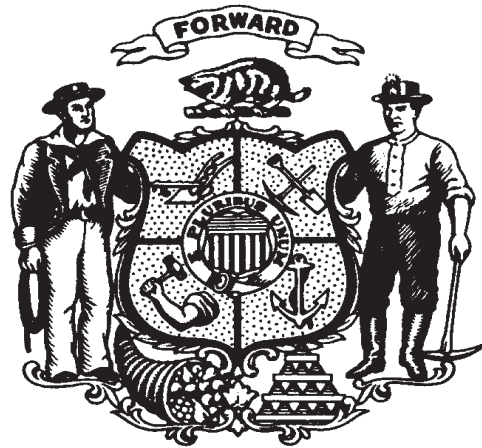


# Wisconsin Administrative Register

No. 691



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## WISCONSIN ADMINISTRATIVE REGISTER

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Public Defender:

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Public Service Commission:

Affects Chapters PSC 113, 134, and 185, relating to applications for electric, gas, and water service and the Fair and Accurate Credit Transactions Act. **CR 13-048**

Safety and Professional Services:

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## Emergency Rules Now in Effect

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*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](http://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.*

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### Administration (2)

**1. EmR1305** — The Department of Administration hereby adopts an order to repeal **Adm 2.14 (2) (vr) c.**; to renumber and amend **Adm 2.14 (2) (vr) a. and b.**; to amend **Adm 2.02 (1) (a), 2.04 (1), 2.04 (2), (3), (5), and (7), 2.07 (2), 2.08 (1) and (1) (d), 2.11, 2.14 (2), (2) (v), (2) (vm) and (2) (vm) 5.**; and to create **Adm 2.03 (3m), (3r), and (6m), 2.04 (1m) and (1r)**, relating to facility use.

The statement of scope for this rule, SS 028–13, was approved by the Governor on March 15, 2013, and published in Register No. 687 on March 31, 2013. This emergency rule was approved by the Governor on April 11, 2013.

#### Finding of Emergency

The Legislature has vested management authority over various state buildings and grounds, including those of the Wisconsin State Capitol, in the Department of Administration since 1979. Section 16.84 (1), Wis. Stats. Since 1979 the Department has permitted the use of these buildings and grounds for the free discussion of public questions and other purposes, so long as such uses did not interfere with the prime uses of these facilities, or otherwise infringe on interests of the

state. Section 16.845, Wis. Stats., and s. Adm 2.04, Wis. Adm Code.

Beginning February 2011, groups of persons began to occupy the Wisconsin State Capitol Building without permits. This included appropriating rooms and hallways in the Capitol building for purposes such as camping and storage of bulk supplies. To restore order to the building and return the building to a point where the work of the Wisconsin State Legislature and the Supreme Court of Wisconsin could perform their constitutionally authorized functions without undue disruption, the Department expended funds in excess of \$7,400,000 for law enforcement personnel. The continuous occupation of the State Capitol was formally terminated in March of 2011.

Groups of persons continue to occupy rooms in the Wisconsin State Capitol building without permits, including the Capitol rotunda. These groups constitute an exception to the norm.

The Wisconsin State Capitol Police (WSCP) issue more than 400 permits annually for the use of various state facilities. Permits are used for a variety of purposes, whether political, non-political, charitable or commercial. Permits are issued regardless of political party, affiliation or content.

Occupation of the Capitol rotunda and other areas has caused disruptions to the properly permitted events and normal government activities, including but not limited to, a Red Cross blood drive, a high school science exhibit, school group tours, general public tours, and legislative committee meetings and sessions. The State does not refuse permits for the lawful and safe use of State facilities by any group or groups. Neither can the State allow any group to occupy the Capitol in disregard of the rights of permit holders, public employees or visitors. It is imperative that the Department continue to gain greater compliance from user groups in order to protect the public safety and welfare.

<b>Filed with LRB:</b>	<b>April 15, 2013</b>
<b>Publication Date:</b>	<b>April 16, 2013</b>
<b>Effective Dates:</b>	<b>April 16, 2013 through September 12, 2013</b>
<b>Hearing Date:</b>	<b>July 12, 2013</b>

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

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

#### Finding of Emergency

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

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

**Filed with LRB:** June 28, 2013  
**Publication Date:** July 1, 2013  
**Effective Dates:** July 1, 2013 through November 27, 2013

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## 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  
**Extension Through:** August 11, 2013  
**Hearing Date:** January 14, 2013

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## Insurance

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

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

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

### Finding of Emergency

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

These changes must be in place with an effective date prior to July 1, 2013, in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 19, 2012, and the mediation panel fees were established by the Board of Governors at the meeting held on March 20, 2013.

**Filed with LRB:** June 10, 2013  
**Publication Date:** June 12, 2013  
**Effective Dates:** June 12, 2013 through November 8, 2013  
**Hearing Date:** July 23, 2013

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## Natural Resources (2)

### *Fish, Game, etc., Chs. NR 1—*

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

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

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

**Finding of Emergency**

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

**Filed with LRB:** August 15, 2012

**Publication Date:** August 18, 2012

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

**2. EmR1304 (DNR # FH–23–12(E))** — The Wisconsin Natural Resources Board proposes an order to amend sections NR 20.20 (73) (m) 4., 25.06 (1) (a), and 25.09 (1) (am) 3. e., relating to lake trout harvest limits in Lake Superior.

The statement of scope for this rule, SS 097–12, was approved by the Governor on December 14, 2012, published in Register No. 684 on December 31, 2012, and approved by the Natural Resources Board on January 23, 2013.

**Finding of Emergency**

Pursuant to s. 227.24, Stats., the department finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The welfare of state–licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses is threatened by a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate the current reductions in order to ensure a sustainable lake trout fishery over the long–term. Lake trout harvest limits were negotiated in October 2012 among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes must be ordered through administrative code. This emergency rule is needed to preserve the public welfare.

**Filed with LRB:** March 9, 2013

**Publication Date:** March 27, 2013

**Effective Dates:** March 27, 2013 through August 23, 2013

**Hearing Date:** April 11, 2013

**Public Instruction**

**EmR1303** — The state superintendent of public instruction hereby creates **ch. PI 47**, relating to the equivalency process for approving alternative models to evaluate educator practice.

The scope statement for this rule, SS 013–13, was published in Register No. 686, on February 14, 2013, and approved by Superintendent Evers, on February 25, 2013. 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 the statement of scope or this rule.

**Finding of Emergency**

The Department of Public Instruction 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 the facts constituting the emergency is:

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative educator effectiveness systems. The statute also specifies criteria on which the process shall be based, including alignment to the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards. Additionally, the statute explains certain approval requirements.

The Educator Effectiveness System will be fully implemented and mandatory throughout the entire state by the 2014–15 school year. The pilot, which allows schools and districts to implement the system and inform modifications, will go into effect during the 2013–14 school year.

In order to have possible alternative models available for pilot use in 2013–14, there is an urgent need to get the equivalency process in place to approve other evaluation models. Districts intending on applying for an equivalency review of an alternative model must alert the department in writing by March 15, 2013, and January 15 each subsequent year. They must submit their application by April 15 of this year and March 15 each subsequent year in order to be approved.

**Filed with LRB:** March 4, 2013

**Publication Date:** March 8, 2013

**Effective Dates:** March 8, 2013 through August 4, 2013.

**Hearing Date:** June 6, 2013

**Safety and Professional Services (3)***Professional Services, Chs. SPS 1–299*

**1. EmR1302** — The Wisconsin Department of Safety and Professional Services hereby adopts an order to amend sections SPS 60.01; SPS 61.02 (1) (a), (2) (a), (3) (a), and (4) (a); 62.10 (title) and 62.10; 65.01; 65.02 (1); 65.07; and 65.12 (1) (h) and (i) 6.; and to create chapter SPS 205 relating to barbers and to barbering and cosmetology schools and instructors, and affecting small business.

This emergency rule was approved by the Governor on February 5, 2013.

The statement of scope for this rule, SS 063–12, was approved by the Governor on August 10, 2012, published in Register 680, on August 31, 2012, and approved by Secretary Dave Ross on October 15, 2012.

**Finding of Emergency**

The Department of Safety and Professional Services finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

On July 1, 2012, 2011 Wisconsin Act 190 transferred regulatory authority over barbers from the Barbering and Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the educational requirements for initial licensure of barbers, and the continuing–education requirements for renewal of barber licenses. Due to the transfer of authority and the changes in education requirements, immediate rulemaking by the Department is needed to implement corresponding rule changes prior to April 1, 2013, which is the renewal date mandated by section 440.08 (2) (a) of the Statutes for all barbering licenses.



**Filed with LRB:** February 14, 2013  
**Publication Date:** February 14, 2013  
**Effective Dates:** February 14, 2013 through July 13, 2013  
**Hearing Date:** April 30, 2013

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

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

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

#### **Finding of Emergency**

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

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

**Filed with LRB:** June 12, 2013  
**Publication Date:** June 18, 2013  
**Effective Dates:** June 18, 2013 through November 14, 2013

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

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

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

#### **Finding of Emergency**

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

Under section SPS 34.02 (1), private security personnel, private detectives, and private investigators or special investigators, who are seeking a firearms permit from the Department must obtain a certificate of firearms proficiency. Section SPS 34.02 (2) mandates that the certification be received from a Department–approved firearms–proficiency certifier pursuant to section SPS 34.04.

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

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

**Filed with LRB:** June 13, 2013  
**Publication Date:** June 13, 2013  
**Effective Dates:** June 13, 2013 through November 9, 2013  
**Hearing Notice:** August 6, 2013  
**(See hearing notice in this Register)**

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## Scope Statements

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### Insurance

SS 075–13

This statement of scope was approved by the governor on July 1, 2013.

#### Rule No.

Revises section Ins 3.40.

#### Relating to

Coordination of benefits and affecting small business.

#### Rule Type

Permanent.

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

This will be promulgated as a permanent rule, as such no finding of emergency will be provided.

#### 2. Detailed Description of the Objective of the Rule

The Office intends to repeal and recreate s. Ins 3.40, Wis. Admin. Code, to update the coordination of benefit definitions and provisions and more closely align with the current National Association of Insurance Commissioners (NAIC) model regulation. The last substantive revision occurred in 1989 rendering Wisconsin's current rule inconsistent with other states and lacking helpful guidance on recent state and federal law changes including coverage for dependents to age 26, coordination with dental coverage and inclusion of individual health coverage. Updating the rule will result in less administrative cost to insurers while maintaining order in the coordination of benefits for the protection of insureds.

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

Section Ins 3.40, Wis. Admin. Code, relates to coordinating benefits when a person is covered by two or more health, disability, automobile medical benefits insurance policies. The coordination rule assists in determining which plan is primary and pays first and which plan is secondary. Without coordination of benefits insureds could collect maximum benefits from both policies and make a profit on their sickness or injury. To curtail this, insurers could design their policies to pay only excess benefits. However, if both insurers took that position benefit payments could be delayed while insurers determined which company should provide primary coverage.

The NAIC initially responded to the rise of issues by drafting and adopting the Coordination of Benefits (COB) Guidelines in the early 70s and current NAIC Coordination of Benefits Model Regulation was adopted in 2005 and is currently in the final stages before adoption of newly updated COB model regulation which is anticipated to be completed by the end of August 2013.

Updates to the Model Regulation include limiting financial gain by insureds, permitting coordination of individual health policies, coordination of dependent coverage to age 26, consideration of high deductible health plans and expanded definitions of “allowable expense” and “plans.”

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

The statutory authority for this rule is ss. 227.11 (2) (a) and 601.41 (3), Wis. Stats., that provides for the commissioner's rule making authority in general. Also, s. 631.23, Wis. Stats., states that the Commissioner may “promulgate authorized clauses by rule based upon a finding as articulated in s. 631.23 (1) (a) to (d), Wis. Stats. The Commissioner has found that the coordination of benefits clauses are necessary to provide certainty of meaning and orderly and timely handling of claims. Regulation of contract forms will be more effective, litigation will be substantially reduced if there is uniformity regarding coordination of benefits provisions in health insurance policies, and costs incurred by insurers should decrease when the requirements for coordination of benefits more closely aligns with the NAIC model regulation.

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

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

#### 6. List with Description of all Entities that may be Impacted by the Rule

The rule applies to all insurers offering health care and disability insurance coverage including individual and group health and dental care coverage, medical benefits under automobile contracts, and Medicare and other federal governmental plans. Agents authorized to sell these types of insurance will need to be aware of the changes. Employers offering health care insurance may be impacted and benefit from updating coordination of coverage.

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

The Office is unaware of existing or proposed federal regulation intended to address the coordination of benefits.

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

The rule is not likely to have a significant impact on small businesses but to the extent there is an impact it will likely be positive through reduction in duplication. Insurers that meet the definition of small businesses will also likely experience a decrease in costs from reduced duplication of benefits. Additionally as the rule will implement the NAIC model regulation, insurers doing business in other states will be able to reduce costs since the coordination requirements will be uniform and not uniquely required by Wisconsin.

Significant economic impact on small businesses?

yes  
 no

Local/statewide economic impact (choose one)

minimal or none (< or = \$50,000)  
 moderate (\$50,000--\$20,000,000)  
 significant (>\$20,000,000)

## 9. Contact Person

Julie E. Walsh, Senior Attorney  
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 Office of the Commissioner of Insurance

## Insurance

SS 078-13

This statement of scope was approved by the governor on July 1, 2013.

### Rule No.

Revises sections Ins 6.91 et seq.

### Relating to

Navigators and nonnavigator assisters and affecting small business.

### Rule Type

Both Emergency and Permanent.

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

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

### 2. Detailed Description of the Objective of the Proposed Rule

The proposed rule will implement newly amended and created state law relating to navigators and nonnavigator assisters including application counselors. The newly enacted law requires navigators to be licensed with the office and complete prelicensing and annual training as a condition of continued licensure. The proposed rule will establish criteria for licensing consistent with the law and similar to existing agent licensing requirements. Subchapter V of Wis. Stat. ch. 628 delineates requirements for navigators including; training, licensure examination and financial responsibility requirements that the commissioner will implement through the proposed rule. Additionally, the proposed rule will develop guidelines and procedures for registration and training requirements for nonnavigator assisters.

### 3. Description of Existing Policies Relevant to the Rule and of New Policies Proposed to be Included in the Rule

### and an Analysis of Policy Alternatives; the History, Background, and Justification for the Proposed Rule

The proposed rule implements the new law for individuals and entities not previously subject to oversight by the commissioner. The role navigators and nonnavigator assisters will have with Wisconsin consumers related to the regulation of insurance arose through recent changes in federal and state law. Since the law in some respects parallels requirements for agents, the proposed rule will likely parallel, to the extent possible and appropriate, existing requirements for licensed agents under Wis. Stat. ch. 628 and ch. Ins 6, Wis. Admin. Code.

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

The office has authority to promulgate rules interpreting chapter 628, Stats., as amended relating to the oversight and licensing of navigators and nonnavigator assisters. The commissioner has general authority to promulgate rules necessary to administer and enforce chs. 600 to 655 Stats., under Wis. Stat. ss. 227.11 (2) (a) and 601.41 (3). Further under Wis. Stat. s. 628.98, the commissioner was permitted to promulgate any rules necessary to carry out the purposes of the subch. V of Wis. Stat. ch. 628.

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

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

### 6. List with Description of all Entities that may be Impacted by the Rule

The proposed rule will likely affect individuals and organizations interested in serving the citizens of Wisconsin in obtaining insurance coverage through the federal Exchange. Nonnavigator assisters and application counselors frequently work within community outreach programs, health care facilities and public health education programs. The enacted law provides an exemption for governmental entities or persons acting on behalf of governmental entities. Existing insurance intermediaries may be affected by the proposed rule but the proposed rule anticipates paralleling requirements, so intermediaries should be minimally affected.

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

The federal law established minimum requirements and duties for navigators and nonnavigator assisters through law at 52 USC 18031 (i), as amended, and proposed regulation at 78 Fed. Reg. 66 (proposed, April 5, 2013).

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

yes  
 no  
 local/statewide economic impact (choose one)  
 minimal or none (< or = \$50,000)  
 moderate (\$50,000--\$20,000,000)  
 significant (>\$20,000,000)

### 9. Contact Person

Julie E. Walsh, Senior Attorney, [julie.walsh@wisconsin.gov](mailto:julie.walsh@wisconsin.gov), (608) 264-8101.

## Public Instruction

SS 071–13

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

### Rule No.

Revises Chapter PI 21.

### Relating to

Driver education programs.

### Rule Type

Permanent.

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

N/A.

### 2. Detailed Description of the Objective of the Proposed Rule

Section PI 21.05 requires the Department of Public Instruction (DPI) to issue certificates. This will soon be unnecessary since the Department of Transportation (DOT) is going to issue on–line certificates which will apply to students in school driver education programs. This rule change will not take effect until DOT begins issuing these on–line certificates.

Additionally, s. PI 21.04 requires DPI to approve driver education course plans. However, to be more efficient, DPI is modifying the way it reviews driver education course plans. The DPI proposes modifying s. PI 21.04 to state that a public or private high school, county children with disabilities education board, or a CESA submitting on behalf of a district that it has contracted with to provide driver education instructional services, must submit an assurance stating they are complying with the program requirements in s. PI 21.04 in order to receive DPI approval. This assurance will substitute for DPI actively approving the program. The DPI will continue to review each program’s instructors to verify that their departmental driver education certification is current and valid.

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

These changes are designed to update the rule to reflect future practice. If these changes are not made, the rule may not align with agency practice.

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

Under s. 227.11 (2) (a) (intro), Stats., “Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” Under s. 115.28 (11), Stats., the DPI is required to approve driver education course plans that meet certain guidelines.

#### 115.28 General duties. The state superintendent shall:

(11) DRIVER EDUCATION COURSES. Approve driver education courses offered by school districts, county children with disabilities education boards, and technical college

districts for the purposes of s. 343.16 (1) (c) 1. and establish minimum standards for driver education courses offered in private schools and tribal schools for the purposes of s. 343.16 (1) (c) 3. All driver education courses approved or for which standards are established under this subsection shall do all of the following:

(a) Acquaint each student with the hazards posed by farm machinery and animals on highways and provide instruction in safely dealing with such hazards.

(b) Provide at least 30 minutes of instruction relating to organ and tissue donation and organ and tissue donation procedures.

(c) Provide at least 30 minutes of instruction on motorcycle awareness, as approved by a recognized motorcycle safety and awareness organization, and pedestrian and bicycle awareness, as approved by a recognized pedestrian and bicycle safety and awareness organization.

(d) Include instruction relating to passing stopped emergency vehicles, tow trucks, and highway machinery equipment.

(e) Acquaint each student with the hazards posed by railroad highway grade crossings and provide at least 30 minutes of instruction in safely dealing with these hazards.

(f) Acquaint each student with the hazards posed by composing or sending electronic text messages or electronic mail messages while driving and with the provisions of s. 346.89 (3).

### 5. 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 DPI staff and the amount of other resources necessary are minimal.

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

This may affect public or private high schools, county children with disabilities education boards, or CESAs contracted by public school districts to provide driver education instructional services, since their driver education courses are being reviewed by the DPI.

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

N/A.

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

### 9. Contact Person

Katie Schumacher, 267–9127 or [katie.schumacher@dpi.wi.gov](mailto:katie.schumacher@dpi.wi.gov).

## Public Instruction

SS 072–13

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

**Rule No.**

Revises Chapter PI 32.

**Relating to**

Grants for alcohol and other drug abuse programs.

**Rule Type**

Permanent.

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

N/A.

**2. Detailed Description of the Objective of the Proposed Rule**

First, the proposed rule change would realign ch. PI 32 with the Wisconsin Statutes. 2011 Wisconsin Act 32 deleted Sections 20.255 (2) (dm) and 115.361, Stats. Thus, this rule change would eliminate the references to those statutory sections in the rule.

Second, this rule change would eliminate s. PI 32.05, which provides a detailed description for the Alcohol and Other Drug Abuse (AODA) Program Advisory Council required under s. 115.36 (2) (e), Stats. The requirements in PI 32.05 are no longer needed because 2011 Wisconsin Act 32 deleted one of the AODA appropriations (s. 20.255 (2) (dm), Stats.), which had the majority of the AODA grant funds. Given the reduced grant appropriations, the DPI believes that the size of the AODA Council can be reduced accordingly.

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

Sections 20.255 (2) (dm) and 115.361, Stats., provided the appropriation and legal authority for an AODA prevention and intervention program.

Section PI 32.05 provides for an 18 member AODA Program Advisory Council and restrictions on the number of terms a member can serve on the Council. Given the reduced grant appropriations, the DPI believes that the size of the AODA Council can be reduced accordingly.

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

The statutory authority for ch. PI 32 is in s. 115.36 (3) (a) 5., Stats.

**115.36 Assistance to schools for alcohol and other drug abuse programs.**

(3) (a) The department shall, from the appropriation under s. 20.255 (2) (kd), fund school district projects designed to assist minors experiencing problems resulting from the use of alcohol or other drugs or to prevent alcohol or other drug abuse by minors. The department shall:

1. Administer grant application and disbursement of funds.
2. Monitor program implementation.
3. Assist in and ensure evaluation of projects.
4. Report biennially in its report under s. 15.04 (1) (d) on program progress and project evaluation.
5. Promulgate necessary rules for the implementation of this subsection.

**5. 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 minimal.

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

This will affect local educational agency staff and professionals in the AODA field and related interest groups.

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

N/A.

