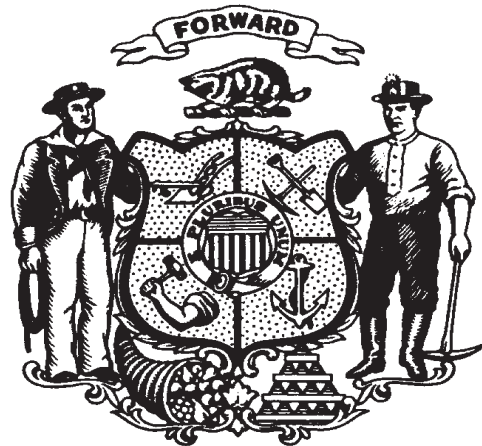


Wisconsin Administrative Register

No. 686



Publication Date: February 14, 2013

Effective Date: February 15, 2013



Legislative Reference Bureau
<http://www.legis.state.wi.us/rsb/code.htm>



WISCONSIN ADMINISTRATIVE REGISTER

The Wisconsin Administrative Register is published twice monthly by the Legislative Reference Bureau.

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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.

Agriculture, Trade and Consumer Protection (2)

1. EmR1213 (DATCP Docket # 11-R-11) — The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **sections ATCP 55.04 (title), (2) (title), (a) and (b), and (6), 55.07 (1) (a), (2) (a) and (3) (a);** and to create **sections ATCP 55.02 (4m), 55.03 (2) (f), 55.04 (1m), 55.06 (5) (j), 55.07 (1) (c), (2) (d) and (3) (c),** relating to allowing certain selected Wisconsin state-inspected meat establishments to sell meat and meat products in other states and thereby affecting small business.

This rule was approved by the governor on September 6, 2012.

The statement of scope for this rule, SS 005-12, was approved by the governor on January 11, 2012, published in Register No. 673, on January 31, 2012, and approved by the Natural Resources Board on February 22, 2012.

Finding of Emergency

The department of agriculture, trade and consumer protection 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) Wisconsin has more than 270 small state-inspected meat establishments that contribute to the vitality of the state's rural economy, producing many unique, specialty products. Wisconsin's state-inspected meat and poultry establishments are inspected by Wisconsin's Bureau of Meat Safety and Inspection under a cooperative agreement with the United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) program. Under the cooperative agreement, state meat inspection programs must provide inspection that is "at least equal to" federal inspection under the Federal Meat Inspection Act (FMIA) (21 USC 661) and the Poultry Products Inspection Act (PPIA) (21 USC 454). State-inspected meat and poultry establishments are prohibited from selling their products in other states.

(2) USDA recently established the new Cooperative Interstate Shipment (CIS) program, which will allow state-inspected meat and poultry establishments to sell their products in other states. To qualify for participation in the CIS program, state meat and poultry inspections programs must inspect establishments that volunteer to participate in the program using procedures that are the "same as", rather than "at least equal to," USDA's federal inspections under FMIA and PPIA. This emergency rule incorporates certain federal regulations that Wisconsin's state meat inspection program must adopt in order to establish a regulatory foundation deemed the "same as" the foundation for the federal program, and thereby allowing Wisconsin to participate in the CIS program.

(3) The department of agriculture, trade and consumer protection (DATCP) is adopting this emergency rule to prevent a potential hardship to Wisconsin's state-inspected meat establishments selected to participate in the program; adoption of the emergency rule will ensure that these establishments are not prevented from selling their meat and poultry products in other states because the pending "permanent" rules cannot be adopted in time.

Filed with LRB:	September 10, 2012
Publication Date:	September 13, 2012
Effective Dates:	September 13, 2012 through February 9, 2013
Extension Through:	April 10, 2013
Hearing Date:	October 15, 18, 19, 2012

2. EmR1301 (DATCP Docket # 12-R-10) — The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to create **s. 161.50 (3) (f) and subch. VI of ch. ATCP 161,** relating to the "grow Wisconsin dairy producer" grant and loan program created under ss. 20.115 (4) (d) and 93.40 (1) (g), Stats.

This rule was approved by the governor on January 14, 2013.

The scope statement for this rule, SS 090-12, 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 on December 18, 2012.

Finding of Emergency

Enactment of a rule is necessary to establish criteria the department will use to make determinations for grants, loans or other forms of financial assistance to dairy producers to promote and develop the dairy industry. An emergency rule is needed to ensure that funds are used to assist dairy producers during the second year of the annual appropriation as permanent rules cannot be adopted in time to provide the basis for grant determinations for the second year appropriations.

Filed with LRB: January 31, 2013
Publication Date: February 1, 2013
Effective Dates: February 1, 2013 through June 30, 2013

Children and Families*Safety and Permanence, Chs. DCF 37–59*

EmR1212 — The Wisconsin Department of Children and Families orders the creation of **Chapter DCF 55**, relating to subsidized guardianship.

This emergency rule was approved by the governor on August 28, 2012.

The statement of scope for this rule, SS 040–12, was approved by the governor on June 8, 2012, published in Register No. 678 on June 30, 2012, and approved by Secretary Eloise Anderson on July 16, 2012.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Guardians who entered into subsidized guardianship agreements with an agency when the statewide subsidized guardianship program was implemented in August 2011 are now eligible for consideration of an amendment to increase the amount of the subsidized guardianship payments. The rule includes the process for determining eligibility for an amendment.

Filed with LRB: August 31, 2012
Publication Date: September 3, 2012
Effective Dates: September 3, 2012 through January 30, 2013
Extension Through: March 31, 2013
Hearing Date: November 30, 2012

Children and Families*Early Care and Education, Chs. DCF 201–252*

EmR1216 — The Wisconsin Department of Children and Families orders the creation of **section DCF 201.04 (2j)**, relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses.

This emergency rule was approved by the governor on October 19, 2012.

The statement of scope for this rule, SS 054–12, was approved by the governor on July 30, 2012, published in

Register No. 680 on August 14, 2012, and approved by Secretary Eloise Anderson on August 27, 2012.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Section 49.155 (3m) (d), Stats., as affected by 2011 Wisconsin Act 32, provides that no child care subsidy funds may be used for child care services that are provided for a child by a child care provider who is the parent of the child or who resides with the child. In addition, no child care subsidy funds may be used for child care services that are provided by another child care provider if the child's parent is a child care provider. The prohibition on assistance does not apply if the child's parent has applied for, and been granted, a waiver. Implementation of an emergency rule specifying the circumstances under which the department or an agency will grant a waiver is necessary to protect certain vulnerable children.

Filed with LRB: November 13, 2012
Publication Date: November 15, 2012
Effective Dates: November 15, 2012 through April 13, 2013
Hearing Date: January 14, 2013

Justice

EmR1217 — The State of Wisconsin Department of Justice (“DOJ”) proposes an order to re-create **Chapter Jus 17 and Chapter Jus 18**, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; the recognition by Wisconsin of concealed carry licenses issued by other states; and the certification of firearms safety and training instructors.

The statement of scope for these emergency rules was approved by Governor Walker on February 15, 2012, published in Administrative Register No. 674, on February 29, 2012, and approved by Attorney General J.B. Van Hollen on March 12, 2012.

These emergency rules were approved in writing by the governor on December 4, 2012, pursuant to Wis. Stat. s. 227.24 (1) (e) 1g.

Finding of Emergency

Under section 101 of 2011 Wis. Act 35, DOJ has been statutorily required to receive and process concealed carry license applications and to issue or deny licenses since November 1, 2011. The Legislature has thus determined that the public welfare requires the licensing system commenced on that date to remain continuously in effect. In order for DOJ to accomplish that goal and comply with all applicable statutory requirements, it is necessary to continuously have in effect administrative rules establishing the procedures and standards that govern the enforcement and administration of those requirements.

Emergency rules governing the licensing process were first adopted on October 25, 2011, and have been continuously in effect since November 1, 2011. The emergency rules were subsequently repealed and recreated with an effective date of March 21, 2012. Pursuant to s. 227.24 (2) (a), Stats., the Joint Committee for the Review of Administrative Rules has authorized the current emergency rules to remain in effect through December 15, 2012.

DOJ is in the process of promulgating permanent administrative rules which, when completed, will replace the emergency rules. On September 5, 2012, the final draft of the proposed permanent rules and accompanying reports were submitted for legislative review, pursuant to s. 227.19 (2), Stats. The permanent rulemaking process, however, will not be completed prior to the anticipated expiration of the existing emergency rules on December 15, 2012. Upon such expiration, DOJ would no longer have in effect administrative rules establishing the procedures and standards that govern the concealed carry licensing program. Any such lack of continuity in the operation of the licensing program would be confusing and disruptive both for license applicants and for DOJ staff administering the program.

The public welfare thus requires that additional emergency rules be promulgated, in order to ensure that there is no interruption in DOJ's ability to continue to carry out all of its statutory responsibilities in administering and enforcing the concealed carry licensing program. These rules will prevent such a discontinuity and ensure continuous and uniform operation of the concealed carry program through the time of completion of the permanent rulemaking process that is already under way. Only if DOJ utilizes the emergency rulemaking procedures of s. 227.24, Stats., can these emergency rules be promulgated and in effect in time to prevent discontinuity in the operation of the existing rules. The public welfare thus necessitates that the rules proposed here be promulgated as emergency rules under s. 227.24, Stats.

Filed with LRB: December 10, 2012
Publication Date: December 15, 2012
Effective Dates: December 15, 2012 through May 13, 2013

Natural Resources (4)

Fish, Game, etc., Chs. NR 1—

1. EmR1207 (DNR # WM-03-12(E))— The Wisconsin Natural Resources Board proposes an order to amend **section NR 10.01 (3) (d) 1.**, relating to the bobcat hunting and trapping season.

This emergency rule was approved by the governor on May 4, 2012. This emergency rule, modified to reflect the correct effective date, was approved by the governor on May 25, 2012.

The statement of scope for this rule, SS 009-12, was approved by the governor on February 15, 2012, published in Register No. 674, on February 29, 2012, and approved by the Natural Resources Board on March 28, 2012.

This rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 25, 2012.

Finding of Emergency

Pursuant to s. 227.24, Stats., the Department of Natural Resources finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare.

If emergency rules are not promulgated, the season automatically reverts back to a single permit period beginning on the Saturday nearest October 17 and continuing through December 31 in 2012. Frequent change of season dates and regulations for hunting and trapping can be confusing and disruptive to the public, can result in citations being issued, and is not necessary for protection of the bobcat population in

this situation. Some people will view a reversion to the single season framework as a reduction of opportunity that is not socially acceptable. Therefore, this emergency rule is needed to preserve the public welfare.

Filed with LRB: May 30, 2012
Publication Date: June 10, 2012
Effective Dates: October 1, 2012 through February 27, 2013
Hearing Date: August 27, 2012

2. 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 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.

3. EmR1214 (DNR # WM-02-12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate **sections NR 10.01 (1) (b), (g) and (u), 10.06 (9) (a) and 10.32**, to amend **section NR 10.01 (1) (v)**, and to create **section NR 10.12 (3) (e)**, relating to hunting and the 2012 migratory game bird seasons and waterfowl hunting zones.

This emergency rule was approved by the governor on September 6, 2012.

The statement of scope for this rule, SS 011-12, was approved by the governor on February 15, 2012, published in Register No. 674, on February 29, 2012, and approved by the Natural Resources Board on May 23, 2012.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made

available to this state until late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Filed with LRB: September 10, 2012
Publication Date: September 12, 2012
Effective Dates: September 13, 2012 through February 9, 2013

4. 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 February 27, 2013

Scope Statements

Children and Families

Family and Economic Security, Chs. DCF 101–153

SS 008–13

This statement of scope was approved by the governor on January 4, 2013.

Rule No.

Chapter DCF 101.

Relating to

Intentional program violations of public assistance programs.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

2011 Wisconsin Act 202, relating to intentional program violations of public assistance programs, amends s. 49.151 (2), Stats., on sanctions for an intentional program violation of certain public assistance programs. Section DCF 101.21 (2), the current rule on sanctions for an intentional program violation of ss. 49.141 to 49.161, Stats., is similar to s. 49.151 (2), Stats., before the 2011 Wisconsin Act 202 changes. The proposed rules will repeal s. DCF 101.21 (2) since it is now obsolete.

2011 Wisconsin Act 202 also creates a definition of “intentional program violation” for ch. 49, Stats., at s. 49.001 (3m), Stats. The term “intentional program violation” appears in s. 49.161 (3), Stats., on recouping an overpayment that resulted from an intentional program violation of ss. 49.141 to 49.161, Stats., or of rules promulgated under those sections from the monthly benefit payment of a current Wisconsin Works participant. Before 2011 Wisconsin Act 202, the term “intentional program violation” used in s. 49.161 (3), Stats., was not defined. Section DCF 101.23 (5) (b) is similar to s. 49.161 (3), Stats., except it has had an applicable definition of “intentional program violation” at s. DCF 101.23 (1) (f) since its creation in 2005. The proposed rules will repeal and recreate the definition of “intentional program violation” in s. DCF 101.23 (1) (f) to make it the same as the definition of “intentional program violation” in s. 49.001 (3m), Stats., as created by 2011 Wisconsin Act 202.

Detailed Explanation of Statutory Authority for the Rule

Section 49.001 (3m), Stats., as created by 2011 Wisconsin Act 202, defines “intentional program violation” for ch. 49, Stats.

Section 49.151 (2), Stats., as affected by 2011 Wisconsin Act 202, specifies the sanctions for an intentional program violation of the public assistance programs in s. 49.138, Stats., and ss. 49.141 to 49.161, Stats.

Section 49.161 (3), Stats., provides that if a W–2 participant receiving a monthly benefit payment under s. 49.148 (1), Stats., is liable for an overpayment that is the result of an intentional program violation of ss. 49.141 to 49.161, Stats., or of rules promulgated under those sections, the department shall deduct a specified portion of the participant’s monthly benefit payment to recover the overpayment.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to 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.

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

50 hours.

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

The proposed rule contains technical corrections that will bring ch. DCF 101, relating to Wisconsin Works, into compliance with changes made in 2011 Wisconsin Act 202. The organizations that registered as lobbyists on the bill that created Act 202 were the National Association of Social Workers – Wisconsin Chapter, Wisconsin Council on Children & Families, Fox Cities Chamber of Commerce & Industry, and Legal Action of Wisconsin, Inc.

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.

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

None.

Contact Person

Margaret McMahon, Bureau of Working Families, margaret.mcmahon@wisconsin.gov, (608) 266–1717.

Public Instruction

SS 013–13

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 get the Governor’s approval for this statement of scope.

Rule No.

Chapter PI 47.

Relating to

The educator effectiveness equivalency process.

Rule Type

Permanent and emergency.

Finding/Nature of Emergency (Emergency Rule Only)

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative models of evaluating educator practice. The statute requires the Wisconsin Educator Effectiveness (EE) System to be fully implemented and mandatory throughout the entire state by the 2014–15 school year. The full pilot, which allows schools and districts to implement the state EE model and provide feedback, will go into effect during the 2013–14 school year. Districts intending on applying for an equivalency review of an alternative model in 2013–14 must alert DPI in writing of their intention March 15, 2013 and submit their application on or before April 15, 2013. In future years, applicants must alert DPI in writing of their intention by January 15 of the preceding school year, and they must submit their application by March 15 of that year in order to be approved. DPI will continue to modify and refine its system pending feedback from pilot participants and ongoing development (e.g., education specialists). As such, applicants must apply for equivalency annually until DPI is no longer refining the system and evaluating its associated equivalency review process, at which point applicants may receive approval for an extended period of time so long as they continue to meet the required demonstrations and assurances.

