

Wisconsin Administrative Register

No. 692



Publication Date: August 14, 2013
Effective Date: August 15, 2013



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



WISCONSIN ADMINISTRATIVE REGISTER

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

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

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.

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

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

Agriculture, Trade and Consumer Protection

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

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

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

Finding of Emergency

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

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

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

Employment Relations Commission

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

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

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

Finding of Emergency

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

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

Insurance

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

Natural Resources (3)

Fish, Game, etc., Chs. NR 1—

1. EmR1210 (DNR # WM–09–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.001 (25c), 10.02 (1), 10.06 (5) and (8) (intro.), 10.07**

(2) (b) 2., 10.07 (2m) (intro.) and (e) (intro.), 10.07 (2m) (f) (intro.), 10.09 (1), 10.13 (1) (b) 9., 10.13 (1) (b) 15., 10.13 (1) (b) 16., 10.145 (intro), 10.145 (3) to (8), 12.10 (intro.), 12.10 (1) (a) 4., 12.10 (1) (b) 2., 12.15 (13) and 19.25 and to create sections NR 10.001 (22q), 10.001 (23a), 10.001 (23am), 10.001 (23b), 10.001 (26g), 10.001 (33), 10.01 (3) (j), 10.07 (1) (m), 10.07 (2m) (em), 10.07 (2m) (g) 3., NR 10.07 (4), 10.13 (1) (b) 15m., 10.13 (1) (b) 18., 10.145 (1m), (1u) and Note, sections NR 10.16 (5), 10.295, 12.15 (11) (e), 12.60 to 12.63, 12.64 (1) (a) and (b) (intro.) 1., 12.64 (1) (b) 2. and 3., 12.64 (1) (b) 4. and 5., 12.64 (2) (a) to (c), 12.64 (2) (d), 12.64 (3) and 12.65, relating to the wolf hunting and trapping season and regulations and a depredation program.

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

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

Finding of Emergency

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

Filed with LRB: August 15, 2012

Publication Date: August 18, 2012

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

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

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

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

Finding of Emergency

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

Filed with LRB: September 14, 2012

Publication Date: October 1, 2012

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

3. EmR1304 (DNR # FH–23–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend sections NR 20.20 (73) (n) 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

Extension Through: October 22, 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

Extension Through: September 10, 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 (DPS) finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows.

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

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

Due to enactment of 2011 Wisconsin Act 35 (commonly referred to as the concealed carry law), which became effective on November 1, 2011, there is a greater need for additional entities who can provide training and approve applicants as firearms proficiency certifiers. Section 175.60 (4) of the Statutes currently allows technical colleges, colleges, and universities to provide this training for concealed–carry purposes. No such provision is made as it relates to private security personnel, private detectives, and private investigators or special investigators, for carrying a weapon openly. Moreover, the training needed for DPS 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

Scope Statements

Corrections

SS 091–13

This statement of scope was approved by the Governor on July 19, 2013.

Rule No.

Amends Chapter DOC 328.

Relating to

Adult field supervision.

Rule Type

Permanent.

1. Description of the Objective of the Rule

The objective of the rule is to achieve all of the following:

- Review the current rule for changes necessitated by the repeal of 2009 Act 28 by 2011 Act 38.
- Review the current rule to bring it into compliance with the Federal standards addressing the federal Prison Rape Elimination Act (PREA) of 2003 (42 U.S.C. chapter 147 (ss. 15601–09) (2004)).
- Review the current rule for changes to the procedure for supervision fee types, collection and processing.

2. Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

The current rule chapter provides for the department's supervision of persons on probation, parole, and extended supervision. The department needs to review the current rule for changes necessitated by the repeal of the sentencing reforms under 2009 Wis. Act 28 by 2011 Wis. Act 38. The department has identified that at least s. DOC 328.17 will need to be amended.

The current rule does not address the requirements imposed under the new federal standards implementing the Prison Rape Elimination Act (PREA) of 2003 (42 U.S.C. chapter 147 (ss. 15601–09) (2004)). The new standards go into effect on August 20, 2013.

The department intends to change its policy and procedure in the processing and collection of supervision fees.

There is no alternative means to address the need for revisions as discussed above.