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

**9. Contact Person**

Katie Schumacher, 267-9127 or [katie.schumacher@dpi.wi.gov](mailto:katie.schumacher@dpi.wi.gov).

**Public Instruction**

SS 073-13

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 obtain the Governor's approval for this statement of scope.

**Rule No.**

Repeals Chapter PI 33.

**Relating to**

Grants for nursing services.

**Rule Type**

Permanent.

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

N/A.

**2. Detailed Description of the Objective of the Proposed Rule**

This rule change will eliminate ch. PI 33, the rule chapter for the Grants for Nursing Services.

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

2011 Wisconsin Act 32 eliminated the Grants for Nursing Services under ss. 115.28 (47) and 20.255 (2) (dL), Stats. Since there is no longer any statutory or funding authority for the program, the rules are no longer necessary. Thus, this rule change will eliminate ch. PI 33.

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

There is no statutory authority for this rule anymore because 2011 Wisconsin Act 32 eliminated s. 115.28 (47), Stats.

**5. 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 minimal.

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

This rule change should not affect any entity since the statutory authority for this program has already been rescinded.

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

N/A.

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

**9. Contact Person**

Katie Schumacher, 267–9127 or [katie.schumacher@dpi.wi.gov](mailto:katie.schumacher@dpi.wi.gov)

**Public Instruction**

SS 074–13

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

**Rule No.**

Revises Chapter PI 36.

**Relating to**

Full–time Open Enrollment Program.

**Rule Type**

Permanent.

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

N/A.

**2. Detailed Description of the Objective of the Proposed Rule**

The Full–Time Open Enrollment Program was created by 1997 Wisconsin Act 27. Since then, the statute has been amended or affected by ten legislative enactments including: changes to 4–year–old kindergarten eligibility for open enrollment; limiting the number of districts a pupil can apply to; waiting lists; preferences and guarantees for certain students; transportation for open enrolled students; open enrollment to virtual charter schools; and habitual truancy. The program has been affected by one federal court decision, two state appeals court decisions and a number of circuit court

decisions. Nearly 3000 appeals have been filed with the Department.

The most recent change to full–time open enrollment occurred with 2011 Wisconsin Act 114, which changed the timing of the application process under the Open Enrollment Program and permitted certain pupils to submit open enrollment applications outside the regular application period, thus changing the nature of the Open Enrollment Program from a once–a–year time–limited application period to a year–round opportunity to apply. Specifically, 2011 Wisconsin Act 114 changes s. 118.51, Stats., by requiring pupils to submit an enrollment application no later than the last weekday in April, rather than no later than the 3<sup>rd</sup> Friday following the first Monday in February. As a result of this change, subsequent deadlines are adjusted accordingly. 2011 Act 114 also changes s. 118.51, Stats., by allowing alternative open enrollment procedures under certain circumstances.

The rules have only been amended three times since they were first promulgated in July 1998 including: addressing the number of districts a pupil may apply to, and establishing wait lists, and modifying the method of serving notices of denial. The rule amendments do not incorporate all of the statutory changes that have occurred.

The objective of the proposed rule–making is to update the full–time enrollment portion of ch. PI 36 to address the many statutory changes made over the years and to address issues that have arisen over the past 14 years. Finally, this rule change will also include any changes to the Full–Time Open Enrollment Program stemming from the passage of the 2013–15 biennial budget.

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

Chapter PI 36 currently addresses full–time open enrollment in the context of parent and pupil responsibilities, nonresident school board responsibilities, and resident school board responsibilities. Currently, these areas reflect the law as it existed prior to the enactment of 2011 Wisconsin Act 114, as well a number of other acts and court decisions. The DPI is proposing to update the full–time open enrollment portion of ch. PI 36 so that it reflects the current state of the law. The alternative to not promulgating this rule is to have an administrative rules chapter that is outdated.

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

Under s. 227.11 (2) (a) (intro), Stats., “Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” Under s. 118.51, Stats., the DPI requires rules to effectively implement the Full–Time Open Enrollment Program.

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

No additional resources are needed to develop the rule. Language will be drafted by existing staff and is estimated that drafting can be completed in 2–4 weeks.

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

School districts, parents, and pupils will be affected by this rule.

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

N/A.

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

**9. Contact Person**

Katie Schumacher, 267-9127 or [katie.schumacher@dpi.wi.gov](mailto:katie.schumacher@dpi.wi.gov)

**Safety and Professional Services —  
Controlled Substances Board**

SS 076-13

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

**Rule No.**

Revises Chapter CSB 3.

**Relating to**

Granting a limited special use authorization permit.

**Rule Type**

Permanent.

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

N/A

**2. Detailed Description of the Objective of the Proposed Rule**

The objective of the proposed rule is to provide for the Controlled Substance Board to grant a limited special use authorization (SUA).

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

Section 961.335, Stats., provides that the controlled substances board may issue a permit authorizing a person to manufacture, obtain, possess, use, administer, or dispense a controlled substance for purposes of scientific research, instructional activities, chemical analysis, or other special uses, without restriction because of enumeration. Chapter CSB 3 indicates that the SUA designates the controlled substance(s), amount, and project or use.

The policy to address is to allow the controlled substances board to grant a SUA with limitations rather than outright deny a SUA in specific circumstances. The circumstances may include the following:

- A person having violated the terms of a previous SUA could still obtain a SUA with terms and conditions to address past problems.

- A person that has impairment issues could still obtain a SUA with terms and conditions to address monitoring to ensure no diversion is taking place.
- Limitations placed by the federal government on their Drug Enforcement Administration registration being mirrored by limitations on the SUA.

The alternative to the proposed rule is for the controlled substances board to outright deny an applicant an SUA instead of granting a SUA.

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

Section 961.335 (8), Stats. The controlled substances board may promulgate rules relating to the granting of special use permits including, but not limited to, requirements for the keeping and disclosure of records other than those that may be withheld under sub. (7) submissions of protocols, filing of applications and suspension or revocation of permits.

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

75 hours

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

Applicants for special use authorization permits.

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

Federal regulations requires any person who possess, manufactures, distributes or dispenses any controlled substances to register with the US Department of Justice, Drug Enforcement Administration, Office of Diversion Control. The proposed rule would allow the controlled substances board to mirror any limitations placed by the federal government on a person's DEA registration.

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

None to minimal economic impact.

**9. Contact Person**

Sharon Henes, (608) 261-2377.

**Safety and Professional Services —  
Controlled Substances Board**

SS 077-13

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

**Rule No.**

Revises Chapter CSB 3.

**Relating to**

Denial of special use authorization permit.

**Rule Type**

Permanent.

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

N/A.

## 2. Detailed Description of the Objective of the Proposed Rule

The proposed rule will identify the basis on which a person may be denied a special use authorization permit (SUA).

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

Section 961.335, Stats., provides that the controlled substances board may issue a permit authorizing a person to manufacture, obtain, possess, use, administer, or dispense a controlled substance for purposes of scientific research, instructional activities, chemical analysis, or other special uses, without restriction because of enumeration. While Administrative Code ch. CSB 3 indicates the requirements for submitting an application for the special use authorization permit, the rule does not provide for the basis for which the controlled substances board may exercise its discretion and deny a person a special use authorization permit. The proposed rule will identify the basis on which a person may be denied a special use authorization permit.

The alternative to the rule is for the controlled substances board to deny an applicant on a basis for which the person was not given notice a denial could be the result or for the controlled substances board to appear arbitrary in its denials of applications.

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

Section 961.335 (8), Stats. The controlled substances board may promulgate rules relating to the granting of special use permits including, but not limited to, requirements for the keeping and disclosure of records other than those that may be withheld under sub. (7) submissions of protocols, filing of applications and suspension or revocation of permits.

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

75 hours.

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

Applicants for special use authorization permits.

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

Federal regulations requires any person who possess, manufactures, distributes or dispenses any controlled substances to register with the US Department of Justice, Drug Enforcement Administration, Office of Diversion Control. The proposed rule would consider the criteria used by the federal government in granting/denying a DEA registration in that once the special use authorization permit is granted, the person would also need DEA registration.

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

None to minimal economic impact

## 9. Contact Person

Sharon Henes, (608) 261–2377.

## Safety and Professional Services — Dentistry Examining Board

SS 070–13

This statement of Scope was approved by the governor on June 19, 2013.

### Rule No.

Revises Chapter DE 12.

### Relating to

Training unlicensed persons.

### Rule Type

Permanent.

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

N/A.

### 2. Detailed Description of the Objective of the Proposed Rule

Chapter DE 12, delegation of functions to unlicensed persons, has not been revised since 1991. The Dentistry Examining Board requests to repeal the requirements for the submittal of a form to verify a dentist's training and delegation of any dental procedure to an unlicensed person. In practice this process has not been followed and no form was approved by the board for such reporting or verification. Sections 447.065 and 447.06, Stats., provide authority to delegate procedures to unlicensed persons; this section does not mandate the maintenance of verifiable records or the use of a board–approved form to verify such delegation; in addition, the dentist delegating such functions is responsible for the unlicensed person's performance. Other minor corrections to this chapter, such as formatting and correcting typographical errors, may be included in this proposed rule revision.

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

The deletion of this procedure will represent current practice, makes the rule consistent with statutory authority and no new policy is being established.

Leaving the existing rule language in s. DE 12.02 would not represent current practice and may burden the Dentistry Examining Board with the possible need to review such documentation, if and when submitted.

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

Section 15.08 (5) (b), Stats., requires all examining boards to "...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 227.11 (2) (a), Stats., authorizes all agencies to promulgate rules interpreting the statutes it enforces or administers, when deemed necessary to effectuate the purpose of such statutes.

Section 447.065(1), Stats., authorizes a dentist who is licensed to practice dentistry under this chapter to delegate to an individual who is not licensed under this chapter only the performance of remediable procedures, and only if specific conditions are met.



Section 447.065 (3), Stats., authorizes a dentist who delegates to another individual the performance of any practice or remediable procedure be responsible for that individual's performance of that such practice or procedure.

**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 that approximately 60 hours will be needed to perform the review and develop any needed rule changes. This time includes meeting with the Dentistry Examining Board, drafting the rule changes and processing the changes through public hearing, legislative review, and adoption. The department will assign existing staff to perform the review and develop the rule changes; no other resources will be needed.

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

Licensees and the Dentistry Examining Board.

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

An Internet-based search of the U.S. Code and Federal Register did not reveal any laws or proposals related to the training of unlicensed persons by dentists or verification forms of such training.

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

The Department believes that proposed revisions under chapter DE 12 will have no economic impact on small business.

**9. Contact Person**

Jean MacCubbin, (608) 266-0955.

**Safety and Professional Services —  
Pharmacy Examining Board**

SS 069-13

This statement of Scope was approved by the governor on June 19, 2013.

**Rule No.**

Revises Chapter Phar 7.

**Relating to**

Pharmacy practice.

**Rule Type**

Permanent.

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

N/A.

**2. Detailed Description of the Objective of the Proposed Rule**

To amend ch. Phar 7 to reflect the current practice of pharmacy.

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

The Pharmacy Examining Board intends to modernize ch. Phar 7 to bring it in line with current pharmacy standards and practice. The Board will evaluate reducing the regulatory impact on pharmacies without negatively impacting public safety. In addition, the proposed changes would also reduce the necessity for pharmacies to request variances to the rules.

**4. 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 450.02 (2), Stats. The board shall adopt rules defining the active practice of pharmacy.

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

125 hours.

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

Pharmacists, pharmacies, manufacturers, distributors, and consumers.

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

The practice of pharmacy is not regulated by the federal government. The federal government does regulate controlled substances which may be addressed by the proposed rule.

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

Minimal.

**9. Contact Person**

Sharon Henes, (608) 261-2377.

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## Submittal of Proposed Rules to Legislative Council Clearinghouse

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

### Natural Resources *Fish, Game, etc., Chs. 1—*

#### CR 13–052

(DNR # WM–06–13)

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

The statement of scope for this rule, SS 027–13, was approved by the Governor on March 6, 2013, published in Register No. 687, on March 31, 2013, and approved by the Natural Resources Board on April 24, 2013.

#### Analysis

The proposed rule revises Chapter NR 10, Wis. Adm. Code, relating to the 2013 migratory bird hunting seasons and bag limits.

#### Agency Procedure for Promulgation

Public Hearings will be held as follows:

Monday, August 5, 2013  
State Office Building, Rooms B–19 and B–20  
3550 Mormon Coulee Road  
La Crosse, WI

Tuesday, August 6, 2013  
Days Inn, 1710 South Main Street  
Rice Lake, WI

Wednesday, August 7, 2013  
Agricultural Services Center, Main conference room  
3369 West Brewster Street  
Appleton, WI

Thursday, August 8, 2013  
Wildwood Lodge, N14 W24121 Tower Place  
Pewaukee, WI

#### Contact Person and Organizational Unit

Scott Loomans, Bureau of Wildlife Management, (608) 267–2452.

### Natural Resources

#### *Environmental Protection — General, Chs. 100—*

#### CR 13–051

(DNR # WT–06–12)

On June 27, 2013, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, WT–06–12, 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 as required by s. 227.135 (2), Stats., on March 28, 2012.

#### Analysis

The proposed rule revises Chapter NR 115, Wis. Adm. Code, relating to Shoreland Zoning standards under Wisconsin's Shoreland Protection Program.

#### Agency Procedure for Promulgation

Public hearings will be held on the following days:

Wednesday, August 7, 2013  
Town of Greenville  
W6860 Parkview Drive  
Greenville, WI 54942

Thursday, August 8, 2013  
City of Delafield  
Council Chambers  
500 Genesee Street  
Delafield, WI, 53018

Wednesday, August 14, 2013  
Best Western Tomah Hotel  
1017 E McCoy Boulevard  
Tomah, WI 54660–3264

Thursday, August 15, 2013  
Spooner High School  
801 County A  
Spooner, WI 54801

Thursday, August 22, 2013  
Rodeway Inn & Suites  
1738 Comfort Drive  
Tomahawk, WI 54487

#### Contact Person and Organizational Unit

Russ Rasmussen, Bureau of Watershed Management, (608) 267–7651.

Edwina Kavanaugh, Bureau of Legal Services, (608) 264–8991.

Linda Haddix, Bureau of Legal Services, (608) 266–1959.

### Public Defender

#### CR 13–049

On June 21, 2013, the State of Wisconsin Public Defender Board (SPD) submitted a proposed rulemaking order to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 043–13, was approved by the Governor on April 15, 2013, published in Register No. 688 on April 30, 2013, and approved by the SPD Board as required by s. 227.135 (2), Stats., on May 13, 2013.

#### Analysis

This proposed rule will revise three sections, ss. PD 3.02 (1), 6.01, and 6.02 (1), of the PD administrative code to

include a new “felony diversion” case category. SPD case categories reflect the anticipated cost of retained counsel and set the required payment amounts for legal representation. This new felony diversion case category will more accurately reflect the amount of time attorneys spend when representing clients in felony diversion cases.

#### **Agency Procedure for Promulgation**

A public hearing is required under s. 227.16 (1), Wis. Stats., and will be held on July 29, 2013.

The Wisconsin State Public Defender is responsible for preparing the rule.

#### **Contact Person**

Devon Lee  
Legal Counsel  
Office of the State Public Defender  
315 N. Henry Street, 2<sup>nd</sup> Floor  
Madison, WI 53703  
Phone: (608) 261-0633  
Email: [leede@opd.wi.gov](mailto:leede@opd.wi.gov)

### **Public Service Commission CR 13-048**

(PSC Docket # 1-AC-229)

Pursuant to s. 227.14 (4m), Stats., on June 24, 2013, the Public Service Commission of Wisconsin submitted a proposed rule to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

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 Wisconsin Administrative Register No. 666 on June 14, 2011, was sent to the Legislative Reference Bureau prior to June 8, 2011.

#### **Analysis**

The proposed rule, Commission docket 1-AC-229, repeals ss. PSC 113.0301 (1m) (j) and (3), 113.0406 (7), 134.062 (2), 134.063 (1) (L), 134.13 (7), 185.33 (18), and 185.37 (2) (L); amends ss. PSC 113.0301 (1m) (i), 134.062 (1) (k), and 185.37 (2) (k); and creates ss. PSC 113.0408, 113.0409, 134.051, 134.053, 185.30, and 185.305, dealing with applications for electric, gas, and water service and the Fair and Accurate Credit Transaction Act.

#### **Agency Procedure for Promulgation**

A public hearing will be held on Monday July 29, 2013, at 10:00 a.m., at the Public Service Commission building at 610 North Whitney Way, Madison, Wisconsin.

The Office of General Counsel of the Commission is the organizational unit responsible for the promulgation of the rule.

#### **Contact Person**

The contact person is Justin Chasco, Docket Coordinator, (608) 266-3708 or [justin.chasco@wisconsin.gov](mailto:justin.chasco@wisconsin.gov).

### **Safety and Professional Services Professional Services, Chs. 1—299 CR 13-047**

On June 19, 2013, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 08-012, was approved by the Governor on October 2, 2012; published in Register No. 682 on October 31, 2012; and approved by the Department on December 4, 2012.

#### **Analysis**

This proposed rule-making order revises Chapter SPS 34 and relates to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators.

Statutory Authority: Sections 227.11 (2) (a) and 440.26 (2) (c), Stats.

#### **Agency Procedure for Promulgation**

A public hearing is required and will be held on August 6, 2013, at 1400 East Washington Avenue, Room 121C, Madison, Wisconsin (enter at 55 North Dickinson Street).

#### **Contact Person**

Sam Rockweiler, Department of Safety and Professional Services, Division of Policy Development, (608)-266-0797, [sam.rockweiler@wi.gov](mailto:sam.rockweiler@wi.gov).

#### **Executive Order 50, Paragraph III.2. Statement**

The Department ensured the accuracy, integrity, objectivity, and consistency of the data used in preparing the proposed rules and corresponding analysis.

### **Safety and Professional Services Plumbing, Chs. 381—387 CR 13-046**

On June 19, 2013, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 009-13, was approved by the Governor on January 22, 2013, published in Register No. 686 on February 15, 2013, and approved by the Department of Safety and Professional Services on February 26, 2013.

#### **Analysis**

This proposed rule-making order is to amend ss. SPS 382.20 (2) (a) and (2) (a) 2. (Note), 382.40 (6) (a), and 382 APPENDIX A-382.20 (2) and A-382.33 (9) (f)-1 (Note), relating to plumbing plan review by municipal agents.

Statutory Authority: Section 227.11 (2), Wis. Stats., and interpreting ss. 145.02 and 145.13, Wis. Stats.

#### **Agency Procedure for Promulgation**

A public hearing is required and will be held on July 29, 2013, at 10:00 a.m. at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

#### **Contact Person**

Jean MacCubbin, Department of Safety and Professional Services, Division of Policy Development, 608.266.0955; [jean.maccubbin@Wisconsin.gov](mailto:jean.maccubbin@Wisconsin.gov).

**Technical College System**  
**CR 13-050**

On June 25, 2013, the Wisconsin Technical College System Board submitted a proposed rule amendment to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 033-13, was approved by the Governor on March 27, 2013, published in Register No. 688 on April 14, 2013, and approved by President Morna K. Foy on April 29, 2013.

**Analysis**

The proposed order revises Chapter TCS 5, relating to facility development procedures. The Legislative Council

has 20 working days to review and return their report to WTCS.

**Agency Procedure for Promulgation**

A public hearing has been scheduled for August 1, 2013, at 10:00 a.m. at the Wisconsin Technical College System Office, 4622 University Avenue, Board Room, Madison, WI.

**Contact Person**

James Zylstra, Executive Vice President, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 266-1739, e-mail [james.zylstra@wtcssystem.edu](mailto:james.zylstra@wtcssystem.edu).

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## Rule-Making Notices

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### Notice of Hearing

#### Natural Resources

#### *Fish, Game, etc., Chs. 1—*

#### CR 13-052

(DNR # WM-06-13)

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, and 227.11 (2) (a), Stats., interpreting ss. 29.014, 29.041, and 29.192, Stats., the Department of Natural Resources will hold public meetings on revisions to Chapter NR 10, Wis. Adm. Code, related to migratory bird hunting regulations. Season dates and bag limits will be set for ducks and Canada geese. Under international treaty and federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service regulatory process. Because of the timing of Wisconsin's rule process and the U.S. Fish and Wildlife Service rule process the season dates, the actual season lengths, dates and bag limits cannot be determined at this time for much of the rule.

#### Hearing Information

- Date:** Monday, August 5, 2013  
**Time:** 7:00 p.m.  
**Location:** State Office Building, Rooms B-19 and B-20  
Mormon Coulee Rd.  
La Crosse, WI
- Date:** Tuesday, August 6, 2013  
**Time:** 7:00 p.m.  
**Location:** Days Inn, 1710 South Main St.  
Rice Lake, WI
- Date:** Wednesday, August 7, 2013  
**Time:** 7:00 p.m.  
**Location:** Agricultural Services Center  
Main conference room  
3369 West Brewster St.  
Appleton, WI
- Date:** Thursday, August 8, 2013  
**Time:** 7:00 p.m.  
**Location:** Wildwood Lodge  
N14 W24121 Tower Place  
Pewaukee, 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. Please call Scott Loomans at (608) 267-2452 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 and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov> or by searching the keywords "administrative rules" on the department's website. Written comments on the proposed rule may be submitted via

U.S. mail to Mr. Kent Van Horn, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to [kent.vanhorn@wisconsin.gov](mailto:kent.vanhorn@wisconsin.gov).

Comments may be submitted until August 8. 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. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Van Horn.