In order to have alternative models available for pilot use in the 2013–14 school year and to allow districts using the models opportunities to make modifications prior to Full Implementation (2014–15), there is an urgent need to get the equivalency process in place to approve other evaluation models. If school districts are not permitted to adopt alternative models, they will be denied the flexibility to adapt the EE model to fit their local needs. This will lead to inefficient use of funds in some districts until those districts are able to change to alternative models that best meet their needs. Additionally, students in those districts will not benefit from having their teachers and principals evaluated in a way that best meets local needs. Thus, preservation of the public welfare necessitates that Wisconsin implement the EE program in an efficient and effective manner in order to ensure that scarce resources continue to be used wisely so that Wisconsin can continue to provide the best possible learning environment for its students.

Detailed Description of the Objective of the Proposed Rule

In order to account for the fact that any one evaluation system may not suit each district, the Wisconsin Legislature required DPI to develop an application and approval process for districts wishing to use alternative models to measure teacher or principal practice. The legislation states the following requirements of the Equivalency Process:

- The process shall be based on the criteria established in the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards.
- A school district or charter school that uses this process shall evaluate the performance of teachers in the following domains: 1) planning and preparation; 2) the classroom environment; 3) instruction; and 4) professional responsibilities and development.

The Wisconsin Educator Effectiveness System is designed to evaluate teachers and principals with a fair, credible, and valid system that uses multiple measures across two main areas: educator practice and student outcomes. Within the

Wisconsin Educator Effectiveness System, only models of educator practice are subject to equivalence; the equivalency process does not apply to the measures of student outcomes.

Applications for equivalency status will be measured based on certain demonstrations and assurances to align with similar standards set forth by the state.

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

The evaluation system for educator performance was previously determined by local school districts and teachers' unions. In many cases, this meant there was no standardized evaluation system at all. The Wisconsin Educator Effectiveness System is the first systematic statewide attempt to evaluate teacher performance. In addition to having the standard evaluation model, DPI is also allowing school districts to submit an alternative model to DPI if the school district feels that an alternative model would better measure educator performance in that particular district.

The Wisconsin Educator Effectiveness System is an innovative program that is designed to measure teacher and principal performance by balancing assessment of educator practice and student outcomes. DPI is proposing a process that would allow school districts to design their own assessment model for educator practice. However, these alternative models must still reflect the valuable principles underlying the Wisconsin Educator Effectiveness System. Thus, school districts must still evaluate the performance of teachers in the areas of planning and preparation; the classroom environment; instruction; and professional responsibilities and development. Additionally, the evaluation process must reflect the criteria in the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards.

Without this rule, there would not be a process to approve alternative models and school districts would not be allowed to use alternative models. This is undesirable because the option to use an alternative model allows school districts the flexibility to meet their local needs. Additionally, DPI will ensure that all alternative models meet certain standards. Without including DPI in this review and approval process, school districts could minimize or even avoid implementing the EE System and their students would not benefit from the program's results. Thus, the Wisconsin State Legislature has statutorily required that DPI develop a process to approve equivalent, alternative models.

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

115.415 Educator effectiveness.

(1) The department shall develop an educator effectiveness evaluation system and an equivalency process aligned with the department's evaluation system for the evaluation of teachers and principals of public schools, including teachers and principals of a charter school established under s. 118.40(2r), as provided in this section. Each school board and the governing body of each charter school established under s. 118.40(2r) shall evaluate teachers and principals in the school district or charter school beginning in the 2014–15 school year.

(2) The department shall develop an educator effectiveness evaluation system according to the following framework:

- (a) Fifty percent of the total evaluation score assigned to a teacher or principal shall be based upon measures of student performance, including performance on state assessments, district–wide assessments, student learning objectives, school–wide reading at the elementary and middle–school levels, and graduation rates at the high school level.
- (b) Fifty percent of the total evaluation score assigned to a teacher or principal shall be based upon one of the following:

1. For a teacher, the extent to which the teacher’s practice meets the core teaching standards adopted by the 2011 Interstate Teacher Assessment and Support Consortium.

2. For a principal, the extent to which the principal’s practice meets the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards.

- (c) A teacher or principal evaluated under this subsection shall be placed in one of multiple performance categories.

(3) (a) The department shall promulgate by rule an equivalency process aligned with the evaluation system established under sub. (2) for a school district or a charter school established under s. 118.40(2r) seeking to utilize an alternative process for the evaluation of teacher and principal practice. The process under this subsection shall be based on the criteria established in the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards, and a school district or charter school established under s. 118.40(2r) that uses the process under this subsection shall evaluate the performance of teachers in the following domains:

1. Planning and preparation.
2. The classroom environment.
3. Instruction.
4. Professional responsibilities and development.

- (b) A teacher or principal evaluated under this subsection shall be placed in one of multiple performance categories.

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

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with developing a process to implement the rule will be fairly significant.

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

Local educational agencies, such as school districts and CESAs, will be affected by the proposed rule.

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

N/A

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

The proposed rules will indirectly benefit some small businesses and educational entities involved in creating alternative educator evaluation programs since these programs have the potential to be approved and used throughout the state. However, the rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Contact Person

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Revenue

SS 005–13

This statement of scope was approved by the governor on January 17, 2013.

Rule No.

Chapters Tax 6, 13, and 15.

Relating to

Public utility taxation, investment and local impact fund, and real estate transfer fee.

Rule Type

Permanent.

Detailed Description of the Objective of the Proposed Rule

The objectives of the rule are to:

- Amend s. Tax 6.50 (4) (b) to be consistent with national unit valuation standards.
- Update department contact and form references throughout Chapter Tax 6.
- Revise s. Tax 13.05 (1) (b) to reflect the repeal of the Badger Fund by 1997 Wis. Act 27.
- Repeal ss. Tax 15.03 (2) (b) and (c) and 15.05 (5) to reflect the creation of s. 77.25 (14), Stats., by 1985 Wis. Act 39.

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

2012 Executive Order 61 and 2011 Wisconsin Act 46 requires state agencies to work with the Small Business Regulatory Review Committee to review the agency’s administrative rules that may be particularly onerous to small businesses in Wisconsin. In response, the department initiated a comprehensive review of all of its administrative rules. The changes described above were identified as part of that review. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy.

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

The Investment and Local Impact Fund Board, as created by s. 15.435, Stats., and attached to the department under s. 15.03, Stats., is required under s. 70.395 (2) (hg), Stats., to “...by rule, establish fiscal guidelines and accounting

procedures for the use of payments under pars. (d), (f), (fm) and (g), sub. (3) and s. 293.65 (5).” These provisions apply to the proposed revision to s. Tax 13.05 (1) (b).

Section 76.07 (5) (b), Stats., provides “[t]he department shall promulgate rules relating to the general principles of the indicators of value...” This provision applies to the proposed changes to Chapter Tax 6.

Section 77.30, Stats., provides “[t]he secretary of revenue may adopt, pursuant to ch. 227, such rules as the secretary deems necessary in the administration of this subchapter...” This provision applies to the proposed repeal of ss. Tax 15.03 (2) (b) and (c) and 15.05 (5).

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

The department estimates it will take approximately 100 hours to develop the rule.

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

Local governments, businesses, and individuals who rely on clear, current, and concise rules.

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

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

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

No economic impact is anticipated.

Contact Person

Dale Kleven, (608) 266-8253.

Revenue

SS 006-13

This statement of scope was approved by the governor on January 17, 2013.

Rule No.

Chapters Tax 12 and 18.

Relating to

Property tax and assessment of agricultural property.

Rule Type

Permanent.

Detailed Description of the Objective of the Proposed Rule

The objectives of the rule are to:

- Amend s. Tax 12.06 to eliminate redundancy with the Wisconsin Property Assessment Manual.
- Revise s. Tax 12.065 (2) (b) to remove a dated reference to a transitional period.
- Revise s. Tax 12.07 to provide for more frequent update of assessment districts through the Wisconsin Property Assessment Manual.

- Repeal ss. Tax 12.075, 12.08, 12.10, 12.40, and 12.50 (4), which have been made obsolete by statute.
- Update address and other references in ss. Tax 12.05 (1) (b) and (c), 12.065 (1) (c), (2) (b), and (6), and 12.50 (1) and (3) (b).
- Repeal subchapter I of Chapter Tax 18 and remove other references throughout the chapter to an agricultural assessment transitional period that lasted from 1996 to 1997.
- Amend s. Tax 18.05 (1) (a) so that the definition of agricultural use is consistent with s. 70.32 (2) (c) 1i., Stats.

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

2012 Executive Order 61 and 2011 Wisconsin Act 46 requires state agencies to work with the Small Business Regulatory Review Committee to review the agency’s administrative rules that may be particularly onerous to small businesses in Wisconsin. In response, the department initiated a comprehensive review of all of its administrative rules. The changes described above were identified as part of that review. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy.

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

Section 70.32 (2) (c) 1i. Stats., provides that agricultural use “means agricultural use as defined by the department of revenue by rule...” This provision applies to ch. Tax 18.

Section 73.09 (1), Stats., provides “[t]he department of revenue shall establish by rule the level of certification under sub. (3), the continuing education requirements under sub. (4), examinations under sub. (5), and the requirements for and responsibilities associated with temporary certification under sub. (6) for all assessors and assessment personnel of each local unit of government and for county assessor systems under s. 70.99.” This provision applies to ch. Tax 12.

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

The department estimates it will take approximately 100 hours to develop the rule.

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

Local assessors, local governments, businesses, and individuals who rely on clear, current, and concise rules

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

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

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

No economic impact is anticipated.

Contact Person

Dale Kleven, (608) 266-8253.

Revenue

SS 007-13

This statement of scope was approved by the governor on January 17, 2013.

Rule No.

Chapters Tax 16 and 19.

Relating to

Local financial reporting and expenditure restraint payments.

Rule Type

Permanent.

Detailed Description of the Objective of the Proposed Rule

The objectives of the rule are to:

- Amend ss. Tax 16.04 (2) and 16.06 (4) to reflect current reporting requirements and address information.
- Revise s. Tax 19.03 (1) (c) to correct a typographical error.

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

2012 Executive Order 61 and 2011 Wisconsin Act 46 requires state agencies to work with the Small Business Regulatory Review Committee to review the agency's administrative rules that may be particularly onerous to small businesses in Wisconsin. In response, the department initiated a comprehensive review of all of its administrative rules. The changes described above were identified as part of that review. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy.

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

Section 73.10 (2) (b) 1., Stats., provides that "[t]he department may require by rule all of the following:

- a. That the information it needs under par. (a) be submitted as annual financial statements, notes to the financial statements, and supporting schedules.
- b. That the statements, notes, and schedules under subd. 1.a. conform to generally accepted accounting principles promulgated by the Governmental Accounting Standards Board or its successor bodies.
- c. That the statements, notes, and schedules under subd. 1.a. be audited in accordance with generally accepted auditing standards."

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

The department estimates it will take approximately 100 hours to develop the rule.

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

Local governments who rely on clear, current, and concise rules.

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

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

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

No economic impact is anticipated.

Contact Person

Dale Kleven, (608) 266-8253.

Safety and Professional Services***Safety, Buildings, and Environment—Plumbing, Chs. SPS 381-387***

SS 009-13

This statement of scope was approved by the governor on January 22, 2013.

Rule No.

Sections SPS 382.20 (2) and 382.40 (6) (a).

Relating to

Plumbing plan review by agent municipalities.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

The major code section to be amended in this proposed rule, section SPS 382.20 (2), specifies that municipalities shall employ two or more full-time plumbing staff if they take on the responsibility of being the department's agent for plumbing plan review. This proposed rule revision encompasses current practices, but also may accommodate opportunities for process improvements in plan review turnaround time.

The objective of this proposed rule is to reduce the staffing burden on agent municipalities while allowing flexibility in determining the staffing levels for this program service based on local need. The proposed rule is not intended to impact or diminish the requirements for such individuals required to have current credentials as outlined in sections SPS 305.003 (14), 305.10 (1) (a) 4. and 382.21 (1) (b). The proposed rule is expected to continue to require that agent municipalities conduct plan review in a proper and timely manner. The proposed rule is not expected to negatively impact health, safety and welfare.

The department may consider any of the following items pertaining to agents, and agent responsibilities and authority: conducting random department-level audits of plan reviews; expanding plan review authority outside the municipal boundaries by mutual agreement; determining qualifications of agent plan review staff; having a contingency plan for prolonged staff absences; detailing a process for withdrawing agent status and rescinding agent status for failure to meet standards; allowing agents to waive the right to review specific project; determining a portion of the fees forwarded

to the department to cover state-level program support; accommodating electronic plan submission and approval; coordinating agent approval and disapproval criteria and processes with similar programs in the department; and reviewing the plan review fees established at the local level.

Other changes in this proposed rule may include editorial corrections. In addition, the project will evaluate other administrative codes of the department that may be affected by updates of the *Wisconsin Uniform Plumbing Code*, including at least chapters SPS 381, 382 and 384, relating to definitions, national standards and plumbing products and installations. This evaluation may result in changes and updates of the rules in these chapters and other chapters requiring updates to cross-references. The objectives of this rule project may be incorporated into one or more rule packages.

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 existing policy mandates that in order to obtain or maintain agent status with the department a municipality must employ at least two full-time plumbing staff deemed so qualified by the department. This proposed rule would provide flexibility in staffing levels based on local need and may allow municipalities to utilize staff on a part-time or as-needed basis.

By not amending the rule in this manner, obtaining agent status may be burdensome on agent municipalities and some may withdraw agent status due to the burden of maintaining an established staffing level not based on local need. One alternative is the department will continue to receive petitions from municipalities for agent delegation requesting to employ only one full-time plumbing inspector. This proposed rule will eliminate the petition process and encompass current practice and open agent status to likely additional municipalities desiring to conduct plumbing plan review.

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

The statutory authority for chapter SPS 382 is contained in the following sections of Wisconsin Statutes.

Sections 145.02 (2) and (3) (d) and (g), Statutes: Authority given to the department and its agent municipalities with regard to plumbing plan review and inspection, establishment of fees, competent plumbing supervision, and the issuance of plumbing permits and orders.

Section 145.02 (4) (a), Statutes: Authority relating to the qualifications, examination and licensing of master and journeyman plumbers and restricted plumber licensees, for the licensing of utility contractors, for the registration of plumbing apprentices and pipe layers and for the registration and training of registered learners.

Section 145.05 (1), Statutes: Authority relating to having competent persons and plumbing supervision in maintaining a plumbing plan review service at the local level.

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

The staff time needed to develop the rules is expected to be about 240 hours, and may be longer if an advisory code committee is convened to review and consult on the proposed rule prior to public hearing.

This time estimate includes research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

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

A number of entities could potentially be affected by this proposed rule—such as current agent municipalities, newly approved agent municipalities, the department (impacts on plan review staffing levels and audit functions) and small businesses that interact with them.

These rules may affect any agent municipality where plumbing plan reviews are undertaken. The rule may also affect the budgets of these agent municipalities, depending on a reduction in staffing levels, an increase in utilizing staff on a part-time or as needed basis for this program service, or an increase in revenues based on the number of plumbing plan reviews conducted at the municipal level.

The promulgated rule may result in an increase in the number of municipalities requesting agent status. The requirement for a specified staffing level may have potentially been a deterrent to obtaining agent status as the staffing level could not be sustained locally with the number of anticipated submittals. In the proposed rule, staffing levels are expected to be determined at the local level whereby the ability would exist to utilize staff on a part-time or as needed basis. In addition, more plans may be submitted at the local level, thus reducing the number of plumbing plans submitted to the department for review; the department may in turn assume more audit functions.

