements for certification and renewal of a certificate at each level of practice.

5. Estimate of Amount of Time that State Employees will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

75 hours.

6. List with description of all Entities that may be Affected by the Proposed Rule

Applicants for social work credentials and those who supervise them.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

None.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

Minimal to none. It is not likely to have a significant economic impact on small businesses.

Contact Person

Sharon Henes, Administrative Rules Coordinator, (608) 261-2377.

Submittal of Proposed Rules to Legislative Council Clearinghouse

*Please check the Bulletin of Proceedings — Administrative Rules
for further information on a particular rule.*

Natural Resources

Environmental Protection — General, Chs. NR 100—

Environmental Protection — Water Supply,

Chs. NR 800—

CR 13-096

(DNR # DG-02-13)

On November 14, 2013, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The statement of scope for this rule, SS 014-13, was approved by the Governor on February 4, 2013, published in Register No 686 on February 28, 2013, and approved by the Natural Resources Board on June 26, 2013.

Analysis

The rule revises Chapters NR 146 and 812, relating to geothermal licensing.

Agency Procedure for Promulgation

A public hearing will be held on December 16, 2013.

Name and Organizational Unit of the Agency Contact

Linda Haddix — Legal Services, (608) 266-1959.

Natural Resources

Environmental Protection — General, Chs. NR 100—

Environmental Protection — Water Supply,

Chs. NR 800—

CR 13-099

(DNR # DG-03-13)

On November 15, 2013, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule, published in Register 614, on February 28, 2007, was sent to the Legislative Reference Bureau prior to the effective date of 2011 Wis. Act 21.

Analysis

The proposed rule order revises Chapters NR 146 and 812, relating to property transfer well inspections, licensing of well filling and sealing contractors, registration of water well drilling rig operators, and citations for licensing and well and pump code violations.

Agency Procedure for Promulgation

Public hearings will be conducted on December 16 and 17, 2013.

Name and Organizational Unit of the Agency Contact

Linda Haddix — Legal Services, (608) 266-1959.

Revenue

CR 13-095

On November 11, 2013 the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 100-13, was approved by the Governor on August 2, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Revenue on September 10, 2013.

Analysis

The proposed rule order revises Chapter Tax 11, relating to sales tax filing frequency.

Agency Procedure for Promulgation

A public hearing on the proposed rule is required and has been scheduled for December 13, 2013.

The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

Contact Person

If you have questions, please contact:

Dale Kleven

Income, Sales and Excise Tax Division

Telephone: (608) 266-8253

E-mail: dale.kleven@revenue.wi.gov.

Safety and Professional Services — Board of

Nursing

CR 13-097

On November 15, 2013, the Board of Nursing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS010-13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by Board of Nursing on February 26, 2013.

Analysis

Statutory Authority: Sections 15.08 (5) (b) and 227.11 (2) (a), Stats.

This proposed rule-making order revises Chapter N 7 and relates to code of conduct.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 19, 2013, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Department of Safety and Professional Services, Division of Policy Development, (608) 261-2377.

**Safety and Professional Services — Board of
Nursing
CR 13-098**

On November 15, 2013, the Board of Nursing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 004-13, was approved by the Governor on January 4, 2013, published in

Register No. 685 on January 31, 2013, and approved by Board of Nursing on February 14, 2013.

Analysis

Statutory Authority: Sections 15.08 (5) (b), 227.11 (2), 441.01, 441.50 (6), 441.50 (6) (c), Stats.

This proposed rule-making order creates Chapter N 9 and relates to nurse licensure compact.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 19, 2013 at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Department of Safety and Professional Services, Division of Policy Development, (608) 261-2377.

Rule-Making Notices

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1—

EmR1320

(DNR # FH-27-13(E))

NOTICE IS HEREBY GIVEN THAT pursuant to and interpreting sections 29.739 and 29.740, Stats., the Department of Natural Resources will hold a public hearing on creating Chapter NR 85, Wis. Adm. Code, in emergency rule Order FH-27-13(E), relating to development of a competitive grant program for cities, villages, towns, counties, federally recognized Indian tribes or bands located in this state, and fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters.

The hearings will be held on:

Hearing Information

Date: Thursday, December 12, 2013

Time: 1:00 p.m.

Locations: Marathon County Public Library
300 North First Street
Wausau, WI 54403

Date: Thursday, December 19, 2013

Time: 3:00 p.m.

Locations: Department of Natural Resources
State Office Building
101 S. Webster Street
Madison, WI 53707

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kate Strom Hiorns at (608) 266-0828 with specific information on your request at least 10 days before the date of the scheduled hearing.

Availability of Rules and Submitting Comments

The proposed rule supporting documents may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov>. A copy of the proposed rules and supporting documents may also be obtained from Kate Strom Hiorns, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707 or dnrfishrules@wisconsin.gov.

Written comments on the proposed rule may be submitted via U.S. mail or email to Kate Strom Hiorns at the addresses noted above. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. Comments may be submitted until December 19, 2013.

Analysis Prepared by the Department of Natural Resources

This emergency rule is necessary to implement the grant program associated with the Wisconsin Walleye Initiative (WWI). 2013 Wisconsin Act 20, the 2013-15 state budget,

directed the department to create by administrative rule a competitive walleye production grant program and provided \$1 million annually in a new, biennial appropriation (total of \$2 million for the biennium). In addition, the state budget provided \$500,000 in fiscal year 2014-15 for the department to enter into contracts to purchase fish from a local governmental unit, tribe, band, or fish farm for stocking in waters of the state.

Section 1 of the rule creates ch. NR 85, Walleye Production Grants, that includes the following:

- Establishment of rules and procedures for the implementation and administration of a grant program that provides financial assistance to cities, villages, towns, and counties; to federally recognized Indian tribes or bands located in this state; and to private fish farms for increasing a grantee's capacity to raise walleye for stocking in the waters of the state.
- A list of eligible and ineligible costs for grant program reimbursement.
- Information required on grant applications and criteria and methods the department will use to determine grant awards.
- Elements that shall be included in grant agreements.
- Allowance for amendments from a grant agreement upon written request of the grantee, to require the grantee to maintain grant project records, and to terminate a grant agreement for just cause.

Statutes interpreted

Sections 29.739 and 29.740, Stats.

Statutory authority

Sections 29.739 and 29.740, Stats.

Explanation of agency authority to promulgate the proposed rules under the statutory authority

2013 Wisconsin Act 20, the 2013-15 state budget, included the following nonstatutory language: The department of natural resources may promulgate emergency rules under section 227.24 of the statutes implementing sections 29.739 and 29.740 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated for walleye population maintenance and enhancement grants remain in effect until June 30, 2016, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating this rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

Section 29.739, Stats., Grants for walleye production, authorizes the department to establish a grant program for the purpose of increasing a grantee's capacity to raise walleye for stocking in the waters of the state. Grants may be awarded on a competitive basis to cities, villages, towns, and counties; to federally recognized Indian tribes or bands located in this state; and to fish farms. It also requires the department to promulgate rules to implement the grant program.

Section 29.740, Stats., Contracts for walleye production, authorizes the department to enter into contracts with local governmental units, federally recognized Indian tribes or bands located in this state, and fish farms for the purpose of increasing the amount of walleye available for stocking in the waters of the state.

Related statutes or rules.

Section 29.709, Stats., State fish hatcheries. The department may operate state fish hatcheries and may do all of the following:

- (1) Breed and propagate fish of such species and varieties as it determines to be of value.
- (2) Distribute information regarding the propagation and conservation of fish.
- (3) Manage the state fish hatcheries and all other property held by the state for the propagation of fish.
- (4) Subject to s. 95.60, receive from any person all fish eggs or fish donated to the state or purchased, and procure, receive, exchange, distribute and dispose of fish eggs and fish.

Plain language analysis of the proposed rule.

This emergency rule is necessary to implement the grant program associated with the Wisconsin Walleye Initiative (WWI). WWI is intended to:

- Expand production of large fingerling walleye at state, private, and tribal fish hatcheries for stocking in waters accessible to the public;
- Direct management of the State's walleye populations and fisheries through the Statewide Walleye Management Plan, including cooperative efforts and agreements with Indian tribes on walleye harvest in the waters of the Ceded Territory of Wisconsin;
- Enhance opportunities for federally recognized tribes or bands located in the State to work cooperatively to increase walleye populations across Wisconsin for all users; and
- Provide the private aquaculture community the opportunity to work closely with the state propagation program to coordinate efforts to rear walleye of the genetic strains and quality needed to maximize the probability of successful walleye fishery development and maintenance.

The department will review and modify existing walleye stocking quotas to rear and stock as many large fingerling walleye from state hatcheries as possible beginning in 2013. It will also update walleye stocking guidance for submitting walleye stocking quotas to achieve new WWI goals and utilize increased production capacity in state and private hatcheries for 2014 and beyond.

2013 Wisconsin Act 20, the 2013–15 state budget, directed the department to create by administrative rule a competitive walleye production grant program and provided \$1 million annually in a new, biennial appropriation (total of \$2 million for the biennium). In addition, the state budget provided \$500,000 in fiscal year 2014–15 for the department to enter into contracts to purchase fish from a local governmental unit, tribe, band, or fish farm for stocking in waters of the state. After emergency rule promulgation, the grant program is expected to accept applications in November and December 2013, make award decisions in January and February 2014, and sign grant agreements in March and April 2014.

SECTION 1 of the rule creates ch. NR 85, Walleye Production Grants, that includes the following:

Establishment of rules and procedures for the implementation and administration of a grant program that provides financial assistance to cities, villages, towns, and counties; to federally recognized Indian tribes or bands located in this state; and to private fish farms for increasing a grantee's capacity to raise walleye for stocking in the waters of the state.