3. Statutory Authority

Section 227.11 (2) (a) to (c): Rule-making authority is expressly conferred as follows:

(a) 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. All of the following apply to the promulgation of a rule interpreting

the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

(b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.

(c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 301.03 (3): Administer parole, extended supervision, and probation matters, except that the decision to grant or deny parole to inmates shall be made by the parole commission and the decision to revoke probation, extended supervision, or parole in cases in which there is no waiver of the right to a hearing shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. The department shall promulgate rules establishing a drug testing program for probationers, parolees and persons placed on extended supervision. The rules shall provide for assessment of fees upon probationers, parolees and person placed on extended supervision to partially offset the costs of the program.

Section 301.03 (3m): Monitor compliance with deferred prosecution agreements under s. 971.39.

Section 301.03 (7m): Supervise criminal defendants accepted into the custody of the department under s. 969.02 (3) (a) or 969.03 (1) (a). The department shall charge the county that is prosecuting the defendant a fee for providing this supervision. The department shall set the fee by rule.

Section 302.11 (8): The department may promulgate rules under ch. 227 establishing guidelines and criteria for the exercise of discretion under this section [mandatory release].

Section 302.113 (10): The department may promulgate rules establishing guidelines and criteria for the exercise of discretion under this section [release to extended supervision for felony offenders not serving life sentences].

Section 302.114 (10): The department may promulgate rules establishing guidelines and criteria for the exercise of discretion under this section [petition for release and release to extended supervision for felony offenders serving life sentences].

Section 302.19, Temporary detention of inmates: The department may use any of its facilities for the temporary detention of persons in its custody.

Section 302.31 ((5) and (6): The county jail may be used for any of the following purposes:

....

(5) The detention of persons participating in the intensive sanctions program.

(6) The temporary detention of persons in the custody of the department.

....

Section 939.615 (5) (a): A person placed on lifetime supervision under this section [lifetime supervision of serious sex offenders] is subject to the control of the department under conditions set by the court and regulations established by the department that are necessary to protect the public and promote the rehabilitation of the person placed on lifetime supervision.

Section 961.47 (1): Whenever any person who has not previously been convicted of any offense under this chapter, or of any offense under any statute of the United States or of any state or of any county ordinance relating to controlled substances or controlled substance analogs, narcotic drugs, marijuana or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g) (b), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him or her. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be only one discharge and dismissal under this section with respect to any person.

Section 973.01 (2) (intro): Structure of bifurcated sentences. A bifurcated sentence is a sentence that consists of a term of confinement in prison followed by a term of extended supervision under s. 302.113. The total length of a bifurcated sentence equals the length of the term of confinement in prison plus the length of the term of extended supervision. An order imposing a bifurcated sentence under this section shall comply with all of the following:

Section 973.10, Control and supervision of probationers: (1) Imposition of probation shall have the

effect of placing the defendant in the custody of the department and shall subject the defendant to the control of the department under conditions set by the court and rules and regulations established by the department for the supervision of probationers, parolees and persons on extended supervision.

(1m) (a) The department may order that a probationer perform community service work for a public agency or a nonprofit charitable organization. An order may apply only if agreed to by the probationer and the organization or agency. The department shall ensure that the probationer is provided a written statement of the terms of the community service order and shall monitor the probationer's compliance with the community service order. Compliance with this subsection does not entitle a probationer to credit under s. 973.155.

(b) Any organization or agency acting in good faith to which a probationer is assigned under an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the probationer. The department has immunity from any civil liability for acts or omissions by or impacting on the probationer regarding the assignment under this subsection.

(2) If a probationer violates the conditions of probation, the department of corrections may initiate a proceeding before the division of hearings and appeals in the department of administration. Unless waived by the probationer, a hearing examiner for the division shall conduct an administrative hearing and enter an order either revoking or not revoking probation. Upon request of either party, the administrator of the division shall review the order. If the probationer waives the final administrative hearing, the secretary of corrections shall enter an order either revoking or not revoking probation. If probation is revoked, the department shall:

(a) If the probationer has not already been sentenced, order the probationer brought before the court for sentence which shall then be imposed without further stay under s. 973.15; or

(b) If the probationer has already been sentenced, order the probationer to prison, and the term of the sentence shall begin on the date the probationer enters the prison.