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

An Internet search of the Federal Register did not reveal any processes for granting authority to local units of government with respect to plumbing plan review or staffing levels thereof.

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

The anticipated economic impact to agent municipalities is lower staffing costs where fewer than two full-time staff is needed to conduct plumbing plan review in a proper and timely manner. An increase in revenues at the local level may result if more municipalities obtain agent status to review plans that otherwise would have been submitted to the Department.

The anticipated economic impact to the Department is a decrease in the number of plumbing plans submitted for review, and the commensurate loss in revenue. Also, the Department may remain in the position of providing code consultation, code development and training, and additional audit functions with a reduced revenue stream from plan review.

The anticipated economic impact to small business is expected to be minimal but mostly positive, in that individuals so qualified by the department may be utilized by one or more municipalities to conduct this program service. The enactment of this rule is not expected to result in an undue burden on small business other than the current requirements of maintaining license(s) and plan review records, as well as conducting such reviews in a proper and timely manner. With

the exception of having access to a computer and phone, no additional equipment is necessary to conduct plan review service.

Contact Person

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Safety and Professional Services

Professional Services, Chs. SPS 1–299

SS 012–13

This statement of scope was approved by the governor on January 28, 2013.

Rule No.

Section SPS 81.04.

Relating to

Reciprocity.

Rule Type

Permanent and emergency.

Finding/Nature of Emergency (Emergency Rule Only)

Federal legislation, namely Title XI of the Federal Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended by the Dodd–Frank Act of 2010, dictates the 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 this federal legislation. The Code must be brought into compliance by July 1, of 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.

Detailed Description of the Objective of the Proposed Rule

The sole purpose of the proposed rule is to bring current Wisconsin administrative code in line with federal legislation.

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 existing policy in Wis. Admin. Code s. SPS 81.04 (2) requires reciprocity applicants be evaluated as to whether they are “substantially equivalent” to the requirements for licensure or certificate as an appraiser in this state. The evaluation is based on the other state’s requirements for licensure or certification that were in effect at the time the applicant’s credential was granted in that state; instead of at the time the applicant filed an application in this state.

The new reciprocity policy, as prescribed by federal statute, will require that an appraiser coming from another state seeking reciprocity in this state must hold a current certification or license in the other state that was issued in compliance with the Financial Institution Reform Recovery Act of 1989, 12 U.S.C. 3351, and that the credentialing requirements of the other state, as they currently exist, meet or exceeds Wisconsin credentialing requirements as they currently exist.

The alternative for failing to make the necessary revisions to current Wis. Admin. Code s. SPS 81.04 would result in Wisconsin appraisers being precluded from appraising properties that are being financed with federal loans.

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

Section 227.11 (2) (a), Stats., provides that, “each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it....” Section 440.03 (1), Stats., specifies, “the department may promulgate rules defining uniform procedures to be used by the department,[and] the real estate appraisers board, . . .” The department administers s. 458.06 (4m), Stats., regarding reciprocal certification which states, “upon application and payment of the fee specified in s. 440.05 (2), the department shall grant and issue a certificate of certification as a general appraiser or as a residential appraiser, as appropriate, to any applicant to whom any of the following applies . . .” Since the department administers s. 458.06, Stats., the department is empowered pursuant to ss. 227. (2) (a) and 44.03 (1), Stats., to define the uniform procedures to be used regarding real estate appraisers and reciprocity.

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

200.

List with Description of All Entities that may be Affected by the Proposed Rule

Certified and licensed appraisers in Wisconsin and other states.

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

Title XI of the Federal Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended by the Dodd–Frank Act of 2010, “provides that Federal financial and public policy interest in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.” 12 USCS § 3331 In order to accomplish this purpose, federal legislation has set up the ASC. The ASC monitors the states to insure that state certified or licensed appraisers meet the federal standards before engaging in federally related transaction and “for the purpose of determining whether a State agency’s, policies, practices, and procedures are consistent with” FIRREA. 12 USCS § 3347

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

The Department anticipates a minimal economic impact.

Contact Person

If you have any questions please contact Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, at 608-261-4438 or Shancethea.Leachwood@wisconsin.gov.

Safety and Professional Services —**Board of Nursing**

SS 010-13

The statement of scope was approved by the governor on January 28, 2013.

Rule No.

Sections N 7.02 and 7.04.

Relating to

Misconduct or unprofessional conduct.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to update and modernize the misconduct or unprofessional conduct rule which has not been updated since 1995. The Board desires to utilize the recently adopted model rules of the National Council of State Boards of Nursing (NCSBN) and other Nurse Licensure Compact (NLC) states' rules as well as their own review of the misconduct or unprofessional conduct rule.

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 current rule defines misconduct or unprofessional conduct as "any practice or behavior which violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public." The rule includes in a list specific practices or behavior which constitutes misconduct or unprofessional conduct.

The new policy proposed is to review the existing list and update it based upon current minimum standards of the profession necessary for the protection of the patient or public. This may include addressing new technologies, laws which have been enacted since 1995 including Health Insurance Portability and Accountability Act, and failure to cooperate with department investigations. The Board will review the recently adopted model rules of NCSBN to determine whether the inclusion of their rules would be in the best interest of the state of Wisconsin. In addition, as a member state of the NLC (which allows our nurses to work in another compact state under their Wisconsin license and nurses to work in Wisconsin under another compact state's license) the goal is to have consistency among the compact states as to what practices are construed as misconduct or unprofessional conduct.

The alternative 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.

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

Section 15.08 (5) (b), Stats. 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 441.01 (3), Stats. The board may establish minimum standards for schools for professional nurses and schools for licensed practical nurses, including all related clinical units and facilities, and make and provide periodic surveys and consultations to such schools. It may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of this chapter in accordance with ch. 227, Stats.

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

125 hours.

List with Description of all Entities that May Be Affected by the Proposed Rule

Licensees, health care consumers, and department of safety and professional services compliance staff.

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.

Anticipated economic impact of implementing the rule

None or minimal.

Contact Person

Sharon Henes, (608) 261-2377.

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

SS 011-13

The statement of scope was approved by the governor on January 28, 2013.

Rule No.

Chapters MPSW 10, 11, 12, 14.

Relating to

Licensure, education, examination, supervised practice, continuing education.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

The proposed rule would update the licensing requirements for the training certificate, temporary license, and reciprocal licensure to correct statutory/rule inconsistencies, create clarification and to update to current standards. The proposed rule would also address supervised practice to reflect the current practices, including the use of new technologies. In addition, the proposed rule would update the continuing education to reflect current continuing education programs, including technological methods of delivery. The proposed rule would update the academic program equivalent to a doctorate in professional counseling which has not been updated since 1999.

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 inconsistency between the statute and rule as it relates to temporary license. The proposed rule would bring the rule in line with the statute. The training certificate and reciprocal license rules need clarification and updating.

Currently the supervised practice requirements do not address current practices, including the use of new technologies during supervision.

Updating the continuing education requirements will create clarity and utilize current technological methods of delivery of the continuing education.

The academic program equivalent to a doctorate in professional counseling is not current with education standards in the area of professional counseling. The rule would update the requirements to reflect the minimum education required for a program to be equivalent to a doctoral degree in professional counseling.

The alternative to the proposed changes would be to continue to have statutory/rule inconsistencies, lack of clarity in the rules, continual prohibition regarding the use of current technologies in supervised practice and continuing education and doctoral education standards which are not equivalent to a doctoral degree in professional counseling.

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 (1), Stats. Upon the advice of the social worker section, marriage and family therapist section, and professional counselor 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, marriage and family therapist, or professional counselor under this chapter and approve educational programs and supervised clinical training programs in accordance with those standards.

Section 457.22, Stats. Continuing education (1) The examining board may do any of the following: (c) Upon the advice of the professional counselor section, promulgate rules establishing requirements and procedures for professional counselors to complete continuing education programs or courses of study in order to qualify for renewal.

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

100 hours.

List with Description of All Entities that May Be Affected by the Proposed Rule

Applicants and licensees.

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.

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

Minimal.

Contact Person

Sharon Henes, (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—Wis. Pollutant Discharge Elimination System, Chs. NR 200—

CR 13-006

(DNR # WT-28-10)

On January 17, 2013, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

This rule is not subject to s. 227.135 (2), Stats., as affected by 2011 Wis. Act 21. The scope statement for this rule, published in Register No 652 on April 30, 2010, was sent to Legislative Reference Bureau prior to June 8, 2011, the effective date of Act 21.

Analysis

This proposed rule-making order revises ch. NR 211 and relates to the establishment of pre-treatment wastewater standards and requirements.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 19, 2013, at the Wisconsin Department of Administration building, 101 E. Wilson Street, St. Croix Room, Madison, WI.

Contact Person

Robert Liska
Department of Natural Resources
P. O. Box 7921
101 S. Webster Street
Madison, WI 53707-7921
Robert.liska@wisconsin.gov
(608) 267-7631.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 13-010

(DNR # ER-37-11)

On January 28, 2013, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 041-11, was approved by the Governor on November 11, 2012, published in Register No. 671 on November 30, 2012, and approved by the Natural Resources Board as required by s. 227.135 (2), Stats., on January 23, 2013.

Analysis

This proposed rule-making order revises ch. NR 27 and relates to Wisconsin's endangered and threatened species list.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 5, 2013, in Eau Claire, Green Bay, Milwaukee, and Madison, WI, and on March 6, 2013, in Wausau, WI. The Endangered Resources Bureau is primarily responsible for this rule.

Contact Person

Erin Crain, Endangered Resources Bureau Director
Department of Natural Resources
(608) 267-7479

Erin.Crain@wisconsin.gov

Linda Haddix, Administrative Rule Coordinator
Department of Natural Resources
(608) 266-1959

Linda.Haddix@wisconsin.gov

Revenue

CR 13-011

On January 30, 2013, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 074-12, was approved by the Governor on September 18, 2012, published in Register No. 682 on October 14, 2012, and approved by the Secretary of Revenue on October 29, 2012.

Analysis

This proposed rule-making order revises ch. Tax 11 and concerns general provisions of income taxation and sales and use tax.

Agency Procedure for Promulgation

A public hearing is required. The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

Contact Person

Dale Kleven
Income, Sales and Excise Tax Division
Telephone: (608) 266-8253
E-mail: dale.kleven@revenue.wi.gov

Revenue

CR 13-012

On January 30, 2013, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 074-12, was approved by the Governor on September 18, 2012, published

in Register No. 682 on October 14, 2012, and approved by the Secretary of Revenue on October 29, 2012.

Analysis

This proposed rule-making order revises chs. Tax 1, 2, and 11, and concerns general provisions of income taxation and sales and use tax.

Agency Procedure for Promulgation

A public hearing is required. The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

Contact Person

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

Revenue CR 13-013

On January 30, 2013, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 077-12, was approved by the Governor on September 18, 2012, published in Register No. 682 on October 14, 2012, and approved by the Secretary of Revenue on October 29, 2012.

Analysis

This proposed rule-making order revises chs. Tax 4, 8, and 9, and concerns general provisions of excise taxation and enforcement.

Agency Procedure for Promulgation

A public hearing is required. The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

Contact Person

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

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

On January 22, 2013, the Physical Therapy Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 044-11, was approved by the Governor on November 8, 2011, published in Register No. 671 on November 30, 2011 and approved by the Physical Therapy Examining Board on December 8, 2011.

Analysis

This proposed rule-making order revises chs. PT 7 and 8 relating to unprofessional conduct and biennial renewal.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 7, 2013, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

If you have any questions please contact Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, at 608-261-4438 or Shancethea.L Leatherwood@wisconsin.gov.

Safety and Professional Services — Medical Examining Board CR 13-008

On January 22, 2013, the Medical Examining Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

This rule is not subject to s. 227.135 (2) as affected by 2011 Wis. Act 21. The scope statement for this rule was published in Register No. 656 on August 31, 2010 and approved by Medical Examining Board on October 15, 2010, prior to the effective date of 2011 Wis. Act 21

Analysis

The proposed rule-making order amends ch. Med 10 relating to unprofessional conduct.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 20, 2013, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

If you have any questions please contact Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, at 608-261-4438 or Shancethea.L Leatherwood@wisconsin.gov.

Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board CR 13-009

On January 24, 2013, the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

This rule is not subject to s. 227.135 (2), stats., as affected by 2011 Wis. Act 21. The scope statement for this rule, published in Register No. 654 on July 1, 2010, was sent to LRB prior to June 8, 2011 (the effective date of 2011 Wisconsin Act 21).

Analysis

Statutory Authority: ss. 15.08 (5) (b) and 457.03 (1), Stats.

This proposed rule-making order revises chs. MPSW 10 and 14 and relates to professional counseling education.

Agency Procedure for Promulgation

A public hearing is required and will be held on February 26, 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, Sharon.henes@wisconsin.gov.

Rule-Making Notices

Notice of Hearing

Natural Resources

Environmental Protection—Wis. Pollutant Discharge Elimination System, Chs. 200—

CR 13-006

(DNR # WT-28-10)

NOTICE IS HEREBY GIVEN that pursuant to ss. 283.11(1), (2); 283.21(2), and 283.31, interpreting ss. 283.11(1), (2), 283.21(2), and 283.31, Wis. Stats., the Department of Natural Resources (DNR) will hold a public hearing on proposed revisions to ch. NR 211, Wis. Admin. Code, relating to wastewater pretreatment requirements for DNR, pretreatment programs of publicly owned treatment works (POTWs) and for industries discharging wastewater to POTWs.

Hearing Information

Date: Tuesday, March 19, 2013
Time: 1:30 p.m. to 4:00 p.m.
Location: Wisconsin Dept. of Administration
 101 E. Wilson St.
 St. Croix Room
 Madison, WI

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request as noted below. The public hearing sites are accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at a hearing site or require other accommodation, please contact Robert Liska at (608) 267-7631 (email: Robert.Liska@Wisconsin.gov) 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 revisions, including the Fiscal Estimate and the Economic Impact Analysis may be viewed and downloaded and comments electronically submitted at the following internet site: <https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=10943> [type "NR 211" in the "search" field].

If you do not have internet access, a copy of the proposed rules and supporting documents, including the Fiscal Estimate and Economic Impact Analysis may be obtained from Robert Liska, DNR-WT/3, P.O. Box 7921, Madison, WI 53707-7921 or by calling (608) 267-7631.

Place Where Comments are to be Submitted and Deadline for Submission

Written comments on the proposed rules may be submitted via U. S. mail to Robert Liska, DNR-WT/3, P.O. Box 7921, Madison, WI 53707-7921 or by e-mail to: Robert.Liska@Wisconsin.gov.

Comments may be submitted using the internet site where the rule and other documents have been posted [<https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=10943>]. Please follow the guidelines stated on this site when submitting comments.

Comments submitted on or before **March 29, 2013**, will be considered in developing a final rule. 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.

Analysis Prepared by the Department of Natural Resources

The Department is proposing changes to Wisconsin Administrative Code Chap. NR 211 (General Pretreatment Requirements) regarding wastewater pretreatment requirements for the Department, for municipal pretreatment programs at publicly owned treatment works (POTWs) and for the industries which discharge to them. The proposed changes incorporate new federal pretreatment requirements, collectively known as "the Streamlining Rule", into NR 211 and enable Wisconsin's pretreatment requirements to more closely conform to federal pretreatment regulations found in 40 CFR Part 403. The rule changes generally reduce the regulatory burden on municipal pretreatment programs and on industries.

In addition, the Department proposes to eliminate outdated requirements in NR 211 for industries operating as centralized waste treaters that conflict with newer federal pretreatment requirements.