A list of eligible and ineligible costs for grant program reimbursement:

- Section 29.739, Wis. Stats., determines that eligible costs include those associated with building, improving, or repairing:
 - buildings and structures used as fish hatcheries or for fish rearing;
 - fish rearing ponds;
 - wells or water recirculation systems;
 - biosecurity systems to ensure fish health;
 - holding facilities and equipment used for fish brood stock; and
 - equipment used for the distribution of fish or for the collection of fish spawn.
- Ineligible costs include those not directly associated with or not necessary for increasing capacity to raise walleye, including:
 - costs incurred prior to grant approval;
 - land acquisition;
 - permit and application fees associated with required approvals for grant project development;
 - ordinary operating expenses of local government;
 - indirect costs associated with general operating costs;
 - temporary loss of revenue;
 - interest or finance charges; and
 - fines and penalties due to violations of, or failure to comply with, federal, state, or local laws.

Information required on grant applications and criteria and methods the department will use to determine grant awards:

- Applications must include:
 - a description of the grant project, it's expected results, and how the project will increase the capacity to raise walleye for stocking in the waters of the state;
 - the amount of funding requested;
 - a work plan with specific project tasks and a timetable for completing the tasks;
 - a budget containing line items of project costs;
 - a description of the applicant's experience producing walleye or other fish species;
 - the expected number and the size and condition of walleye fingerlings that will be produced for purchase by the department as well as for purchase by other customers as a result of the building, improvement, or repair project;
 - the purchase price the applicant shall charge the department for walleye fingerlings to be stocked in waters of the state; and
 - any additional information as deemed necessary by the department.
- Department staff will review all grant applications in consultation with one designee from the University of

Wisconsin–Extension aquaculture program and one designee from the U.S. Fish and Wildlife Service, with final approval by the department. Factors used to determine awards will include:

- extent to which the grant project will increase the applicant’s capacity to raise walleye and stock them in the waters of this state;
 - cost–effectiveness of the grant project;
 - grant project management and technical qualifications of the applicant, such as the applicant’s experience producing walleye;
 - elements of the project plan, such as whether the project is “shovel–ready” and will result in increased walleye production for stocking in 2014 or 2015, if the project significantly increases the walleye production capacity of the applicant, and whether the proposed budget is adequate to accomplish the grant project;
 - purchase price the applicant shall charge the department for walleye fingerlings to be stocked in waters of the state;
 - geographic location of the applicant’s fish production facilities in relation to stocking needs determined by the department; and
 - distribution of grants to a variety of eligible applicants that submit high quality grant project applications.
- The total grant amount per grantee may not exceed \$500,000.

Elements that shall be included in grant agreements:

- Much of the information provided on the grant application will be specified in a grant agreement. In addition, the grantee must agree to obtain and pay for fish health certificates issued in compliance with Department of Agriculture, Trade, and Consumer Protection (DATCP) rules for all fish that will be stocked into waters of the state. This would also be required of Indian tribes or bands that do not register their fish hatcheries with DATCP. Grant agreements must also include:
 - ability for the department to furnish fish eggs or fish to the grantee at a price established by the department;
 - requirements that the grantee make available to the department the expected number of walleye fingerlings that were stated in the grantee’s application for department purchase that were reared as a result of the grant project, and the option for the department to purchase from the grantee walleye that meet the size and condition specified by the department, based on available funding, in the subsequent three calendar years;
 - ability for the grantee to distribute or sell any surplus walleye fingerlings that are reared as a result of the grant project and not purchased by the department as long as the distribution or sale of the walleye result in the walleye being stocked in waters of the state; and
 - disbursement details for when and how the grantee will receive reimbursement payment upon successful completion of grant project work.

This rule also allows the department to approve amendments from a grant agreement upon written request of

the grantee, to require the grantee to maintain grant project records, and to terminate a grant agreement for just cause.

Summary of and comparison with existing or proposed federal statutes and regulations

There is no existing or proposed federal regulation that would govern the department’s ability to create grant agreements with municipal, tribal, or private fish farms, or that would govern fish stocking in Wisconsin waters.

Comparison with rules in adjacent states

Minnesota and Indiana contract with private fish farms to fulfill some or all stocking within those states. There are no fish hatchery capital expense grant programs in other states, that the department is aware of, available to municipalities, Indian tribes, or private fish farms.

Summary of factual data and analytical methodologies

2013 Wisconsin Act 20, the 2013–15 state budget, created s. 29.739, Stats., which included specifications on who is eligible for grants to increase walleye production and how the grants may be used. Additional elements of this rule and the grant program were developed by department grant and propagation specialists, in consultation with University of Wisconsin aquaculture specialists and through listening sessions with fish farm operators and tribal hatchery operators.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis

State general program revenue funds were made available for the walleye production grant program. It is expected that this rule and program will provide an economic benefit for entities that meet grant criteria and are awarded grant funds, including municipal, tribal, and private fish hatcheries. There are no costs expected for entities that are awarded grants, other than potential costs associated with expanded walleye production that are not eligible for grant reimbursement or costs that applicants decide to pay for themselves. Grantees must pay for the grant project up front and will get reimbursed for eligible costs. Overall, this rule and program are expected to have a positive effect for all anglers in Wisconsin who fish for walleye, as well as small businesses that are supported by fishing.

The University of WI–Extension aquaculture staff hosted two “listening sessions” to provide private aquaculture industry with the opportunity to comment or offer suggestions regarding initial grant program plans. The sessions were held in Madison on 8/29/2013 (6–7 people in attendance) and in Wisconsin Rapids on 9/4/2013 (10 people in attendance). The same information was presented to tribal attendees at a Voigt Task Force meeting on 9/5/2013 and at meetings with tribal hatchery staffs in early October 2013.

Effects on Small Business

The rule has the potential to directly impact municipal, tribal, and private fish hatcheries by providing a new source of grant funding for projects that would increase a fish hatchery’s capacity to raise walleye for stocking in waters of the state. It may also have a positive economic effect on other businesses used by grantees to implement the grant projects, such as construction companies. Except for rule elements that would require tribal grantees to obtain and pay for fish health certificates for all fish that will be stocked into waters of the state, no additional compliance or reporting requirements will be imposed on small businesses as a result of these rule

changes other than those associated with grant reimbursement requirements.

This emergency rule is necessary to implement the grant program associated with the Wisconsin Walleye Initiative (WWI). 2013 Wisconsin Act 20, the 2013–15 state budget, directed the department to create by administrative rule a competitive walleye production grant program and provided \$1 million annually in a new, biennial appropriation (total of \$2 million for the biennium). In addition, the state budget provided \$500,000 in fiscal year 2014–15 for the department to enter into contracts to purchase fish from a local governmental unit, tribe, band, or fish farm for stocking in waters of the state.

Economic Impact

Pursuant to ss. 227.114 and 227.137, Wis. Stats., the rule is not expected to have an adverse effect on the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the State. It will have a positive impact by providing \$1 million annually in the 2013–15 biennium to municipal and tribal fish hatcheries and private fish farms through a competitive grant program. Grants will be used for building and improving hatchery buildings, rearing ponds, equipment and other facilities. The rule may also have a positive economic effect on other businesses used

by grantees to implement the grant projects, such as construction companies.

The Department’s Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266–1959.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

Agency Contact Person

Kate Strom Hiorns
 Department of Natural Resources
 P.O. Box 7921
 Madison, WI 53707–7921
 Telephone: (608) 266–0828
 Email: dnrfishrules@wisconsin.gov

STATE OF WISCONSIN
 DEPARTMENT OF ADMINISTRATION
 DOA–2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
 101 EAST WILSON STREET, 10TH FLOOR
 P.O. BOX 7864
 MADISON, WI 53707–7864
 FAX: (608) 267–0372

**ADMINISTRATIVE RULES
 Fiscal Estimate & Economic Impact Analysis**

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

New chapter NR 85, Walleye Production Grants

3. Subject

Establishment of a competitive grant program for cities, villages, towns, and counties; federally recognized Indian tribes or bands located in this state; and fish farms for increasing capacity to raise walleye for stocking in the waters of the state.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency’s Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State’s Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The 2013–15 state budget provided \$1 million annually in a new, biennial appropriation (total of \$2 million for the biennium) and directed the department to create by administrative rule a competitive walleye production grant program.

10. 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.

The University of WI–Extension aquaculture staff hosted two “listening sessions” to provide private aquaculture industry with the opportunity to comment or offer suggestions regarding initial grant program plans. The sessions were held in Madison on 8/29/2013 (6–7 people in attendance) and in Wisconsin Rapids on 9/4/2013 (10 people in attendance). The same information was presented to tribal attendees at a Voigt Task Force meeting on 9/5/2013 and at meetings with tribal hatchery staffs in early October 2013.

11. Identify the local governmental units that participated in the development of this EIA.

The fiscal estimate is for an emergency rule that does not require consultation with local governmental units for development of an EIA.

12. 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)

The rule is not expected to have an adverse effect on the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the State. It will have a positive impact by providing \$1 million annually in the 2013–15 biennium to municipal and tribal fish hatcheries and private fish farms through a competitive grant program. Grants will be used for building and improving hatchery buildings, rearing ponds, equipment and other facilities. The rule may also have a positive economic effect on other businesses used by grantees to implement the grant projects, such as construction companies.

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

2013 Wisconsin Act 20, the 2013–15 state budget, created s. 29.739, Stats. It included specifications on who is eligible for grants to increase walleye production and for what the grants may be used. Additional elements of this rule and the grant program were developed by department grant and propagation specialists, in consultation with University of Wisconsin aquaculture specialists and through listening sessions with fish farm operators and tribal hatchery operators.

State general program revenue funds were made available for the walleye production grant program. It is expected that this rule and program will provide an economic benefit for entities that meet grant criteria and are awarded grant funds, including municipal, tribal, and private fish hatcheries. There are no costs expected for entities that are awarded grants, other than potential costs associated with expanded walleye production that are not eligible for grant reimbursement or costs that applicants decide to pay for themselves. Grantees must pay for the grant project up front and will get reimbursed for eligible costs. Overall, this rule and program is expected to have a positive effect for all anglers in Wisconsin who fish for walleye, as well as small businesses that are supported by fishing.