(2g) Upon demand prior to a revocation hearing under sub. (2), the district attorney shall disclose to a defendant the existence of any audiovisual recording of an oral statement of a child under s. 908.08 which is within the possession, custody or control of the state and shall make reasonable arrangements for the defendant and defense counsel to view the statement. If, after compliance with this subsection, the state obtains possession, custody or control of such a statement, the district attorney shall promptly notify the defendant of that fact and make reasonable arrangements for the defendant and defense counsel to view the statement.

(2m) In any administrative hearing under sub. (2), the hearing examiner may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to (10).

(3) A copy of the order of the department of corrections in the case of a waiver or the division of hearings and appeals in the department of administration in the case of a final administrative hearing is sufficient authority for the officer executing it to take the probationer to court or to prison. The officer shall execute the order as a warrant for arrest but any

officer may, without order or warrant, take the probationer into custody whenever necessary in order to prevent escape or enforce discipline or for violation of probation.

(4) The division of hearings and appeals in the department of administration shall make either an electronic or stenographic record of all testimony at each probation revocation hearing. The division shall prepare a written transcript of the testimony only at the request of a judge who has granted a petition for judicial review of the revocation decision. Each hearing notice shall include notice of the provisions of this subsection and a statement that any person who wants a written transcript may record the hearing at his or her own expense.

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

The Department estimates that it will take approximately 200 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

5. Description of all of the Entities that will be Affected by the Rule

This rule will affect persons on probation, parole, or extended supervision and department staff.

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

There are no federal regulations which address the issue of the supervision of persons on probation, parole or extended supervision in Wisconsin. However, federal standards addressing the Prison Rape Elimination Act (PREA) of 2003 (42 U.S.C. chapter 147 (ss. 15601–09) (2004)) include provisions which may affect the supervision of persons on community supervision. For example, the new federal standards impose confidentiality requirements for reporting incidents of sexual abuse or sexual harassment which are not included in the current rule.

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

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

8. Contact Person

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Natural Resources

Fish, Game, etc., Chs. NR 1–

SS 098–13

(DNR # WM–24–13 (E))

This statement of scope was approved by the Governor on July 23, 2013.

Rule No.

Revises Chapters NR 1, 8, 10, 11, 12, 13, 15, and 19.

Relating to

Deer management, hunting, and implementation of the 2012 White–tailed Deer Trustee’s Report.

Rule Type

These will be emergency rules.

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

The department is directed by 2013 ACT 20 to develop emergency rules allowing final implementation of provisions from the White–tailed Deer Trustee’s Report. The ACT has established that the department is not required to make a finding of emergency. These emergency rules can remain in place until permanent rules are implemented.

2. Detailed Description of the Objective of the Proposed Rule

There has been dissatisfaction with various issues related to white–tailed deer management and hunting in Wisconsin. Gubernatorial candidate Scott Walker made a promise to appoint a “Deer Trustee” to review programs. In October of 2011, Dr. James C. Kroll, officially known as Wisconsin’s white–tailed deer trustee, entered into a contract with the State of Wisconsin to conduct an independent, objective and scientifically–based review of Wisconsin’s deer management practices. The White–tailed Deer Trustee’s report was released to the public in July 2012.

The objective of these proposed rules is to work with sportsmen and sportswomen and other stakeholders in order to implement ideas and solutions from the Deer Trustee’s report to forge a new age for deer management.

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

Implementation of the Deer Trustee’s report will result in establishing significant new policies for deer management and hunting management compared to current rules. The primary policy alternatives being analyzed and considered are ones recommended in the report. Throughout this rulemaking process, the department and its partners may evaluate other policy alternatives as they are identified.

The full report is located on the Wisconsin Department of Administration’s website at: <http://www.doa.state.wi.us/section.asp?linkid=239&locid=0>

Ch. NR 1 related to Natural Resources Board Policies

Ch. NR 1 establishes a general framework for the department’s wildlife and forestry management activities. The department is reviewing the report with this framework in mind and will recommend modifications that are consistent with the report. These rules are likely to shift away from deer population goals expressed solely in specific numbers of animals toward more general population objectives. The basis for establishing deer population goals may also be modified by these rules. The department may revise what it considers to be tolerable levels of crop damage. The chapter currently addresses wildlife habitat management policy and those provisions may be strengthened or made more specific based on significant wildlife habitat related recommendations in the report. Development of a Young Forest Initiative Task Force may be addressed in this chapter as well as a Deer Management Assistance Program. Deer research priorities may also be a topic that is addressed in this policy–setting chapter. This chapter will be amended to maintain cross–reference citations with ch. NR 10.