Statutes interpreted

Sections 283.11(1),(2); 283.21(2); 283.31.

Statutory authority

Sections 283.11(1),(2); 283.21(2); 283.31.

Explanation of agency authority

Chapter 283 of the Wisconsin Statutes grants authority to the Department to establish, administer and maintain a Wisconsin Pollutant Discharge Elimination System (WPDES). Section 283.21 (2), Stat., authorizes the Department to promulgate pretreatment standards to regulate the introduction of pollutants into publicly owned treatment works. Sections 283.11 and 283.31, Stats. provide authority to promulgate rules to administer the WPDES permit program consistent with federal requirements in the Clean Water Act.

Related statutes or rules

Chapter NR 211, General Pretreatment Requirements, relates to the regulation of industrial wastewater discharges to publicly owned treatment plants (POTWs) in the ch. NR 200 series of rules and in ch 283, Stats.

Plain language analysis

On July 18, 2011, the Department received a letter from US EPA identifying seventy-five questions or potential inconsistencies between Wisconsin law and federal Clean Water Act requirements. Issue # 16 of the EPA letter identified inconsistencies concerning requirements for industrial discharges to POTWs in Wis. Admin. Code, ch. NR

211, compared with its federal counterpart in 40 CFR Part 403. The Department is proposing amendments to ch. NR 211 regarding pretreatment requirements for industrial users and POTWs, in response to issue #16 identified by EPA. The proposed changes more closely align Wisconsin's pretreatment requirements with revisions to the federal pretreatment regulations known as the Pretreatment Streamlining Rule, so named because many of the changes reduced federal pretreatment requirements for both regulated industries and their regulators (DNR or delegated POTWs with pretreatment programs).

The proposed Streamlining revisions to ch. NR 211 would make the following significant changes:

1. Remove sampling requirements for wastewater pollutants, discharged by industries to sanitary sewers, shown to be neither present nor expected to be present in the discharge.
2. Remove all pretreatment sampling and reporting requirements for industries never discharging more than 100 gallons per day (gpd) of regulated industrial wastewater to the sanitary sewer.
3. Reduce pretreatment sampling and reporting requirements (from twice per year to once per year) for industries which discharge less than .01 percent of the wastewater flow capacity of the municipal treatment plant they discharge to.
4. Reduce pretreatment inspection requirements (from once per year to once per 2 years) for municipal wastewater treatment plants, with industrial pretreatment programs, when inspecting industries which discharge less than .01 percent of the wastewater flow capacity of the municipal treatment plant they discharge to.
5. Require municipal wastewater treatment plants with industrial pretreatment programs to repeat sampling at industries if a test result from the municipal sample exceeded a limit.
6. Allow municipal wastewater treatment plants with industrial pretreatment programs to use a general discharge permit to regulate several similar industries rather than several individual discharge permits.
7. Require municipal wastewater treatment plants with industrial pretreatment programs to include applicable Best Management Practices and slug control measures in industrial discharge permits.

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

Ch. NR 211 is currently deficient in many respects compared with its federal counterpart, 40 CFR Part 403, which was revised in 2005 to include the changes collectively known as the Pretreatment Streamlining Rule. These changes include the above significant changes, along with a number of lesser changes which address more detailed aspects of pretreatment regulations such as signature requirements and record keeping.

In its July 18, 2011 letter, U.S. EPA stated that existing state pretreatment regulations did not incorporate the changes made by EPA to the federal pretreatment regulations in 2005.

Some of these changes made the federal regulation less stringent than it used to be, by reducing requirements; others made it more stringent. EPA has stated that Wisconsin must adopt the more stringent provisions into NR 211. (These,

more stringent, provisions are described at: http://www.epa.gov/npdes/pubs/pretreatment_streamlining_required_changes.pdf.)

The proposed revision to NR 211 is intended to address EPA's concerns and also to incorporate those Streamlining changes that reduce pretreatment requirements for regulated industries and delegated POTWs without adversely affecting environmental protection.

Comparison with rules in adjacent states

The following U.S. EPA Region 5 states (Illinois, Indiana, Minnesota and Ohio) have adopted the 2005 changes to the federal pretreatment regulation into their corresponding state regulations. In Michigan, a streamlining rule has been drafted but the authority of the state's environmental agency to adopt such a rule has been removed.

Summary of factual data and analytical methodologies

The Department has compared Wisconsin pretreatment regulations in ch. NR 211 with the federal rule, 40 C.F.R. Part 403, and has proposed these changes to ch. NR 211 to make it consistent with its federal counterpart and to address recent EPA concerns about the lack of consistency between these two rules.

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

As part of its research in creating the federal Pretreatment Streamlining Rule in 2005, U.S. EPA was required to address the economic impact of the same rule changes on small entities, i.e., small governmental units, industries and not-for-profit organizations, as are being proposed here. EPA concluded, in its Final Rule published Oct. 14, 2005, in the Federal Register, at 70 Fed. Reg. 60134 (Oct.14, 2005), that the national economic effect of its rule, "will either relieve regulatory burden or have no significant impact for all small entities." It also estimated that, overall, governmental units and industries would save \$10.1 million annually by implementing the Streamlining changes.

Effect on Small Business

The Department estimates that the biggest impact of the proposed rule changes on small business will be the small cost savings (<\$100 per year) in reduced wastewater sample test fees available to those industries, both large and small, that demonstrate that one or more of the pollutants they are required to test for are not present nor expected to be present. This estimate is based on recent pricing information the Department received from two analytical laboratories for the most common pollutants pretreatment industries are required to test for.

Initial Regulatory Flexibility Analysis Summary

The Department is proposing these changes because state law (s. 283.11(2), Wis. Stats.) requires that state wastewater rules comply with – and not exceed – requirements in federal wastewater regulations. Because the current version of NR 211 has different requirements than its federal counterpart, 40 CFR Part 403, the Department is proposing this action. In addition, the Department has been notified by US EPA that Wisconsin's pretreatment requirements are not consistent with those in federal regulations. Also, all surrounding states have already adopted these federal pretreatment changes into their respective state pretreatment regulations.

Fiscal Analysis and Economic Impact Analysis Summary

From August 21, 2012 through September 21, 2012, the department solicited comments from industries and municipalities on the economic impact of the proposed rule change via a survey distributed to 108 DNR-regulated pretreatment industries and to 26 municipal pretreatment programs. The survey identified eight rule changes that could affect businesses and municipal pretreatment programs and requested comments from the recipients regarding the anticipated annual cost or benefit from the proposed changes

Based on the responses from 27 industries and four municipal pretreatment programs and Department estimates of the impact to commercial labs, the statewide economic impact of this rule appears to be minor. Totaling the costs and benefits reported by survey respondents, 224 industries likely to be affected by these rule changes may see average savings of \$810 each, with total statewide savings approaching \$181,000, three years after rule implementation; of the 20 municipal programs likely to be affected, two-thirds of them may see initial, one-time costs averaging \$15,000 each and one-third, increasing annual benefits of \$15,000 each, culminating in net, total statewide savings of \$90,000

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

annually after 3 years. Finally, the ten commercial laboratories affected may see combined, total revenue losses of \$33,000 per year after all affected industries have taken advantage of the rule changes in three years. While we recognize that these facilities are only a sampling of those in the state, we believe that their responses are representative of similar facilities throughout the state. Ultimately, the costs and benefits are both small enough that the economic impact of the streamlining regulations on the state is minimally positive at best, negligible at worst.

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.

Agency contact

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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 211, General Pretreatment Requirement

3. Subject

Revision of NR 211 to include "Streamlining" rule additions made to the federal pretreatment regulations in 2005.

4. Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected
None.

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

Adoption of these changes is necessary in order to comply with state law (ss. 283.11(2)), federal pretreatment regulations and to comply with DNR's May 18, 2012, commitment to Region 5 – US EPA, to adopt these measures and address this NR rule deficiency identified by EPA in its July 18,2011, letter to Secretary Stepp.

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.

To revise ch. DHS 163 relating to training, certification and work practice requirements for lead-safe renovation activities in pre-1978 housing and child-occupied facilities.

108 manufacturers, subject to pretreatment requirements, directly regulated by the Department, and
26 municipal pretreatment programs regulating another 320 manufacturers subject to pretreatment requirements.

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

The following municipalities provided comments to DNR regarding the impact of these rule changes on their pretreatment programs: City of Beloit, Grand Chute Menasha West Sewerage Commission, Madison Metropolitan Sewerage District, City of Manitowoc Wastewater Treatment Facility and Walworth County Metropolitan Sewerage District.

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)

From August 21, 2012 through September 21, 2012, the department solicited comments on the economic impact of the proposed rule change via a survey distributed to 108 DNR-regulated pretreatment industries and to 26 municipal pretreatment programs. The survey identified eight rule changes that could affect businesses and municipal pretreatment programs and requested comments from the recipients regarding the anticipated annual cost or benefit from the proposed changes. (A copy of the survey is attached in Attachment C.)

Twenty-seven industries and five municipal pretreatment program coordinators responded. Twelve industries reported that the proposed changes would have no effect and 15 reported some anticipated savings, largely from survey items 1-3. Two municipal programs reported that making changes to their sewer use ordinances and industrial permits (survey item 8) could increase up-front costs, one program reported savings from reduced sampling, one reported no change and one responded for local industries rather than the municipal program.

Brief summaries of the economic impacts follow with more detailed breakdowns of survey responses and economic impacts in Tables 1-3 in Attachment B. The data in these tables were generated by assuming that the responses from industries and municipal programs represented anticipated impacts from all 400 eligible pretreatment industries and all 26 municipal pretreatment programs. Thus, the total of 224 affected industries was generated by assuming that 56% of all industries were affected just as 56% of all industrial respondents (15 of 27) were affected. The average savings of \$810 was then applied to all affected industries and distributed over 3 years to allow for delays in implementation. Similarly with municipal programs, 20 of 26 were assumed to be affected because 3 of 4 program respondents reported impacts. The average cost of \$15,000 was then applied to 2/3 of the 20 affected programs (13), the average savings of \$15,000 was applied to 1/3 of the 20 (6) and both costs and savings were applied to all affected programs and distributed over 3 years.

SAVINGS:

Streamlining pretreatment regulations will provide modest savings for industries. These savings result from a decrease in laboratory costs, labor, reporting, and filing burdens. For businesses, the estimated savings of this rule range from \$80 to \$3000. (See Table 1, Attachment B.) One municipality (Grand Chute-Menasha) predicted saving \$15,000-\$17,000 per year. (See Table 2, Attachment B).

COSTS:

Revising municipal sewer use ordinances and industrial permits will present cost increases to municipal programs. Municipalities will either have to absorb these costs or pass them onto the industries they regulate. However, these revisions are single, one-time program costs, which may be partially offset over time by the benefits of reduced sampling costs and reduced staff time for inspections. Walworth Country Metropolitan Sewerage District estimated upfront costs of \$10,094, and the Madison Metropolitan Sewerage District estimated upfront costs of \$20,000.

There may also be costs, in the form of reduced revenue, for commercial laboratories in Wisconsin as they will receive fewer wastewater samples for testing from industries and programs. According to pretreatment reports submitted by industries, ten laboratories perform the great majority of testing done by these industries. Table 3, (Attachment B), shows the Department's estimates of the economic impact of this reduced revenue on the labs based on the following assumptions:

- 1) 56% of all eligible industries (224) receive permission to reduce pollutant testing by four tests/year, for an average, reduced revenue to labs of \$100/year/industry.
 - 2) 5% of all eligible industries (11) receive permission to eliminate all testing because they qualify as Non-significant Categorical Industrial Users for an average reduction to labs of \$500/year/affected industry.
 - 3) 10% of all eligible industries (22) receive permission to reduce all testing by 50%, for an average reduction to labs of \$250/year/affected industry.
 - 4) Total revenue reductions (\$33,000/year) after all affected industries take advantage of the rule changes will take more than one year to be realized. Reductions have been distributed over 3 years to allow industries and municipalities time to make, or approve, reduced sampling requests and time to request and receive DNR permission to change sewer use ordinances and industrial permits.
-

NO CHANGE:

Twelve businesses, of the 27 that responded, and one municipal respondent, out of four, reported that the proposed rule would have no fiscal impact on their operations:

National Plating; Master Lock Company; Cintas Corporation; Gusmer Enterprises; Wisconsin Paperboard Corp; AlSCO; TAB; Precision Metalsmiths; Tasman Leather Group, LLC; Madison Gas and Electric; Glover's Manufacturing, Inc.; Catalytic Converters; and the City of Beloit.

Impacts from the proposed rule changes are also not expected at an additional ten industries, categorized as centralized waste treatment facilities (CWTs) by federal pretreatment regulations. These rule changes will repeal extra requirements for CWTs that conflict with corresponding federal requirements. Because the requirements to be repealed have not been consistently applied, or enforced, their repeal should not add or detract from routine operating expenses at CWTs.

ECONOMIC IMPACT:

Based on the responses from 27 industries and four municipal pretreatment programs and Department estimates of the impact to commercial labs, the statewide economic impact of this rule appears to be minor. Because the impact of these changes may take as many as three years to be fully realized, it has been distributed over three years, and beyond, to account for this. (See Table 3.) Totaling the costs and benefits reported by survey respondents, 224 industries likely to be affected by these rule changes may see average savings of \$810 each, with total statewide savings approaching \$181,000, three years after rule implementation; of the 20 municipal programs likely to be affected, two-thirds of them may see initial, one-time costs averaging \$15,000 each and one-third, increasing annual benefits of \$15,000 each, culminating in net, total statewide savings of \$90,000 annually after 3 years. Finally, the ten commercial laboratories affected may see combined, total revenue losses of \$33,000 per year after all affected industries have taken advantage of the rule changes in three years. While we recognize that these facilities are only a sampling of those in the state, we believe that their responses are representative of similar facilities throughout the state. Ultimately, the costs and benefits are both small enough that the economic impact of the streamlining regulations on the state is minimally positive at best, negligible at worst.

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

This rule modification offers modest savings in sampling costs to those industries that can meet the requirements and receive DNR or municipal approval, as appropriate. Adopting these changes will also satisfy DNR's 2010 commitment to EPA to make DNR pretreatment requirements consistent with federal requirements.

14. Long Range Implications of Implementing the Rule

Industries can realize small cost savings through reduced sampling and testing fees – if they request them and meet the requirements. Municipalities and laboratories will have initial implementation costs but municipalities may achieve small savings over time due to reduced staff time, if they adopt the voluntary, cost-saving measures into their ordinances and industrial permits.

15. Compare With Approaches Being Used by Federal Government

Rule changes equivalent to those proposed have been in effect in federal pretreatment regulations since 2005.

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

All the above neighboring states have already adopted these proposed rule changes into their respective administrative codes.

17. Contact Name

Robert J. Liska

18. Contact Phone Number

608 267 7631

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)

Based on responses from industrial manufacturers, about one-half of small business manufacturers are expected to realize small reductions in costs (\$810 annually) for wastewater sampling and testing.

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

Comments received by the Department from 27 industries regarding the economic impact of the proposed rule changes on their businesses.

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

- Less Stringent Compliance or Reporting Requirements
 Less Stringent Schedules or Deadlines for Compliance or Reporting
 Consolidation or Simplification of Reporting Requirements
 Establishment of performance standards in lieu of Design or Operational Standards
 Exemption of Small Businesses from some or all requirements

Other, describe:

The rule's impact on Small Business is expected to be small and beneficial, therefore methods to reduce this impact were not considered. In addition, enactment of the proposed rule changes was presumed because state law (ss. 283.11(2)) requires that state rules comply with and not exceed federal regulations, which already contain the proposed changes.