14. Long Range Implications of Implementing the Rule

The proposals in this rule would support the efforts of the new “Wisconsin Walleye Initiative,” which is intended for state, municipal, tribal, and private fish hatchery operations to increase the production of large walleye fingerlings for stocking in Wisconsin waters.

The department is hiring a limited term employee to help manage the walleye grant production program and a future contracting program. Although this increases total cost for the department, costs will be absorbed by the agency’s budget because funding to cover this position was provided in the 2013–15 state budget.

15. Compare With Approaches Being Used by Federal Government

There is no existing or proposed federal regulation that would govern the department’s ability to create grant contracts with municipal, tribal, or private fish farms, or that would govern fish stocking in Wisconsin waters.

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

Minnesota and Indiana contract with private fish farms to fulfill some or all stocking within those states. There are no grant programs in other states, that the department is aware of, for capital expenses available to municipalities, Indian tribes, or private fish hatcheries.

17. Contact Name

Mike Staggs, Fisheries Management Bureau Director

18. Contact Phone Number

608–267–0796

This document can be made available in alternate formats to individuals with disabilities upon request.

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)

The proposed rule change has the potential to impact municipal, tribal, and private fish hatcheries by providing a new source of grant funding for projects that would increase a fish hatchery's capacity to raise walleye for stocking in waters of the state. Except for rule elements that would require tribal grantees to obtain and pay for fish health certificates for all fish that will be stocked into waters of the state, no additional compliance or reporting requirements will be imposed on small businesses as a result of these rule changes other than those associated with grant reimbursement requirements.

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

The University of WI-Extension aquaculture staff hosted two "listening sessions" to provide private aquaculture industry with the opportunity to comment or offer suggestions regarding initial grant program plans. The sessions were held in Madison on 8/29/2013 (6-7 people in attendance) and in Wisconsin Rapids on 9/4/2013 (10 people in attendance). The same information was presented to tribal attendees at a Voigt Task Force meeting on 9/5/2013 and at meetings with tribal hatchery staffs in early October 2013.

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:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

-Quick application and review time to allow grantees to begin project work in a timely manner.

-Enhances opportunities for federally recognized tribes or bands located in the State to work cooperatively to increase walleye populations across Wisconsin for all users.

-Provides the private aquaculture community the opportunity to work closely with the state propagation program to coordinate efforts to rear walleye of the genetic strains and quality needed to maximize the probability of successful walleye fishery development and maintenance.

5. Describe the Rule's Enforcement Provisions

The rule will be enforced by department Conservation Wardens under the authority of chapters 23 and 29, Stats.

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

Yes No

Notice of Hearings

Natural Resources

Environmental Protection — General, Chs. NR 100—

Environmental Protection — Water Supply,

Chs. NR 800—

CR 13-096

(DNR # DG-02-13)

NOTICE IS HEREBY GIVEN THAT pursuant to sections 227.16 and 227.17, Stats., the Department of Natural Resources, hereinafter the Department, will hold a public hearing on proposed revisions to Chapters NR 146 and NR 812, relating to licensing criteria for heat exchange drillers, to standards for heat exchange drillholes that will be approved with notification rather than individual review, on the date(s) and at the time(s) and location(s) listed below.

Hearings will be held jointly with hearings on DG-03-13, relating to licensing for well filling and sealing contractors,

well inspectors, and water well drilling rig operators; to inspection of water systems at time of real estate transfer; and to citations for violations related to well drilling and pump installation.

Hearing Information

Date: Monday, December 16, 2013

Time: 4:00 p.m.

Locations: (Attendees may select any location listed below on December 16)

Madison:
UW-Pyle Center, Room 227
702 Langdon Street
Madison, WI 53706

La Crosse:
UW-La Crosse
Room 102 Wing Technology
1725 State Street
La Crosse, WI 54601

Wausau:
 UWC–Wausau, Room 144
 near the MAIN ENTRANCE
 518 7th Avenue
 Wausau, WI 54401

Milwaukee:
 UW–Milwaukee, Room 264 Enderis Hall
 2400 East Hartford Avenue
 Milwaukee, WI 53201

Date: **Tuesday, December 17, 2013**
Time: 4:00 p.m.
Locations: (Attendees may select any location listed below on December 17)

Madison:
 UW–Pyle Center, Room 227
 702 Langdon Street
 Madison, WI 53706

Eau Claire:
 UW–Eau Claire Old Library, Room 1128
 105 Garfield Avenue
 Eau Claire, WI 54702

Green Bay:
 UW–Green Bay Instructional Services
 Room 1034
 2420 Nicolet Drive
 Green Bay, WI 54311

Ashland:
 Wisconsin Indianhead Technical College
 Room 7
 2100 Beaser Avenue
 Ashland, WI 54806

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Ms. June Everson, Bureau of Drinking Water and Groundwater, P.O. Box 7921, 101 South Webster Street, Madison, WI 53707–7921; by E–mail to june.everson@wisconsin.gov or by calling (608) 266–6669. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Availability of the Proposed Rules and Fiscal Estimate

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link <https://health.wisconsin.gov/admrules/public/Home>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Ms. June Everson, Bureau of Drinking Water and Groundwater, P.O. Box 7921, 101 South Webster Street, Madison, WI 53707–7921; by E–mail to june.everson@wisconsin.gov or by calling (608) 266–6669.

Submitting Comments

Comments on the proposed rule must be received on or before 4:30 PM on December 20, 2013. Written comments may be submitted by U.S. mail, fax, E–mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments

and any questions on the proposed rules should be submitted to:

Mr. Randell Clark
 Department of Natural Resources
 Bureau of Drinking Water and Groundwater
 101 S Webster St, Madison, WI 53703
 Fax: (608) 267–7650
 E–mail: Randell.clark@wisconsin.gov
 Internet: Use the Administrative Rules System Web site at the link provided above.

Analysis Prepared by the Department of Natural Resources

Statutes interpreted

Sections 227.11 and 280.11 (1), Wis. Stats.

Statutory authority

Sections 280.15 (2m) (b) 2., and s. 280.15 (2m) (f) 2m. b., Wis. Stats.

Explanation of agency authority

Section 280.11 (1), Wis. Stats., grants authority to the department to, among other things, establishing of all safeguards necessary in protecting public health against the hazards of polluted or impure water supplies. Specifically, s. 280.15 (2m) (b) 2., Wis. Stats., requires compliance with licensing, training and education requirements promulgated by the department by rule for heat exchange drilling. Wisconsin Act 150 will become effective 36 months after publication, or April 1, 2015, at which time heat exchange drilling cannot be done without a license.

Related statutes or rules:

Chapter 280 — Pure Drinking Water, provides definitions for terms, defines the powers of the department, and lays out well drilling registration, licensing and qualification requirements and fees for such. It also defines certain prohibitions and exceptions, local authority and defines penalties and citations.

Chapter NR 146 — Well Driller and Pump Installer Registration, provides definitions, registration requirements, defines the requirements for the initial application and registration conditions. It also defines requirements for out-of-state drillers, renewals and the registrant responsibilities, as well as license suspension and revocation criteria.

Chapter NR 812 — Well Construction and Pump Installation, provides a general section covering purpose, applicability, cooperation with the department, contracts for noncomplying installations, disposal of pollutants and injection prohibition, drinking water standards, definitions and location criteria, and additional sections on new well construction and reconstruction requirements, requirements of new pump installations and water treatment, standards for existing installations, and variance conditions.

Plain language analysis

The proposed rule would create the specific requirement for heat exchange drilling to help protect sources of drinking water as well as consumers while enhancing the availability of alternate sources of energy for heating and cooling. The Department proposes to issue a single drilling license with authorizations available for either water well or heat exchange drilling or both. Construction requirements for heat exchange drilling will be proposed in the rule.

The proposed order includes provisions in ch. NR 146 for obtaining and maintaining authorization to construct heat exchange drillholes, including:

1. Sets a minimum length and type of drillhole that a person must have constructed in order to demonstrate eligibility to test for the drilling license and heat exchange authorization;
2. Requires continuing education in order to maintain a drilling license and heat exchange authorization;
3. Identifies knowledge that will be the basis for written testing.

The proposed order includes provisions in ch. NR 812; setting specifications for heat exchange drillholes that are approvable with notification and will not automatically require individual application and review. Specifications include:

1. number and depth of drillholes;
2. setbacks from contamination sources or water supply wells;
3. equipment;
4. drilling and sealing aids;
5. reporting and consultation procedures;
6. abandonment procedures.

Summary and comparison with existing and proposed federal regulations

No federal regulations currently apply to private firms engaged in drilling and installation of heat exchange drillholes.

Comparison of similar rules in adjacent states

ILLINOIS: In Illinois, the Department of Public Health is responsible for oversight of the well construction code, and has authority over the location, construction and modification of closed loop wells. A small set of standards specifically covers construction of closed-loop wells. The Department of Public Health's Closed Loop Well Contractors Certification Board oversees the rules, licensing and administration. A closed loop certification is required for drillers and is issued to those who are qualified and have passed the exam. The initial examination fee is \$50 and annual renewal fee is \$25. Licensees must attend one continuing education session in the preceding 2 years for license renewal.

INDIANA: Indiana has a well construction code and requires a water well driller license. Geothermal heat pump wells are addressed very briefly in the well drilling code. No license is required for heat pump well drilling.

IOWA: Iowa is in the process of developing rules, but has no rules codified for heat exchange drilling at this time. Iowa has a well drilling code and a well driller certification. Fee is \$400 initially and \$300 for renewal. License is for a two-year period and requires 16 contact hours of continuing education.

MICHIGAN: Michigan has no codified rules at this time, but has guidelines for heat exchange systems. Michigan has a Water Well Drilling Contractor license, but no requirements for heat exchange drillers. Water well driller license fee is \$40.

MINNESOTA: In Minnesota, the Commissioner of Health is responsible for oversight of the well construction code. The code includes regulations for groundwater thermal exchange devices. Minnesota has a license for a certified well contractor and a separate license for constructing vertical heat exchangers. Fees for well contractor licenses range from \$75

to \$250. Fees are required for construction of vertical heat exchangers, ranging from \$235 to \$700.