#### Analysis Prepared by the Department of Natural Resources

##### *Statutory authority*

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

##### *Statutes interpreted and explanation of agency authority*

Special regulations on the taking of certain wild animals are authorized under s. 29.192, Stats., including specific language that authorizes rules related to Canada goose hunting.

Wisconsin's boundary waters with other states are popular waterfowl hunting locations. Specific authority to regulate hunting in and on all interstate boundary waters and outlying waters is established in s. 29.041, Stats.

Sections 23.11 and 29.014, Stats., allow for the protection of natural resources, establish general department powers on lands it manages including migratory bird refuges, and authority to establish hunting and trapping regulations on department managed lands.

##### *Related statute or rule*

This rule order establishes the season length and bag limits for the Wisconsin migratory game bird seasons. Each year similar emergency rules are promulgated and the board order number for that related rule is WM-07-13(E). This process is necessary to have the seasons in place for the fall hunting season while following the federal and state rule procedures.

##### *Plain language analysis*

SECTIONS 1 and 2 of this rule eliminate references to the Brown County and New Auburn subzones of the Exterior Zone for Canada goose hunting. Those subzone designations have not been used by the department in recent years when setting migratory bird hunting seasons by emergency rule.

SECTION 2 of this rule order establishes the season length and bag limits for the migratory game bird seasons. For ducks, the state is divided into three zones, each with 60-day seasons as allowed by federal rule under liberal season frameworks. The proposed seasons in each zone are:

North duck zone – the season begins at 9:00 a.m. on the Saturday nearest September 24 and continues for 60 consecutive days.

South duck zone – the season begins at 9:00 a.m. on the Saturday nearest October 1 and continues for 9 days, followed by a 5–day split, and then reopens for 51 consecutive days.

Mississippi River duck zone – the season begins at 9:00 am on the Saturday nearest September 24 and continues for 9 days, followed by a 12 day split, and then reopens for 51 consecutive days.

The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 1 black duck, 1 canvasback, 3 wood ducks, 2 scaup, 2 pintails, and 2 redheads.

For Canada geese, the state is apportioned into 2 goose zones for the regular hunting season, Horicon and Exterior, each with a 92 day season. The Mississippi River Subzone is a special goose management subzone within the Exterior Zone. Season lengths are:

Horicon Zone – Two hunting periods, the first period beginning September 16 and the second on the Monday following the last Friday in October until December 16.

Exterior Zone in the northern duck zone – Begins on September 16 and continues for 92 consecutive days.

Exterior Zone in the southern duck zone – Begins on September 16 continuing until a closure during the 5 day split in the southern duck zone hunting season and then reopens following this split for the remainder of a season total of 92 days.

Mississippi River subzone – Begins the same day as the duck hunting season in the Mississippi River Zone, closes during the Mississippi River Zone duck hunting season split and reopens following this split for the remainder of a season total of 92 days.

The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the regular open seasons within the zones.

SECTION 3 establishes that the youth waterfowl hunting season dates.

SECTION 4 lifts a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

SECTION 5 expands open water hunting opportunities for migratory birds by adding 10 lakes to the list of those where open water hunting is allowed if the hunter is more than 1,000 feet from the shoreline and islands.

SECTION 6 relaxes the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities.

SECTIONS 7 to 9 simplify Canada goose hunting regulations in the Horicon Zone by providing the department the option of not requiring carcass tags and eliminating the permit application deadline when those measures are not necessary to restrict the harvest of Canada geese.

SECTION 10 decreases the size of the Horicon Zone for goose hunting by redesignating portions of Columbia, Winnebago, Fond du Lac, Marquette, and Green Lake counties from Horicon Zone to Exterior Zone.

SECTION 11 establishes a duck hunting zone that consists of the Wisconsin portions of the Mississippi River west of the Burlington Northern Santa Fe Railroad tracks. This is the

same zone configuration that was in place for the 2011 and 2012 seasons and has been approved by the USFWS for a five year period.

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

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulations process. As part of the Federal rule process, the USFWS proposes a duck harvest–management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest–management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals.

Wisconsin Canada goose harvest is supported by two different Canada goose populations; the local giant Canada geese which are part of the Temperate Breeding Population (TBP) of the Mississippi Flyway provide about 40% of our fall harvest while the Mississippi Valley Population (MVP) that breeds in northern Ontario provide about 60% of the fall harvest. These two populations are managed under cooperative management plans developed by several states and provinces. The TBP population has steadily grown and management goals are to provide additional harvest opportunity and control population growth. In contrast, the MVP population has been on a slow decline so management objectives are to maintain a lower rate of harvest and have a stable or increasing population. These contrasting goals create a challenge in the development of hunting regulations. In order to improve our harvest management, the Mississippi Flyway Council tested the use of a standard season framework for 5 years while monitoring population size and harvest rates for the MVP and TBP. From 2007 – 2011, season lengths and bag limits for each MVP harvest state were unchanged. Each state retained the flexibility to schedule the timing of their Canada goose season. In addition, if the MVP spring population numbers dropped to a predetermined low level during the 5–year period, the stable season framework could be adjusted. At the winter 2012 flyway meeting, analysis of the impacts of these 5 years of stable regulation were reviewed and the results were mixed with regard to the management objectives. It was decided among the member states that a cautious and slow approach should be taken toward continued liberalization of Canada goose hunting seasons.

The proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the USFWS in 50 CFR 20.

### ***Comparison with rules in adjacent states***

Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the USFWS. The USFWS regulations and guidelines apply to all states within the Flyway and therefore the regulations in the adjoining states closely resemble the rules established in this rule order, and only differ slightly based on hunter desires, habitat, and

population management goals. However, these variations fall within guidelines and sideboards established by the USFWS.

#### *Summary of factual data and analytical methodologies*

In the past, the department has annually promulgated emergency and permanent rules establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final season framework to Wisconsin on approximately August 1 each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season. The department has promulgated permanent rules in the past so that information related to zones, tagging requirements for geese, and other regulations remain relatively current. However, season dates and bag limits established in the administrative code reflect the prior season frameworks and are not useful, current information. Through this rulemaking process, the department is evaluating ways to establish more general descriptions of the migratory bird hunting season in administrative code. For example, new rule language starts the northern duck season on the "Saturday nearest September 24" instead of a specific date. Emergency rulemaking will still be required of the department as the federal frameworks are established each year, but the result would be less rulemaking overall.

For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat. The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid-Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

In 2011 the USFWS gave our state the option of reconfiguring duck hunting zones and after an 11 month public input process Wisconsin implemented changes for a 5 year period. Waterfowl hunters have been supportive of the new zone configuration and this proposal contains the same zone configuration that was in effect for the 2011 season. The department's position has been that the configuration of duck zones is an issue of hunter opportunity and satisfaction which does not have significant impact on duck populations.

The parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and TBP Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations is measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework

alternatives and requests related to the early seasons. In spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conduct a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting, staff provide the attendees with breeding status information and ask for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attend the MFC Technical and Council meetings. At these meetings, staff are provided status information and the proposed framework alternative from the USFWS. Department staff work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announces its final waterfowl season framework recommendation at the end of July. Department staff then summarize waterfowl status and regulation information for Wisconsin citizens and present this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post-Flyway Meeting) of interest groups and individuals on August 3. Staff gather public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. Public hearings will be held from August 5-8 around the state to solicit additional input on the proposed annual waterfowl rule.

Wisconsin has a long tradition of restricting waterfowl hunting to the near shore and marsh areas of lakes and flowages. This provides safe open water resting areas for migrating waterfowl and helps keep ducks on water bodies for a longer period during the hunting season. However, "open water" hunting is allowed on some large lakes and the Great Lakes where it is believed that open water hunting does not eliminate safe resting areas. This type of hunting may involve specialized boats and other equipment and primarily targets diving species of ducks. All open water blinds must be removed at the close of hunting hours each day. Following a citizen request to increase hunting opportunities by expanding the number of lakes available for open water duck hunting, an ad hoc committee of citizens conducted a statewide review of 130 of the state's largest lakes, held local meetings, and made recommendations for additional open water hunting lakes. Adding the lakes in this proposal will increase areas available to waterfowl hunters and provide more opportunities for a unique type of waterfowl hunting.

This rule will expand opportunity for waterfowl hunters with disabilities. Open water waterfowl hunting is currently prohibited on all but a handful of lakes in WI. A hunter who is "concealed" in emergent vegetation under current rules is not considered to be in open water. The concern is that those with disabilities may physically not be able to get into a smaller boat, skiff, or blind and that it may be difficult or impossible to place an accessible boat or blind near vegetation capable of meeting the concealment requirements. This proposal will make it possible for disabled permit holders, and their companions, to hunt from a craft such as a pontoon boat, which may be impossible to conceal in emergent vegetation.

This proposal would simplify Canada goose hunting regulations in the Horicon Zone by providing the department the option of not requiring carcass tags and eliminating the permit application deadline when those measures are not

necessary to restrict the harvest of Canada geese. In recent years the department has been able to provide more carcass tags to each applicant than most hunters were able to use. With improved harvest reporting methods, reduced Horicon Zone hunter numbers and efforts to reduce management costs, it is possible to eliminate the use of a carcass tag. Hunters will continue to be restricted to a specific number of Canada geese harvested in the Horicon Zone each season but this will be controlled through a punch card and telephone reporting system rather than issuance of a carcass tag.

In an effort to provide additional hunting opportunity and simplify regulations, while still protecting Ontario nesting Canada geese from overharvest, this proposal would shrink the size of the Horicon Zone. Areas removed from the Horicon Zone would become part of the Exterior Zone. During regular Canada goose seasons in the Horicon and Exterior Zones, Wisconsin harvests geese from 2 nesting populations; geese that nest locally and geese that nest in wilderness areas of northern Ontario. Harvest of the Ontario population is shared among several states and is managed to avoid overharvest. The Horicon Zone is an area where the Ontario nesting geese concentrate during migration and regulations are designed to avoid overharvest. Maintaining the Horicon Zone regulations is important because nearly 20% of the statewide regular season harvest occurs in the counties near Horicon Marsh.

However, Canada goose hunting regulations are regularly reviewed and can adapt to changes in hunting pressure and goose distribution. In recent years, greater than 80% of the Canada goose harvest within the Horicon Zone has occurred in Dodge and Fond du Lac counties. The band recoveries from Canada geese that nest in northern Ontario are highest on the eastern counties of the Horicon Zone within about 20 miles of the Horicon Marsh. Western and northern areas of the Horicon Zone experience very low Canada goose harvest. Based on these data and suggestions offered during meetings in 2012, the Department proposes shrinking the Horicon Canada goose hunting zone by establishing the western boundary at Highway 73 and the northern boundary at Highway 23.

Closing migratory bird hunting hours early on managed public hunting areas in some states has been shown to provide good hunting across an entire property rather than just near refuges, hold ducks in an area for a longer period of time, and provide better hunting opportunities throughout the season.

An experimental early closure has been applied at the Mead Wildlife Area in Marathon and Wood counties and at Zeloski Marsh, Lake Mills Wildlife Area in Jefferson. The regulation has been in place only during the early part of the season when hunting pressure is heaviest. The regulation has sunset after a three year trial period. There continues to be support for the special regulations and reauthorization by rule is needed for them to remain in effect.

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

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

**Effects on Small Businesses**

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24 (3m), Stats.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department’s Small Business Regulatory Coordinator may be contacted at [SmallBusiness@dnr.state.wi.us](mailto:SmallBusiness@dnr.state.wi.us) or by calling (608) 266-1959.

**Environmental Impact**

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

**Contact Person**

Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)	
<b>ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS</b>	
Type of Estimate and Analysis	
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	
Administrative Rule Chapter, Title and Number	
Ch. NR 10, Game and Hunting. Board Order WM-06-13	
Subject	
Establishing the 2013 migratory game bird seasons, waterfowl hunting zones, and regulations.	



Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S		None
Fiscal Effect of Implementing the Rule		
<input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input checked="" type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
<p>This proposal will establish a general framework of season dates, bag limits, and conditions for taking migratory game birds by hunting or falconry. Primary objectives of the rule will be to reduce the amount of migratory bird-related emergency rule making that is needed each year, to simplify regulations, codify provisions already in effect by emergency rule, and repeal a sunset provision.</p>		
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)		
<p>This rule will have no or minimal economic impact locally or statewide.</p> <p><u>Economic Impact</u></p> <p>Because the hunting season frameworks proposed in this rule will be comparable or identical to those in place during previous seasons, no economic impacts are anticipated. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.</p> <p><u>Fiscal Impact</u></p> <p>This rule will have a minor fiscal impact on the department in the first year. In future years, the department anticipates an annual saving of \$6,000 to nearly \$9,000 because of simplifications to Canada goose hunting regulations. These savings will result from no longer having to print and mail carcass tags to goose hunters. This is presented as a range of potential savings because actual costs have varied in the previous 3 years based on the price of print stock, printing, mailing, and the number of hunters. Instead of carcass tags, Horicon Zone goose hunters will need to report their harvest on a punch card and to the department by telephone, but this infrastructure is already in place for Exterior zone goose hunters and will result in minimal costs to edit the call in program. The department anticipates a cost savings of only \$2,000 in the first year of implementation because savings will be offset by \$4,750 in expenditures for our automated license system vendor to make program updates.</p> <p>Other regulations modified by this proposal will not require significant changes to past practices or procedures and will have no fiscal impact but may result in more efficient use of department staff time if the need for annual rule making is reduced.</p>		

<p><b>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</b></p> <p>Changes to the Canada goose regulations and harvest reporting will result in simpler, more understandable rules and simpler hunting practices.</p> <p>Through this rulemaking process, the department will establish more general descriptions of the migratory bird hunting season in Wis. Admin. Code. For example, new rule language might start the duck season on the “last Saturday in September” instead of a specific date. Emergency rulemaking will still be required of the department as the federal frameworks are established each year, but a result would be less rulemaking overall. It is difficult to estimate a precise amount of costs and other benefits as a result of reduced rule making needs. The amount of reductions will depend on the consistency of the federal framework for migratory bird hunting regulations. The federal framework does change a certain amount every year and the amount of change varies by year. The resulting benefit will primarily be improved use of department staff time.</p> <p>An alternative is to not implement a rule and continue establishing migratory bird hunting regulations entirely by emergency rule each year. The disadvantage of this alternative is that it is absolutely certain that a complete emergency rules package would need to be promulgated each year. Another disadvantage is that the permanent rules contained in NR Ch. 10 will never reflect the regulations that are actually in place. This can be a disadvantage for law enforcement officers and anyone who seeks migratory bird hunting regulation information from that source.</p>
<p><b>Long Range Implications of Implementing the Rule</b></p> <p>Implementing these rules may help reduce the amount of time invested in the rulemaking process by department staff. Implementing these rules will have little impact on the public except that they will continue to have good waterfowl hunting opportunities into the future. A subset of Canada goose hunters in the Horicon Zone will benefit from simplified goose hunting regulations and no need to worry about missing the permit application deadline and not being able to hunt in that zone.</p>
<p><b>Compare With Approaches Being Used by Federal Government</b></p> <p>Annually the department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish &amp; Wildlife Service. This proposal takes advantage of nearly all of the opportunities offered under the federal framework. One difference is that Wisconsin allows one hen mallard in the daily bag limit even though the state could allow two. This is done at the request of waterfowl hunters who want to be conservative in regulating the harvest of breeding female mallards.</p>
<p><b>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</b></p> <p>The department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish &amp; Wildlife Service. Because of the federal guidelines, Wisconsin’s regulations are similar to those in neighboring states.</p>
<p><b>Name and Phone Number of Contact Person</b></p> <p>Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.</p>

## Notice of Hearing

### Natural Resources

#### *Environmental Protection — General, Chs. 100— CR 13-051*

(DNR # WT-06-12)

NOTICE IS HEREBY GIVEN that pursuant to ss. 1.11 and 227.11, Wis. Stats., the Department of Natural Resources will hold public hearings on revisions to Chapter NR 115, Wis. Adm. Code, relating to the shoreland zoning standards under Wisconsin's Shoreland Protection Program. The proposed rule revisions would clarify and modify certain sections of the code to address concerns, expressed by some counties, current standards are unclear or burdensome to implement.

#### Hearing Information

**Date:** Wednesday, August 7, 2013

**Time:** 2:00 p.m. to 6:00 p.m.

**Location:** Town of Greenville  
W6860 Parkview Drive  
Greenville, WI 54942

**Date:** Thursday, August 8, 2013

**Time:** 2:00 p.m. to 6:00 p.m.

**Location:** City of Delafield  
Council Chambers  
500 Genesee Street  
Delafield, WI 53018

**Date:** Wednesday, August 14, 2013

**Time:** 2:00 p.m. to 6:00 p.m.

**Location:** Best Western Tomah Hotel  
1017 E McCoy Boulevard  
Tomah, WI 54660-3264

**Date:** Thursday, August 15, 2013

**Time:** 2:00 p.m. to 6:00 p.m.

**Location:** Spooner High School  
801 County A  
Spooner, WI 54801

**Date:** Thursday, August 22, 2013

**Time:** 2:00 p.m. to 6:00 p.m.

**Location:** Rodeway Inn & Suites  
1738 Comfort Drive,  
Tomahawk, WI, 54487

The Department will provide a short presentation at the beginning of the hearings and then open the hearings to the public for submittal of comments on the proposed rule.

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 Heidi Kennedy at (608) 261-6430 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 Heidi Kennedy, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 or [DNRNR115COMMENTS@wisconsin.gov](mailto:DNRNR115COMMENTS@wisconsin.gov).

Written comments on the proposed rule may be submitted via U.S. mail or email to Heidi Kennedy 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 September 5, 2013.

#### Analysis Prepared by the Department of Natural Resources

##### *Summary of proposed rule*

The State's shoreland management program under Chapter NR 115 provides that shoreland zoning regulations shall: "further the maintenance of safe and healthful conditions: prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses, and reserve shore cover and natural beauty." Chapter NR 115, Wis. Adm. Code, contains the statewide minimum standards for shoreland zoning in unincorporated areas. Although the rule was recently revised in 2009 and went into effect on February 1, 2010, some counties have expressed concerns about implementation and enforcement of the minimum standards regulating impervious surfaces and nonconforming structures. The proposed revisions would address concerns associated with administering and implementing the impervious surface standards and the nonconforming structure standards in the rule. Further, minor changes to the vegetative management and administrative reporting standards will clarify the requirements under the rule and ease reporting requirements.

##### *Impervious Surface Standards*

Current standards under ch. NR 115.05 (1) (e), Wis. Adm. Code, specify that the impervious surface standards be applied to land within 300 feet of the ordinary high water mark. Shoreland mitigation is required if a property expands the impervious surfaces on the property above 15% and limits the amount of impervious surfaces on a property to a maximum of 30%. The proposed rule revisions would ease the application of the impervious surface standards by limiting application of the impervious surface standards to only riparian lots or non-riparian lots that are entirely within 300 feet of the ordinary high water mark and allowing properties to exceed the maximum impervious surface standards if the property owner can show that the runoff from the impervious surfaces is not draining towards a lake or river or is being treated by an engineered system.

The proposed rule language will also allow counties to adopt an ordinance that allows a higher percentage of impervious surfaces for areas of already highly developed shorelines. A highly developed shoreline areas, in the proposed rule language, are areas that were identified as an urbanized area or urban cluster in the 2010 US Census, areas that have a commercial, industrial or business land use classification, or any additional areas that meet the specifications in the proposed rule. Property owners in areas of highly developed shorelines would be allowed to expand the impervious surfaces on their lots, up to 30% for residential and 40% for commercial, industrial or business land uses, without a shoreland zoning permit. To expand the impervious surfaces above this limit, the property owner will have to receive a permit and provide shoreland mitigation. Finally, to expand the impervious surfaces on the property above 40% for residential and 60% for commercial, industrial or business land uses, the property owner would either have to obtain a

variance or show that the additional impervious surface does not drain directly to the lake or river, or that the additional impervious surface is treated by an engineered system.

#### *Nonconforming Structure Standards*

The nonconforming structure standards in ch. NR 115.05 (1) (g), Wis. Adm. Code, allow property owners, whose principal structures are greater than 35 feet from the waterbody, to expand vertically within the required setback and relocate or reconstruct the principal structure if the property owner completes a shoreland mitigation project. Further, property owners may expand principal structures vertically or horizontally beyond the required setback. All property owners are allowed unlimited maintenance and repair of their nonconforming structures, and the scope of these repairs is defined by the county ordinance.

The proposed rule language on shoreland standards would allow a one–time horizontal expansion of 200 square feet, within the setback, with shoreland mitigation. In addition, the proposed standards would eliminate the requirement that property owners must remove all other nonconforming accessory structures to relocate or replace their nonconforming principal structure. Finally, two other minor changes will clarify the statutory language and requirements associated discontinuance of nonconforming uses and wet boathouses.

#### *Vegetative Management Standards*

The proposed rule revision would clarify that the county is not required to issue a permit for the removal of vegetation within the buffer zone if they are managing for exotic, invasive, damaged or diseased vegetation or vegetation that poses an imminent safety hazard if the area is replanted such activities.

#### *Reporting Standards*

Under s. NR 115.05 (4), Wis. Adm. Code, counties are required to adopt an ordinance that contains a number of administrative and reporting requirements. The proposed rule would eliminate a requirement that a county submit copies of any permit issued for a nonconforming structure, if requested by the department.

#### *Statutory authority*

Sections 59.692, 227.11 (2) (a), and 281.31, Stats.