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

The rule adopts the federal "Streamlining" changes to Wisconsin's pretreatment requirements which offer reduced sampling costs to industries that qualify.

5. Describe the Rule's Enforcement Provisions

This rule contains no enforcement provisions but the Department follows a "stepped enforcement" policy in which the severity of DNR enforcement responses increases with each succeeding violation, culminating in referral of a facility to the Department of Justice for prosecution.

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

Yes No

ATTACHMENT B

Table 1. Savings reported by industries affected by new rule.

Company	Annual Savings (\$)	Company	Annual Savings (\$)
Mayville Engineering Company	80	Millennium Technologies	620
Miller St. Nazianz Inc.	100	Worth Company	783
Professional Plating	100	UltraCoat	1,000
Scot Industries	150	Shelmat	1,500
GEA Farm Technologies, Inc.	200	Silgan Containers	1,650
Donaldson Company	300	SAFC	1,800
Spectrum Brands– Rayovac	300	Grover Co.	3,000
Pierce Manufacturing Inc.	515	Average Savings*	\$810

*Note: When savings were reported as a range, the more conservative estimate is listed. To focus on the rule's impact, only reported costs and savings were used in averaging, responses of "No change" were excluded.

Table 2. Costs and savings reported by municipalities affected by new rule.

Municipality	Initial Cost (\$)	Annual Savings (\$)
Walworth County Metro. Sewerage District	10,094	No Change
Grand Chute–Menasha West Sewerage Commission (GCMWSC)	Not Reported	15,000
Madison Metro. Sewerage District	20,000	No Change
Average Initial Cost*	\$15,000	-----
Average Annual Savings*	-----	\$15,000

*Note: When savings were reported as a range, the more conservative estimate is listed. To focus on the rule's impact, only reported costs and savings were used in averaging, responses of "No change" were excluded.

Table 3. Total anticipated costs (-) and savings (+) after implementation of rule.

	Year 1	Year 2	Year 3	After Year 3
224 Affected Industries	+61,000	+121,000	+181,000	+181,000
20 Affected Municipal Programs				
Annual Savings	+30,000	+60,000	+90,000	+90,000
Initial Costs	-65,000	-65,000	-65,000	No future costs
10 Commercial Laboratories				
Lost Revenue	-11,000	-22,000	-33,000	-33,000
Total Net Cost (-) or Savings (+)	+15,000	+94,000	+173,000	+238,000

ATTACHMENT C

August 21, 2012

Subject: Request for comments regarding the economic impact of proposed changes to Wisconsin's General Pretreatment Regulations (Wis. Admin. Code Chap. NR 211)

The Department of Natural Resources is conducting an economic impact analysis of its rule proposal, WT-28-10, that would reduce wastewater pretreatment regulations for regulated industries discharging to sanitary sewers (pretreatment industries) and for municipal wastewater treatment plants with industrial pretreatment programs. The Department is gathering information to determine if there is an economic effect of the proposed rule on specific businesses, business sectors, local governmental units, and the state economy as a whole. Information and advice is requested from businesses, business associations, local governmental units, and individuals that may be affected by the proposed rule.

Would you, your business, your association, or your local unit of government be affected economically if this proposed rule implemented the following?

- 1 Removed sampling requirements for wastewater pollutants, discharged by industries to sanitary sewers, shown to be neither present nor expected to be present in the discharge. (**see proposed NR 211.15 (4) (b)**)
- 2 Removed pretreatment sampling and reporting requirements for industries never discharging more than 100 gallons per day (gpd) of regulated industrial wastewater to the sanitary sewer. (**NR 211.15 (4) (d)**)
- 3 Reduced pretreatment sampling and reporting requirements (from twice per year to once per year) for industries which discharge less than .01 percent of the wastewater flow capacity of the municipal treatment plant they discharge to. (**NR 211.15 (4) (c)**)
- 4 Reduced pretreatment inspection requirements for municipal wastewater treatment plants with industrial pretreatment programs (from once per year to once per two years) when inspecting industries discharging less than .01 percent of the wastewater flow capacity of the municipal treatment plant they discharge to. (**NR 211.235 (3) (c)**)
- 5 Required municipal wastewater treatment plants with industrial pretreatment programs to repeat sampling at industries if a test result from the municipal sample exceeded a limit. (**NR 211.15 (7)**)
- 6 Allowed municipal wastewater treatment plants with industrial pretreatment programs to use a general discharge permit to regulate several similar industries rather than several individual discharge permits. (**NR 211.235 (1) (b)**)
- 7 Required municipal wastewater treatment plants with industrial pretreatment programs to include applicable Best Management Practices and slug control measures in industrial discharge permits. (**NR 211.235 (1) (am) (intro)**)
- 8 Required municipal wastewater treatment plants with industrial pretreatment programs to revise their sewer use ordinance and industrial permits to include the above changes and submit them to DNR for approval. (**NR 211.30 (7) (b)**)

The proposed rule may be reviewed at <http://dnr.wi.gov/org/water/wm/ww/pret> or <http://adminrules.wisconsin.gov>. To request this material in an alternative format, please call Robert Liska at (608) 267-7631 with specific information on your request by **September 15, 2012**.

If you expect to be affected economically by this rule proposal please provide as much information as possible to the department contact below regarding any implementation or compliance costs you would expect to incur, quantifiable benefits of the proposed rule, or how the proposed rule would negatively affect your overall economic competitiveness, productivity, or jobs.

Please do NOT submit comments on the revision to the rule at this time. After receiving comments on the economic impact of the rule, the department will prepare an economic impact analysis (EIA) for the proposed rule. Once the EIA process is complete, the department will submit the rule package and EIA to the Legislative Council and hearings on the proposed rule will then be held, in accordance with ss. 227.15, 227.17 and 227.19, Wis. Stats.

Please indicate whether you are responding as a business, small business, business association, local governmental unit, or individual. A small business is defined as an independently owned and operated business that is not dominant in its field and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.

Comments are due and shall be postmarked or submitted electronically no later than **September 21, 2012**. Please provide your email address or phone number in order for the department to contact you if additional information is needed. Written comments on economic effects of the proposal may be submitted via U.S. mail or email to:

Robert Liska
Bureau of Water Quality, WT/3
P.O. Box 7921
Madison, WI 53707
Robert.Liska@wisconsin.gov

Notice of Hearing

Natural Resources

Fish, Game, etc., Chs. 1—

CR 13-010

(DNR # ER-27-11)

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 29.604 227.11, Stats, the Department of Natural Resources, hereinafter the Department, will hold a public hearing on changes to s. NR 27.03 Wisconsin's Endangered/Threatened Species List on the date(s) and at the time(s) and location(s) listed below.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Hearing Information

Date: Tuesday, March 5, 2013

Time: 11:00 a.m.

Locations: Old Library room 1128
University of Wisconsin – Eau Claire
105 Garfield Avenue
Eau Claire, WI 54702

Instructional Services room 1034
University of Wisconsin – Green Bay
2420 Nicolet Drive
Green Bay, WI 54311

Lubar Hall room S250
University of Wisconsin – Milwaukee
3202 North Maryland Avenue
University of Wisconsin – Milwaukee
Milwaukee, WI 53201

Date: Tuesday, March 5, 2013

Time: 4:00 p.m.

Location: Northwoods Room
Wisconsin Department of Natural Resources
Science Operations Center
2801 Progress Road
Madison, WI 53716

Date: Wednesday, March 6, 2013

Time: 4:00 p.m.

Location: Marathon County Public Library
Wausau room (3rd floor)
300 North First Street
Wausau, WI 54403

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 Madeline Emde at (608) 264-6271 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 Madeline Emde, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707 or madeline.emde@wisconsin.gov.

Written comments on the proposed rule may be submitted via U.S. mail or email to Madeline Emde 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 March 7, 2013.

Analysis Prepared by the Department of Natural Resources

Statutes interpreted

In promulgating this rule, s. 227.11(2)(a), Wis. Stats., has been interpreted as allowing the department the authority to create and amend rules. Section 29.604 (3)(b), Wis. Stats., has been interpreted as allowing the department the authority to create and amend the list of Wisconsin's endangered and threatened species, NR 27.03, Wis. Admin. Code.

Statutory authority

The state statutes that authorize the promulgation of this rule include ss. 29.604 227.11, Wis. Stats.

Explanation of agency authority

These sections grant rule-making authority for the establishment of an endangered and threatened species list to the department.

Related statutes or rules

Section 29.604 (3), Wis. Stats., requires the Department to establish an endangered and threatened species list. Chapter NR 27, Wis. Admin. Code, provides the list of endangered and threatened species.

Plain language analysis

The department's Bureau of Endangered Resources initiated and completed a review of Wisconsin's rare species, and now proposes changes to Ch. NR 27, Wis. Admin. Code, which will add 8 species and remove 16 species in Wisconsin to the Wisconsin endangered and threatened species list, and will update 20 scientific names.

The 8 species the state proposes to add to the endangered and threatened list are:

Upland Sandpiper (*Bartramia longicauda*), a bird, is found primarily in the southwest, northwest sands, and northeastern part of the state. Other secondary areas are in the central, southeast, and western parts of the state. This species prefers large, open landscapes with short to mid-height grassy vegetation, including remnant prairie, lightly grazed pastures, barrens, old fields, and other idle grasslands, and hay fields. This species is in decline in Wisconsin, some of the largest declines in its range; once reported at 55 sites. It may disappear from Wisconsin without large blocks of idle and/or grazed grasslands. Add to threatened list [NR27.03(3)].

Black Tern (*Chlidonias niger*), a bird, is found in northern, eastern, and central Wisconsin in marshes, river sloughs, rivers, lakeshores, impoundments, and wet meadows, typically in sites with mixture of emergent vegetation and open water. The species is in decline in Wisconsin. Surveys indicate declines as much as 36% in recent years and a 78% decline over 30 years. Once reported at 79 sites, was found only at 7

breeding colonies in 2010. Add to endangered list [NR27.03(2)].

Kirtland's Warbler (*Dendroica (=Setophaga) kirtlandii*), a bird, is found in Adams and Marinette counties in areas at least 30 hectares in size, where scrubby jack pine (2 to 6 meters high) is interspersed with many small openings and minimal ground cover. This species is considered to be "critically imperiled" globally and is currently on the Federal list of endangered species. This species has nested in Wisconsin consistently since 2007; twelve new populations are now known. There are historic records of individuals in the state. Add to endangered list [NR27.03(2)].

Beach-dune Tiger Beetle (*Cicindela hirticollis rhodensis*), a beetle also known as the "hairy-necked tiger beetle", is found on beaches of Lakes Superior and Michigan. This species is rare and declining in Wisconsin (30%). Once reported from 9-10 sites statewide, now only one known viable population remains. Add to endangered list [NR27.03(2)].

Fawnsfoot (*Truncilla donaciformis*), a freshwater mussel, is only known from the Mississippi River and portions of its major tributaries in Wisconsin (St. Croix and Wisconsin River). This species is in decline in Wisconsin. Populations are disappearing range wide. Once widespread and abundant, this species is rarely found in recent years. Numbers have greatly declined in WI's remaining viable populations (St. Croix and Lower Wisconsin Rivers). Add to threatened list [NR27.03(3)].

Otto Skipper (*Hesperia ottoe*), a butterfly, is found in nine counties in the southwestern corner of the state on dry to dry-mesic hill prairies, sand prairies, and sand barrens. This species is very rare and in decline in Wisconsin. Once known to 16 sites; as of 2011 only 4 are extant (a 75% decline since the mid-1990s). Many populations are gone range wide. Very few sites have the size, quality, structure, or connectivity to sustain this species. Add to endangered list [NR27.03(2)].

A Leafhopper (*Attenuipyga vanduzeei*), a small terrestrial insect also known as "a prairie leafhopper" or "shovel-headed leafhopper", is found in the highest quality prairie remnants near the Mississippi and Lower Wisconsin Rivers. This species is very rare in Wisconsin. Only 4 extant populations are known. This species has poor dispersal ability and is sensitive to management and woody encroachment. Add to endangered list [NR27.03(2)].

An Issid Planthopper (*Fitchiella robertsoni*), a small terrestrial insect also known as "Fitch's Elephanthopper" or "Robertson's Flightless Planthopper" or "Fitch's Planthopper", is found in high quality remnant dry to dry-mesic grasslands in the bluffs along the Mississippi River and in the sand country of northwest Wisconsin. This species is very rare in Wisconsin. Only 4 extant populations are known. Add to threatened list [NR27.03(3)].

The 16 species the state proposes to remove from the endangered and threatened list are:

Barn Owl (*Tyto alba*), an owl, has a scattered and irregular distribution in the state, mostly the southern half. The species has always been on the edge of its range in Wisconsin and is not considered a regular breeder. In their range, they are found in rural lands or

grasslands with some combination of wet meadows, wetland edges, pastures, old-fields, grain crops, hayfields, hedges, and fencerows; usually within 1-2km of permanent water and adjacent to woodlot edge. Nest sites include concrete-domed silos, barns, tree cavities, abandoned farm buildings, church steeples, bank or cliff cavities, and barn owl nest boxes. Remove from the endangered list [NR27.03(2)].

Bewick's Wren (*Thryomanes bewickii*), a small migratory bird, has not been observed breeding in Wisconsin or neighboring states for over 40 years; it is extirpated. Remove from the endangered list [NR27.03(2)].

Snowy Egret (*Egretta thula*), a waterbird, utilizes a wide variety of wetland habitats in their range, but does not breed in Wisconsin. The species has always been on the edge of its range in Wisconsin and is not considered a regular breeder in the state. Remove from the endangered list [NR27.03(2)].

Greater Redhorse (*Moxostoma valenciennesi*), a large fish, is found in widely scattered locations in the Lake Michigan and Mississippi River basins. The species appears stable in WI; found consistently in multiple watersheds. Remove from the threatened list [NR27.03(3)].

Blanding's Turtle (*Emydoidea blandingii*), a turtle, is often found in slow moving rivers, streams, ponds, lakes, marshes, swamps, sloughs, and backwater areas, as well as adjacent terrestrial habitats found in the majority of Wisconsin's counties, except for the north-central tier. Species still slightly declining in WI, however large population numbers and wide distribution. Species is not imperiled in the state. Remove from the threatened list [NR27.03(3)].

Butler's Gartersnake (*Thamnophis butleri*), a snake, is found in open to semi-open canopy wetland and upland habitat, including prairies, sedge meadows, shrub carr, wet meadows, marshes, grasslands, savannas, old fields, pastures, grassy roadsides, and vacant lots in Dodge, Fond du Lac, Milwaukee, Ozaukee, Sheboygan, Washington, and Waukesha counties. Species appears stable in WI. New information on abundance, range, and hybridization support delisting. Remove from the threatened list [NR27.03(3)].

Pygmy Snaketail (*Ophiogomphus howei*), a small dragonfly, is found in clean, fast flowing, medium to large streams with abundant gravel or sand substrates in northern Wisconsin. These streams are also in largely forested watersheds. Species appears stable in the state. New populations found using modeling of habitat and targeted surveys. Remove from the threatened list [NR27.03(3)].

American Fever-few (*Parthenium integrifolium*), a composite plant also known as Wild Quinine, is found in dry-mesic to mesic (sometimes wet-mesic) prairie and savanna in mostly loamy to moderately sandy soils in the southwest and southeast corners of the state. The population in Wisconsin appears stable. It is reproducing well on managed and restored sites, and on newly planted sites. Remove from the threatened list [NR27.03(3)].