OHIO: Ohio has requirements for well construction, but no requirements for heat exchange drillholes at this time. Ohio has a well driller registration process and a \$250 annual fee.

Summary of factual data and analytical methodologies

Instances of drinking water and groundwater contamination have occurred in Wisconsin as a result of improper heat exchange drilling. 2011 Wisconsin Act 150 was prompted by concerns in the drilling industry that current regulation and licensing did not adequately cover the installation of heat-exchange drillholes and that inexperienced or even unqualified drillers were doing installations in Wisconsin. The Wisconsin Water Well Association took the lead in working with the legislature, other industry representatives, and the department, to promote passage of Wisconsin Act 150.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis

The current water well drilling license is \$50.00 per year for an individual drilling license and/or \$50.00 for the drilling firm business license. The cost is anticipated to be the same to add certification for heat exchange drilling, so a licensed driller with both certifications would pay a total of \$100. Administration of the driller license exam is currently done at no cost to the driller. No complaints of economic hardship or business impacts have been received during the collection of existing license fees. Neither the Wisconsin Water Well Association, representing many affected drillers, or individual drillers participating in the advisory committee to rule development, have expressed any concern about the impact of proposed fees.

Effect on Small Business

Economic impacts of this rule will be minimal. Actual costs to drillers are small and unlikely to affect decisions to offer a service or enter a business sector.

As a result, actual costs to consumers to use geothermal energy are unlikely to be affected by the licensing and construction requirements.

Overall economic impacts are uncertain. Additional protection of groundwater through better drilling practices may reduce future costs of drinking water treatment or groundwater clean-up.

Environmental Analysis

The Department has made a preliminary determination that adoption of the proposed rules would not involve significant adverse environmental effects and would not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on comments received, an environmental analysis may be prepared before proceeding. This analysis would summarize the Department's consideration of the impacts of the proposal and any reasonable alternatives.

Fiscal Estimate Summary

Economic and fiscal impacts of this rule are anticipated to be minimal (final determination of impact will follow public comment period). Actual costs to well drillers are small and not expected to affect decisions to offer a service or enter a business sector. The current water well drilling license fee is \$50 and the heat exchange drilling license fee is expected to be set at the same level (total compliance cost to industry is

estimated at \$500). Drillers may take the licensing exam and apply to construct heat exchange drillholes at no cost. The rule does not propose fees for either of these state services as the total cost to the state is small (total implementation cost is estimated at \$7300).

Agency Contact

Randell Clark
Bureau of Drinking Water and Groundwater
P.O. Box 7921
Madison, WI 53707-7921
Email: Randell.clark@wisconsin.gov
Phone: (608) 267-7895.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapters NR812 and NR146, Wisconsin Administrative Code

3. Subject

Heat Exchange drilling licensing and construction standards

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.370(4)(ma)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Potential for drinking water or groundwater contamination as a result of inexperienced or unqualified drillers constructing heat exchange drillholes

10. 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.

Well drilling businesses are anticipated to be the primary affected business sector. Many drillers are represented by the Wisconsin Water Well Association whose representatives participate in the advisory work group. Local governments may be positively impacted by reduced risk of drinking water or groundwater contamination.

11. Identify the local governmental units that participated in the development of this EIA.

The Madison Water Utility provided comments as part of the advisory work group for rule development.

12. 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)

Economic and fiscal impacts of this rule are anticipated to be minimal (final determination of impact will follow public comment period). Actual costs to well drillers are small and not expected to affect decisions to offer a service or enter a business sector. The current water well drilling license fee is \$50 and the heat exchange drilling license fee is expected to be set at the same level (total compliance cost to industry is estimated at \$500). Drillers may take the licensing exam and apply to construct heat exchange drill-holes at no cost. The rule does not propose fees for either of these state services as the total cost to the state is small (total implementation cost is estimated at \$7300).

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

Benefits of implementing the rule include reduced potential for drinking water and groundwater contamination as a result of improper construction of heat exchange drillholes. No alternatives to implementing the rule are apparent as the statute prohibits heat exchange drilling without a license as of April 1, 2015.

14. Long Range Implications of Implementing the Rule

Long range implications include reduced potential for drinking water and groundwater contamination as drillers are licensed and receive continuing education annually on advances in heat exchange drilling. While the overall economic impact is uncertain, the rules are anticipated to result in less potential for impact on drilling costs, property values or water supply costs.

15. Compare With Approaches Being Used by Federal Government

No approaches are currently being used by the federal government.

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

ILLINOIS: In Illinois, the Department of Public Health is responsible for oversight of the well construction code, and has authority over the location, construction and modification of closed loop wells. A small set of standards specifically covers construction of closed-loop wells. The Department of Public Health's Closed Loop Well Contractors Certification Board oversees the rules, licensing and administration. A closed loop certification is required for drillers and is issued to those who are qualified and have passed the exam. The initial examination fee is \$50 and annual renewal fee is \$25. Licensees must attend one continuing education session in the preceding 2 years for license renewal.

IOWA: Iowa is in the process of developing rules, but has no rules codified for heat exchange drilling at this time. Iowa has a well drilling code and a well driller certification. Fee is \$400 initially and \$300 for renewal. License is for a two-year period and requires 16 contact hours of continuing education.

MICHIGAN: Michigan has no codified rules at this time, but has guidelines for heat exchange systems. Michigan has a Water Well Drilling Contractor license, but no requirements for heat exchange drillers. Water well driller license fee is \$40.

MINNESOTA: In Minnesota, the Commissioner of Health is responsible for oversight of the well construction code. The code includes regulations for groundwater thermal exchange devices. Minnesota has a license for a certified well contractor and a separate license for constructing vertical heat exchangers. Fees for well contractor licenses range from \$75 to \$250. Fees are required for construction of vertical heat exchangers, ranging from \$235 to \$700.

17. Contact Name

Randell Clark

18. Contact Phone Number

608-267-7895

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearings

Natural Resources

Environmental Protection — General, Chs. NR 100—

*Environmental Protection — Water Supply,
Chs. NR 800—*

CR 13-099

(DNR # DG-03-13)

NOTICE IS HEREBY GIVEN THAT pursuant to sections 227.16 and 227.17, Stats., the Department of Natural Resources, hereinafter the Department, will hold public hearings on proposed revisions to chapters NR 146 and NR 812, relating to licensing for well filling and sealing

contractors, well inspectors, and water well drilling rig operators; to inspection of water systems at time of real estate transfer; and to citations for violations related to well drilling and pump installation to protect public health and groundwater, on the dates and at the time and locations listed below.

Hearings will be held jointly with hearings on DG-02-13, relating to heat exchange drilling.

Hearing Information

Date: **Monday, December 16, 2013**

Time: 4:00 p.m.

Locations: (Attendees may select any location listed below on December 16)

Madison:
 UW–Pyle Center, Room 227
 702 Langdon Street
 Madison, WI 53706

La Crosse:
 UW–La Crosse
 Room 102 Wing Technology
 1725 State Street
 La Crosse, WI 54601

Wausau:
 UWC–Wausau, Room 144
 near the MAIN ENTRANCE
 518 7th Avenue
 Wausau, WI 54401

Milwaukee:
 UW–Milwaukee, Room 264 Enderis Hall
 2400 East Hartford Avenue
 Milwaukee, WI 53201

Date: **Tuesday, December 17, 2013**

Time: 4:00 p.m.

Locations: (Attendees may select any location listed below on December 17)

Madison:
 UW–Pyle Center, Room 227
 702 Langdon Street
 Madison, WI 53706

Eau Claire:
 UW–Eau Claire Old Library, Room 1128
 105 Garfield Avenue
 Eau Claire, WI 54702

Green Bay:
 UW–Green Bay Instructional Services
 Room 1034
 2420 Nicolet Drive
 Green Bay, WI 54311

Ashland:
 Wisconsin Indianhead Technical College
 Room 7
 2100 Beaser Avenue
 Ashland, WI 54806

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Ms. June Everson, Bureau of Drinking Water and Groundwater, P.O. Box 7921, 101 South Webster Street, Madison, WI 53707–7921; by E–mail to june.everson@wisconsin.gov or by calling (608) 266–6669. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Availability of the Proposed Rules and Fiscal Estimate

The proposed rules and supporting documents, including the fiscal estimates, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link <https://health.wisconsin.gov/admrules/public/Home>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Ms. June Everson, Bureau of Drinking Water and Groundwater, P.O. Box 7921, 101 South Webster Street, Madison, WI 53707–7921; by E–mail to june.everson@wisconsin.gov or by calling (608) 266–6669.

Submitting Comments

Comments on the proposed rules must be received on or before 4:30 PM on December 20, 2013. Written comments may be submitted by U.S. mail, fax, E–mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to:

Steve Ales
 Wisconsin Department of Natural Resources, DG/5
 P.O. Box 7921
 Madison, WI 53707–7921
 E–mail: Stephen.ales@wisconsin.gov
 Internet: Use the Administrative Rules System Web site at the link provided above.

Analysis Prepared by the Department of Natural Resources

Statutes interpreted

Sections 227.11 and 280.11 (1), Wis. Stats.

Statutory authority

Sections 280.11 (1), 280.15 (3g), 280.30, 280.98, 281.11, 281.12, and 281.19, Wis. Stats.

Explanation of agency authority

Section 280.11 (1), Wis. Stats., grants authority to the department to, among other things, establishment of all safeguards necessary in protecting public health against the hazards of polluted or impure water supplies. Specifically, s. 280.15 (3g), Wis. Stats., requires compliance with licensing, training and education requirements promulgated by the department by rule for water well drilling rig operators. Section 280.30, Wis. Stats., requires licenses or registrations for persons performing property transfer well inspections or water well filling and sealing. Section 280.98, Wis. Stats., requires the department to promulgate rules for issuance of citations for specific licensing or well and pump code violations. Section 281.11, Wis. Stats., authorizes the department to serve as the central unit of government to protect maintain, and improve the quality and management of the waters of the state, ground and surface, public and private.