#### *Statutes interpreted*

Sections 59.69, 59.692, 59.694, and 281.31, Stats.

#### *Plain Language Rule Analysis*

##### *Background*

Since August 1, 1966, when the Wisconsin Legislature passed the Water Resources Act (as created by Chapter 614, Laws of 1965), the purpose and direction for shoreland ordinances has been: “To aid in the fulfillment of the state’s role as trustee of its navigable waters and to promote public health, safety, convenience, and general welfare.”

Now codified at s. 281.31, Stats., Wisconsin’s Water Resources Act utilized a novel approach toward comprehensive pollution control by supplementing state–level regulation of direct polluters (industries and municipal treatment plants) with county–administered shoreland ordinances, sanitary codes, and subdivision regulations to control indirect pollution sources. The law required the state to establish practical minimum standards and workable regulations in an area where there had been little

experience. The act’s requirement to enact shoreland ordinances is part of the state’s active public trust duty, which requires the state to protect navigable waters not only for navigation, but also to protect and preserve those waters for fishing, recreation and scenic beauty.

Chapter NR 115 of the Wisconsin Administrative Code contains minimum shoreland zoning standards for ordinances adopted under s. 59.692, Stats., for the purposes specified in s. 281.31 (1), Stats.

#### *Authority*

The proposed amendments to ch. NR 115 are intended to ease the administrative burden of a county to implement the current rule and to give a county more flexibility in how they regulate land use in shorelands. The proposed amendments will also give shoreland property owners more land use options, while still protecting the public interest in navigable waters and adjacent shorelands. Section 281.31 (6), Stats., provides: “Within the purposes of sub. (1), the department shall prepare and provide to municipalities general recommended standards and criteria for navigable water protection studies and planning and for navigable water protection regulations and their administration.” Section 59.692 (1m), Stats., provides that each county shall zone by ordinance all shorelands in its unincorporated area. Section 59.692 (1) (c), Stats., defines “shoreland zoning standard” to mean “a standard for ordinances enacted under this section that is promulgated as a rule by the department.” Section 227.11 (2) (a), Stats., gives the department the authority to promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purposes of the statute.

#### *Revision Rationale*

Chapter NR 115 was created to protect water quality, fish and wildlife habitat and scenic beauty along navigable lakes and rivers by establishing statewide minimum standards including lot sizes, building setbacks from the water’s edge, and limits on tree removal. Controlling the density of development along the waters and creating a buffer around them was the best management practice at the time the rule was adopted in 1970. In response to concerns raised by the counties regarding the implementation and administration of the state’s current shoreland zoning standards in ch. NR 115, the department agreed to revise the regulations to address key concerns relating to the impervious surface standards and nonconforming structure standards and to clarify a vegetative management and reporting standard. The proposed revisions to ch. NR 115 are necessary to address the shoreland areas of the state that were developed prior to the revisions in ch. NR 115 went into effect on February 1, 2010. Many of these areas already exceed the impervious surface standard and/or the maximum impervious surface standard. Any proposed development on these properties would result in an administrative and implementation burden on counties, which would have to require the property owners to either conduct mitigation for any future expansions or receive a variance. In addition, the proposed changes allow for a one time lateral expansion in the setback, providing more flexibility for property owners with nonconforming structures that are structurally unable to expand vertically and are unable to expand beyond the setback. Additional changes are minor clarifications of the vegetative management and reporting requirements of the shoreland zoning standards in ch. NR 115.

### *Revision Process*

The revision package is based on concepts developed, negotiated and compromised during numerous meetings with the Wisconsin County Code Administrators, who represent the county planning and zoning staff, and the department. The department also met with the other partners to the shoreland zoning program including representatives from the Wisconsin Realtors Association, Wisconsin Builders Association, River Alliance and Wisconsin Lakes to obtain their input. The dedication and determination of these individuals proves how important our water resources and adjacent shorelands are in the state.

### *Major provisions and new requirements*

While most of the provisions are minor, the major provisions of the proposal include changes to the impervious surface limits to provide more flexibility for properties that are current developed and already exceed the current maximum impervious surface limit of 30%. The rule revisions also provide more flexibility for property owners by allowing for some lateral expansion of nonconforming structures within the setback. Other minor changes to the rule include clarification of the vegetation management standards and reporting standards.

### *Federal regulatory analysis*

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

### *State Regulatory Analysis*

Wisconsin's Shoreland Management Program is a partnership between state and local governments that requires development near navigable lakes and streams to meet statewide minimum standards. Each Wisconsin county has shoreland ordinance provisions that protect water resource values, water quality, recreation and navigation, fish and wildlife habitat, and natural scenic beauty. Other than the nonconforming structure and substandard lot standards, county ordinances must meet or exceed the minimum state standards contained in ch. NR 115, Wisconsin Administrative Code. The shoreland provisions include:

- setbacks for structures from waterways
- minimum lot sizes
- controls on removing shoreland vegetation
- standards for land disturbance activities
- protection of wetlands
- restrictions on improvements to nonconforming structures

Current development trends continue to pose major challenges to the shoreland program. As new development occurs, long continuous sections of natural shorelines are broken into small fragmented patches. This reduces the availability and quality of habitat needed by shoreline-dependent species, such as loons, eagles, osprey, and many amphibian species, particularly in northern Wisconsin. Along highly developed shorelines, preserving even small amounts of near-shore and fringe wetland habitat becomes critical for maintaining natural reproduction of fish populations. As smaller seasonal cabins are replaced with larger four-season homes, concerns over the size of lots and carrying capacity of the land arise. In addition, development in areas typically considered undevelopable, and second and

third tier development, are now problems that the shoreland program did not predict nearly 40 years ago.

Much has changed in the way we develop waterfront property and the demands we place upon our developed areas. Changes in this program will equip the county with the tools and techniques needed to protect these valuable resource areas while allowing reasonable development to continue for the foreseeable future.

### *State comparison*

#### *Minnesota*

The State of Minnesota has a shoreland program that is also being revised. The Minnesota DNR's website states that an increase in development pressure around lakes and rivers has raised concerns about water quality and impacts on lake use, therefore resulting in the need to review current shoreland minimum standards in the state. Minnesota bases their shoreland program on statewide classification of all surface waters based on size and shape, amount and type of existing development, road and service accessibility, existing natural character of the water and other parameters. Waterbodies are classified as natural environment lakes, recreational development lakes, general development lakes, remote river segments and forested rivers. Each class has specific standards associated with the shoreland ordinance including building setbacks, lot sizes and widths, bluff impact zones, slope requirements, impervious surface limits and others. The state has a somewhat similar standards in treatment of nonconforming structures and limits impervious surfaces to 20%, which is a lower limit than Wisconsin's current rule and would be significantly less than the proposed highly developed shoreline standard in the proposed rule.

#### *Michigan*

The State of Michigan has a wild and scenic rivers protection program to provide special protection to designated rivers. This program is managed similarly to other wild and scenic river protection programs nationwide. The protection standards are outlined in Natural River Zoning Rule 281 which outlines standards for river setbacks, minimum lot widths, special vegetation management standards, and nonconforming structure improvements. Additional activities that may have potential impacts to the public trust or riparian rights, or that may impair or destroy the waters or other natural resources of the state, including inland lakes and streams, the Great Lakes, wetlands, and groundwater, are regulated by the Department of Environmental Quality.

#### *Illinois*

The State of Illinois regulates inland waters through an administrative code detailing conservation measures for public waters. The purpose of the program is to protect the public's interests, rights, safety and welfare in the State's public bodies of water. More specifically, construction is regulated to prevent obstruction to, or interference with, the navigability of any public body of water; encroachment on any public body of water; and impairment of the rights, interests or uses of the public in any public body of water or in the natural resources thereof.

#### *Indiana*

The State of Indiana regulates lake-side construction activities and provides standards for the activities along and within public freshwater lakes. The state also has standards for nonconforming uses and nuisances including the removal of a lawful nonconforming use if the structure or facility

affects public safety, natural resources, natural scenic beauty or the water level of a public freshwater lake.

#### *Iowa*

The state of Iowa has an integrated watershed management and surface water regulation program which includes motor regulations and slow–no–wake areas to reduce shore erosion, and an invasive species program to help safeguard the biological integrity of the lakes and river systems in Iowa. Iowa does not have a specific program for shoreland management or shoreland ordinance requirements. Most of Iowa’s environmental programs are directly mandated by the federal government and required components of Environmental Protection or Federal Emergency Management Agency programs.

#### **Summary of factual data**

This rule revision was the result of a number of meetings with county zoning officials to discuss their concerns with implementing and administering the current standards in ch. NR 115. The department has also met with its other stakeholders to discuss proposed changes and garner their input on the rulemaking process. The meetings with county zoning staff evaluated the new shoreland zoning standards that went into effect on February 1, 2010, and how those regulations would be applied and administered by the local governments. Some key problem areas were identified. The proposed changes to ch. NR 115 are intended to address those key problem areas, clarify the standards and reduce the administrative burden on counties.

A 1997 department study “*Effectiveness of Shoreland Zoning Standards to Meet Statutory Objectives: A Literature Review with Policy Implications*” showed that existing shoreland standards were not adequately achieving the statutory objectives of the program to protect critical fish and wildlife habitat, natural scenic beauty, and water quality of lakes and streams. Scientific studies during the 1990’s found that fish and insect populations and water quality decline dramatically when watershed impervious surfaces reach 8–12%. A northern Wisconsin study found significant declines in populations of green frogs and key bird species on developed shorelines. When purchasing waterfront property, people inherently value clean water, plentiful wildlife and scenic vistas. A study in Maine found that waterfront property values would decline by 5% with a three–foot decline in lake water clarity. More details on these and other supporting studies are provided in the Environmental Assessment for this rule revision.

#### **Anticipated costs incurred by the private sector**

Submission of an application for a permit under the local ordinances will result in costs to the applicant to provide the

needed background information. The application costs will vary by individual permit application depending on the type of project undertaken and the level of detailed information needed to provide local authorities sufficient background information to make a determination.

#### **Effect on Small Business**

Small businesses are not expected to be significantly impacted by the proposed rule changes. Lot size and setback requirements have been imposed on businesses within the shoreland zone since the inception of the program back in the late 1960s. Commercial development has never been, and is not in this proposal, singled out as a different use. The standards apply to small business just like any other development. Standards contained in this rule will allow current facilities to be maintained, and in some cases expand, depending upon the location of the facility. The rule requires local units of government to adopt shoreland ordinances based on these rules. The local units of government will enforce the local ordinances.

Pursuant to ss. 227.114 and 227.137, Wis. Stats., it is not anticipated that the proposed rules will have a significant 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](mailto:smallbusiness@dnr.state.wi.us) or by calling (608) 266–1959.

#### **Environmental Impact**

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

#### **Agency Contact Person**

Heidi Kennedy  
 Department of Natural Resources  
 P.O. Box 7921  
 Madison, WI 53707–7921  
 Telephone: (608) 261–6430  
 Email: [heidi.kennedy@wisconsin.gov](mailto:heidi.kennedy@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

Ch. NR 115, Wisconsin's Shoreland Protection Program

3. Subject

Modify the rule relating to the impervious surface limits, nonconforming structure provisions, vegetation standards and administrative procedures to reduce the administrative burden on counties.

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 modifications to Wisconsin's minimum shoreland zoning standards (NR 115) in 2009, generated some concerns for counties that certain provisions are difficult to implement or are administratively burdensome. The current proposal is to clarify and modify certain sections of the code to reduce the implementation concerns and administrative burden on counties. See Attachment Part I for a more detailed explanation.

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 proposed rule include local governments, businesses located along the waterfront, builders, contractors, landscapers, building centers, nurseries, and garden centers and particular property owners within the shoreland zone. Recreational users of lakes and rivers may experience some negative impacts from the proposed rule if there is a decline in water quality, fish and wildlife habitat or natural scenic beauty due to increased impervious surface limits for highly developed shorelines and lateral expansion of nonconforming structures.

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

No local governments have participated in the development of this draft EIA. However, the department will solicit comments from local governments on this draft EIA and will send a notice to the Wisconsin County Code Administrators, Wisconsin Counties Association, Wisconsin Towns Association and the League of Municipalities.

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)

See Attachment Part II.

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

The primary benefit of these proposed rule revisions is to ease the administrative burden on counties and provide more flexibility for properties that are either highly developed and/or have nonconforming principal structures. The proposed rule revisions will also establish clear and consistent regulatory requirements associated with vegetative management standards and reporting requirements. The proposed rules establish more flexibility and clarify the minimum requirements.

An alternative to promulgation of these proposed rule revisions is to retain the current rule language, but this would not address the concerns that have been raised and would not alleviate concerns about the number of variance applications counties will receive from property owners wishing to expand above the maximum impervious surface limit or those who wish to expand their nonconforming structure within the setback. While the current rule attempted to reduce the administrative burden on counties and reduce the number of variances that property owners would need to expand nonconforming structures, the proposed rule would provide more flexibility for counties. The Department does not believe that there is an alternative method to achieve the rule intent, yet address the concerns that have been expressed.

## 14. Long Range Implications of Implementing the Rule

See Attachment– Part III.

## 15. Compare With Approaches Being Used by Federal Government

There are no specific existing or proposed federal regulation that are intended to address the activities regulated by the shoreland zoning program or the proposed rule modifications.

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

See Attachment– Part IV.

## 17. Contact Name

Russ Rasmussen

## 18. Contact Phone Number

608–267–7651

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

**ATTACHMENT TO ADMINISTRATIVE RULES  
FISCAL ESTIMATE AND  
DRAFT ECONOMIC IMPACT ANALYSIS**

Revision of Rules on  
Ch. NR 115, Wisconsin’s Shoreland Protection Program

**PART I**Policy Problem Addressed by the Rule

Section 281.31 (6), Stats. requires the department prepare and adopt general recommended standards and criteria for municipalities to protect navigable waters giving “particular attention to safe and healthful conditions for the enjoyment of aquatic recreation...the capability of the water resources...building setbacks from the water; preservation of shore growth and cover; shoreland layout for residential and commercial development; suggested regulations and suggestions for the effective administration and enforcement of such regulations.” Section 59.692 (1m), Stats. requires counties to adopt zoning and subdivision regulations for the protection of shoreland areas to effect the purposes of section 281.31 and to promote public health, safety, and general welfare.

The State’s shoreland management program under Chapter NR 115 provides that shoreland zoning regulations shall: “further the maintenance of safe and healthful conditions: prevent and control water pollution: protect spawning grounds, fish and aquatic life: control building sites, placement of structures and land uses, and reserve shore cover and natural beauty.” NR 115, Wis. Adm. Code, contains the statewide minimum standards for shoreland zoning in unincorporated areas. Although the rule was recently revised in 2009 and went into effect on February 1, 2010, some counties have expressed concerns about implementation and enforcement of the minimum standards regulating impervious surfaces and nonconforming structures. The proposed revisions would address concerns associated with administering and implementing the impervious surface standards and the nonconforming structure standards in the rule. Further, minor changes to the vegetative management and administrative reporting standards will clarify the requirements under the rule and ease reporting requirements.

**Impervious Surface standards**

Current standards under ch. NR 115.05 (1) (e), Wis. Adm. Code, specify that the impervious surface standards be applied to land within 300 feet of the ordinary high water mark. Shoreland mitigation is required if a property expands the impervious surfaces on the property above 15% and limits the amount of impervious surfaces on a property to a maximum of 30%. The proposed rule revisions would ease the application of the impervious surface standards by: 1) limiting application of the impervious surface standards to only riparian lots or non–riparian lots that are entirely within 300 feet of the ordinary high water mark; 2) allowing properties to exceed the maximum impervious surface standards if the property owner can show that the runoff



from the impervious surfaces is not draining towards a lake or river or is being treated by an engineered system; 3) allowing counties to develop higher impervious surface limits in certain areas of the county that are already highly developed.

The current rule provides that counties shall regulate any impervious surface that is located within 300 feet of ordinary high water mark. Some counties have indicated that measuring 300 feet from the ordinary high water mark is administratively burdensome and result in properties where the impervious surface standards are only applied to a portion of a property and will thus; require variances or complex calculations of the impervious surface standards. The proposed modifications to the rule would limit application of impervious surface standards to only riparian lots or non-riparian lots that are located entirely within 300 feet of the ordinary high water mark.

Further, the impervious surface regulations currently provide that shoreland property may contain impervious surfaces up to 15%, without a permit. Once a property exceeds 15% impervious surfaces, then the property owner must receive a permit from the county and conduct shoreland mitigation to offset the impacts to the shoreland zone and adjacent waterway. Expanding the impervious surfaces above 30% would require a variance. Some counties and property owners have suggested that impervious surfaces that do not drain toward the waterbody or those that receive some kind of stormwater treatment have less of an impact on water quality than impervious surfaces that drain directly to the waterbody. The proposed rule language would allow property owners to develop or expand the impervious surfaces on their property, above the maximum impervious surface limit, if the property owner can show that the runoff from the impervious surface is not draining directly to the lake or river or that the impervious surface is being treated by an engineered stormwater system.

As described above, the current rule requires that property owners obtain a variance from the county, if the property owner wishes to expand the impervious surfaces on their lot above 30%. In some developed areas, the current maximum impervious surface standards already exceed the maximum impervious surface limit. Any further addition of impervious surfaces on these lots, even minor additions, would require a variance, representing an increased workload for counties.

The proposed rule language allows counties to adopt an ordinance that allows a higher percentage of impervious surfaces for areas of already highly developed shorelines. A highly developed shoreline areas, in the proposed rule language, are areas that were identified as an urbanized area or urban cluster in the 2010 US Census, areas that have a commercial, industrial or business land use classification, or any additional areas that meet the specifications in the proposed rule. Property owners in areas of highly developed shorelines would be allowed to expand the impervious surfaces on their lots, up to 30% for residential and 40% for commercial, industrial or business land uses, without a shoreland zoning permit. To expand the impervious surfaces above this limit, the property owner will have to receive a permit and provide shoreland mitigation. Finally, to expand the impervious surfaces on the property above 40% for residential and 60% for commercial, industrial or business land uses, the property owner would either have to obtain a variance or show that the additional impervious surface does not drain directly to the lake or river, or that the additional impervious surface is treated by an engineered system.

#### **Nonconforming Structure standards**

The nonconforming structure standards in ch. NR 115.05 (1) (g), Wis. Adm. Code, allow property owners, whose principal structures are greater than 35 feet from the waterbody, to expand vertically within the required setback and relocate or reconstruct the principal structure if the property owner completes a shoreland mitigation project. If the property owner chooses to relocate or reconstruct the principal structure, the county must also determine whether there is any other compliant building location on the property and must require that all other nonconforming accessory structures be removed or relocated beyond the required setback. Further, property owners may expand principal structures vertically or horizontally beyond the required setback. All property owners are allowed unlimited maintenance and repair of their nonconforming structures, and the scope of these repairs is defined by the county ordinance.

The proposed rule language on shoreland standards would allow a one-time horizontal expansion within the setback with shoreland mitigation. This revision is to address concerns that some nonconforming principal structures, which are located within the shoreland setback, are either structurally inadequate to allow for the addition of a second story or it is more desirable to build a minor first floor addition to accommodate the needs of the property owner. In addition, the proposed standards would eliminate the requirement that property owners must remove all other nonconforming accessory structures to relocate or reconstruct their nonconforming principal structure. Removal of nonconforming accessory structures is often a key component of shoreland mitigation and if it is a requirement, the counties are not allowed to give credit for the removal of these structures, despite the benefits to the shoreland zone. Further, the counties identified that property owners tend to view the removal of accessory structures more favorably if removal of these structures is optional rather than a requirement.

Finally, two other minor changes to the nonconforming structure standards will clarify the statutory language and requirements associated with nonconforming uses and wet boathouses. Under s. 59.69 (10) (am), Wis. Stats., if a nonconforming use ceases operation for more than 12 months, counties may require the use of the property to come into compliance with the county ordinances. The proposed changes to the rule would clarify the rule language to reflect this statutory language. The other minor change in the proposed rule seeks to eliminate the reference to the maintenance and repair of nonconforming wet boathouses, which are regulated by the department under s. 30.121, Wis. Stats. This reference in NR 115.05 (1) (g) 7. to wet boathouses and compliance with s. 30.121, Wis. Stats. has caused some confusion because counties do not regulate boathouses based upon s. 30.121, Wis Stats.

#### **Vegetative Management Standards**

The current rule provides standards for when counties may allow vegetation to be removed from the vegetative buffer zone, which is the area within 35 feet of the ordinary high water mark. One of the standards provides that counties may allow a property owner to remove vegetation within the buffer zone if they are managing for exotic, invasive, damaged or diseased vegetation or vegetation that poses an imminent safety hazard if the area is replanted. However, the standard is unclear whether or not a county

must require a permit for the removal of this type of vegetation. Therefore, the proposed rule revision would clarify that the county is not required to issue a permit for such activities.

### **Reporting Standards**

Under NR 115.05 (4), Wis. Adm. Code, counties are required to adopt an ordinance that contains a number of administrative and reporting requirements. One of those requirements is to submit any permit the county issues for a nonconforming structure, if requested by the department. The proposed rule would eliminate this requirement because of the administrative burden and cost to the counties and department.