Bog Bluegrass (*Poa paludigena*), a grass, is found most often growing on banks and atop hummocks, tussocks, and moss-covered logs along small creeks, rivulets, and pools in black ash/yellow birch, black ash/red maple, and black ash/elm swamps throughout the state, perhaps

most common in west–central and northwestern Wisconsin in areas bordering the driftless region. Population in Wisconsin appears stable. New records have resulted from inventories. Remove from the threatened list [NR27.03(3)].

Canada Horse–balm (*Collinsonia canadensis*), a plant in the mint family is also known as Stoneroot, and is considered extirpated in Wisconsin. Elsewhere in its range it has been found in rich beech–maple deciduous forests, as well as occasionally in swampy deciduous forests or oak–hickory and sassafras forests. Documented at only 2 locations in Wisconsin; one is presumed extirpated and the other has not been observed for 150 years. This species is conspicuous and easy to identify. Remove from the endangered list [NR27.03(2)].

Drooping Sedge (*Carex prasina*), a plant in the sedge family, is found in good–quality, mesic hardwood forests encompassing seepages, spring heads, and streamlets and has been found in 11 counties mostly representing widely scattered populations. The population in Wisconsin is stable. It has a narrow habitat preference; however it has a fairly wide distribution and is found regularly in suitable habitat. Remove from the threatened list [NR27.03(3)].

Hemlock Parsley (*Conioselinum chinense*), a plant in the parsley family is considered extirpated. It was found in low, springy, marly ground and old tamarack bogs in Waukesha, Walworth, and Milwaukee counties. Only six native occurrences were known in the state; All are presumed extirpated or historical. Species is conspicuous and easy to identify. Remove from the endangered list [NR27.03(2)].

Prairie Indian–Plantain (*Arnoglossum plantagineum* = *Cacalia tuberosa*), a plant in the aster family, is found in open, deep–soiled wet to wet–mesic to dry prairies that are usually calcareous; has been reported from the southern two tiers of counties in Wisconsin, including Grant, Crawford, Lafayette, Iowa, Green, Dane, Rock, Jefferson, Walworth, Waukesha, Kenosha, and Racine counties. It inhabits moist prairies on lakeplains, outwash plains and low moraines in southeastern Wisconsin as well as dry oak openings and bluff prairies in central and southwestern Wisconsin. The population in Wisconsin is stable to increasing; It has responded well to prairie management. Remove from the threatened list [NR27.03(3)].

Snowy Champion (*Silene nivea*), a plant in the pink family, is found in rich woods and alluvial, disturbed floodplains and streambanks, old grasslands, sand prairie, and roadsides. Primarily known from the Driftless area in south–central, southwestern, and western portion of the state. The population in Wisconsin appears stable. It is able to persist with reed canary grass and in degraded streamside habitats and roadside, railroad and utility rights–of–way. Species no longer considered imperiled. Remove from the threatened list [NR27.03(3)].

Yellow Gentian (*Gentiana alba*), a plant in the gentian family is also known as Yellowish Gentian, and is found in dry to moist prairies, savannas and open woods in a wide variety of soil types. In Wisconsin it has been found in 32 counties, mostly in the south–central portion of the state. The population in Wisconsin is increasing.

Most of the population expansion and increases have occurred in old fields. Remove from the threatened list [NR27.03(3)].

Yellow Giant Hyssop (*Agastache nepetoides*), a plant in the mint family, is found in areas with partial sun within dry and dry mesic forests, oak woodlands, oak openings, alluvial forests, as well as the edges of meadows, fencerows, and thickets; primarily found in southern Wisconsin in Crawford, Grant, Lafayette, Green, Rock, Walworth, Racine, Jefferson, Dane, and Columbia counties. The population in Wisconsin is stable to increasing. It has responded well to savanna management and restoration. Remove from the threatened list [NR27.03(3)].

The 20 species the state proposes for a scientific name change are:

- Northern Cricket Frog also known as Blanchard’s Cricket Frog (*Acris blanchardii* change to *Acris crepitans*), endangered
- Worm–eating Warbler (*Helmitheros vermivorus* change to *Helmitheros vermivorum*), endangered
- Pallid Shiner (*Notropis annis* change to *Hybopsis annis*), endangered
- Shoal Chub also known as Speckled Chub (*Macrhybopsis aestivalis* change to *Macrhybopsis hystoma*), threatened
- Spatterdock Darner Dragonfly (*Aeshna mutata* change to *Rhionaeschna mutata*), threatened
- Obovate Beak Grass (*Diarrhena americana* change to *Diarrhena obovata*), endangered
- Canada Gooseberry also known as Hawthorn–leaved Gooseberry (*Ribes oxycanthoides* change to *Ribes oxycanthoides* ssp. *oxycanthoides*), threatened
- Cliff Cudweed (*Gnaphalium saxicola* change to *Pseudognaphalium saxicola*), threatened
- Early Anemone (*Anemone multifida* change to *Anemone multifida* var. *multifida*), endangered
- Forked Aster (*Aster furcatus* change to *Eurybia furcata*), threatened
- Green Spleenwort (*Asplenun trichomanes–namosum* change to *Asplenium trichomanes–ramosum*), endangered
- Hall’s Bulrush (*Scirpus hallii* change to *Schoenoplectus hallii*), endangered
- Hoary Whitlow–cress (*Draba lanceolata* change to *Draba cana*), endangered
- Large–leaved Sandwort (*Moehringia macrophylla* change to *Arenaria macrophylla*), endangered
- Long–beaked Baldrush also known as Bald Rush (*Rhynchospora scirysoides* change to *Rhynchospora scirpoides*), threatened
- Plains Ragwort (*Senecio indecorus* change to *Packera indecora*), threatened
- Sticky False–asphodel also known as False Asphodel (*Tofieldia glutinosa* change to *Triantha glutinosa*), threatened
- Tea–leaved Willow also known as Flat–leaved Willow (*Salix planifolia* change to *Salix planifolia* ssp. *planifolia*), threatened
- Thickspike also known as Thickspike Wheatgrass (*Elymus lonceolatus* ssp. change to *Elytrigia dasystachya* ssp. *psammophilus*), threatened

- Tufted Bulrush also known as Tussock Bulrush (*Scirpus cespitosus* change to *Trichophorum cespitosum*), threatened

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

The United States Fish and Wildlife Service maintains the list of Federal endangered and threatened species. The Kirtland’s Warbler (*Dendroica kirtlandii* = *Setophaga kirtlandii*) is the only Federally Listed species that is being proposed for state listing in Wisconsin under this proposal.

Comparison with rules in adjacent states

Minnesota, Illinois, Iowa, and Michigan all have an endangered species law and maintain a state list of endangered and threatened plants and animals. Below are links to their laws and lists, as well as species being proposed under this rule change that are currently listed as endangered or threatened in those states.

- Illinois (1972 law, list last revised in 2009/2010):

<http://www.dnr.illinois.gov/ESPB/Pages/default.aspx>.

- Iowa (1975 law, list last amended in 2009):

<http://www.iowadnr.gov/environment/threatenedendangered.aspx>.

- Michigan (1974/1994 law, list last revised in 2009):

http://www.michigan.gov/documents/dnr/2007-007_NR_Threatened_Endangered_Species_nonstrike_9-12_274586_7.pdf.

- Minnesota (1972 law, list last revised in 1996):

<http://www.dnr.state.mn.us/rsg/laws.html>.
Minnesota is currently undergoing a formal rule revision process to update the list; Over 270 changes have been proposed:
<http://files.dnr.state.mn.us/input/rules/ets/all.pdf>.

Species currently on Wisconsin’s adjacent states’ endangered and threatened lists that will be revised in Wisconsin under this proposed rule change:

Species	WI Proposed Rule Change	Adjacent States’ status [IA, IL, MI, MN]
Upland Sandpiper (<i>Bartramia longicauda</i>)	List	• IL endangered
Black Tern (<i>Chlidonias niger</i>)	List	• IL endangered
Kirtland’s Warbler (<i>Dendroica kirtlandii</i>)	List	• MI endangered
Snowy Egret (<i>Egretta thula</i>)	Delist	• IL endangered
Bewick’s Wren (<i>Thryomanes bewickii</i>)	Delist	• IL endangered
Barn Owl (<i>Tyto alba</i>)	Delist	• IA endangered • IL endangered • MI endangered
Greater Redhorse (<i>Moxostoma valenciennesi</i>)	Delist	• IL endangered
Blanding’s Turtle (<i>Emydoidea blandingii</i>)	Delist	• IA threatened • IL endangered • MN threatened
Fawnsfoot (<i>Truncilla donaciformis</i>)	List	• MI threatened • MN special concern; proposed threatened
Ottoo Skipper (<i>Hesperia ottoe</i>)	List	• IL endangered • MI threatened • MN threatened list; proposed endangered
Pygmy Snaketail (<i>Ophiogomphus howei</i>)	Delist	• MI threatened
Beach-dune Tiger Beetle (<i>Cicindela hirticollis rhodensis</i>)	List	• MN special concern; proposed endangered
Bog Bluegrass (<i>Poa paludigena</i>)	Delist	• MI threatened • MN threatened
Drooping Sedge (<i>Carex prasina</i>)	Delist	• IL threatened
Hemlock Parsley (<i>Conioselinum chinense</i>)	Delist	• IL endangered
Snowy Campion (<i>Silene nivea</i>)	Delist	• MI threatened • MN threatened

Summary of factual data and analytical methodologies

The department’s Bureau of Endangered Resources (ER) initiated and completed a review of Wisconsin’s endangered and threatened species list, culminating in a list of recommended revisions. The proposed rule is related to the addition of eight (8) species and removal of sixteen (16) species from the state’s endangered and threatened species list, and the updating of 20 scientific names.

Guiding the list review was the Endangered and Threatened List Revision Process document which was developed and approved in 2006 by the ER Policy Team. This guidance document recommends conducting a list-wide

review at least every 5 years and earlier as needed, based on changes in species population condition. “As needed” triggers include significant change in the state or global conservation rank, taxonomic change, recovery goals met, immediate need for protection, or significant new data on a single species or group of species.

Per the revision process document, the international Natural Heritage Inventory (NHI) system of global and state conservation ranks is the primary trigger for initiating a comprehensive assessment of a species. NHI Programs and NatureServe, the NHI umbrella organization, use a suite of factors to assess the extinction or extirpation risk of plants,

animals, and ecosystems, and to assign conservation ranks at global, national, and state levels. In 2009, NatureServe developed a rank calculator tool to support the process of assigning conservation status ranks. NatureServe's Element Rank Calculator Tool was used to update state conservation ranks and is used by NatureServe to update Global and National Conservation Ranks. The category of factors used to assess conservation status are rarity, trends, and threats.

Because state conservation ranks are dynamic and can reflect changes in population condition and new information quickly, they have proven useful in directing action toward species most in need of conservation. Updates to conservation ranks for Wisconsin's endangered, threatened, and special concern species are published almost annually in the NHI Working List. The most recent version of the NHI Working List was last published on 6/1/2011 and incorporates many of the results of the review process.

Biologists from a variety of state and national agencies, organizations, and universities, as well as naturalists throughout the state with taxonomic expertise provided new or updated information on the population condition and distribution of rare species in the state. Department biologists focused attention and resources on species that are most at risk of extirpation in the state and where application of Wisconsin's Endangered Species Law would be effective in their protection.

Status assessments were conducted and resulted in the proposed list changes. A database was created to capture information received and decisions made to promote consistency and transparency in the process. Details on the process and the results, including species distribution maps and status reviews can be found on the department's website (keywords "ET List").

These rule changes were developed with the assistance of the Bureaus of Endangered Resources, Science Services, Wildlife Management, and Legal Services.

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

Pursuant to s. 227.137, Wis. Stats., the department is required to solicit comments on the economic impact of proposed rule. Small businesses, as defined in s. 227.114(1), Wis. Stats., are asked to identify themselves as a small business in their comments. Following the public comment period for the EIA, a revised "Fiscal Analysis and Economic Impact Analysis" will be prepared containing relevant information that the department receives. Once the EIA process is completed, the department will submit the rule package and economic impact analysis to the Wisconsin Legislative Council under s. 227.15, Wis. Stats., and hearings on the proposed rule will be held by the department after proper notice in accordance with ss. 227.17 and 227.18, Wis. Stats. If the EIA indicates that the proposed rule is reasonably expected to have a total impact of \$20,000,000 in implementation and compliance costs, the department shall submit the rule to the Department of Administration in accordance with s. 227.137(6), Wis. Stats.

A small business regulatory flexibility analysis that contains the following provisions in s. 227.19(3)(e), Stats., will be included in the final rule order:

1. The agency's reason for including or failing to include in the proposed rule any of the methods specified

under s. 227.114 (2) for reducing its impact on small businesses.

2. A summary of issues raised by small businesses during the hearings on the proposed rule, any changes in the proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses.
3. The nature of any reports and the estimated cost of their preparation by small businesses that must comply with the rule.
4. The nature and estimated cost of other measures and investments that will be required of small businesses in complying with the rule.
5. The additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under s. 227.114 (2).
6. The impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under s. 227.114 (2).

The Department's email distribution list used to solicit comments includes small businesses and small business associations. The distribution list will be submitted to the Governor's Office of Regulatory Compliance.

Effect on Small Business

Affected constituencies include agricultural and forestry industries, commercial and development businesses, natural resources consultants, utilities, road builders and wildlife rehabilitators.

Most often the public and small businesses become aware of the endangered species law through one of DNR's permitting processes. Wisconsin's endangered species law is implemented by the department in that any activity that the department conducts, funds or approves must consider impacts to listed species (s.29.604 Wis. Stats.). Both endangered and threatened species have the same level of legal protection. Under Wisconsin's law listed animals are protected on all public and private land. Plants are only protected on public land and agricultural, forestry, and utility activities are exempt from this protection (s. 29.604 Wis. Stats.)

In most instances, a permit applicant provides a description of the proposed project. Department staff perform an endangered resources review utilizing the Natural Heritage Inventory database to determine if 1) there is a listed species that may be present, and if 2) the project area has suitable habitat for that species. If either of these criteria are not present the applicant is informed that there is no potential impact and the project proceeds. Over 2/3 of projects fall into this category.

If **both** the species is known to be in the area **and** there is suitable habitat on the project site, the department works with the applicant to see if impacts to a listed species may be avoided through seasonal adjustments, temporary removals or barriers. If it can, the project proceeds. If impacts can't be avoided, an incidental take permit is issued to the applicant that allows take of the species. State law requires that all projects under an incidental take permit must minimize and mitigate these impacts. (s.29.604 Wis. Stats.). When the minimization and mitigation measures are in place, the permit is publicly noticed the project may proceed. Very few projects require an incidental take permit, typically fewer than 20 a year are issued.

The species being proposed for removal from the endangered and threatened species list have a total of 1055 records in the NHI database which is used for conducting an endangered resources review. There are a total of 217 records in the NHI database for the species being proposed for addition.

Pursuant to ss. 227.114 and 227.137, Wis. Stats., it is not anticipated that the proposed rules will have an economic impact on small businesses. The Department conducted an economic impact analysis in consultation with businesses, business associations, local governmental units, and individuals. The Department determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.

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

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

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

Not applicable

Environmental Impact

This action is a type II action under Chapter NR 150, Wis. Adm. Code, thus requiring an Environmental Assessment. The Environmental Assessment is available with the proposed rule and supporting documents and may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov>. A copy of the documents may also be obtained from Madeline Emde, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707 or madeline.emde@wisconsin.gov.

The Department has also made a preliminary determination that this action is not a major and significant action under s 1.11, Wis. Stat., and therefore does not require the Environmental Impact Statement process.