Section 281.12, Wis. Stats., provides that the department shall have general supervision and control over waters of the state. Section 281.19, Wis. Stats., grants authority to the department to adopt rules applicable throughout the state for the construction, installation, use and operation of practicable and available methods for preventing and abating pollution of the waters of the state.

Related statutes or rules

Chapter 280, Wis. Stats. — Pure Drinking Water, provides definitions for terms, defines the powers of the department, and lays out well drilling registration, licensing and qualification requirements and fees for such. It also defines certain prohibitions and exceptions, local authority and defines penalties and citations.

Chapter 281, Wis. Stats. — Water and Sewage, designates the department as the central unit of government to protect, maintain, and improve the quality and management of the waters of the state, ground and surface, public and private, provides that the department shall have general supervision and control over waters of the state, and grants authority to the department to adopt rules applicable throughout the state for the construction, installation, use, and operation of practicable and available methods for preventing and abating pollution of the waters of the state.

Chapter NR 146, Wis. Adm. Code — Well Driller and Pump Installer Registration, provides definitions, registration requirements, defines the requirements for the initial application and registration conditions. It also defines requirements for out-of-state drillers, renewals and the registrant responsibilities, as well as license suspension and revocation criteria.

Chapter NR 812, Wis. Adm. Code — Well Construction and Pump Installation, provides purpose, applicability, cooperation with the department, contracts for noncomplying installations, disposal of pollutants and injection prohibition, drinking water standards, definitions and location criteria, well filling and sealing requirements, requirements of new pump installations and water treatment, standards for existing installations, and variance conditions.

Plain language analysis

The proposed rules amend chs. NR 146 and NR 812, Wis. Adm. Code, to create specific requirements for property transfer well inspections to help protect sources of drinking water as well the health of consumers. The proposed rules do not require inspections of wells at time of property transfer, but sets uniform minimum standards if an inspection is performed. The proposed rule changes will reduce the amount of time staff currently spend answering questions and writing variances because several requirements for existing wells have been simplified and/or eliminated. Inspection forms and laboratory reports will not be submitted to the department.

The proposed rules make other changes in chs. NR 146 and 812 to conform the provisions of the rules to existing statutes. Specifically, the rule order includes provisions in ch. NR 146 for:

1. The qualifications and training for a registered water well drilling rig operator to become a licensed water well driller.
2. The requirements for department issuance of citations related to water well drilling and pump installing.
3. The qualifications for performing property transfer well inspections and well filling and sealing.

The proposed order includes provisions in ch. NR 812 for

1. Procedures and requirements property transfer well inspections.
2. Well filling and sealing procedures.
3. Eliminating some separation distance requirements that are no longer considered a health hazard for wells.
4. Citation procedures

Summary and comparison with existing and proposed federal regulations

No federal regulations currently apply to private water supply wells with regard to licensing, well inspections, well filling and sealing or citations for code violations.

Comparison of similar rules in adjacent states

ILLINOIS: In Illinois, the Department of Public Health is responsible for oversight of the well construction code, and has authority over the location, construction and modification of closed loop wells. The Department of Public Health's Closed Loop Well Contractors Certification Board oversees the rules, licensing and administration.

INDIANA: Indiana has a well construction code and requires a water well driller license.

IOWA: Iowa has a well drilling code and a well driller certification. Fee is \$400 initially and \$300 for renewal.

License is for a two-year period and requires 16 contact hours of continuing education.

MICHIGAN: Michigan has no codified rules at this time, but has guidelines for heat exchange systems. Michigan has a Water Well Drilling Contractor license. Water well driller license fee is \$40.

MINNESOTA: Minnesota Department Health requires that the status of all wells on a property be disclosed at time of property transfer for the purpose of getting unused and noncomplying wells filled and sealed. There is no requirement to inspect the well or disclose their compliance with the well code at time of property transfer. Minnesota does not have citation authority for license or well or pump code violations, but can issue administrative orders with financial penalties for noncompliance. Minnesota does not require water well drilling rig operators to be registered. Minnesota requires that filling and sealing of wells be performed by a licensed contractor.

OHIO: Ohio has requirements for well construction. Ohio has a well driller registration process and a \$250 annual fee.

Summary of factual data and analytical methodologies

Instances of drinking water and groundwater contamination have occurred in Wisconsin as a result of failure to properly fill and seal wells. 2005 Wisconsin Act 360 was prompted by concerns in the water well and pump industry that current regulation and licensing did not adequately address the inspection of water wells and pumps at time of property transfer and that inexperienced or even unqualified individuals were doing inspections. The Wisconsin Water Well Association took the lead, yet worked closely with department to develop Act 360. The proposed rules amend chs. NR 146 and NR 812 so that rule provisions are consistent with the statutory changes made in 2005.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis

The proposed rules codify fee amounts set in statute. The current water well drilling license is \$50.00 per year for an individual drilling license and/or \$50.00 for the drilling firm business license. Administration of the water well driller license exam is currently done at no cost to the water well driller. No complaints of economic hardship or business impacts have been received during the collection of existing license fees. The water well drilling rig operator registration fee is \$25 per year. Annual continuing education costs about \$150 per year. The Wisconsin Water Well Association, representing many affected drillers, or individual drillers participating in the advisory committee to rule development, have not expressed any concern about the impact of the fees.

Effect on Small Business

Economic impacts of this rule will be minimal. Actual costs to well drillers and pump installers are small and unlikely to affect decisions to offer a service or enter a business sector.

Overall economic impacts are uncertain. Additional protection of groundwater through better filling and sealing practices may reduce future costs of drinking water treatment or groundwater clean-up.

A copy of any Comments and Opinion Prepared by the Board of Veterans Affairs Under S. 45.03 (2m), Stats., for Rules Proposed by the Department of Veterans Affairs [if not applicable, so state]

Not applicable.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

Agency Contact

Steve Ales, Wisconsin Department of Natural Resources,
DG/5, P.O. Box 7921, Madison, WI 53707-7921, E-mail:
Stephen.ales@wisconsin.gov

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

**ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis**

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 146, Well Driller and Pump Installer Registration; NR 812, Well Construction and Pump Installation

3. Subject

Licensing and Standards for Water Well Drilling Rig Operators, Property Transfer Well Inspections and Well Filling and Sealing; Citations

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

N/A

10. 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.

Licensed Well Drillers and Pump Installers, Wisconsin Water Well Association, Advisory Council on Well Drilling & Pump Installing

11. Identify the local governmental units that participated in the development of this EIA.

N/A

12. 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)

The proposed rule changes update administrative code to match statutory requirements and current department practice. Most affected entities are already licensed and follow the standards proposed here. These requirements affect voluntary home inspections. The statute requires the department to develop rules for issuance of citations.

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

This proposal aligns administrative code with statutory requirements. Those requirements improve well inspections, which increases protection for the state's groundwater supplies.

14. Long Range Implications of Implementing the Rule

Same as above.

15. Compare With Approaches Being Used by Federal Government

There are no Federal requirements for private water supplies.

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

Minnesota Department of Health requires, at time of property transfer, disclosure of wells that need to be filled and sealed.

17. Contact Name

Stephen M. Ales

18. Contact Phone Number

608-267-7649

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearings

Revenue CR 13-095

NOTICE IS HEREBY GIVEN That, pursuant to sections 77.58 (5), 77.65 (3), and 227.11 (2) (a), Stats., the Department of Revenue will hold a public hearing to consider permanent rules revising Chapter Tax 11, relating to sales tax filing frequency.

Hearing Information

Date: Friday, December 13, 2013
Time: 1:00 p.m.
Locations: Events Room
 State Revenue Building
 2135 Rimrock Road
 Madison, WI 53713

Handicap access is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact person listed below or to adminrules.wisconsin.gov no later than **December 13, 2013**, and will be given the same consideration as testimony presented at the hearing.

Dale Kleven
 Department of Revenue
 Mail Stop 6-40
 2135 Rimrock Road
 P.O. Box 8933
 Madison, WI 53708-8933
 Telephone: (608) 266-8253
 E-mail: dale.kleven@revenue.wi.gov

Analysis by the Department of Revenue

Statutes interpreted

Section 77.58 (1) (a) and (5), Stats.

Statutory authority

Sections 77.58 (5), 77.65 (3), and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 77.58 (5), Stats., provides "The department, if it deems it necessary to ensure payment to or facilitate the collection by the state of the amount of taxes, may require returns and payments of the amount of taxes for other than quarterly periods. The department may, if satisfied that the revenues will be adequately safeguarded, permit returns and payments of the amount of taxes for other than quarterly periods..."

Section 77.65 (3), Stats., provides "[t]he department may promulgate rules to administer this section..."

Section 227.11 (2) (a), Stats., provides "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

Related statute or rule

There are no other applicable statutes or rules.

Plain language analysis

This proposed rule amends the reference in s. Tax 11.93 to increase the annual filing standard to \$600 (currently \$300) to allow more retailers to file sales tax returns annually. This is consistent with changes made to s. 77.58 (1) (a), Stats., by 2013 Wis. Act 20, to allow more retailers to file sales tax returns less frequently (quarterly rather than monthly).

Summary of, and comparison with, existing or proposed federal regulation

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states

Illinois (86 ILL. Adm. Code 130.502), Iowa (Rule 701 12.1(422)), and Minnesota (Rule 8130.7300) also address

sales tax filing frequency in their rules. As with Wisconsin, each of these state's rules are based on unique underlying statutes and policy. Because of this, a meaningful comparison cannot be made.

Summary of factual data and analytical methodologies

2013 Wis. Act 20 doubled the threshold upon which a monthly sales tax return is required to be filed (\$600 to \$1200). The department has created this proposed rule order to be consistent with this statutory change by doubling the threshold upon which an annual sales tax return may be filed (\$300 to \$600). No other data was used in the preparation of this proposed rule order or this analysis.