## **PART II**

### Summary of Rule's Economic and Fiscal Impact on Businesses and Local Government

Wisconsin's shoreland protection standards, under NR 115, Wis. Adm. Code, do not distinguish or contain different standards for businesses within the shoreland zone. Therefore, businesses or business sectors are either not directly impacted by the proposed rule, or businesses located within the shoreland zone must meet the same requirements as any other property owner in the shoreland zone. If a business is located in the shoreland zone and the structure is nonconforming or the property exceeds the impervious surface limits, the business may keep what they have and repair or maintain those structures. Specific businesses and business sectors may be indirectly impacted by the proposed rule, depending upon the type of business and location of the business. Given that a primary purpose of the proposed revisions is to ease the administrative burden on counties, some businesses including builders, contractors, building centers, landscapers, nurseries and garden centers may experience some positive economic impacts. The proposed rule language will provide shoreland property owners with increased flexibility for use of their property.

Local county governments will be the primary party affected by the proposed changes in this rule. However, the level of that impact will vary county by county, and it will also vary over time. The initial fiscal impacts will result from ordinance adoption or revision and the costs will depend upon whether or not a county merely adopts the minimum standards, if the county adopts an ordinance that is more restrictive than the minimum standards, or if a county chooses to adopt an ordinance that allows higher impervious surface standards for highly developed shorelines. A 2006 survey asked counties to predict the average cost for initial adoption and implementation of NR 115, Wis. Adm. Code. 38% of the counties responded to the survey, identifying an average cost of \$17,841, with a standard deviation of \$33,059.

It is likely that the costs to adopt a shoreland ordinance including the proposed rule language, may be similar to the projected costs above, but may also be higher if a county chooses to adopt an ordinance that provides higher impervious surface standards for highly developed shorelines. Potential increase in costs for adoption of an ordinance, which provides higher impervious surface limits for highly developed shorelines, will be limited to approximately 15 counties with highly developed shorelines if those counties choose to adopt the higher impervious surface standards into a shoreland ordinance. To help counties defray the cost of ordinance amendments, the proposed rule language would allow counties at least one year to bring their ordinance into compliance. Counties may also be able to apply for and obtain Lakes Planning grants and River Planning grants from the department to help further defray amendment costs. Currently there are 12 counties that have adopted the standards in the current NR 115, Wis. Adm. Code. It is unclear whether or to what extent these 12 counties would further revise their shoreland zoning ordinance as a result of the proposed rule language.

Once the county adopts an ordinance, initial implementation of the ordinance will have short-term costs associated with county staff time explaining the new ordinance language to landowners and businesses. However these costs will decrease over time as county staff, landowners and businesses become more familiar with the new requirements. Additionally, each county will realize cost savings from the proposed rule language due to the reduced number of variances needed if the impervious surface and nonconforming structure standards are adopted.

An example of the potential costs and savings compared to the current rule was provided by the Waukesha County Division of Planning and Zoning. Waukesha County issues approximately 281 permits per year for activities that involve either increasing or modifying the existing impervious surfaces within the shoreland zone. (Table 1) The county does not currently require permits for driveways or walkways, which under the current and proposed NR 115, Wis. Adm. Code, may require a permit. Therefore, utilizing 281 permits per year for comparative analysis is a conservative estimate of the potential workload and costs savings for the county. A random sample by Waukesha County of 41 shoreland properties revealed that none of the properties were below the existing impervious surface standard of 15%, approximately half of the properties were above 15% but below the current maximum impervious standard of 30% and the remaining half of the properties exceeded the maximum impervious surface standards. (Table 2) Extrapolating that data across the entire county suggests that any increases in impervious surfaces within the shoreland zone of Waukesha County will likely require permits and shoreland mitigation, or a variance.

The proposed rule would ease the administrative workload and costs for the county because most of the lakes and some of the rivers within Waukesha County would be considered highly developed shorelines. Thus the proposed changes to the impervious surface standards would reduce the number of administrative permits required with mitigation by 49%, because properties within highly developed shorelines that have less than 30% impervious surface on their lot would not be required to obtain a permit from the county or implement a shoreland mitigation plan. Further, the number of variances required for properties to exceed the maximum impervious surface standards would decrease at least 36% but could also decrease more if those properties could show that the impervious surfaces are draining away from the waterbody or are being treated by an engineered stormwater system.

Table 1. Waukesha County Shoreland  
Permitting  
Average number of annual permits 2006–2011

Activity	Average # Permits
New Homes	48
Remodel/Additions	120
Accessory Buildings	46
Decks/Patios	67
Total	281
*Note– Permits are not currently issued for drive-ways/walkways	

Table 1. Waukesha County Average Percentage of  
Impervious Surface for Riparian Lots

% Impervious Surface	# of Example Sites	% of Example Sites
0–15%	0 of 41	0%
>15–30%	20 of 41	49%
>30–40%	15 of 41	36%
>40–60%	6 of 41	15%

### PART III

#### Long Range Implications of Implementing the Rule

##### **Water Quality, Natural Scenic Beauty and Fish & Wildlife Habitat**

The primary impacts to Wisconsin's lakes and rivers from the proposed rule language will result from the changes to the impervious surface limits, particularly the proposed increase in impervious surface limits for highly developed shorelines, and the proposed change that would allow lateral expansion of nonconforming structures within the setback. These proposed changes to the current rule will allow more development within the shoreland zone than what is currently allowed under NR 115, Wis. Adm. Code, which is likely have long range implications on the water quality, natural scenic beauty, and fish and wildlife habitat of Wisconsin's lakes and rivers.

Impervious surfaces and development within the shoreland zone impact water quality by increasing runoff and pollutant loading into the waterway, which can result in sedimentation, soil erosion, increases in water temperature, increases in phosphorous and algae in lakes and rivers. Impervious surfaces and development within the shoreland zone impact fish and wildlife habitat due to declines in water quality and elimination of shoreline and nearshore habitat by the removal of vegetation or sedimentation that covers important habitat. Numerous studies have shown that fish and amphibian species decline significantly as impervious surfaces and development increases within the shoreland zone. Additionally the diversity of species, including birds and aquatic insects, declines as development occurs. Most of the studies have found that when impervious surfaces exceed 12% within a watershed, that the fish and wildlife diversity declines sharply.

While some studies have shown that maintenance of a shoreland buffer and stormwater ponds may mitigate some of these impacts to fish and wildlife habitat, the studies agree that there are no longer detectable benefits once the impervious surfaces in the watershed exceed 30%. However, it is important to note that once impervious surfaces exceed 30% within the watershed, the impacts on water quality and fish and wildlife habitat begin to be marginalized over time. Consequently, those watersheds that already exceed 30% impervious are likely already experiencing impacts to water quality and fish and wildlife habitat, such that the proposed rule changes may not result in any further measurable impacts over time. Therefore, while the proposed changes to the impervious surface limits and the nonconforming structure standards may result in impacts to the shoreland zone over time, the impacts are expected to be larger for those watersheds that currently have a lower percentage of impervious surfaces or development, whereas the already highly developed watersheds in the state may not have any noticeable or significant changes in water quality or fish and wildlife habitat.

Although studies have shown the substantial benefits to water quality, habitat and natural scenic beauty from maintaining a shoreland buffer and limiting impervious surfaces within a watershed, there is insufficient data or robust models that can calculate the actual costs and dollar values. To calculate the costs of declining water quality, habitat, and natural scenic beauty, a model would need to determine people's willingness to pay via contingent valuation surveys of riparian property owners, recreational users of the waterways and passive users, who would enjoy the shoreland zone for the important functions it provides, such as bird habitat for bird watchers and ornithologists.

##### **Counties & shoreland property owners**

The long-term effects of the proposed rule revision for counties are reduced administrative costs and greater flexibility for administering a shoreland zoning ordinance as described above. Additionally shoreland property owners will benefit from the increased flexibility and decreased permit requirements when the property owner seeks to expand the impervious surfaces or a nonconforming principal structure. Shoreland property owners enjoy many benefits from higher water quality, including improved fishing and wildlife viewing, opportunities to recreate in clear water, and increased enjoyment of natural beauty.

Consequently, property owners may also experience costs from the proposed rule revisions in the form of decreased property value as a result of additional development.

A number of different studies have estimated the effects of increased water clarity (Secchi measurements) on property values. These studies used hedonic pricing models to examine the change in property values occurring over time. Studies, particularly those in Wisconsin, have found a change of \$7,894 to \$17,892 in property value for an increase in water clarity of one meter in depth. Lower valued properties would probably experience less of a change than higher valued properties. Therefore, if the proposed rules allow for additional development within the shoreland zone and if some waterbodies experience a decline in water quality over time, it is reasonable to conclude that the proposed rule language may have a negative impact on property values over time. However, it is difficult to estimate the potential impacts to property value, in large part because it will depend upon many variables, including the degree of impacts, the real estate market and the type of waterbody.

## **PART IV**

### Compare with Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

*Minnesota and Wisconsin have considerable inland water resources and have developed shoreland zoning standards with similar goals and standards for development. Other neighboring states to Wisconsin lie within a different ecological landscape and contain few inland water resources. The approaches to shoreland zones taken by other neighboring states have less in common than Minnesota and Wisconsin and in general offer fewer protections for the shoreland zones.*

#### **Minnesota**

The State of Minnesota has a shoreland program that is also being revised. The Minnesota DNR's website states that an increase in development pressure around lakes and rivers has raised concerns about water quality and impacts on lake use, therefore resulting in the need to review current shoreland minimum standards in the state. Minnesota bases their shoreland program on statewide classification of all surface waters based on size and shape, amount and type of existing development, road and service accessibility, existing natural character of the water and other parameters. Waterbodies are classified as natural environment lakes, recreational development lakes, general development lakes, remote river segments and forested rivers. Each class has specific standards associated with the shoreland ordinance including building setbacks, lot sizes and widths, bluff impact zones, slope requirements, impervious surface limits and others. The state has a somewhat similar standards in treatment of nonconforming structures and limits impervious surfaces to 20%, which is a lower limit than Wisconsin's current rule and would be significantly less than the proposed highly developed shoreline standard in the proposed rule.

#### **Michigan**

The State of Michigan has a wild and scenic rivers protection program to provide special protection to designated rivers. This program is managed similarly to other wild and scenic river protection programs nationwide. The protection standards are outlined in Natural River Zoning Rule 281 which outlines standards for river setbacks, minimum lot widths, special vegetation management standards, and nonconforming structure improvements. The program applies only to wild and scenic rivers. Inland lakes or rivers that are not designated are not protected under the program. Additional activities that may have potential impacts to the public trust or riparian rights, or that may impair or destroy the waters or other natural resources of the state, including inland lakes and streams, the Great Lakes, wetlands, and groundwater, are regulated by the Department of Environmental Quality.

#### **Illinois**

The State of Illinois regulates inland waters through an administrative code detailing conservation measures for public waters. The purpose of the program is to protect the public's interests, rights, safety and welfare in the State's public bodies of water. More specifically, construction is regulated to prevent obstruction to, or interference with, the navigability of any public body of water; encroachment on any public body of water; and impairment of the rights, interests or uses of the public in any public body of water or in the natural resources thereof. Illinois does not have a specific program for shoreland management or shoreland ordinance requirements.

#### **Indiana**

The state of Indiana regulates lake-side construction activities and provides standards for the activities along and within public freshwater lakes. The state also has standards for nonconforming uses and nuisances including the removal of a lawful nonconforming use if the structure or facility affects public safety, natural resources, natural scenic beauty or the water level of a public freshwater lake. Indiana does not have a specific program for shoreland management or shoreland ordinance requirements.

#### **Iowa**

The state of Iowa has an integrated watershed management and surface water regulation program which includes motor regulations and slow-no-wake areas to reduce shore erosion and an invasive species program to help safeguard the biological integrity of the lakes and river systems in Iowa. Iowa does not have a specific program for shoreland management or shoreland ordinance requirements. Most of Iowa's environmental programs are directly mandated by the federal government and required components of Environmental Protection or Federal Emergency Management Agency programs.

## Notice of Hearing

### Public Defender

CR 13-049

NOTICE IS HEREBY GIVEN that pursuant to ss. 977.02 (3) (a) and (4m), 977.075, and 277.11 (2), Stats., the State Public Defender (SPD) will hold a public hearing to consider adopting proposed permanent rules to revise ss. PD 3.02 (1), 6.01, and 6.02 (1) relating to a new case category of felony diversion.

#### Hearing Information

**Date:** Monday, July 29, 2013  
**Time:** 10:00 a.m.  
**Location:** Office of the State Public Defender  
 315 N. Henry Street, 2nd Floor  
 Madison, WI 53703

If you have special needs or circumstances regarding communication or accessibility at a hearing, please call (608) 261-0633 at least 10 days prior to the hearing date.

#### Copies of Proposed Rules, Fiscal Estimate, and Economic Impact Analysis

You may obtain a free copy of the rules, fiscal estimates, and economic impact analysis by contacting the Office of the State Public Defender, Attn: Devon Lee, 315 N. Henry Street, 2<sup>nd</sup> Floor, Madison, WI 53703. You can also obtain a free copy by calling (608) 261-0633 or e-mailing [leede@opd.wi.gov](mailto:leede@opd.wi.gov).

#### Place Where Comments Are to Be Submitted and Deadline for Submission

Written comments on the proposed rules may be submitted **no later than August 1, 2013**, and can be faxed to (608) 267-0584 to the attention of Devon Lee, emailed to [leede@opd.wi.gov](mailto:leede@opd.wi.gov), or mailed to the attention of Devon Lee at the Office of the State Public Defender, 315 N. Henry Street, 2<sup>nd</sup> Floor, Madison, WI 53703.

#### Analysis Prepared by the Office of the State Public Defender

##### *Statutes interpreted*

Sections 977.02 (3) (a) and (4m) and 977.075, Stats.

##### *Statutory authority*

Sections 977.02 (3) (a) and (4m) and 977.075, Stats.

##### *Agency authority*

Section 977.02 (3) (a), Stats., requires the public defender board to consider the anticipated costs of effective representation for the type of case in which the person seeks representation. Section 977.02 (4m), Stats., requires the state public defender board to promulgate rules for payments to the state public defender under s. 977.075, Stats. Section 977.075, Stats., requires the state public defender board to establish by rule a fee schedule that sets the amount that a client responsible for payment shall pay for the cost of the

legal representation if the client does not pay the applicable discount fee.

##### *Related statutes or rules*

None.

##### *Plain language analysis*

This proposed rule will revise three sections of the PD administrative code to include a new “felony diversion” case category. This proposed case category will apply to cases in which the SPD and the prosecutor negotiate felony diversion agreements as an alternative to the filing of formal criminal charges.

SPD case categories reflect the anticipated cost of retained counsel and set the required payment amounts for legal representation. The proposed rule adds the felony diversion case category to three schedules: cost of retained counsel, s. PD 3.02 (1); payment for legal representation, s. PD 6.01; and discount option, s. PD 6.02 (1). The SPD currently provides representation in diversion cases within the case category of “special proceedings.” The new felony diversion case category will more accurately reflect the amount of time attorneys spend when representing clients in felony diversion cases.

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

There are no existing or proposed federal regulations that address the activities of the proposed rules.

##### *Comparison with rules in adjacent states*

Adjacent states (Illinois, Iowa, Michigan, and Minnesota) generally require defendants to reimburse the state or county for the cost of public counsel. Those states do not have rules like Wisconsin regarding the cost of retained counsel, payment for legal representation, and discount options for particular case types.

##### *Summary of factual data and analytical methodologies*

None.

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

The rule will require individuals who are represented in felony diversion cases to pay \$240 toward the cost of their representation, which is lower than for other felony cases. Clients also have the option to pay a lower discount amount of \$60 as provided in s. PD 6.02 (1). As this rule would impact only individual clients of the SPD, there is no anticipated economic impact of implementing the rule.

##### **Effect on Small Business**

None.

##### **Agency Contact Person**

Devon Lee, [leede@opd.wi.gov](mailto:leede@opd.wi.gov) or (608) 261-0633  
 Office of the State Public Defender  
 315 N. Henry Street, 2<sup>nd</sup> Floor  
 Madison, WI 53703.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
<b>ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS</b>		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Administrative Rule Chapter PD 3, Indigency Criteria, s. 3.02. Administrative Rule Chapter PD 6, Payment for State Public Defender Representation, ss. 6.01 and 6.02.		
Subject		
Creation of Felony Diversion case category.		
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		None
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors	
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
The anticipated cost of counsel reflects the likely cost for a prospective client to hire a private attorney. The SPD includes this amount in its determination of an applicant's financial eligibility for SPD services. The required payment for legal representation reflects the average attorney costs for the SPD in the respective case categories. A new felony diversion case category will more accurately reflect the amount of time attorneys spend when representing clients in felony diversion cases.		
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 has 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. There are no implementation or compliance costs.		
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule		
A new felony diversion case category will more accurately reflect the amount of time attorneys spend when representing clients in felony diversion cases. The rule will require individuals who are represented in felony diversion cases to pay \$240 toward the cost of their representation, which is lower than for other felony cases. This increased cost reflects the significant time attorneys invest in felony diversion cases. Clients also have the option to pay a lower discount amount of \$60 as provided in PD s. 6.02 (1).		
Long Range Implications of Implementing the Rule		
There are no long range implications of implementing the rule.		
Compare With Approaches Being Used by Federal Government		
The case categories used by the office of the state public defender are unique to the SPD and have no federal equivalent.		

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

Neither Illinois nor Michigan has a statewide public defender system. In Iowa, courts order defendants to repay the costs for a public defender to the extent they are able. In Minnesota, courts may require a defendant to reimburse the state for legal fees.

## Name and Phone Number of Contact Person

Devon M. Lee  
Legal Counsel  
WI State Public Defender  
(608) 261-0633

**Notice of Hearing****Public Service Commission****CR 13-048**

(PSC Docket # 1-AC-229)

The Public Service Commission of Wisconsin proposes an order to repeal ss. PSC 113.0301 (1m) (j) and (3), 113.0406 (7), 134.062 (2), 134.063 (1) (L), 134.13 (7), 185.33 (18), and 185.37 (2) (L); to amend ss. PSC 113.0301 (1m) (i), 134.062 (1) (k), and 185.37 (2) (k); and to create ss. PSC 113.0408, 113.0409, 134.051, 134.053, 185.30, and 185.305, relating to applications for service and the Fair and Accurate Credit Transactions Act.

**Hearing Information**

Pursuant to s. 227.16 (2) (b), Stats., the commission will hold a public hearing on these proposed rules.

**Date:** Monday, July 29, 2013  
**Time:** 10:00 a.m.  
**Location:** Amnicon Falls Hearing Room  
Public Service Commission Building  
610 North Whitney Way  
Madison, Wisconsin

This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to get this document in a different format should contact Justin Chasco, as indicated in the previous paragraph, as soon as possible.

**Written Comments**

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **Monday, August 12, 2013 at noon**. All written comments must include a reference on the filing to docket 1-AC-229. File by one mode only.

**Industry:** File comments using the Electronic Regulatory Filing system. This may be accessed from the commission's web site ([psc.wi.gov](http://psc.wi.gov)).

**Members of the Public:** Please submit your comments in one of the following ways:

- **Electronic Comment.** Go to the commission's web site at <http://psc.wi.gov>, and click on the "ERF - Electronic Regulatory Filing" graphic on the side menu bar. On the next page, click on "Need Help?" in

the side menu bar for instructions on how to upload a document.

- **Web Comment.** Go to the commission's web site at <http://psc.wi.gov>, click on the "Public Comments" button on the side menu bar. On the next page select the "File a comment" link that appears for docket number 1-AC-229.

- **Mail Comment.** All comments submitted by U.S. Mail must include the phrase "Docket 1-AC-229 Comments" in the heading, and shall be addressed to:

Sandra J. Paske, Secretary to the Commission  
Public Service Commission  
P.O. Box 7854  
Madison, WI 53707-7854

The commission does not accept comments submitted via e-mail or facsimile (fax). Any material submitted to the commission is a public record and may appear on the commission's web site. Only one comment may be submitted per person during a comment period. The commission may reject a comment that does not comply with the requirements described in this notice.

**Analysis Prepared by the Public Service Commission of Wisconsin****Statutory authority and explanation of authority**

This rule is authorized under ss. 196.02 (1) and (3), 196.745 (1) (a), and 227.11, Stats.

Section 227.11, Stats., authorizes agencies to promulgate administrative rules. Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3), Stats., grants the commission specific authority to promulgate rules. Section 196.745 (1) (a), Stats., grants the commission specific authority to adopt rules requiring that the construction and operation of gas facilities be done in a reasonably adequate and safe manner.

**Statutes interpreted**

Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.03 (1) Stats., requires public utilities to furnish adequate service. Section 196.37 (2), Stats., requires utility practices and services to be reasonable.

**Related statutes or rules**

Chapters PSC 113, 134, and 185, which contain the commission's rules for the provision of service by electric utilities, standards for gas service and standards for water public utility service.

**Brief summary of rule**

This rule is intended to harmonize the requirements of the Fair Credit Reporting Act with the commission's administrative rules on the provision of service by utilities.

Specifically, the rule requires public utilities in Wisconsin to take steps to identify and mitigate identity theft risks by verifying the identity of applicants for service as required by the FACT rules. Many Wisconsin utilities already use procedures consistent with the requirements of this rule. This rule permits utilities to require an applicant for service to provide initial identifying information. If an applicant for service refuses to provide identifying information or provides inadequate identifying information, the rule permits utilities to require additional identifying information as a pre-condition for establishing service. If an applicant for service fails to provide identifying information, the utility may refuse to provide service to the applicant.

#### ***Comparison with existing or proposed federal regulations***

The Fair and Accurate Credit Transactions Act<sup>1</sup> (FACT) included a number of changes to the Fair Credit Reporting Act<sup>2</sup>. Many of these changes addressed identity theft risks and plans that companies must develop to ensure the identity of those who already have accounts, or who open new accounts, with the company. This rule is intended to harmonize the requirements of the federal government and the commission with regard to identity theft risks.