Agency Contact Person

Erin Crain, Department of Natural Resources, Endangered Resources – ER/6, P.O. Box 7921, Madison, WI 53707-792; Telephone: (608) 267-7479; Email: Erin.Crain@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

Chapter NR 27, Wisconsin's List of Endangered/Threatened Species NR 27.03 (2) and (3).

3. Subject

Revisions to NR 27.03 list of Endangered/Threatened Species [Board Order ER-27-11] to add 8 animals and remove 16 plants and animals, and to update 20 scientific names.

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

State statute, s. 29.604 (3) (b) Wis. Stats., gives the DNR the authority to periodically review and, after public hearing, to revise the Endangered and Threatened species (E/T) list.

Updating the E/T list to focus conservation efforts and avoidance/minimization measures on WI's most at risk species will ultimately save money. All actions that the Department conducts, funds or approves on public or private lands must be screened for potential impacts to rare species. Most often the public and small businesses become aware of the endangered species law through one of DNR's permitting processes. Wisconsin's endangered species law is implemented by the department in that any activity that the department conducts, funds or approves must consider impacts to listed species (s.29.604 Wis. Stats.). Both endangered and threatened species have the same level of legal protection. Under Wisconsin's law listed animals are protected on all public and private land. Plants are only protected on public land and agricultural, forestry, and utility activities are exempt from this protection (s. 29.604 Wis. Stats.).

Endangered Resources Screening relies on Natural Heritage Inventory (NHI) data for records of rare species occurrences. The number of NHI records for species proposed for addition to the E/T list is far fewer than the number of records for species proposed for delisting – eight species are proposed for listing (with a total of 217 NHI occurrences) versus 16 species proposed for delisting (with a total of 1055 NHI occurrences). Reducing the number of E/T species records will lessen regulatory impacts to businesses and individuals.

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.

Groups likely to be impacted or interested in the issue include the conservation community, project applicants through the environmental review process, and the general public. Affected constituencies include agricultural and forestry industries, commercial and development businesses, natural resources consultants, utilities, road builders and wildlife rehabilitators.

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

Pursuant to s. 227–137 Wis. Stats., the department was required to solicit comments on the economic impact of the proposed rule, and if requested to coordinate with local governments in the preparation of an Economic Impact Analysis (EIA). The notice to solicit comments was sent to the county and town associations in the state. Comments were collected between 9/24/2012 and 10/24/2012. A total of 18 comments were received; 8 were economic comments that were incorporated into the EIA. No local governments submitted comments or requested we coordinate with them in the preparation of the 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 economic cost of listing and delisting a species is highly dependant on its range and distribution, seasonal occurrence, habitat requirements, management needs, sensitivity to disturbance, etc. Effects of listing/delisting will be highly variable among different types of businesses and their locations and hard to predict, however the overall economic impact of the proposed revisions will be reduced because of the location and number of NHI records. The 16 species being proposed for removal from the endangered and threatened species list have a total of 1055 records in the NHI database which is used for conducting an endangered resources review. There are a total of 217 records in the NHI database for the eight species being proposed for addition.

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

Updating the E/T list to focus conservation efforts and avoidance/minimization measures on WI's most at risk species will ultimately save money. All actions that the Department conducts, funds or approves on public or private lands must be screened for potential impacts to rare species. Endangered Resources Screening relies on NHI data for records of rare species occurrences. The number of NHI records for species proposed for addition to the E/T list is far fewer than the number of records for species proposed for delisting – eight species are proposed for listing (with a total of 217 NHI occurrences) versus 16 species proposed for delisting (with a total of 1055 NHI occurrences). Reducing the number of E/T species records will lessen regulatory impacts to businesses and individuals.

14. Long Range Implications of Implementing the Rule

The primary short-term and long-term effects of this revision are to provide greater protection for those plants and animals that are critically rare in Wisconsin and will likely be lost or undergo severe population declines if not granted protection, by focusing conservation efforts and avoidance/minimization measures on the most at risk species. As the endangered species law (s. 29.415, Stats.) is already in effect, there will be no change in Department policy regarding means to conserve these species. The removal and addition of species to the list will likely require increased consultation with Department staff during environmental assessments and reviews. Enforcement requirements will not be significantly increased.

15. Compare With Approaches Being Used by Federal Government

The United States Fish and Wildlife Service maintains the list of Federal endangered and threatened species. The Kirtland's Warbler (*Dendroica (=Setophaga) kirtlandii*) is the only Federally Listed species that is being proposed for state listing in Wisconsin under this proposal.

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

Minnesota, Illinois, Iowa, and Michigan all have an endangered species law and maintain a state list of endangered and threatened plants and animals. Sixteen of the 24 species being proposed for addition or removal from the list are listed or are being considered for listing in a neighboring state.

17. Contact Name

Erin Crain

18. Contact Phone Number

608/267-747

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)

[Detailed EIA report attached] *(In original. Not printed in Register. See Availability of Rules section of this notice.)*

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

Bureau of Endangered Resources staff; WDNR's Economist; and from the public comments received during the EIA comment period.

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:

Because this rule does not create new regulatory requirements of small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses.

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

Most often the public and small businesses become aware of the endangered species law through one of DNR's permitting processes. Wisconsin's endangered species law is implemented by the department in that any activity that the department conducts, funds or approves must consider impacts to listed species (s.29.604 Wis. Stats.). Both endangered and threatened species have the same level of legal protection. Under Wisconsin's law listed animals are protected on all public and private land. Plants are only protected on public land and agricultural, forestry, and utility activities are exempt from this protection (s. 29.604 Wis. Stats.).

In most instances, a permit applicant provides a description of the proposed project. Department staff perform an endangered resources review utilizing the NHI database to determine if 1) there is a listed species that may be present, and if 2) the project area has suitable habitat for that species. If either of these criteria are not present the applicant is informed that there is no potential impact and the project proceeds. Over 2/3 of projects fall into this category. If both the species is known to be in the area and there is suitable habitat on the project site, the department works with the applicant to see if impacts to a listed species may be avoided through seasonal adjustments, temporary removals or barriers. If it can, the project proceeds. If impacts can't be avoided, an incidental take permit is issued to the applicant that allows take of the species. State law requires that all projects under an incidental take permit must minimize and mitigate these impacts. (s.29.604 Wis. Stats.). When the minimization and mitigation measures are in place, the permit is publicly noticed the project may proceed. Very few projects require an incidental take permit, typically fewer than 20 a year are issued. The department has also created several broad incidental take permits to provide blanket incidental take coverage for routine activities. A broad incidental take permit, unlike an individual incidental take permit, does not require an application, processing time or a fee. The most recent broad incidental take permits cover grassland management and cave bats.

The removal and addition of species to the list will likely require increased consultation with Department staff during environmental assessments and reviews.

5. Describe the Rule's Enforcement Provisions

Enforcement and administration programs for rules and permits are already in place. No changes are expected in rule enforcement costs or the costs of issuing permits for endangered and threatened species. Increases can be expected in the amount of time required to administer the resulting list of endangered and threatened species, but costs are expected to be absorbed within existing DNR budgets. Management and protection costs will increase with the addition of new species to the list and decrease with removals; given the number of species and records of occurrences, it is expected that costs will decrease.

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

Yes No

Notice of Hearing

Safety and Professional Services— Physical Therapy Examining Board

CR 13-007

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Physical Therapy Examining Board in ss. 15.08 (5) (b), 227.11 (2) (a), 440.035 (1), 448.527 and 448.57, Stats., and interpreting ss. 448.527 and 448.57, Stats., the Physical Therapy Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend ss. PT 7.01 (title) and 8.02; to repeal and recreate s. PT 7.02; and to create ss. PT 7.01 (1) and 7.025 relating to unprofessional conduct and biennial renewal date.

Hearing Information

Date: Thursday, March 7, 2013
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
 Room 121
 Madison, WI

Appearances at the Hearing

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 the 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.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy and Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received at or before the public hearing to be held on March 7, 2013 to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Shawn Leatherwood, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Shancethea.L Leatherwood@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Sections 448.527 and 448.57, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) (a), 440.035 (1), 448.527, 448.57, Stats.

Explanation of agency authority

Examining boards are generally empowered by the legislature pursuant to ss. 15.08 (5) (b), 227.11 (2) (a), and 440.035 (1), Stats. to promulgate rules that govern their profession. The Physical Therapy Examining Board has been specifically empowered by ss. 448.527 and 448.57, Stats., to promulgate rules concerning standards of unprofessional conduct that govern licensees within the profession. Therefore, the Physical Therapy Examining Board is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule

Wisconsin Administrative Code chs. PT 7 and PT 8.

Plain language analysis

2009 Wis. Act 149 transformed the Physical Therapy Affiliated Credentialing Board into the Physical Therapy Examining Board. The newly formed examining board decided to review their unprofessional conduct rules. The Board also decided to take this opportunity to bring the current unprofessional conduct rules in line with the American Physical Therapist Association (APTA) "Code of Ethics". The APTA passed a revised "Code of Ethics" in June of 2010 which became effective in July of 2010. The "Code of Ethics" discussed the core values of the physical therapy profession. The core values include accountability, altruism, compassion, excellence, integrity and professional duty and responsibility. The proposed rules seek to encapsulate these principals and modernize the unprofessional conduct standards at the same time.

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

None.

Comparison with rules in adjacent states

Illinois: Illinois sets forth its grounds for unprofessional conduct Ill Admin. Code tit. 68 §1340.65 (2012) and incorporates by reference the June of 2000 APTA "Code of Ethics".

Iowa: Iowa sets forth a code of ethics for physical therapist and physical therapist assistants. The code of ethics details what a licensed Physical therapist or physical therapist

assistant must do in order to practice within minimally competent parameters. Iowa Admin. Code r. 645-201.1 (148A.272 C)(2012) Iowa also sets forth its grounds for discipline in which it identifies acts that will result in disciplinary sanctions. Iowa Admin. Code 645.202.2 (272C) (2012)

Michigan: Michigan does not incorporate a code of ethics or maintain grounds for unprofessional conduct with regards to the practice of physical therapy. Michigan does, however, have provisions regarding prohibited conduct under Mich. Admin. Code 3338.7124 (2012)

Minnesota: Similar to Iowa, Minnesota sets forth its grounds for disciplinary action in Minn. Stat. 148.75 (2011) and a Code of Ethical Practice in Minn. R. 5601.3200(2012) Any violation of the Code of Ethical Practice is also grounds for disciplinary action. Minnesota also incorporates the APTA's Code of Ethics as an aide to interpreting its Code of Ethical Practice.

Summary of factual data and analytical methodologies

The Board ensures the accuracy, integrity, objectivity and consistency of data that was used in preparing the proposed rule and related analysis. No additional factual data or analytical methodology was used in drafting these proposed rules other than the Board's review of the rule for the purpose of modernization.

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

This proposed rule will not have an impact on small business as defined in s. 227.114 (1), Stats.

Fiscal estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

This proposed rule will not have an impact on small business as defined in s. 227.114 (1), Stats.

Agency Contact Person

Shawn Leatherwood, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.Leachwood@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

Wis. Admin. Code Chs. PT 7 & PT 8

3. Subject

Standards of professional conduct and biennial license renewal

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 proposed rule seeks to modernize the unprofessional conduct standards and correct the current biennial renewal date reflected in Wis. Admin. Code s. PT 8. Prompted by the American Physical Therapist Association (APTA) revision of its "Code of Ethics" the Physical Therapy Examining Board decided to review its unprofessional conduct rules. The APTA's Code of Ethics, which became effective in July of 2010, discussed the core values of the physical therapy profession including accountability, altruism, compassion, excellence, integrity, professional duty and responsibility. These are the principles the profession aspires to uphold. The Board sought to codify these principles within the unprofessional conduct standards as mandated by in s. 448.527, Stats.

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 proposed rule will primarily affect licensed physical therapists and physical therapist assistants. The rule was posted on the Department of Safety and Professional Services website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.

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

No local governmental units participated in the development of this 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)

This rule will have no 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 main benefit of implementing the proposed rule is bringing relevant Wis. Admin. Code into conformity with recent changes within the profession. Another benefit is changing the necessary language in Wis. Admin. Code Ch. PT 8 to reflect the correct biennial renewal date. The alternative to implementing the proposed rule is allowing the current Wis. Admin. Code PT 7 and PT 8 to remain outdated.

14. Long Range Implications of Implementing the Rule

Providing greater guidance to licensed physical therapists and physical therapist assistants regarding maintaining the ethical standards within their profession.

15. Compare With Approaches Being Used by Federal Government

N/A

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

Iowa

Iowa sets forth a code of ethics for physical therapist and physical therapist assistants. The code of ethics details what a licensed physical therapist or physical therapist assistants must do in order to practice within minimally competent parameters. Iowa Admin. Code r. 645–201.1 (148A.272 C)(2012) Iowa also sets forth its grounds for discipline in which it identifies acts that will result in disciplinary sanctions. Iowa Admin. Code 645.202.2 (272C) (2012)

Illinois

Illinois sets forth its grounds for unprofessional conduct Ill Admin. Code tit. 68 §1340.65 (2012) and incorporates by reference the June of 2000 APTA’s “Code of Ethics”.

Minnesota

Similar to Iowa, Minnesota sets forth its grounds for disciplinary action in Minn. Stat. 148.75 (2011) and a Code of Ethical Practice in Minn. R. 5601.3200(2012). Any violation of the Code of Ethical Practice is also grounds for disciplinary action. Minnesota also incorporates the APTA’s Code of Ethics as an aide to interpreting its Code of Ethical Practice.

Michigan

Michigan does not incorporate a code of ethics or maintain grounds for unprofessional conduct with regards to the practice of physical therapy. Michigan does, however, have provisions regarding prohibited conduct under Mich. Admin. Code 3338.7124 (2012)

17. Contact Name Shawn Leatherwood	18. Contact Phone Number 608–261–4438
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This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearing

Safety and Professional Services—

Medical Examining Board

CR 13–008

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Medical Examining Board in s. 15.08 (5) (b), 227.11 (2) (a), and 448.40 (1), Stats., and interpreting s. 448.40 (1), Stats., the Medical Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. Med 10.02 (2); to amend Med 10.01 (1) (title); to repeal and recreate 10.02 (1); and to create Med 10.01 (1) and 10.03 (title), relating to unprofessional conduct.

Hearing Information

Date: Wednesday, March 20, 2013
Time: 9:00 a.m.
Location: 1400 East Washington Avenue
 Room 121
 Madison, WI

Appearances at the Hearing

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 the 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.

Place Where Comments Are to be Submitted and Deadline for Submission

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received at or before the public hearing to be held on March 20, 2013 to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Shawn Leatherwood, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Shancethea.L Leatherwood@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 448.40 (1), Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) (a), and 448.40 (1), Stats.

Explanation of agency authority

The legislature, via. ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., conferred upon the Medical Examining Board general power to promulgate rules for the guidance of the profession and to interpret the provisions of statutes it enforces. Section 448.40 (1), Stats., authorizes the Board to promulgate rules that carry out the purposes of the Medical Practices sub chapter. Wis. Admin. Code ch. Med 10 Unprofessional Conduct is administered by the Medical Examining Board; as such the Board has statutory authority to revise Wis. Admin. Code ch. Med 10 for the purpose of providing guidance within the profession.

Related statute or rule

Chapter Med 10.

Plain language analysis

This proposed rule seeks to modernize Wis. Admin Code Ch. Med 10 Unprofessional Conduct by overhauling the current version of the rules, adding language that specifically addresses new topic areas, delete outdated language of some provisions and augment others.

SECTION 1. amends the title of the authority provision.