Analysis and supporting documents used to determine effect on small business

This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated Costs Incurred by Private Sector

This proposed rule does not have a fiscal effect on the private sector.

Effect on Small Business

This proposed rule does not affect small business.

Agency Contact Person

Please contact Dale Kleven at (608) 266-8253 or

dale.kleven@revenue.wi.gov if you have any questions regarding this proposed rule.

Text of Rule

SECTION 1. Tax 11.93 (1) and (Note 2) are amended to read:

Tax 11.93 (1) A retailer holding a regular seller's permit who during the previous calendar or fiscal year had a sales and use tax liability not exceeding ~~\$300~~ \$600 will be notified by the department that it must only file one sales and use tax return for the following year. If the retailer wants to continue to file returns on a quarterly basis, it must contact the department.

(Note 2) The interpretations in s. Tax 11.93 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) ~~The~~ A \$300 standard ~~applies~~ applied to taxable years beginning on and after January 1, 1979. Prior to that date, a \$100 standard applied; ~~and~~ (b) The "annual information return" was eliminated for 1981 and subsequent years, pursuant to Chapter 221, Laws of 1979- ; and (c) ~~The~~ \$600 standard applies on and after January 1, 2014.

SECTION 2. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Chapter Tax 11 – Sales and use tax		
Subject		
Sales tax filing frequency		
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		
Fiscal Effect of Implementing the Rule		
<input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Increase Costs <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
The rule does not create or revise policy, other than to reflect current law and department policy.		

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)
As indicated in the attached fiscal estimate, the proposed rule would decrease state sales and use taxes by \$1.7 million (non-recurring loss) in FY14 and decrease county and stadium sales and use taxes by \$140,000 (non-recurring loss) in FY14. No comments concerning the economic effect of the rule were submitted in response to the department's solicitation.
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
Clarifications and guidance provided by administrative rules may lower the compliance costs for businesses, local governmental units, and individuals. If the rule is not implemented, Chapter Tax 11 will be incomplete in that it will not reflect current law or department policy.
Long Range Implications of Implementing the Rule
No long-range implications are anticipated.
Compare With Approaches Being Used by Federal Government
N/A
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
N/A

FISCAL ESTIMATE FORM

2013 Session

- ORIGINAL UPDATED

 CORRECTED SUPPLEMENTAL

LRB #
INTRODUCTION #
Admin rule # Tax 11: Sales Tax Filing Frequency

Subject

Proposed order of the Department of Revenue relating to sales tax filing frequency

Fiscal Effect

State: No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	X Increase Costs — May be Possible to Absorb Within Agency's Budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input checked="" type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No Local Government Costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input checked="" type="checkbox"/> Others <u>Stadium Districts</u> <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The proposed rule modifies Chapter TAX 11 of the Administrative Code regarding the requirements for quarterly and annual sales and use tax filing. Currently, a registered business with an annual sales and use tax liability not exceeding \$300 must only file sales and use tax returns on an annual basis. If the retailer prefers to file on a quarterly basis, it must contact the department. The proposal would increase the \$300 threshold to \$600, allowing more businesses to file sales and use tax returns on an annual basis. The change to the filing threshold would be effective January 1, 2014.

Based on information from state sales and use tax returns, the rule change is expected to affect 8,091 filers. While the proposal does not impact tax liabilities, sales tax returns for quarters ending March 31 and June 30 would be due Dec 31 of the next fiscal year. Assuming all affected businesses file on an annual basis, the proposal would result in a \$1.7 million non-recurring loss in FY14.

County and stadium sales and use taxes were 8.2% of state sales and use taxes in FY13. Assuming this does not change, county and stadium taxes would decrease by \$140,000 (non-recurring loss) in FY14.

Notice of Hearings

Safety and Professional Services — Board of Nursing CR 13-097

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Board of Nursing in sections 15.08 (5) (b) and 227.11 (2), Wis. Stats., and interpreting section 441.07, Wis. Stats., the Board of Nursing will hold a public hearing at the time and place indicated below to consider an order to repeal section N 7.04, amend section N 7.01 (2), repeal and recreate section N 7.03, and create section N 7.02 (1m), relating to code of conduct.

Hearing Information

Date: Thursday, December 19, 2013
Time: 8:05 a.m.
Locations: 1400 East Washington Avenue
Room 121 A
Madison, Wisconsin

Appearances at the Hearing and Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at Sharon.Henes@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 441.07, Stats.

Statutory authority

Sections 15.08 (5) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority

The Board of Nursing has general agency authority to promulgate rules interpreting the provisions of any statute enforced or administered by the Board of Nursing.

The Board also has specific agency conferred by the legislature to promulgate rules for its own guidance and for the guidance of the profession and define and enforce professional conduct and unethical practices.

Related statute or rule

Section 441.07, Stats.

Plain language analysis

Section 1 amends the statement of intent to include certificate due to the disciplinary action may be taken against an advanced practice nurse prescriber certificate.

Section 2 provides a definition for certificate.

Section 3 creates a new section defining the grounds for disciplinary action

Section 4 repeals s. N 7.04 which defined unprofessional conduct. This proposed rule combines the negligence and unfit to practice section with the unprofessional conduct section to make one section identifying the grounds for disciplinary action.

Summary of, and comparison with, existing or proposed federal regulation

None.

Comparison with rules in adjacent states

Illinois: The grounds for disciplinary actions in Illinois include: findings of unethical or unprofessional conduct which includes engaging in behavior that crosses professional boundaries; sexual conduct; deceiving, defrauding, or harming the public; and departure from or failure to conform to the standards of professional or practical nursing. In addition, Illinois incorporates be reference the “Code for Nurses with Interpretive Statements” and “Standards of Practice and Educational Competencies of Graduates of Practical/Vocational Nursing Programs.”

Iowa: The grounds for disciplinary actions in Iowa include: behavior which constitutes knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession; behaviors which constitutes unethical conduct; behavior which constitutes fraud; behavior which constitutes knowingly making misleading, deceptive, untrue or fraudulent representations; and professional incompetency.

Michigan: The grounds for disciplinary actions in Michigan include: personal disqualifications; practicing outside the scope; unprofessional conduct; fraud or deceit; obtaining, possessing or attempting to obtain a controlled substance; and unethical business practices.

Minnesota: The grounds for disciplinary actions in Minnesota include: non-compliance with requirements; practicing outside the scope; criminal convictions; violating confidentiality; engaging in conduct with a patient that is sexual or may reasonably be interpreted as sexual; obtaining money, property or services from a patient through the use of undue influence; engaging in fraud or deceit; failing to or inability to perform professional or practical nursing with reasonable skill and safety; engaging in unprofessional conduct; actual or potential inability to practice nursing with

reasonable skill and safety; engaging in any unethical conduct; improper management of patient records; and improper supervision.

Summary of factual data and analytical methodologies

The Board of Nursing reviewed the recently adopted model rules of the National Council of State Boards of Nursing and the surrounding states as well as utilizing knowledge of current minimum standards to determine what would be in the best interest of the state of Wisconsin when setting forth the practices which constitute grounds for discipline.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

These rules were posted for economic comments for a 14 day period and no comments were received.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency Contact Person

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

**ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis**

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

N 7

3. Subject

Misconduct or unprofessional conduct

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

The policy problem addressed by the rule is to update and modernize the misconduct or unprofessional conduct rule which has not been updated since 1995.

10. 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.

This rule was posted for 14 days for economic comments and none were received.

11. Identify the local governmental units that participated in the development of this EIA.

None

12. 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)

This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole. The rule addresses conduct of the licensee.

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

The benefit of implementing the rule is including current minimum standards of the profession necessary for the protection of the public. In addition, as a member state of the Nurse Licensure Compact, the benefit is to have consistency among the compact states as to what practices are construed as misconduct or unprofessional conduct.

The alternate to updating and modernizing the misconduct or unprofessional conduct rule is to continue with a current rule that creates uncertainty to the licensee as to what is misconduct or unprofessional conduct when a situation arises involving technology, practices or laws that were not in place in 1995.

14. Long Range Implications of Implementing the Rule

The long range implication is notice provided to the licensees and public as to what constitutes unprofessional conduct.

15. Compare With Approaches Being Used by Federal Government

None

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

The grounds for disciplinary actions in our neighboring states include: behavior which crosses professional boundaries; sexual conduct; fraud; departure from or failure to conform to the standards of nursing; practicing outside the scope; obtaining, possessing or attempting to obtain a controlled substance outside the practice of nursing; unethical business practices; criminal convictions; violating confidentiality; obtaining money, property or services from a patient through the use of undue influence; failing to or inability to perform nursing with reasonable skill and safety; engaging in unethical practices; improper management of patient records; and improper supervision.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearings

Safety and Professional Services — Board of Nursing CR 13-098

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Board of Nursing in sections 15.08 (5) (b), 227.11 (2); 441.01; 441.50 (6); 441.50 (6) (c), Wis. Stats., and interpreting section 441.50, Wis. Stats., the Board of Nursing will hold a public hearing at the time and place indicated below to consider an order to create Chapter N 9, relating to nurse licensure compact

Hearing Information

Date: Thursday, December 19, 2013
Time: 8:00 a.m.

Locations: 1400 East Washington Avenue
Room 121A
Madison, Wisconsin

Appearances at the Hearing and Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at Sharon.Henes@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 441.50, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 441.01, 441.50 (6), 441.50 (6) (c), Stats.

Explanation of agency authority

An examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains. The Board may establish rules to prevent unauthorized persons from practicing professional nursing. The Board shall approve all rules for the administration of ch. 441, Stats., in accordance with ch. 227, Stats.

The Board shall have the authority to promulgate uniform rules and regulations which are developed by the nurse licensure compact administrators. These uniform rules shall be adopted by party states.

Related statute or rule

Section 441.50, Stats.

Plain language analysis

Wisconsin is a party state to the Nurse Licensure Compact. The Nurse Licensure Compact requires the adoption of the uniform rules for facilitation and coordination of the implementation of the Nurse Licensure Compact. The issues the rules address include: issuance of a multi-state license; limitations or discipline on a multi-state licensure; required

data to collect (and who has access to that data); and various reporting to the information system requirements.