<sup>1</sup>Pub. L. No. 108–159, 117 Stat. 1952.

<sup>2</sup>15 U.S.C. 1681.

#### ***Comparison with similar rules in adjacent states***

Michigan permits utilities to request customer identification similar to this rule (MI Admin. Rule 460.106). Illinois (see, e.g., 83 Ill. Adm. Code 280.70), Minnesota, and Iowa (see Iowa Admin. Code r. 199–19.4(16)) do not have administrative rules either allowing or prohibiting a utility to require identification as a pre-condition for service, but each state requires utilities to comply with company-specific tariffs when they review applications for service. Many of those tariffs allow utilities to require supporting documentation, including identification.

#### **Effect on Small Business**

This rule has no effect on small businesses since these utilities, as monopolies and unlike small businesses, are all dominant in their field. Further, these rules primarily harmonize the commission’s rules on the provision of utility service with federal regulations.

#### **Initial Regulatory Flexibility Analysis**

This rulemaking will not have an effect on small business.

#### **Contact Person**

Questions regarding this matter should be directed to Justin Chasco at (608) 266–3708 or [justin.chasco@wisconsin.gov](mailto:justin.chasco@wisconsin.gov). Small business questions may be directed to Anne Vandervort, Gas and Energy Division, at (608) 266–5814, or [anne.vandervort@wisconsin.gov](mailto:anne.vandervort@wisconsin.gov); Gary Evenson, Telecommunications Division, at (608) 266–6744, or [gary.evanson@wisconsin.gov](mailto:gary.evanson@wisconsin.gov); or Denise Schmidt, Water Division, at (608) 266–1282 or [denise.schmidt@wisconsin.gov](mailto:denise.schmidt@wisconsin.gov). Media questions should be directed to Nathan Conrad, Communications Director, at (608) 266–9600. Hearing- or speech-impaired individuals may also use the commission’s TTY number: If calling from Wisconsin, (800) 251–8345; if calling from outside Wisconsin, (608) 267–1479.

#### **Text of the Rules**

**SECTION 1.** PSC 113.0301 (1m) (i) is amended to read:  
PSC 113.0301 (1m) (i) Failure of an applicant for utility service to provide adequate verification of identity and residency, as provided in sub.(3) to provide information or documentation required by s. PSC 113.0306.

**SECTION 2.** PSC 113.0301 (1m) (j) and (3) are repealed.

**SECTION 3.** PSC 113.0406 (7) is repealed.

**SECTION 4.** PSC 113.0408 and 113.0409 are created to read:

#### **PSC 113.0408 Application for residential service.**

(1) For purposes of this section, “written” or “in writing” means legibly printed on paper or, with the intended recipient’s permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2) (a) A residential user of electric service shall apply for service.

(b) A utility may require a verbal or written application for residential service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service.

(c) 1. Except as provided in par. (d), a utility may only require that an applicant provide the following information in an application:

a. Legal name and birthdate of the user of service and the person responsible for bill payment, if different than the user.

b. If the user of service and person responsible for bill payment have telephone service, the telephone number of the user of service and the person responsible for bill payment, if different than the user. Lack of telephone service is not grounds for service refusal.

c. Address where service is to be provided.

d. Mailing address if different from service address.

e. Date requested for service to begin.

f. The most recent previous address of the person responsible for bill payment.

g. Initial identification data under subd. 2.

2. A utility shall accept any of the following items as adequate initial identification data:

a. Driver’s license number.

b. State identification card number.

c. Passport number.

d. Social security number.

3. If a utility requests the initial identification data under subd. 2., it shall inform the applicant of all acceptable forms of initial identification data and allow the applicant to choose which the applicant wishes to provide.

(d) If a utility determines that an applicant’s response under par. (c) 1.a. to f. indicates that additional information is necessary to further evaluate the applicant’s credit history or identity, the utility may require the applicant’s addresses for the past 6 years as part of its application for service. Each utility shall establish a written policy for requesting the application information under this paragraph.

(e) A utility may request information other than that listed in pars. (c) and (d), but before requesting it the utility shall inform the applicant that providing that information is optional.



(f) A utility may refuse service for failure to provide any information specified in par. (c) 1.a., c., e. to h., or par. (d).

**Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under s. 113.0408(2)(c)1.g.

(3) **IDENTITY AND RESIDENCY VERIFICATION.** (a) A utility may require verification of the initial identification data or the residency, or both, of the person responsible for bill payment under any of the following circumstances:

1. The application is for service at a premises where a bill remains unpaid for service provided within the previous 24 months.

2. The person responsible for bill payment has an outstanding bill with the utility but claims that the bill was accrued in the person's name as a result of identity theft.

3. The applicant fails to provide the initial identification data under sub. (2) (c) 1. g. or the utility finds, with reasonable certainty, that the initial identification information is inaccurate.

(b) A utility shall establish a written policy for when it will require verification of identity or residency under par. (a).

(c) A utility shall accept any of the following items as adequate verification of identity:

1. Any one of the following items:

a. Valid driver's license or other photo identification issued by a state, U.S., or tribal governmental entity.

b. Valid U.S. military or military dependent identification card.

c. Valid passport.

2. Any two of the following items:

a. Social security card.

b. Certified copy of a marriage certificate.

c. Certified copy of a judgment of divorce or legal separation.

d. Military discharge papers, including federal form DD-214.

e. Valid student identification card with the applicant's photo.

f. Current employee photo identification card that includes information, such as the employer's telephone number or address, which can be used for verification purposes.

g. Letter of identification from a social service agency or employer that includes information, such as the agency or employer's telephone number or address, which can be used for verification purposes.

(d) 1. A utility shall accept any one of the following items as adequate verification of an applicant's residency:

a. Current utility bill.

b. Current financial institution statement.

c. Rental agreement.

d. Documents indicating home purchase.

e. Current paycheck or pay stub showing the applicant's name and address, and the employer's name.

f. Verification of address provided by a social service or government agency.

2. A utility may require an applicant to provide information that may be used for verification purposes, such as a telephone number or address, if the applicant submits one of the items in subd. 1. b., c., e., or f. to the utility.

(e) If a request for verification of identity or residency is based on par. (a) 2., the utility may require that the applicant provide the information in s. 196.23 (1), Stats.

(f) If a utility requests information under this subsection, it shall inform the applicant of all items that are acceptable for verification of identity or residency, and allow the applicant to choose which items the applicant wishes to provide.

(g) If an applicant refuses to provide the information under sub. (3)(c) or (d) or a utility finds, with reasonable certainty, that the verification is inadequate or falsified, the utility may request an additional item, refuse service or disconnect service.

(4) **PROCESSING APPLICATIONS AND PROVIDING NOTICE.** (a) A utility shall approve or deny an application for service no later than 5 days after receipt of the information required under this section.

(b) A utility shall notify the applicant in writing within 5 days of its denial. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.

2. The applicant's right to ask commission staff to review the refusal.

3. The commission's address, telephone number and web site.

**Note:** For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity or residency information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the most recent previous address of the person responsible for payment and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

**PSC 113.0409 Application for commercial and farm service.**

(1) For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2)(a) A user of electric service shall apply for service in a form specified by the utility.

(b) A utility may require a verbal or written application for commercial or farm service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service

(c) The utility may only require that an applicant provide the following information in an application:

1. Legal name of the user of service and the person responsible for bill payment, if different than the user.

2. Telephone number of the user of service and the person responsible for bill payment, if different than the user.

3. Address where service is to be provided.
4. Mailing address if different from service address.
5. Date requested for service to begin.
6. The most recent previous address of the person responsible for bill payment.
7. Credit information under par. (e).
8. Initial identification data under par. (f).

(d) A utility may request information other than that listed in par. (c), but before requesting it the utility shall inform the applicant that providing that information is optional.

(e) A utility may request reasonable credit information from a commercial or farm applicant as part of its application for service. A utility shall establish a written policy about when it will request credit information and what credit information it will request.

(f) A utility shall accept any of the following items as adequate initial identification data:

1. Federal employer identification number or proof that it has been applied for but not yet granted.
2. Wisconsin department of financial institutions identification number.
3. Wisconsin seller's permit identification number.

(g) A utility may refuse service for failure to provide any information specified in pars. (c) 1. to 7., or (f).

**Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under par. (b) 8.

(3) **IDENTITY VERIFICATION.** (a) A utility may require verification of the initial identification data of an applicant for commercial or farm service under any of the following circumstances:

1. An applicant refuses to provide the information under sub. (2) (c), (e) or (f).
2. The utility finds, with reasonable certainty, that the information provided under sub. (2) (c), (e) or (f) is inadequate or falsified.

(b) A utility shall establish a written policy for when it will require verification of identity under this subsection.

(c) A utility shall accept any of the following items as adequate verification of identity:

1. State or federal income tax returns.
2. Internal Revenue Service letter assigning federal employer identification number.
3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's permit identification number.
4. Business articles of incorporation, partnership agreement, limited liability company articles of organization, or similar organizational documents.

(d) A utility may refuse or disconnect service if it does not obtain adequate verification of identity.

(4) **PROCESSING APPLICATIONS AND PROVIDING NOTICE.** (a) A utility shall approve or deny an application for service no later than 5 days after receipt of the information required under this section.

(b) A utility shall notify the applicant in writing within 5 days of the denial of application. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.
2. The applicant's right to ask commission staff to review the refusal.
3. The commission's address, telephone number and web site.

**Note:** For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the potential user's mailing address and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

**SECTION 5.** PSC 134.051 and 134.053 are created to read:

**PSC 134.051 Application for residential service.**

(1) For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2) (a) A residential user of gas service shall apply for service.

(b) A utility may require a verbal or written application for residential service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service.

(c) 1. Except as provided in par. (d), a utility may only require that an applicant provide the following information in an application:

- a. Legal name and birthdate of the user of service and the person responsible for bill payment, if different than the user.
- b. If the user of service and person responsible for bill payment have telephone service, the telephone number of the user of service and the person responsible for bill payment, if different than the user. Lack of telephone service is not grounds for service refusal.

- c. Address where service is to be provided.
- d. Mailing address if different from service address.
- e. Date requested for service to begin.
- f. The most recent previous address of the person responsible for bill payment.

g. Initial identification data under subd. 2.

2. A utility shall accept any of the following items as adequate initial identification data:

- a. Driver's license number.
- b. State identification card number.
- c. Passport number.
- d. Social security number.

3. If a utility requests the initial identification data under subd. 2., it shall inform the applicant of all acceptable forms of initial identification data and allow the applicant to choose which the applicant wishes to provide.

(d) If a utility determines that an applicant's response under par. (c) 1.a. to f. indicates that additional information is necessary to further evaluate the applicant's credit history or identity, the utility may require the applicant's addresses for the past 6 years as part of its application for service. Each utility shall establish a written policy for requesting the application information under this paragraph.

**Note:** Also see s. PSC 134.061, which allows a request for a deposit if an applicant has an outstanding account balance that accrued within the last 6 years.

(e) A utility may request information other than that listed in pars. (c) and (d), but before requesting it the utility shall inform the applicant that providing that information is optional.

(f) A utility may refuse service for failure to provide any information specified in par. (c) 1.a., c., e. to h. or par. (d).

**Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under s. PSC 134.051 (1) (c) 1. g.

(3) **IDENTITY AND RESIDENCY VERIFICATION.** (a) A utility may require verification of the initial identification data or the residency, or both, of the person responsible for bill payment under any of the following circumstances:

1. The application is for service at a premises where a bill remains unpaid for service provided within the previous 24 months.

2. The person responsible for bill payment has an outstanding bill with the utility but claims that the bill was accrued in the person's name as a result of identity theft.

3. The applicant fails to provide the initial identification data under sub. (2) (c) 1. g. or the utility finds, with reasonable certainty, that the initial identification information is inaccurate.

(b) A utility shall establish a written policy for when it will require verification of identity or residency under par. (a).

(c) A utility shall accept any of the following items as adequate verification of identity:

1. Any one of the following items:

a. Valid driver's license or other photo identification issued by a state, U.S., or tribal governmental entity.

b. Valid U.S. military or military dependent identification card.

c. Valid passport.

2. Any two of the following items:

a. Social security card.

b. Certified copy of a marriage certificate.

c. Certified copy of a judgment of divorce or legal separation.

d. Military discharge papers, including federal form DD-214.

e. Valid student identification card with the applicant's photo.

f. Current employee photo identification card that includes information, such as the employer's telephone number or address, which can be used for verification purposes.

g. Letter of identification from a social service agency or employer that includes information, such as the agency or employer's telephone number or address, which can be used for verification purposes.

(d) 1. A utility shall accept any one of the following items as adequate verification of an applicant's residency:

a. Current utility bill.

b. Current financial institution statement.

c. Rental agreement.

d. Documents indicating home purchase.

e. Current paycheck or pay stub showing the applicant's name and address, and the employer's name.

f. Verification of address provided by a social service or government agency.

2. A utility may require an applicant to provide information that may be used for verification purposes, such as a telephone number or address, if the applicant submits one of the items in subd. 1. b., c., e., or f. to the utility.

(e) If a request for verification of identity or residency is based on par. (a) 2., the utility may require that the applicant provide the information in s. 196.23 (1), Stats.

(f) If a utility requests information under this subsection, it shall inform the applicant of all items that are acceptable for verification of identity or residency, and allow the applicant to choose which items the applicant wishes to provide.

(g) If an applicant refuses to provide the information under pars. (c) or (d) or a utility finds, with reasonable certainty, that the verification is inadequate or falsified, the utility may request an additional item, refuse service or disconnect service.

(4) **PROCESSING APPLICATIONS AND PROVIDING NOTICE.** (a) A utility shall approve or deny an application for service no later than 5 days after receipt of the information required under this section.

(b) A utility shall notify the applicant in writing within 5 days of its denial. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.

2. The applicant's right to ask commission staff to review the refusal.

3. The commission's address, telephone number and web site.

**Note:** For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity or residency information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the most recent previous address of the person responsible for payment and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

**PSC 134.053 Application for commercial and farm service.**

(1) For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2) (a) A user of gas service shall apply for service in a form specified by the utility.

(b) A utility may require a verbal or written application for commercial or farm service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service

(c) The utility may only require that an applicant provide the following information in an application:

1. Legal name of the user of service and the person responsible for bill payment, if different than the user.
2. Telephone number of the user of service and the person responsible for bill payment, if different than the user.
3. Address where service is to be provided.
4. Mailing address if different from service address.
5. Date requested for service to begin.
6. The most recent previous address of the person responsible for bill payment.
7. Credit information under par. (e).
8. Initial identification data under par. (f).

(d) A utility may request information other than that listed in par. (c), but before requesting it the utility shall inform the applicant that providing that information is optional.

(e) A utility may request reasonable credit information from a commercial or farm applicant as part of its application for service. A utility shall establish a written policy about when it will request credit information and what credit information it will request.

(f) A utility shall accept any of the following items as adequate initial identification data:

1. Federal employer identification number or proof that it has been applied for but not yet granted.
2. Wisconsin department of financial institutions identification number.
3. Wisconsin seller's permit identification number.

(g) A utility may refuse service for failure to provide any information specified in pars. (c) 1. to 7., or (f).

**Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under par. (b) 8.

(3) **IDENTITY VERIFICATION.** (a) A utility may require verification of the initial identification data of an applicant for commercial or farm service under any of the following circumstances:

1. An applicant refuses to provide the information under sub. (2) (c), (e) or (f).
2. The utility finds, with reasonable certainty, that the information provided under sub. (2) (c), (e) or (f) is inadequate or falsified.

(b) A utility shall establish a written policy for when it will require verification of identity under this subsection.

(c) A utility shall accept any of the following items as adequate verification of identity:

1. State or federal income tax returns.
2. Internal Revenue Service letter assigning federal employer identification number.
3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's permit identification number.

4. Business articles of incorporation, partnership agreement, limited liability company articles of organization, or similar organizational documents.

(d) A utility may refuse or disconnect service if it does not obtain adequate verification of identity.

(4) **PROCESSING APPLICATIONS AND PROVIDING NOTICE.** (a) A utility shall approve or deny an application for service no later than 5 days after receipt of the information required under this section.

(b) A utility shall notify the applicant in writing within 5 days of the denial of application. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.
2. The applicant's right to ask commission staff to review the refusal.
3. The commission's address, telephone number and web site.

**Note:** For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the potential user's mailing address and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

**SECTION 6.** PSC 134.062(1)(k) is amended to read:

PSC 134.062 (1) (k) Failure of an applicant for utility service to provide ~~adequate verification of identity and residency, as provided in sub. (2)~~ information or documentation required by s. PSC 134.051.

**SECTION 7.** PSC 134.062 (2), 134.063 (1) (L) and 134.13 (7) are repealed.

**SECTION 8.** PSC 185.30 and 185.305 are created to read:

**PSC 185.30 Application for residential and multifamily service.** (1) For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2) (a) A residential or multifamily user of water service shall apply for service.

(b) A utility may require a verbal or written application for residential service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service.

(c) 1. Except as provided in par. (d), a utility may only require that an applicant provide the following information in an application:

- a. Legal name and birthdate of the user of service and the person responsible for bill payment, if different than the user.

b. If the user of service and person responsible for bill payment have telephone service, the telephone number of the user of service and the person responsible for bill payment, if different than the user. Lack of telephone service is not grounds for service refusal.

- c. Address where service is to be provided.
- d. Mailing address if different from service address.
- e. Date requested for service to begin.
- f. The most recent previous address of the person responsible for bill payment.

g. Initial identification data under subd. 2.

2. A utility shall accept any of the following items as adequate initial identification data:

- a. Driver's license number.
- b. State identification card number.
- c. Passport number.
- d. Social security number.

3. If a utility requests the initial identification data under subd. 2., it shall inform the applicant of all acceptable forms of initial identification data and allow the applicant to choose which the applicant wishes to provide.

(d) If a utility determines that an applicant's response under par. (c) 1.a. to f. indicates that additional information is necessary to further evaluate the applicant's credit history or identity, the utility may require the applicant's addresses for the past 6 years as part of its application for service. Each utility shall establish a written policy for requesting the application information under this paragraph.

**Note:** Also see s. PSC 185.36, which allows a request for a deposit if an applicant has an outstanding account balance that accrued within the last 6 years.

(e) A utility may request information other than that listed in pars. (c) and (d), but before requesting it the utility shall inform the applicant that providing that information is optional.

(f) A utility may refuse service for failure to provide any information specified in par. (c) 1.a., c., e. and f. or par. (d).

**Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under s. PSC 185.30 (1) (c) 1. g.

(3) IDENTITY AND RESIDENCY VERIFICATION. (a) A utility may require verification of the initial identification data or the residency, or both, of the person responsible for bill payment under any of the following circumstances:

1. The application is for service at a premises where a bill remains unpaid for service provided within the previous 24 months.

2. The person responsible for bill payment has an outstanding bill with the utility but claims that the bill was accrued in the person's name as a result of identity theft.

3. The applicant fails to provide the initial identification data under sub. (2) (c) 1. g. or the utility finds, with reasonable certainty, that the initial identification information is inaccurate.

(b) A utility shall establish a written policy for when it will require verification of identity or residency under par. (a).

(c) A utility shall accept any of the following items as adequate verification of identity:

- 1. Any one of the following items:
  - a. Valid driver's license or other photo identification issued by a state, U.S., or tribal governmental entity.

b. Valid U.S. military or military dependent identification card.

c. Valid passport.

2. Any two of the following items:

- a. Social security card.
- b. Certified copy of a marriage certificate.
- c. Certified copy of a judgment of divorce or legal separation.
- d. Military discharge papers, including federal form DD-214.

e. Valid student identification card with the applicant's photo.

f. Current employee photo identification card that includes information, such as the employer's telephone number or address, which can be used for verification purposes.

g. Letter of identification from a social service agency or employer that includes information, such as the agency or employer's telephone number or address, which can be used for verification purposes.

(d) 1. A utility shall accept any one of the following items as adequate verification of an applicant's residency:

- a. Current utility bill.
- b. Current financial institution statement.
- c. Rental agreement.
- d. Documents indicating home purchase.
- e. Current paycheck or pay stub showing the applicant's name and address, and the employer's name.

f. Verification of address provided by a social service or government agency.

2. A utility may require an applicant to provide information that may be used for verification purposes, such as a telephone number or address, if the applicant submits one of the items in subd. 1. b., c., e., or f. to the utility.

(e) If a request for verification of identity or residency is based on par. (a) 2., the utility may require that the applicant provide the information in s. 196.23 (1), Stats.

(f) If a utility requests information under this subsection, it shall inform the applicant of all items that are acceptable for verification of identity or residency, and allow the applicant to choose which items the applicant wishes to provide.

(g) If an applicant refuses to provide the information under pars. (c) or (d) or a utility finds, with reasonable certainty, that the verification is inadequate or falsified, the utility may request an additional item, refuse service or disconnect service.

(4) PROCESSING APPLICATIONS AND PROVIDING NOTICE. (a) A utility shall approve or deny an application for service no later than 5 days after receipt of the information required under this section.

(b) A utility shall notify the applicant in writing within 5 days of its denial. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

- 1. An explanation of why service is being refused.
- 2. The applicant's right to ask commission staff to review the refusal.
- 3. The commission's address, telephone number and web site.