SECTION 2. amends the rule by adopting an statement of intent that provides guidance on how the rules should be interpreted.

SECTION 3. repeals and recreates the definitions section adding several new terms.

SECTION 4. This section repeals the current definitions of unprofessional conduct.

SECTION 5. creates a new section defining unprofessional conduct.

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

There is no comparative existing or proposed federal rule.

Comparison with rules in adjacent states

The following comparisons are the result of various internet searches:

Illinois: The grounds for administering disciplinary actions against physicians in Illinois are set forth in [225 ILCS 60/ 22 \(2012\).PART 1285.200-1285.275 MEDICAL PRACTICE ACT OF 1987: Sections Listing](http://www.ilga.gov/commission/jcar/admincode/068/06801285sections.html) The processes for administering the disciplinary proceedings are stated in the Illinois Code of Regulation Title 68: Professions and Occupations Chapter VII: Department of Financial and Professional Regulation Subchapter B: Professions and Occupations <http://www.ilga.gov/commission/jcar/admincode/068/06801285sections.html>.

Iowa: Grounds for disciplining health care professionals in Iowa are codified in Iowa Code § 147.55 and through the Iowa Administrative Code 653-23.1(272C). <http://www.legis.state.ia.us/aspx/ACODocs/DOCS/4-21-2010.653.23.pdf>

Michigan: The grounds for disciplinary action against health care professionals in Michigan are codified in the Public Health Code, Public Act 368 of 1978 (2010 PA 101, MCL 333.16221. <http://www.legislature.mi.gov/>

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

[S\(j4bg0h454voc1545vsgjncnx\)/documents/mcl/pdf/mcl-33-16221.pdf](http://www.revisor.mn.gov/data/revisor/statute/2009/147/2009-147.091.pdf)

Minnesota: The grounds for administering disciplinary action against physicians in Minnesota are stated in Minn. Stat. §147.091. <https://www.revisor.mn.gov/data/revisor/statute/2009/147/2009-147.091.pdf>

Summary of factual data and analytical methodologies:

The Medical Examining Board approved a work group which was convened to gather information and consider unprofessional conduct rules from different states. The work group, over a series of board meetings, presented the full Medical Examining Board recommended language. The recommend language drafted by the work group was then considered by the full board. The work group also sought out input from stakeholders such as the Wisconsin Medical Society (WMS) and the Wisconsin Hospital Association (WHA). The full board compared and contrasted the work group language with language from WHA and WMS as well as recommended language from the Federation of State Medical Boards (FSMB). This collaboration resulted in a comprehensive review of the rules in their entirety. The board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

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

The department finds that this rule will have no effect on small business as small business is defined in s. 227.114 (1), Stats.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Initial Regulatory Flexibility Analysis or Summary

The department finds that this rule will have no effect on small business as small business is defined in s. 227.114 (1), Stats.

Agency Contact Person

Shawn Leatherwood, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

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

Wis. Admin. Code ch. Med 10

3. Subject

Unprofessional Conduct

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 policy problem addressed by the proposed rule is removing outdated material from the current Wis. Admin Code s. Med 10. The current rules have not been reviewed in several years. The Board took this opportunity to modernize the rules by making significant changes to the content and form of the rule. Subsections were removed which made reference to outdated terminology. Content was added when it provided greater clarity to a principle that was already reflected in the rule.

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 proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business local governmental units or individuals contacted the department about the proposed rule.

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

No local governmental units participated in the development of this 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)

None.

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

The primary benefit of implementing the rule is it will provide health care practitioners greater guidance on standards of professional conduct within their profession. The changes should also create more effective enforcement of violations of unprofessional conduct.

14. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule includes impacting the conduct of individual practitioners so as to raise the level of awareness of ethical practice within the medical profession resulting in greater compliance with ethical standards.

15. Compare With Approaches Being Used by Federal Government

There are no comparable approaches being used by the Federal Government.

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

Illinois: The grounds for administering disciplinary actions against physicians in Illinois are set forth in [225 ILCS 60/ 22 \(2012\)](#). The processes for administering the disciplinary proceedings are stated in the Illinois Code of Regulation Title 68: Professions and Occupations Chapter VII: Department of Financial and Professional Regulation Subchapter B: Professions and Occupations [PART 1285.200–1285.275 MEDICAL PRACTICE ACT OF 1987: Sections Listing](#)

Iowa: Grounds for disciplining health care professionals in Iowa are codified in Iowa Code § 147.55 and through the Iowa Administrative Code 653–23.1(272C). <http://www.legis.state.ia.us/aspx/ACODocs/DOCS/4-21-2010.653.23.pdf>

Michigan: The grounds for disciplinary action against health care professionals in Michigan are codified in the Public Health Code, Public Act 368 of 1978 (2010 PA 101, MCL 333.16221). [http://www.legislature.mi.gov/\(S\(j4bg0h454voc1545vsgjncnx\)\)/documents/mcl/pdf/mcl-333-16221.pdf](http://www.legislature.mi.gov/(S(j4bg0h454voc1545vsgjncnx))/documents/mcl/pdf/mcl-333-16221.pdf)

Minnesota: The grounds for administering disciplinary action against physicians in Minnesota are stated in Minn. Stat. §147.091. <https://www.revisor.mn.gov/data/revisor/statute/2009/147/2009-147.091.pdf>

17. Contact Name

18. Contact Phone Number

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

Notice of Hearing

Safety and Professional Services—

Marriage and Family Therapy, Professional Counseling and Social Work Examining Board

CR 13–009

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board in ss. 15.08 (5) (b) and 457.03 (1), Wis. Stats., and interpreting ss. 457.12, 457.13, 457.14, 457.15, 457.16, and 457.22, Wis. Stats., the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal and recreate ss. MPSW 10.01(6) and MPSW 14.01 relating to education.

Hearing Information

Date: Tuesday, February 26, 2013
Time: 1:00 p.m.
Location: 1400 East Washington Avenue
 Room 121A
 Madison, WI

Appearances at the Hearing

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 the 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.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of

Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on February 26, 2013 at 1:00 p.m. 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, Paralegal, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Sharon.Henes@wisconsin.gov.

Analysis prepared by the Department of Safety and Professional Services

Statutes interpreted

Sections 457.12, 457.13, 457.14, 457.15, 457.16, and 457.22, Wis. Stats.

Statutory authority

Sections 15.08 (5) (b) and 457.03 (1), Wis. Stats.

Explanation of agency authority

The 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. The examining board shall promulgate rules establishing minimum standards for educational programs that must be completed for certification or licensure.

Related statute or rule

Sections 457.12, 457.13, 457.14, 457.15, 457.16, and 457.22, Wis. Stats.

Plain language analysis

Section 1 repeals and recreates a definition of supervision. Supervision is a means of transmitting skills, knowledge, and attitudes. Supervision allows for monitoring the quality of services offered by the supervisee to enhance the quality of skills and services provided by the counselor-in-training. It provides structure for monitoring the professional services provided by the counselor-in-training.

Section 2 repeals and recreates s. MPSW 14.01 relating to the criteria necessary for an academic program to be equivalent to a master's degree in professional counseling or rehabilitation counseling. Currently at least 42 credit hours are required and this rule would increase the number of hours required in the program to be comparable to the majority of states, including our neighboring states.

The course work is to be in a field closely related to professional counseling or rehabilitation counseling. The course work must total at least 48 semester hours or 72 quarter hours of academic credit including the following:

- 3 semester hours or 4 quarter hours of a supervised practicum with minimum of 100 hours of practicum experience including at least 40 hours of face-to-face client contact.
- 6 semester hours or 4 quarter hours in a supervised internship of a minimum of 600 hours of internship experience including at least 240 hours of face-to-face client contact.
- 3 semester hours or 4 quarter hours in counseling theory or counseling approaches course which includes a variety of theoretical models .
- 3 semester hours or 4 quarter hours in each of the following topic areas:
 - Human growth and development
 - Social and cultural foundations
 - The helping relationship
 - Group dynamics processing and counseling
 - Lifestyle and career development
 - Appraisal of individuals
 - Research and evaluation
 - Professional counseling orientation
- 6 semester or 8 quarter hours in one of the following:
 - If the academic program's emphasis is in mental health, course(s) addressing the roles and functions of a mental health counseling.
 - If the academic program's emphasis is in rehabilitation counseling, course(s) addressing medical, functional, and environmental aspects of disability, rehabilitation services, case management and related services.
- As part of the above curriculum, the program shall contain a basic understanding of addiction and how to assess and intervene with individuals, groups and families who exhibit suicide ideation, psychological and emotional crisis or trauma. These are not required to be stand alone courses.

These new requirements are in line with the standards of the Council for Accreditation of Counseling and Related Educational Programs (CACREP) and the Council on Rehabilitation Education (CORE).

Section 3. An effective date of September 1, 2016 will provide the time necessary for the education programs to make adjustments in their course offerings and curriculum. In addition, it will provide notice to the students pursuing their master's degrees of the new requirements.

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

None.

Comparison with rules in adjacent states

Illinois: Illinois requires a master's or doctoral degree with a minimum of 48 semester hours or 72 quarter hours with a minimum of 3 semester hours in each of the following areas: Human growth and development; Counseling theory; Counseling techniques; Group dynamics, processing and counseling; Appraisal of individuals; Research and evaluation; Professional, legal and ethical responsibilities relating to professional counseling; Social and cultural foundations; Lifestyle and career development; Practicum/internship; Psychopathology and maladaptive behavior; Substance abuse; and Family dynamics. The program shall include a one year residence defined as 24 semester hours. All master's degrees and doctoral programs in professional counseling or rehabilitation counseling that are accredited by CACREP, CORE and doctoral programs in psychology approved by the American Psychological Association and the Council for the National Registry of Health Service Providers are approved programs.

Iowa: Iowa requires a master's degree with a minimum of 60 credit hours or equivalent quarter hours or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by CACREP. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc.

Michigan: Michigan requires a master's degree of not less than 48 semester hours or 72 quarter hours, including a 600 clock hour internship, in a program which meets CACREP standards.

Minnesota: Minnesota requires a master's or doctoral degree of not less than 48 semester hours or 72 quarter hours and a supervised field experience of not fewer than 700 hours that is counseling in nature. The degree program must be from a counseling program recognized by CACREP or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation. Specific academic course content must include the following subject areas: The helping relationship, including counseling theory and practice; Human growth and development; Lifestyle and career development; Group dynamics, processes, counseling and consulting; Assessment and appraisal; Social and cultural foundations, including multicultural issues; Principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior; Family counseling and therapy; Research and evaluation; and Professional counseling orientation and ethics.

Summary of factual data and analytical methodologies

The Professional Counselors Section of the Marriage & Family Therapy, Professional Counseling and Social Work Examining Board reviewed the standards of the Council for Accreditation of Counseling and Related Educational Programs (CACREP) and the Council on Rehabilitation Education (CORE), researched the requirements of other states and convened a task force of educators in the areas of mental health counseling and rehabilitation counseling.

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

This rule addresses criteria for determining whether a program is equivalent to a master's degree in professional counseling and will not have an effect on small business. The

requirements in the proposed rule are comparable to our neighboring states.

This rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

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 Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Agency Contact Person

Sharon Henes, Paralegal, 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
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

MPSW 10, 14 relating to education requirements

3. Subject

Education Requirements

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 policy problem addressed by this rule is the criteria necessary for an academic program to be equivalent to a master’s degree in professional counseling or rehabilitation counseling. The revisions to the rule would increase the number of hours required in the program to be comparable to the majority of states, including our neighboring states. The new requirements are in line with the standards of the Council for Accreditation of Counseling and Related Education Programs (CACREP) and the Council on Rehabilitation Education (CORE).

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.

Applicants for licensure as a professional counselor.

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)

There is no economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units. In preparation of the EIA, the rule was posted for economic comments for a period of at least 14 days and received no comments.

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

The benefits to implementing the rule is to align our requirements with the standards of CACREP and CORE and to have our number of hours be comparable to the majority of states.

The alternative to the proposed change would be to have a lack of clarity in the course requirements standards as to what constitutes an equivalent program to a master's degree in professional counseling or rehabilitation counseling.

14. Long Range Implications of Implementing the Rule

The long range implication is for clarity in determining which programs are equivalent to a master's degree in professional counseling or rehabilitation counseling. The rule does have a future effective date of September 1, 2016 to provide the time necessary for the education programs to make adjustments in their course offerings and curriculum as well as give notice to the students pursuing their master's degrees.

15. Compare With Approaches Being Used by Federal Government

None

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

Illinois, Michigan and Minnesota require 48 semester hours. Iowa requires 60 credit hours. CACREP standards must be met in Iowa, Michigan and Minnesota. Illinois approves programs which are accredited by CACREP and CORE.

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.

Submittal of Proposed Rules to Legislature

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

Agriculture, Trade and Consumer Protection
CR 12-037

(DATCP Docket # 11-R-5)

The Department of Agriculture, Trade and Consumer Protection announces that it is submitting a rule for legislative committee review, pursuant to s. 227.19, Stats. The proposed rule revises ch. ATCP 70, relating to food processing plants.

This rule was approved by the Governor on January 14, 2013.

Agriculture, Trade and Consumer Protection
CR 12-043

(DATCP Docket # 12-R-03)

The Department of Agriculture, Trade and Consumer Protection announces that it is submitting a rule for legislative committee review, pursuant to s. 227.19, Stats. The proposed rule revises ch. ATCP 1, relating to discretion in rule violation enforcement against small business.

This rule was approved by the Governor on January 14, 2013.

Public Notices

Department of Health Services Annual Adjustment to Fees That May be Charged by a Health Care Provider for Providing Copies of a Patient's Health Care Records

Amended Notice to Correct Contact Information

Statutory Authority

Pursuant to Wis. Stat. s.146.83 (3f) (c) 2., each July 1, beginning on July 1, 2012, the Department of Health Services is required to adjust, by the percentage difference between the consumer price index for the 12-month period ending on December 31 of the preceding year and the consumer price index for the 12-month period ending on December 31 of the year before the preceding year, the dollar amounts specified under Wis. Stat. s. 146.83 (3f) (b) that a health care provider may charge for providing copies of a patient's health care records.

Under the methods prescribed in Wis. Stat. s. 146.83 (3f) (c) 2., the adjusted dollar amounts that a health care provider may charge for providing copies of a patient's health care records are as follows:

Schedule of Health Care Provider Records Fees

July 1, 2012 – June 30, 2013

	CPI Dec 31, 2010	% difference from Dec 10 to Dec 11	CPI Dec 31, 2011	Current charges 2011	Adjustment for CPI % increase	New Charges 2012
	1.50%	1.50%	3.00%			
Paper Copies						
First 25 pages				\$ 1.00	\$ 0.02	\$ 1.02
Pages 26 to 50				\$ 0.75	\$ 0.01	\$ 0.76
Pages 51 to 100				\$ 0.50	\$ 0.01	\$ 0.51
Pages 101 and above				\$ 0.30	\$ 0.00	\$ 0.30
Microfiche or Microfilm (per page)				\$ 1.50	\$ 0.02	\$ 1.52
Print of an X-ray (per image)				\$ 10.00	\$ 0.15	\$ 10.15
If the requestor is not the patient or a person authorized by the patient						
Certification of Copies				\$ 8.00	\$ 0.12	\$ 8.12
Retrieval Fee				\$ 20.00	\$ 0.30	\$ 20.30
Actual Shipping Costs and Any Applicable Taxes						

For fee related questions: Please contact the Bureau of Fiscal Services at 608-266-8217.

For Statute interpretation questions: Please contact the Office of Legal counsel at 608-266-0885.

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