Summary of, and comparison with, existing or proposed federal regulation

None.

Comparison with rules in adjacent states

Illinois: Illinois is not part of the nurse licensure compact.

Iowa: Iowa is part of the nurse licensure compact and has adopted these rules.

Michigan: Michigan is not part of the nurse licensure compact.

Minnesota: Minnesota is not part of the nurse licensure compact.

Summary of factual data and analytical methodologies

The nurse licensure compact administrators approve the uniform rules.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

These rules were posted for economic comments for a 14 day period and no comments were received.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency Contact Person

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

**ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis**

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

N 9

3. Subject

Nurse Licensure Compact

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Wisconsin is a party of the Nurse Licensure Compact. The Nurse Licensure Compact requires the adoption of the uniform rules for facilitation and coordination of implementation of the compact.

10. 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.

This rule was posted for economic impact comments for 14 days and none were received.

11. Identify the local governmental units that participated in the development of this EIA.

None

12. 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)

This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

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

The benefit of implement the rules is our continued participation in the Nurse Licensure Compact. The Nurse Licensure Compact allows nurses to practice across state lines. If Wisconsin were removed from the Nurse Licensure Compact, for failure to implement the uniform rules, there would be an economic impact on the state and nurses license in Wisconsin would be ineligible to practice out of state under their Wisconsin license.

14. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is continual participation in the Nurse Licensure Compact.

15. Compare With Approaches Being Used by Federal Government

None

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

Iowa is a member of the Nurse Licensure Compact and have adopted the uniform rules. Illinois, Michigan and Minnesota are not current party states to the Nurse Licensure Compact.

17. Contact Name

Sharon Henes, Administrative Rules Coordinator

18. Contact Phone Number

(608) 261-2377

This document can be made available in alternate formats to individuals with disabilities upon request.

Submittal of Proposed Rules to Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

Natural Resources

Fish, Game, etc. — Chs. NR 1—

Environmental Protection — General, Chs. NR 100—

*Environmental Protection — Water Regulation,
Chs. NR 300—*

*Environmental Protection — Air Pollution Control,
Chs. NR 400—*

*Environmental Protection — Solid Waste Management,
Chs. NR 500—*

*Environmental Protection — Hazardous Waste
Management, Chs. NR 600—*

*Environmental Protection — Water Supply, Chs. NR
800—*

CR 13–022

(DNR # OE–46–10)

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are to revise Chapters NR 2, 19, 51, 108, 110, 126, 134, 150, 166, 191, 300, 305, 310, 327, 345, 410, 512, 670, and 820, relating to the department's environmental analysis and review procedures under the Wisconsin Environmental Policy Act.

Date of Transmittal: November 18, 2013.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule was published in Register 657, on September 14, 2010, was sent to LRB prior to the effective date of 2011 Wis. Act 21.

Public Instruction

CR 13–084

On November 11, 2013, the Department of Public Instruction submitted proposed rules to the Chief Clerks of the Senate and Assembly for review by the Legislature under s. 227.19, Stats. The rules repeal Chapter PI 29, relating to the repeal of grants for preschool through grade 5 programs.

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department

of Public Instruction is not required to obtain the Governor's approval of this proposed rule under s. 227.185, Stats.

Public Instruction

CR 13–085

On November 11, 2013, the Department of Public Instruction submitted proposed rules to the Chief Clerks of the Senate and Assembly for review by the Legislature under s. 227.19, Stats. The rules repeal Chapter PI 31, relating to the repeal of grants for STEM Programs.

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval of this proposed rule under s. 227.185, Stats.

Public Instruction

CR 13–087

On November 11, 2013, the Department of Public Instruction submitted proposed rules to the Chief Clerks of the Senate and Assembly for review by the Legislature under s. 227.19, Stats. The rules repeal Chapter PI 33, relating to the repeal of grants for nursing services.

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval of this proposed rule under s. 227.185, Stats.

Public Instruction

CR 13–088

On November 11, 2013, the Department of Public Instruction submitted proposed rules to the Chief Clerks of the Senate and Assembly for review by the Legislature under s. 227.19, Stats. The rules amend section PI 34.35 (1) (c), relating to the definition of immoral conduct.

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department of Public Instruction is not required to obtain the Governor's approval of this proposed rule under s. 227.185, Stats.

Rule Orders Filed with the Legislative Reference Bureau

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266-7590 for updated information on the effective dates for the listed rule orders.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 13-023

A rule to create section NR 1.27, relating to contracting for forest regeneration services on state lands.
Effective 1-1-14.

Revenue

CR 13-034

An order to amend section Tax 61.08 (11) (h) and (k) and (13) (a) and create section Tax 61.08 (13) (cm), relating to lottery retailers.
Effective 1-1-14.

Revenue

CR 13-035

An order to amend sections Tax 16.04 (2), 16.06 (4) (Note 1), and 19.03 (1) (c) (intro.), relating to local financial reporting and expenditure restraint payments.
Effective 1-1-14.

Revenue

CR 13-036

An order to repeal sections Tax 12.06 (1) (a) 1. a. to g. and

(b) 1. a. to e., 12.075, 12.08, 12.40, 12.50 (4), subch. I of Chapter Tax 18, subch. II (title) of chapter Tax 18, and section Tax 18.08; renumber and amend section Tax 12.06 (1) (a) 1. (intro.) and (b) 1. (intro.); amend sections Tax 12.05 (1) (b) and (c) (intro.), 12.065 (1) (c), (2) (b), and (6), 12.50 (1) and (3) (b), 18.04, 18.05 (intro.) and (1) (a), and 18.07 (2); and repeal and recreate section Tax 12.07; relating to property tax and assessment of agricultural property.

Safety and Professional Services

Plumbing, Chs. SPS 381—387

CR 13-046

An order to amend sections SPS 382.20 (2) (a) (intro.) and (2) (a) 2. (Note), 382.40 (6) (a), and 382 APPENDIX A-382.20 (2) and A-382.33 (9) (f)-1 (Note), relating to plumbing plan review by municipal agents.
Effective 1-1-14.

Transportation

CR 12-046

An order to amend section Trans 200.06 (7) (b) 3. a., relating to the erection of signs on public highways, and affecting small business.
Effective 1-1-14.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in this edition of the Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266-3358.

Employee Trust Funds

CR 13-029

The Wisconsin Department of Employee Trust Funds adopts an order renumbering and amending section ETF 52.02 (4m); amending sections ETF 52.02 (2), 52.04 (4), 52.06 (3) (b) to (e), (5) (a), (5) (Note), (6) (a), and (7) (a), (b) (intro.), 1. to 3., and (c), 52.07 (3) (b) to (d) and (4), 52.08 (3), 52.12 (1) (a) 1., (b), and (c), 52.16 (4) (a) and (c), and 52.28 (2) (a); and creating sections ETF 52.06 (7) (bm), 52.15, and 52.22 (3), relating to the administration of the Duty Disability Program under s. 40.65, Stats.

Effective 12-1-13.

Effect on Small Business

There is no effect on small business.

Legislative Comments

No comments were reported.

Public Instruction

CR 13-024

The state superintendent of Public Instruction adopts an order creating Chapter PI 47, relating to the equivalency process for approving alternative models to evaluate educator practice.

Effective 12-1-13.

Effect on Small Business

The rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Legislative Comments

No comments were received.

Safety and Professional Services

Professional Services, Chs. SPS 1-299

CR 13-030

Legislative Comments

The Department of Safety and Professional Services adopts an order amending section SPS 132.05 (1), related to biennial renewal dates.

Effective 12-1-13.

Effect on Small Business

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Legislative Comments

No comments were reported.

Safety and Professional Services

General Part I, Chs. SPS 301-319

CR 13-042

The Department of Safety and Professional Services adopts an order repealing sections SPS 316.004 (2) Note [2], 316.210 (a) and (c) and (5), and 316.225 (1); renumbering sections SPS 316.210 (2) (b) and (6), 316.225 (2), (3) (b), (4) and (5), and 316.230 (5); renumbering and amending sections SPS 316.225 (3) (a), 316.230 (3) and (4), and 316.511; amending sections SPS 316.003 (title), 316.004 (1), 316.010, 316.012, 316.090 (title), 316.110, 316.310 (title) and (intro.), 316.314 (title), 316.334 (2) (title), 316.400 (title), 316.450 (title) and (1), 316.620 (title), 316.675, 316.680 (title), 316.700 (1) (intro.) and (3), 316.920 (2) (c), and 316.940 (2) (c) 1. and 2. and (4) (b); repealing and recreating sections SPS 316.005 Note [2], 316.014, 316.210 (4), 316.220 (1), 316.250, and 316.406; and creating sections SPS 316.003 (5), 316.004 (1) Note, 316.013 Note, 316.210 (6), 316.300 (1) (a) 5., 316.511 (2), and 316.547, relating to electrical construction.

Effective 12-1-13.

Effect on Small Business

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Legislative Comments

No comments were reported.

Safety and Professional Services — Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

CR 12-053

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors adopts an order revising Chapter A-E 4, relating to requirements for registration as a professional engineer.

Effective 12-1-13.

Effect on Small Business

Because the statutory changes that prompted this proposal took effect over two years ago, these proposed rules will not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats., beyond that which such businesses have already experienced and absorbed.

Legislative Comments

No comments were reported.

**Safety and Professional Services —
Optometry Examining Board
CR 13-017**

The Optometry Examining Board adopts an order amending section Opt 5.02 (4), relating to lens prescription.

Effective 12-1-13.

Effect on Small Business

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Legislative Comments

No comments were reported.

**Safety and Professional Services —
Physical Therapy Examining Board
CR 13-007**

The Wisconsin Physical Therapy Examining Board proposes an order amending sections PT 7.01 (1) (title) and 8.02; repealing and recreating section PT 7.02; and creating sections PT 7.01 (2) and 7.025, relating to unprofessional conduct and biennial renewal date.