**Note:** For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity or residency information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the most recent previous address of the person responsible for payment and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

**PSC 185.305 Application for nonresidential service. (1)** For purposes of this section, "written" or "in writing" means legibly printed on paper or, with the intended recipient's permission, legibly printed in an electronic form that the recipient can electronically store and retrieve for future reference.

(2) (a) A user of water service shall apply for service in a form specified by the utility.

(b) A utility may require a verbal or written application for nonresidential service. The utility shall establish a written policy for when a written application is required. A utility may accept an application for service from a person other than the user or potential user of service

(c) The utility may only require that an applicant provide the following information in an application:

1. Legal name of the user of service and the person responsible for bill payment, if different than the user.
2. Telephone number of the user of service and the person responsible for bill payment, if different than the user.
3. Address where service is to be provided.
4. Mailing address if different from service address.
5. Date requested for service to begin.
6. The most recent previous address of the person responsible for bill payment.
7. Credit information under par. (e).
8. Initial identification data under par. (f).

(d) A utility may request information other than that listed in par. (c), but before requesting it the utility shall inform the applicant that providing that information is optional.

(e) A utility may request reasonable credit information from a nonresidential applicant as part of its application for service. A utility shall establish a written policy about when it will request credit information and what credit information it will request.

(f) A utility shall accept any of the following items as adequate initial identification data:

1. Federal employer identification number or proof that it has been applied for but not yet granted.
2. Wisconsin department of financial institutions identification number.
3. Wisconsin seller's permit identification number.

(g) A utility may refuse service for failure to provide any information specified in pars. (c) 1. to 7., or (f).

**Note:** See sub. (3) (a) about what can be required if an applicant refuses to provide the initial identification data under par. (b) 8.

(3) **IDENTITY VERIFICATION.** (a) A utility may require verification of the initial identification data of an applicant for nonresidential service under any of the following circumstances:

1. An applicant refuses to provide the information under sub. (2) (c), (e) or (f).
2. The utility finds, with reasonable certainty, that the information provided under sub. (2) (c), (e) or (f) is inadequate or falsified.

(b) A utility shall establish a written policy for when it will require verification of identity under this subsection.

(c) A utility shall accept any of the following items as adequate verification of identity:

1. State or federal income tax returns.
2. Internal Revenue Service letter assigning federal employer identification number.
3. Wisconsin seller's permit or department of revenue letter assigning a Wisconsin seller's permit identification number.
4. Business articles of incorporation, partnership agreement, limited liability company articles of organization, or similar organizational documents.

(d) A utility may refuse or disconnect service if it does not obtain adequate verification of identity.

(4) **PROCESSING APPLICATIONS AND PROVIDING NOTICE.** (a) A utility shall approve or deny an application for service no later than 5 days after receipt of the information required under this section.

(b) A utility shall notify the applicant in writing within 5 days of the denial of application. A utility may notify an applicant verbally before written notification is sent. An application shall be considered denied when a service refusal has been finalized and no immediate conditions that could change that refusal remain. The notification shall include all of the following:

1. An explanation of why service is being refused.
2. The applicant's right to ask commission staff to review the refusal.
3. The commission's address, telephone number and web site.

**Note:** For example, if a utility has told a customer that it would supply service if the customer makes a payment, enters a deferred payment agreement or provides additional identity information under sub. (3), the refusal is still conditional and has not been finalized.

(c) If a third party applies for service, a utility shall send written notification of the application to the potential user's mailing address and the address for which service has been requested.

(d) If an applicant indicates that a third party is responsible for payment, a utility shall send written notification of the approval or denial of an application to both the third party and the applicant within 5 days of the application's approval or denial, although a utility may notify the third party and applicant before written confirmation is sent. If service is refused, the written notification shall include the information in par. (b) 1. to 3.

**SECTION 9.** PSC 185.33(18) and 185.37(2)(L) are repealed.

**SECTION 10.** PSC 185.37(2)(k) is amended to read:  
PSC 185.37 (2) (k) Failure of an applicant for utility service to provide adequate verification of identity and residency, as

provided in sub. (5) (a); the information or documentation required by ss. PSC 185.30 or 185.305.

the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

**SECTION II.** This rule shall take effect on the first day of

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
<b>ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS</b>		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
PSC Ch. 113, 134 and 185		
Subject		
Applications for Utility Service, Fair and Accurate Credit Transactions Act of 2003 (FACT)		
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
This rulemaking is intended to harmonize PSC regulations and federal law that requires utilities to take steps to prevent identity theft.		
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)		
Chapters PSC 113, 134, and 185 contain service rules for the electric, gas and water industries. Changes are being proposed to ensure that these rules do not interfere with a utility's ability to comply with FACT. The changes will allow a utility to refuse service if an applicant fails to provide adequate identity documentation, something that is not allowed under existing rules. Public utilities may incur some compliance costs updating their customer service policies. Comments from the water industry on the draft Economic Impact Analysis noted that requiring municipal water utilities to take applications for service from every new user of service would impose an economic hardship on those utilities that otherwise only require an application the first time service is established at a property. No dollar amounts were included and the impacts appear to be utility specific rather than on a specific sector or the economy as a whole. Utility specific impacts will be considered as part of the hearing process.		

<b>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</b>
Implementing the new rule will allow public utilities to comply with their obligations under various provisions of FACT, the Fair Credit Reporting Act, 31 CFR 103.121, 16 CFR 614 and 681, and 31 CFR 103.121, which address identity theft risk identification and prevention. An alternative to the proposed rule would be to retain the current rules for applications for utility service. Current Commission rules, however, do not allow public utilities to request sufficient supporting documentation for new applicants under current federal law.
<b>Long Range Implications of Implementing the Rule</b>
None.
<b>Compare With Approaches Being Used by Federal Government</b>
This rule making is intended to harmonize PSC regulations and federal law that requires utilities to take steps to prevent identity theft.
<b>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</b>
Michigan allows utilities to request customer identification similar to the proposed rule (MI Admin. Rule 460.106). Illinois (see e.g. 83 Ill. Adm. Code 280.70), Minnesota and Iowa (see Iowa Admin. Code r. 199–19.4(16)) do not have administrative rules either allowing or prohibiting a utility to require an i.d. as a precondition for service, but each state requires utilities to comply with company specific tariffs when they review applications for service. Many of those tariffs allow utilities to require supporting documentation, including i.d.
<b>Name and Phone Number of Contact Person</b>
Lisa Farrell 608–267–9086

## Notice of Hearing

### Safety and Professional Services

#### *Professional Services, Chs. 1–299*

#### **EmR1308, CR 13–047**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in sections 227.11 (2) (a) and 440.26 (2) (c) of the Wisconsin Statutes, the Department of Safety and Professional Services will hold a public hearing at the time and place shown below to consider an order to create section SPS 34.04 (2) (a) 4. relating to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators. As provided in section 227.24 (4) of the Statutes, this hearing will also be for emergency rules currently in effect that have identically created this SPS section.

#### Hearing Information

**Date:** Tuesday, August 6, 2013  
**Time:** 1:00 p.m.  
**Location:** 1400 East Washington Avenue  
Room 121 C  
Madison, Wisconsin

The public hearing site is accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact the Rules Coordinator shown above.

#### Submittal of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and arguments in writing as well. Facts, opinions and arguments may also be

submitted in writing without a personal appearance. All submittals must be directed to Sam Rockweiler, Rules Coordinator, at [sam.rockweiler@wi.gov](mailto:sam.rockweiler@wi.gov); or at the 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 via telecommunications relay services at 711. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

#### Copies of the Rule

Copies of the proposed rules and the corresponding emergency rules are available upon request to the Rules Coordinator shown above, or on the Department's website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49d-a-8fde-046713617e9e>

#### Analysis Prepared by the Department of Safety and Professional Services

##### *Statutes interpreted*

Section 440.26 (2) (c), Stats.

##### *Statutory authority*

Sections 227.11 (2) (a) and 440.26 (2) (c), Stats.

##### *Explanation of agency authority*

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Section 440.26 (2) (c), Stats., obligates the Department to prescribe by rule such qualifications as it deems appropriate relating to the professional competence of private security personnel, private detectives, and private investigators or special investigators.



***Related statute or rule***

Section 175.60 of the Statutes contains authorization and criteria relating to carrying concealed weapons, and chs. Jus 17 and 18 contain the requirements of the Department of Justice for implementing those criteria.

***Plain language analysis***

The proposed rule revisions would add Wisconsin Technical College System schools and other U.S. Department of Education approved institutions to the list of those able to provide training to individuals seeking the Department's approval to be firearms-proficiency certifiers for private security personnel, private detectives, and private investigators or special investigators. Currently, the only entities that are accepted for providing this training are the Wisconsin Law Enforcement Standards Board and the National Rifle Association, Inc. The rule revisions would also allow the Department to adopt or approve a curriculum for training firearms instructors that is separate and distinct from a curriculum established by the Wisconsin Law Enforcement Standards Board or by the National Rifle Association, Inc.

The proposed rule revisions do not modify the current requirement in s. SPS 34.04 (2) (a) (intro.) that a firearms-proficiency certifier "shall have received training as a police or security firearms instructor." The proposed rule revisions also do not modify the current requirements in s. SPS 34.04 for these proficiency certifiers to obtain and biennially renew a credential from the Department that authorizes them to certify the firearms proficiency.

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

The federal government does not regulate training or approval of firearms instructors in the states.

***Comparison with rules in adjacent states:***

An Internet-based search of Web sites from the four adjacent states and contact with corresponding staff there produced the following results relating to firearms instructors for private security personnel, private detectives, and private investigators or special investigators:

**Illinois:** Under section 1240.515 of Title 68 of the Illinois Administrative Code, the Illinois Department of Financial and Professional Regulation approves firearms instructors for private detectives, private security contractors, and proprietary security force employees. The Department's approval of an instructor is based upon receipt of any of the following: (1) a certificate from the NRA, for completing a law enforcement firearms instructor course that included security personnel within the course; (2) an approval from the Illinois Police Training Board as a range instructor; (3) proof of any other firearm-instructor education or experience that the Department considers to be substantially equivalent to the standards in (1) or (2), such as experience or education received in military service or federal law enforcement service; or (4) proof of being a faculty member who is employed by an institution under the jurisdiction of either the Illinois Board of Higher Education or the Illinois Community College Board to teach a firearms training course.

**Iowa:** Under sections 661-121.19 and 661-91.4 of the Iowa Administrative Code, the Iowa Department of Public Safety issues and annually renews professional permits to carry weapons, for private security personnel and private

detectives whose employment reasonably justifies being armed. Initial issuance of the permit is based upon proof of (1) completing a qualified firearm-training program, or (2) an honorable discharge from active duty with the U.S. armed forces, or (3) completing basic training and small arms training for active duty personnel in the U.S. armed forces. A qualified firearm-training program consists of (1) any handgun safety training course available to the general public that utilizes instructors who are certified by either the NRA, the Iowa Law Enforcement Academy, or another state's department of public safety, state police department, or similar certifying body; or (2) any NRA handgun safety training course; or (3) any handgun safety training course approved by the Department that is offered to security guards, investigators, or any division of a security-enforcement agency; or (4) completion of small arms training while serving with the U.S. armed forces. Courses approved by the Department must be substantially equivalent to the Iowa Law Enforcement Academy marksmanship qualification course.

Renewal of a professional permit to carry weapons is based upon documentation of qualifying on a firing range under the supervision of an instructor certified by either the NRA; the Iowa Law Enforcement Academy; or another state's department of public safety, state police department, or similar certifying body.

**Michigan:** No Michigan administrative rules were found relating to firearms instructors for private security personnel or private detectives. Under sections 338.839 and 338.1069 of the Michigan Statutes, private security personnel and private detectives are not authorized to carry a deadly weapon unless they are licensed to do so in accordance with the laws of Michigan. According to staff in the Michigan Department of Licensing and Regulatory Affairs, all firearms licensure is administered by the Michigan Department of State Police. According to staff in the Michigan Department of State Police, no licensing occurs for open carry of firearms by private security personnel or private detectives. However, under Public Act 381 of 2000, the Michigan Commission on Law Enforcement Standards (MCOLES) certifies firearms instructors for teaching an 8-hour pistol safety training course to individuals seeking licensure to carry a concealed pistol. This instructor certification is based upon (1) successfully completing a training program of at least 40 hours that is either registered with MCOLES or is nationally or state-recognized, and (2) complying with several related qualification requirements which are likewise prescribed by MCOLES rather than applied from the statutes or promulgated as rules. Under Act 381, these instructors can alternately become certified by a national organization.

**Minnesota:** Under subpart 4 of part 7506.2300 of the Minnesota Administrative Rules, a firearms instructor for private detectives and protective agents must be certified as a law enforcement or private-security firearms instructor by either a governmental agency, the NRA, or other nationally recognized certifying organization that is approved by the Minnesota Board of Private Detective and Protective Agent Services. No minimum training requirements were found for obtaining this certification.

***Summary of factual data and analytical methodologies***

The methodology for developing these rule revisions consisted primarily of reviewing the portions of 2011

Wisconsin Act 35 and chs. Jus 17 and 18 that relate to training and certification or approval of firearms instructors.

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

The proposed rule revisions do not apply directly to small business. They apply instead to schools in the Wisconsin technical college system and to institutions approved by the U.S. Department of Education that choose to train and certify or approve firearms instructors.

**Fiscal Estimate and Economic Impact Analysis**

The Department estimates that these rule revisions will have no fiscal impact.

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

**Effect on Small Business**

These proposed rules do not have an economic impact on small businesses, as defined in section 227.114 (1) of the Statutes. The Department's Regulatory Review Coordinator may be contacted by email at [greg.gasper@wi.gov](mailto:greg.gasper@wi.gov), or by calling (608) 266-8608.

**Agency Contact Person**

Sam Rockweiler, Rules Coordinator, at the 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 telephone at (608) 266-0797; or by e-mail at [sam.rockweiler@wi.gov](mailto:sam.rockweiler@wi.gov), or by telecommunications relay services at 711.

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

SPS 34 – Firearms and Other Dangerous Weapons, Section 34.04 (2) (a) 4.

3. Subject

Training of Firearms Instructors for Private Security Personnel and Private Detectives

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 current rules do not accept schools in the Wisconsin Technical College System nor other institutions approved by the U.S. Department of Education for providing training to individuals seeking the Department's approval to be firearms-proficiency certifiers for private detectives, private investigators or special investigators, and private security personnel.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule revisions do not apply directly to businesses. They apply instead to schools in the Wisconsin technical college system and to institutions approved by the U.S. Department of Education that choose to train and certify or approve firearms instructors.

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)

The proposed rule revisions do not apply directly to businesses. They apply instead to schools in the Wisconsin technical college system and to institutions approved by the U.S. Department of Education that choose to train and certify or approve firearms instructors.

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

Schools in the Wisconsin Technical College System and other institutions approved by the U.S. Department of Education could provide training to individuals seeking the Department's approval to be firearms-proficiency certifiers for private detectives, private investigators or special investigators, and private security personnel.

14. Long Range Implications of Implementing the Rule

More schools could offer the required training, and the trainees could have more trainer choices to pick from.

15. Compare With Approaches Being Used by Federal Government

The federal government does not regulate training or approval of firearms instructors in the states.

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

See detailed comparison in the rule analysis that accompanies the proposed rule revisions.

17. Contact Name

Sam Rockweiler

18. Contact Phone Number

608-266-0797

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

## Notice of Hearing

### Safety and Professional Services

*Plumbing, Chs. 381—387*

CR 13-046

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in s. 227.11 (2), Wis. Stats., and interpreting ss. 145.02 and 145.13, Wis. Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider an order to amend ss. SPS 382.20 (2) (a) and (2) (a) 2. (Note), SPS 382.40 (6) (a), and SPS 382 APPENDIX A-382.20 (2) and A-382.33 (9) (f)-1 (Note), relating to plumbing plan review by municipal agents.

#### Hearing Information

**Date:** Monday, July 29, 2013  
**Time:** 10:00 a.m.  
**Location:** 1400 East Washington Avenue  
 (Enter at 55 N. Dickenson St.)  
 Room 121A  
 Madison, Wisconsin

#### 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, WI 53708-8935. 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 Jean MacCubbin, Program Manager, 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 [jean.maccubbin@wisconsin.gov](mailto:jean.maccubbin@wisconsin.gov). Comments must be received on or before the public hearing on Monday July 29, 2013, at 10:00 a.m. to be included in the record of rule-making proceedings.

#### Copies of Rule

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

#### Analysis prepared by the Department of Safety and Professional Services

##### *Statutes interpreted*

Sections 145.02 and 145.13, Stats.

##### *Statutory authority*

Section 227.11 (2), Stats.

***Explanation of agency authority***

Section 227.11 (2) (a), Stats., authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

***Related statute or rule***

Chapters SPS 381 to 387.

***Plain language analysis***

The major change in this proposed rule lies within s. SPS 382.20 (2) (a) whereby the requirement of employing two full–time plumbing inspectors is no longer required for the granting of or maintaining municipal agent status. In addition, the proposed rules correct a typographical error in s. SPS 382.40 (6) (a) and update Appendix A–382.20 (2) to direct the reader to the department’s webpage to access the most current listings of agents for plumbing plan review and Appendix A–382.3333 (9) (f)–1 (Note), which reflects the correct citation in the Commercial Building Code, ch. SPS 364.

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

None.

***Comparison with rules in adjacent states***

An Internet–based search found the following requirements for plumbing plan review at the local level in the four adjacent states:

By Illinois statutes and codes each local governmental unit shall with the advice of the State Department of Public Health, provide by ordinance, bylaws, or rules and regulations for the materials, construction, alteration, and inspection of all plumbing placed in or in connection with any building and to provide for and appoint a competent plumbing inspector or more as required. In addition, “No person shall be appointed as a Plumbing Inspector who is not a licensed plumber under this Act, including persons employed as Plumbing Inspectors in home rule units.” [225 ILCS 320/18 (Ch. 111, par. 1117)] No mention of staffing levels for conducting such review or inspection was found.

The State of Iowa has adopted the 2009 edition of the UPC, (uniform plumbing code) as rule 641—Chapter 25(105), Iowa Administrative Code. The search revealed that a separation of state–level plan review and inspection are conducted on the local level when that local unit of government adopts an ordinance to enforce the state codes. However, no mention of staffing levels or credentials for individuals conducting such review or inspection was found.

In the Michigan construction code, (part 7. plumbing code, R 408.30701), the code official enforces such code. Michigan maintains a statewide jurisdiction list that contains the units of government having assumed responsibility for plan review of various trades’ permits, including plumbing. No information was found as to the application or approval requirements for a unit of government to be included on this list or any stipulated staffing levels in this regard.

In Minnesota plumbing installations and licenses are maintained in Minn. Stat. §326B.43; Minn. Rule 4715. Regarding plan submittal and review, the state recognizes cities of the first class (Minneapolis, St. Paul and Duluth) as having their own plumbing programs, including plan submittal and review. A number of other municipalities in this state have plan review agreements with the state agency overseeing plumbing and therefore, take responsibility for plan review on most plumbing projects. No information was found as to the application or approval requirements for a city to be granted plan review with respect to stipulated staffing levels.

***Summary of factual data and analytical methodologies***

The proposed rules were included in a listing of suggested code revisions from the Small Business Regulatory Review Board (SBRRB), October 2012. The recommended changes are expected to make the granting of agent status for plumbing plan review less burdensome to municipalities who desire to be authorized to conduct such service.

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

The proposed rules follow the direction of Executive Order 61 whereby reducing the burden to job creation while complying with the provisions of state statutes. 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.

***Fiscal Estimate and Economic Impact Analysis***

See attached.

***Effect on Small Business***

The department does not believe that the proposed rules will create an impact on small businesses.

***Agency Contact Person***

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708; telephone (608) 266–0955 or Contact Through Relay; email at [jean.maccubbin@wisconsin.gov](mailto:jean.maccubbin@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

Chapter SPS 382, Design, Construction, Installation, Supervision, Maintenance and Inspection of Plumbing, specifically ss. SPS 382.20 (2) (a) and SPS 382.40 (6) (a).

3. Subject

Plumbing plan review by municipal agents.

4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

S. 20.165 (2) (a), Stats.

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 requirement of employing two full-time plumbing inspectors for the granting of municipal agent status would no longer be required. Municipal agents would be allowed flexibility in utilizing staff to conduct this review service based on local need.

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.

Local governmental units, specifically cites of the 2<sup>nd</sup> class.

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

The department solicited input via the EIA Notification; no units of government responded.

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)

Local governmental units could now request agent status for plumbing plan review without employing two full-time plumbing inspectors. Additional revenues could result from conducting this service at the local level.

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

The department would be in the position to authorize more municipalities agent status to conduct plumbing plan review. The department would have the opportunity to streamline internal processes and provide a shortened plumbing plan review turn-around time, while balancing staffing levels with demand for services.

14. Long Range Implications of Implementing the Rule

The department will have the opportunity to balance staffing levels with demand for plumbing plan review services.

## 15. Compare With Approaches Being Used by Federal Government

None known.

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

An Internet–based search shows that, with the exception of Michigan, the adjoining states confer plan review authority upon the local units of government; no rules or laws were found stipulating staffing levels for the granting of such authority or status.

## 17. Contact Name

Jean MacCubbin

## 18. Contact Phone Number

(608) 266–0955

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

## Notice of Hearing

### Safety and Professional Services — Podiatry Affiliated Credentialing Board CR 12–047

NOTICE IS HEREBY GIVEN That pursuant to ss. 15.085 (5) (b), 440.035 (1), 448.63 (3), 448.665, Stats., and interpreting s. 448.63 (3), Stats., the Podiatry Affiliated Credentialing Board will hold a public hearing at the time and place indicated below to consider an order to amend s. POD 1.08 (5) and to create ss. POD 3.02 (4) and 3.03 (3), relating to temporary educational license and continuing education.