Effective 12-1-13.

Effect on Small Business

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Legislative Comments

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **November 2013**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

Revisions

Employee Trust Funds

Ch. ETF 52

ETF 52.02 (1m), (2), (4m)
 ETF 52.04 (4)
 ETF 52.06 (3) (b to (e), (5) (a), (Note), (6) (a), (b), (7) (a) 2., (b), (7) (bm), (c)
 ETF 52.07 (3) (b) to (d), (4)
 ETF 52.08 (3)
 ETF 52.12 (1) (a) 1., (b), (c)
 ETF 52.15
 ETF 52.16 (4) (a), (c)
 ETF 52.22 (3)
 ETF 52.28 (2) (a)

Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

Ch. A-E 4

A-E 4.03 (2) (a) 4.
 A-E 4.05
 A-E 4.06
 A-E 4.07
 A-E 4.08 (2) (a), (b), (7), (8)
 A-E 4.09 (1) (b), (2) (am), (b) to (d)

Optometry Examining Board

Ch. Opt 5

Opt 5.02 (4)

Physical Therapists Affiliated Credentialing Board

Ch. PT 7

PT 7.01
 PT 7.02
 PT 7.025

Ch. PT 8

PT 8.02

Public Instruction

Ch. PI 47

Entire Chapter

Safety and Professional Services

Ch. SPS 132

SPS 132.05 (1) (intro.), (Note)

Ch. SPS 316

SPS 316.003 (title), (5)
 SPS 316.004 (a), (Note), (2) (Note 2)
 SPS 316.012
 SPS 316.013 (Note)
 SPS 316.014
 SPS 316.090 (title)
 SPS 316.110
 SPS 316.210 (2) (a) to (c), (4) to (6)
 SPS 316.220 (1)
 SPS 316.225 (1) to (5)
 SPS 316.230 (3) to (5)
 SPS 316.250
 SPS 316.300 (1) (a) 5.
 SPS 316.310 (title), (intro.)
 SPS 316.314 (title)
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 SPS 316.400 (title)
 SPS 316.406
 SPS 316.450 (title), (1)
 SPS 316.511
 SPS 316.547
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 SPS 316.675
 SPS 316.680 (title)
 SPS 316.700 (1) (intro.), (3)
 SPS 316.920 (2) (c)
 SPS 316.940 (2) (c) 1., 2., (4) (b)

Editorial Corrections

Corrections to code sections under the authority of s. 13.92 (4) (b), Stats., are indicated in the following listing.

Cosmetology Examining Board

Ch. Cos 1

Cos 1 (Note [2])

Ch. Cos 2

Cos 2 (Note [2])

Ch. Cos 3

Cos 3 (Note [2])

Ch. Cos 4

Cos 4 (Note [2])

Ch. Cos 5

Cos 5 (Note [2])

Ch. Cos 6

Cos 6 (Note [2])

Ch. Cos 7

Cos 7 (Note [2])

Ch. Cos 8

Cos 8 (Note [2])

Ch. Cos 9

Cos 9 (Note [2])

Ch. Cos 10

Cos 10 (Note [2])

Ch. Cos 11

Cos 11 (Note [2])

Dentistry Examining Board**Ch. DE 11**

DE 11.10 (Note) (Moved to DE 11.09)

Employment Relations Commission**Ch. ERC 1**

ERC 1.10 (Note [2])

Ch. ERC 10

ERC 10.06 (1) (Note)

ERC 10.08 (5) (Note)

Ch. ERC 20

ERC 20.10 (Note [2])

Ch. ERC 60

ERC 60.01 (Note)

ERC 60.04 (Note)

ERC 60.08 (1) (Note), (2) (Note), (3) (Note), (4) (Note)

ERC 60.10 (Note [2])

Natural Resources**Ch. NR 45**

NR 45.045 (2) (Note)

Ch. NR 169

NR 169.05 (29m) (Notes)

NR 169.19 (4) (c)

Ch. NR 700

NR 700.03 (48) (s. 35.17, Stats.), (66) (Note)

NR 700.13 (1m)

Ch. NR 700 Appendix A

Entire Chapter (removed as obsolete by agency)

Ch. NR 706

NR 706.02 (2), (2) (Note)

Ch. NR 708

NR 708.11 (3) (a) (s. 35.17, Stats.)

Ch. NR 716

NR 716.09 (2) (Note)

NR 716.11 (3) (Note [2])

NR 716.15 (6)

Ch. NR 720

NR 720.12 (3) (b) 1. b., (Note [2])

Ch. NR 722

NR 722.07 (3) (b) 2m., (4) (a) 2. (all s. 35.17, Stats.)

NR 722.09 (2) (b) 2., (d) 2., (e) 1., (3), (5) (all s. 35.17, Stats.)

Ch. NR 726

NR 726.03 (Note)

NR 726.03 (1) (b) 2.

Ch. NR 727

NR 727.03 (Note)

NR 727.05 (1) (a) (s. 35.17, Stats.)

Ch. NR 738

NR 738.06 (1) (c)

NR 738.14 (2) (c) 3.

Ch. NR 746 Appendix A

Entire Chapter (repealed by CR 12-023, published Register 694, eff. 11-1-13)

Ch. NR 749

NR 749.04 Table 1

Personnel Commission**Ch. PC 3**

PC 3.01 (Note)

PC 3.02 (1) (Note [3])

Physical Therapists Affiliated Credentialing Board**Ch. PT 7**

PT 7.025 (6), (23)

Ch. PT 8

PT 8.05 (intro.) (s. 35.17, Stats.)

Safety and Professional Services**Ch. SPS 316**

SPS 316.511 (1)

SPS 316.701 (1), (2)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 119. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Lance Corporal Jeremiah M. Collins, Jr of the United States Marine Corps Who Lost His Life While Serving His Country During Operation Enduring Freedom—Afghanistan. **(October 16, 2013)**

Executive Order 120. Relating to the Proclamation of an Energy Emergency. **(October 25, 2013)**

Executive Order 121. Relating to an Ongoing Energy Emergency and Amending Executive Order #120. **(November 7, 2013)**

Executive Order 122. Relating to an Ongoing Energy Emergency and Amending Executive Orders #120 and #121. **(November 15, 2013)**

Public Notices

Agriculture, Trade and Consumer Protection

Adjustments in Dollar Amounts for Repair Charges Subject to Mechanic's Liens

Under Wis. Stat. s. 779.41 (1m), the Department is required to annually adjust the dollar amounts identified under s. 779.41 (1) (intro), (a), (b) and (c) 1. to 4. by the annual change in the consumer price index, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor, and publish the adjusted figures.

The Department has determined that current dollar amounts specified under Wis. Stats. ss. 779.41 (1) (intro), (a), (b) and (c) 1. to 4. shall be increased by 2.1%, according to the prior year annual change in the consumer price index.

The dollar amount contained in Wis. Stats. s. 779.41 (1) (intro), is adjusted to \$2,235. The dollar amounts contained in Wis. Stats. s. 779.41 (1) (a), (b), and (c) 1. to 4. are adjusted to the following dollar amounts:

- (a) A trailer or semitrailer designed for use with a road tractor for charges in excess of \$6,700.
- (b) Road machinery, including mobile cranes and trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment for charges in excess of \$11,150.
- (c) A motor vehicle not included under par. (a) or (b) with a manufacturer's gross weight rating, including, with respect to road tractors, a manufacturer's gross weight rating for the combined carrying capacity of the tractor and trailer, of:
 1. More than 10,000 and less than 20,000 pounds, for charges in excess of \$4,460.
 2. 20,000 pounds or more, but less than 40,000 pounds, for charges in excess of \$8,800.
 3. 40,000 pounds or more, but less than 60,000 pounds, for charges in excess of \$14,390.
 4. 60,000 pounds or more, for charges in excess of \$17,320.

These revised dollar amounts under the mechanic's lien law shall apply to work commenced on or after January 1, 2014 for which a lien is claimed. These revised dollar amounts shall remain in effect until the first day of the first month following publication of new adjusted dollar amounts in the *Wisconsin Administrative Register*.

Contact Information

Paul Dingee, Section Chief
Trade Practices Bureau
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4925
paul.dingee@wi.gov

Agriculture, Trade and Consumer Protection

Adjustments in Dollar Amounts for Liens on Vehicles for Towing and Storage

Under Wis. Stat. s. 779.415(1g)(c), the department is required to annually adjust the dollar amounts that may be charged for towing or storing a vehicle identified under Wis. Stat. s. 779.415(1g) par. (a). Under this law, the department shall adjust the dollar amounts by the annual change in the consumer price index, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

The Department has determined that current dollar amounts specified under Wis. Stat. s. 779.415 (1g) (a) shall be increased by 2.1%, according to the prior year annual change in the consumer price index. The dollar amounts contained in Wis. Stat. s. 779.415 (1g) (a) are adjusted to the following dollar amounts:

If the vehicle is subject to a lien perfected under Wis. Stat. ch. 342, a towing lien shall have priority only to the extent of \$107 for a vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and \$375 for a vehicle having a manufacturer's gross weight rating of more than 20,000 pounds. A storage lien shall have priority only to the extent of \$10 per day but for a total amount of not more than \$643 for a vehicle having a manufacturer's gross weight rating of 20,000 pounds or less and \$27 per day but for a total amount of not more

than \$1,605 for a vehicle having a manufacturer's gross weight rating of more than 20,000 pounds. If the value of the vehicle exceeds \$802 the lien may be enforced under Wis. Stat. s. 779.48 (2). If the value of the vehicle does not exceed \$802, the lien may be enforced by sale or junking as provided in sub. (2).

These revised dollar amounts for liens on vehicles for towing and storage shall apply to services commenced on or after January 1, 2014 for which a lien is claimed. These revised dollar amounts shall remain in effect until the first day of the first month following publication of new adjusted dollar amounts in the *Wisconsin Administrative Register*.

Contact Information

Paul Dingee, Section Chief
Trade Practices Bureau
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4925
paul.dingee@wi.gov

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