#### Hearing Information

**This hearing has been rescheduled from December 14, 2012, to:**

**Date:** Tuesday, July 30, 2013  
**Time:** 10:00 a.m.  
**Location:** 1400 East Washington Avenue  
(Enter at 55 N. Dickenson St.)  
Room 121C  
Madison, Wisconsin

#### Appearances at the Hearing

Interested persons are invited to present information at the hearing. You may make a presentation in person, submit a brief statement regarding facts, opinions or arguments, or both. You may also submit a brief statement of facts, opinions and arguments in writing without a personal appearance by mail addressed to Shawn Leatherwood, Department of Safety and Professional Services, Division of Board Services, P.O. Box 8935, Madison, WI 53708. Written comments will be accepted up until July 30, 2013.

#### Copies of Proposed Rule, Fiscal Estimate, and Economic Impact Analysis

Copies of the proposed rule are available upon request to Shawn Leatherwood, 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 [shancethea.leatherwood@wisconsin.gov](mailto:shancethea.leatherwood@wisconsin.gov).

#### Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Shawn Leatherwood, Department of Safety and Professional Services, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708–8935, or by email to [shancethea.leatherwood@wisconsin.gov](mailto:shancethea.leatherwood@wisconsin.gov). Comments must be received on or before July 30, 2013 to be included in the record of rule–making proceedings.

#### Analysis Prepared by the Department of Safety and Professional Services

##### *Statutes interpreted*

Section 448.63 (3), Stats.

##### *Statutory authority*

Sections 15.085 (5) (b), 440.035 (1), 448.63 (3), 448.665, Stats.

##### *Explanation of agency authority*

The Podiatrists Affiliated Credentialing Boards is charged with promulgating rules that govern their profession via ss. 15.085 (5) (b) and 440.035 (1), Stats., under the oversight of the Medial Examining Board. Pursuant to s. 448.63 (3), Stats., the Podiatrists Affiliated Credentialing Board has authority to write rules concerning various classes of temporary licensure. Section 448.665, Stats., grants rule writing authority for establishing requirements for continuing education. Therefore the Podiatrists Affiliated Credentialing Board is generally and specifically vested with the authority to promulgate these rules.

##### *Related statute or rule*

Wis. Admin. Code Chapters Pod 1 and Pod 3.

##### *Plain language analysis*

The proposed rule will address two issues: license holders having to reapply for a temporary license half way through their post graduate training and the requirements for licensees seeking first time renewal. By changing the duration of the temporary license from 1 year to 2 years, the proposed rule eliminates the need for temporary licensees to reapply for licensure while they are completing their post graduate training. As to the second issue, the proposed rule allows first time renewal applicants to use proof of graduation from a school of podiatric medicine to comply with the 50 requisite continuing education hours currently required by rule. This alleviates the burden on new licensees who's first time renewal occurs towards the end of a renewal period.

SECTION 1. amends the provision governing the duration of temporary licensure changing the requirement from 1 year to 2 years.

SECTION 2. creates a provision for accepting proof that the podiatrist graduated from a school of podiatric medicine.

SECTION 3. creates a provision accepting a certified copy of an official transcript or a certified copy of a diploma from a school of podiatric medicine and surgery to verify, when audited, compliance with the continuing education requirement.

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

None.

**Comparison with rules in adjacent states**

**Illinois:** A temporary license is valid for one year. 68 Ill. Adm. Code 1360.65(b) (2012) A renewal applicant is not required to comply with continuing education requirements for his/her first renewal. 68 Ill. Adm. Code 1360.70(a)(3) (2012)

**Iowa:** A temporary license is valid for one year. 645 IAC 220.6(149)(1) (2012)

First time licensees are not required to complete continuing education requirements for their first renewal period. 645 IAC 222.2(149,272C)(2) (2012)

**Michigan:** There is no language stating the duration for a temporary license. MICH. ADMIN. CODE R 338.8109 (2012) The Administrative code is silent with regards to the continuing education requirements for a first renewal. MICH. ADMIN. CODE R 338.3703 (2012)

**Minnesota:** A temporary permit is valid for 12 months, starting on the first day of graduate training. Minn. R. 6900.0160 Subp. 2. (2011) The continuing education requirement for a first renewal is not entirely waived, but rather the hours are prorated according to how long the applicant has had his/her license. Minn. R. 6900.0300 Subp.1a. (2011)

**Summary of factual data and analytical methodologies**

The Podiatrists Affiliated Credentialing Board reviewed the pertinent rules and determined that s. Pod 1.08 (5) should be revised to address the issue of podiatric temporary license holders reapplying for a temporary license half way through their required 2-year post graduate training. The issue is resolved by these proposed rules by changing the duration of temporary licensure from 1 year to 2 years. There was also a need to resolve the issue of licensees who are first time renewals seeking to fulfill their 50 hours of continuing

education. These proposed rules will allow applicants, in the first year of their renewal period, to satisfy the continuing education requirement with approved verified documentary evidence of graduation from a school of podiatric medicine and surgery such as a verified copy of the diploma conferring the degree of doctor of podiatric medicine. The Board ensures the accuracy, integrity, objectivity and consistency of the data 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 report**

This rule has no impact on small business.

**Anticipated costs incurred by private sector**

The department finds that this rule has no significant fiscal effect on the private sector.

**Fiscal Estimate and EIA**

The Fiscal Estimate and Economic Impact Analysis are attached.

**Effect on Small Business**

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 [jeffrey.weigand@wisconsin.gov](mailto:jeffrey.weigand@wisconsin.gov), or by calling (608) 267-9794.

**Agency Contact Person**

Shawn Leatherwood, Department of Safety and Professional Services, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at [shancethea.leatherwood@wisconsin.gov](mailto:shancethea.leatherwood@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

Sections Pod 1.08 (5), Pod 3.02 (4), Pod 3.03 (3)

3. Subject

Temporary licenses and continuing education

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  
 Indeterminate       Decrease Existing Revenues

Increase Costs  
 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 Podiatry Affiliated Credentialing Board reviewed the pertinent rules and determined that s. Pod 1.08 (5) should be revised to address the issue of podiatric temporary license holders having to reapply for a temporary license half way through their required 2–year post graduate training. The issue is resolved by these proposed rules by changing the duration of temporary licensure from 1 year to 2 years. There was also a need to resolve the issue of new licensees undertaking their first renewal. The problem was new licensees would not have enough time to fulfill their 50 hours of continuing education if they had received their license towards the end of the renewal period. These proposed rules will allow new licensees to satisfy the continuing education requirement by providing approved verified documentary evidence of graduation from a school of podiatric medicine and surgery such as a verified copy of the diploma conferring the degree of doctorate of podiatric medicine.

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.

N/A

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

Pursuant to Wis. Stat. s. 448.63, persons seeking licensure as a podiatrists in Wisconsin must complete 2 years of post graduate training. A temporary educational license allows individuals currently participating in postgraduate training to practice podiatric medicine. However, per Wis. Admin. Code section POD 1.08 (5), a temporary educational license is only one year. By changing the duration of the temporary educational license from 1 year to 2 years, applicants would be allowed to complete the required post graduate training without interruption of licensure.

14. Long Range Implications of Implementing the Rule

There are no long range implications of implementing this rule.

15. Compare With Approaches Being Used by Federal Government

There are no comparable federal rules specifically regarding temporary licenses and continuing education requirements.

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

*Illinois:*

A temporary license is valid for one year. 68 Ill. Adm. Code 1360.65(b) (2012) A renewal applicant is not required to comply with continuing education requirements for his/her first renewal. 68 Ill. Adm. Code 1360.70(a)(3) (2012)

*Iowa:*

A temporary license is valid for one year. 645 IAC 220.6(149)(1) (2012)

First time licensees are not required to complete continuing education requirements for their first renewal period. 645 IAC 222.2(149,272C)(2) (2012)

*Michigan:*

There is no language stating the duration for a temporary license. MICH. ADMIN. CODE R 338.8109 (2012) The Administrative code is silent with regards to the continuing education requirements for a first renewal. MICH. ADMIN. CODE R 338.3703 (2012)

*Minnesota:*

A temporary permit is valid for 12 months, starting on the first day of graduate training. Minn. R. 6900.0160 Subp. 2. (2011) The continuing education requirement for a first renewal is not entirely waived, but rather the hours are prorated according to how long the applicant has had his/her license. Minn. R. 6900.0300 Subp.1a. (2011)

17. Contact Name

Shawn Leatherwood

18. Contact Phone Number

608–261–4438



## Notice of Hearing

### Technical College System Board CR 13-050

NOTICE IS HEREBY GIVEN that pursuant to s. 38.04, Stats., and interpreting s. 38.04 (10), Stats., the Wisconsin Technical College System Board will hold a public hearing to consider revision of rules to amend Chapter TCS 5, relating to Facility Development Procedures.

#### Hearing Information

**Date:** Thursday, August 1, 2013  
**Time:** 10:00 a.m.  
**Location:** Wisconsin Technical College System Office  
 4622 University Avenue, Board Room  
 Madison, WI

It is the policy of the Wisconsin Technical College System Board (WTCSB) to provide accommodations to persons with disabilities, which may affect their ability to access or participate in WTCS activities. Persons may request assistance or reasonable accommodations for the schedule public hearing by contacting Jim Zylstra at (608) 266-1739.

#### Place where Comments Are to be Submitted and Deadline for Submission

Comments will be accepted by the agency contact person listed above until 4:00 p.m. on August 1, 2013. People submitting comments will not receive individual responses.

#### Analysis Prepared by the Wisconsin Technical College System Board

##### *Statutes interpreted*

Wis. Stats. s. 38.04 (10).

##### *Statutory authority*

Wis. Stats. s. 38.04 (10).

##### *Explanation of agency authority*

Wis. Stats. s. 38.04 (10) states that the technical college system board shall review and approve any proposals by district boards for land acquisition, additional or new facilities, rentals or remodeling of existing facilities.

##### *Related statute or rule*

Wis. Stats. s. 38.15.

##### *Plain language analysis*

The Wisconsin Technical College System (WTCS) recently reviewed the Facility Development Procedures contained in Chapter TCS 5 of the Wis. Admin. Code to ensure that the process is efficient for both the System and its colleges while maintaining a high quality process that supports the statutory responsibilities of the WTCS Board. The proposed modifications to the code will eliminate redundancy within the process, steps that are no longer required, information that is already available to the WTCS, and information that is not available at the time of facility approval. In addition, the definitions of both minor remodeling and minor rentals have not been updated since the 1980's and the proposed modifications take into account inflation, more closely aligns rentals to other procurement standards, and allows the WTCS to focus on larger more complicated projects.

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

There are no federal rules regarding technical college facility development procedures.

##### *Comparison with rules in adjacent states*

Not applicable.

##### *Summary of factual data and analytical methodologies*

Not applicable.

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

Not applicable.

##### **Effect on Small Business**

None.

##### **Agency Contact Person**

James Zylstra, Executive Vice President, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 266-1739, e-mail [james.zylstra@wtcsystem.edu](mailto:james.zylstra@wtcsystem.edu).

##### **Text of Rule**

SECTION 1. TCS 5.04 (1) (b), (1) (e) (2) and (4), (2) (b), (2) (d) (3) and (5), (2) (j), (2) (k), (3) (b), (3) (d) (2) and (4), (4) (b), (4) (d) (2) and (4), (4) (i), and (4) (j) are amended to read:

**TCS 5.04 Contents of submittal. (1) LAND ACQUISITION.** A district board shall submit the following information relative to proposals for land acquisition for evaluation by the board:

(a) A resolution of the district board approving the land acquisition contingent upon board approval.

~~(b) A resolution of the district board requesting board approval for land acquisition.~~

(c) Evidence of compliance with s. 1.11, Stats.

(d) A copy of a certified land survey indicating the boundaries and legal description of the land to be acquired.

(e) A report relating programmatic and student requirements, and the needs of business and industry, to the need for land acquisition. The report shall include data indicating the need for land acquisition based upon:

1. An analysis of the needs of business and industry for persons with new skills and persons with updated skills.

~~2. An analysis of changing and emerging technologies within the district.~~

3. An analysis of available student stations, and the need for additional student stations, including consideration of the needs of persons with handicaps.

~~4. Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.~~

(f) A statement of the costs to be incurred for the land acquisition, including survey and legal fees.

(g) A statement indicating the availability and specific source of funds for the land acquisition.

(2) **ADDITIONAL AND NEW FACILITIES.** A district board shall submit the following information relative to proposal for additional or new facilities for evaluation by the board:

(a) A resolution of the district board approving the additional or new facilities.

~~(b) A resolution of the district board requesting board approval for additional or new facilities.~~

(c) Evidence of compliance with s. 1.11, Stats.

(d) A report relating programmatic and student station requirements, and the needs of business and industry, to the need for additional or new facilities. The report shall include data indicating the need for additional or new facilities based upon:

1. An analysis that considers the joint use of facilities as required under s. 20.901 (4), Stats.

2. An analysis of needs of business and industry for persons with new skills and persons with updated skills.

~~3. An analysis of changing and emerging technologies within the district.~~

4. An analysis of available student stations, and the need for additional student stations, including a consideration of the needs of persons with handicaps.

5. Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.

(e) Educational specifications relating specific space requirements for approved programs to the need for additional or new facilities.

(f) An analysis of the fiscal impact of additional or new facilities on the district's operating budget, including availability and specific source of funds as required under s. TCS 5.05.

(g) A conceptual sketch of the proposed additional or new facilities.

(h) The estimated project cost by the following categories:

1. General construction
2. Heating, ventilating and air-conditioning
3. Electrical
4. Plumbing
5. Other contracts
6. Equipment, both fixed and movable
7. Miscellaneous costs
8. Fees

(i) A copy of the district energy study analysis indicating compliance with s. 1.12, Stats.

~~(j) A list of the various sources of building energy available and a plan for performing a life cycle costs analysis for an alternate form of energy.~~

~~(k) A plan for performing a life cycle costs analysis for the structural frame, building skin and the total energy system, including the HVAC system, electrical system and plumbing system to satisfy the requirements under s. 1.12, Stats.~~

(3) RENTALS. Except as provided under s. TCS 5.09 (2), a district board shall submit the following information relative to proposals for rentals for evaluation by the board:

(a) A resolution of the district board approving the lease contingent upon board approval.

~~(b) A resolution of the district board requesting board approval of the lease.~~

(c) A copy of the proposed lease as reviewed by the district's legal counsel.

(d) A report relating programmatic and student requirements, and the needs of business and industry, to the

need for the rental. The report shall include data indicating the need for the rental based upon:

1. An analysis of the needs of business and industry for persons with new skills and persons with updated skills.

~~2. An analysis of changing and emerging technologies within the district.~~

3. An analysis of available student stations, and the need for additional student stations, including a consideration of the needs of persons with handicaps.

4. Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.

(e) An analysis of the fiscal impact of the rental on the district's budget, including the availability and specific source of funds as required under s. TCS 5.05.

(4) REMODELING. Except as provided under s. TCS 5.09 (1), a district board shall submit the following data relative to proposals for remodeling existing facilities for evaluation by the board:

(a) A resolution of the district board approving the remodeling of existing facilities.

~~(b) A resolution of the district board requesting board approval of the remodeling of existing facilities.~~

(c) Evidence of compliance with s. 1.11, Stats.

(d) A report relating programmatic and student requirements, and the needs of business and industry, to the need for remodeling of existing facilities. The report shall include data indicating the need for remodeling of existing facilities based upon:

1. An analysis of the needs of business and industry for persons with new skills and persons with updated skills.

~~2. An analysis of changing and emerging technologies within the district.~~

3. An analysis of available student stations, and the need for additional student stations, including a consideration of the needs of persons with handicaps.

4. Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.

(e) Educational specifications relating specific space requirements for approved programs to the need for remodeling of existing facilities.

(f) An analysis of the fiscal impact of the remodeling of existing facilities on the district's budget, including the availability and specific source of funds as required under s. TCS 5.05.

(g) A conceptual sketch of the remodeling.

(h) The estimated project cost by the following categories:

1. General construction
2. Heating, ventilating and air-conditioning
3. Electrical
4. Plumbing
5. Other contracts
6. Equipment, both fixed and movable
7. Miscellaneous costs
8. Fees

~~(i) A list of the various sources of building energy available and a plan for performing a life cycle costs analysis for an alternate form of energy.~~ A copy of the district energy study analysis indicating compliance with the requirements under s. 1.12, Stats.

~~(j) A plan for performing a life cycle costs analysis for the building skin and the total energy system, including the HVAC system, electrical system and plumbing system to satisfy the requirements under s. 1.12, Stats.~~

SECTION 2. TCS 5.05 (3) is amended to read:

**TCS 5.05 Fiscal impact.** The analysis of the fiscal impact of additional or new facilities, rentals and remodeling of existing facilities submitted to the board under s. TCS 5.04 (2) (f), (3) (e) and (4) (f) shall include:

(1) Data relative to increased instructional costs, increased administrative, maintenance and energy costs and costs for new or replacement equipment resulting from the additional or new facilities, rentals or remodeling of existing facilities.

(2) A list of the source of funds in substantially the following form:

- (a) Tax levy – FY \_\_\_\_\_
- (b) Fund transfer or reserve fund
- (c) Proposed sale of bonds or notes
- (d) Other funds:
  - 1. Federal funds \_\_\_\_\_
  - 2. Gifts or grants
- (e) Total funds

~~(3) A statement of compliance with ss. 38.15 and 67.12~~

(12), Stats., if applicable.

SECTION 3: TCS 5.06 is amended to read:

**TCS 5.06 Notification of review.** The director shall notify the district board at least ~~14~~ 7 days prior to board review of the proposals for land acquisition, additional or new facilities, rentals or remodeling of existing facilities of the director's recommendation to the board and the rationale for the recommendation. The district board or its designee may appear before the board to submit any data or information in support of the district board's proposal.

SECTION 4: TCS 5:09 (1) and (2) are amended to read:

**TCS 5.09 Exclusion of minor remodeling and minor rentals.** (1) Remodeling of existing facilities where project costs for a fiscal year do not exceed ~~\$30,000~~ 100,000 per single campus site, as determined by the board under s. TCS 7.07 (6), are considered minor remodeling and are exempt from board review and approval under s. 38.04 (10) (a), Stats., and this chapter.

(2) ~~Rentals to provide community service programs of \$50,000 or less and where the term of the lease is three years or less less than one year and the property is leased from the state, or from a city, village, town, county or school district~~ are considered minor rentals and are exempt from approval under s. 38.04 (10) (a), Stats., and this chapter.

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

TCS 5, Facility Development Procedures

3. Subject

Facility Development Procedures

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

Update and streamline facility development procedures.

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.

Wisconsin Technical College Districts

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

Wisconsin Technical College Districts

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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.

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

Update and streamline facility development procedures.

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14. Long Range Implications of Implementing the Rule

Increased efficiency in technical college facility development procedures.

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15. Compare With Approaches Being Used by Federal Government

N/A

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

N/A

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17. Contact Name

James Zylstra

18. Contact Phone Number

608-266-1739

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

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## Submittal of Proposed Rules to Legislature

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

### **Employee Trust Funds** **CR 12-054**

On June 21, 2013, the Department of Employee Trust Funds submitted the final draft report on an administrative rule to the presiding officers of the Legislature for committee review. The proposed rule—order will amend ss. ETF 10.01 (3i), 10.63 (1) (a) to (f), (2), and (3), 40.10 (1), (2), and (3) (e); repeal and recreate s. ETF 20.015 (1) and (2); and create s. ETF 10.86, relating to technical and minor substantive changes in existing ETF administrative rules.

This rule was approved by the governor on June 5, 2013.

### **Natural Resources** *Fish, Game, etc., Chs. 1—* **CR 13-021**

(DNR # WM-01-13)

On June 24, 2013, the Department of Natural Resources submitted notice is final draft rules to the presiding officer of each house of the legislature for review pursuant to s. 227.19, Stats. The rules will revise Chapters NR 10, 17, and 45, relating to hunting, trapping, closed areas, dog training, and the use of department lands.

This rule was approved by the governor on June 21, 2013.

### **Safety and Professional Services** *Professional Services, Chs. 1—299* **CR 13-026**

On June 20, 2013, Department of Safety and Professional Services submitted a rule-making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under section 227.19 of the Statutes. The proposed rule creates Chapter SPS 50 and amends ss. SPS 60.01, 61.02 (1) (a), (2) (a), (3) (a), and (4) (a), 62.10, 65.01, 65.02 (1), 65.07, and 65.12 (1) (e), (h), and (i) 6., relating to barbers and to barbering and cosmetology schools and instructors.

This rule was approved by the governor on June 19, 2013.

### **Safety and Professional Services** *Professional Services, Chs. 1—299* **CR 13-030**

On June 26, 2013, the Department of Safety and Professional Services submitted a rule-making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed rule revises s. SPS 132.05 (1), relating to biennial renewal dates.

This rule was approved by the governor on June 19, 2013.

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## Rule Orders Filed with the Legislative Reference Bureau

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

**Public Defender**  
**CR 12-017**

An order to amend s. PD 3.03 (2) and (3), relating to determination of eligibility for assignment of publicly appointed counsel.  
Effective 8-1-13.

**Public Defender**  
**CR 12-018**

An order to amend s. PD 6.025, relating to determination of ability to pay.  
Effective 8-1-13.

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