Ch. NR 8 related to License and Permit Procedures

Ch. NR 8 establishes standards and procedures for the automated license issuance system. These rules may recommend changes if they are necessary to improve efficiency or flexibility in the issuance of licenses, as needs arise during development of new automated licensing systems, and to maintain cross–reference citations.

Ch. NR 10 related to Game and Hunting

This chapter establishes most of the deer population management policy and practices and hunting regulations that are in place today. Ch. NR 10 establishes the Sex–Age–Kill model for estimating deer populations, deer population goals, and deer management units. These rules will replace the current deer management unit population goals with a simplified unit objective to, “increase, stabilize, or decrease population density.” These rules may establish the timetable for review of deer management units and the process for modifying established objectives. These rules will establish a set of metrics to monitor progress towards the goal. These rules will reduce the number of deer management units and may combine farmland regions. The department will consider using county boundaries in place of the current unit boundaries.

These rules will simplify the regulatory process by setting antlerless harvest goals, regulations, and antlerless permit quotas on a three–to–five year cycle instead of annually under current rule. Historical demand for antlerless permits has not been a factor considered in quota setting in the past but would be a consideration under these rules. Through these rules, the department may eliminate free antlerless deer tags, currently referred to as herd control tags. These rules may establish a fee for antlerless tags which allow harvest of deer in its CWD management zones. Currently, some units have an unlimited number of antlerless deer permits available per hunter but, under this proposal, that may no longer be the case. Finally, these rules may establish antlerless deer permits and allow the establishment of quotas for public lands that are different from the permits and quotas that are established for privately owned lands in a management unit.

Simplifying the regulatory process and implementing a new population management goal system may require a variety of related hunting regulations changes. Changes may include the names for permits and the allowable use of various deer permits. Back tags worn by hunters, deer carcass tags, and tagging requirements may be modified or eliminated where possible in order to simplify regulations or as opportunities arise during development of new automated licensing systems. Deer registration and transportation requirements may be relaxed and, in their stead, more customer–friendly harvest reporting procedures established. Black bear are another species for which in–person registration of harvested animals is required. These rules may modify bear harvest recording requirements if that is practical because deer and bear registration occur at the same locations and through the same process under current rules.

The department may recommend deer hunting season date modifications as a result of this rulemaking. While the report generally recommends that, “keeping seasons and bag limits consistent for longer periods of time would allow better assessment of management progress,” it is challenging to discuss management system changes of this scale without considering season dates. For instance, it may be possible to simplify hunting regulations by eliminating a one–day closure of the archery season on the day before the traditional nine–day firearm season opens. The timing of other seasons

for youth, disabled hunters, or other special seasons may also be evaluated. A move to more “passive” management of CWD, as recommended in the report, may also involve changes to deer hunting season dates.

This rulemaking will establish a Deer Management Assistance Program (DMAP) that will allow landowners and hunters to work together with the department to manage deer on a site–specific basis. The program will actively involve members of the public in the collection, analysis, and reporting of deer harvest information and improve management of the deer herd. The department may establish enrollment fees for participation in the program and that money will be credited back to implementation. This is a central recommendation of the report and recommends that the department establish: a) applicability to private and public lands, b) initial areas eligible to participate, c) administration of DMAP, d) funding, e) personnel and training, f) minimum property size to participate, g) fees, h) participation requirements, i) data collection requirements, j) registration of deer harvested on DMAP properties, k) data analysis and reporting, and l) assessment of DMAP effectiveness.

The department does not intend to modify regulations on the method of deer harvest at this time. However, if an ACT of the legislature modifies a legal method of harvest while this rule package is being promulgated, and related rule changes are needed, this rule package would implement an ACT of the legislature. Notably, the department is aware that changes to the allowable uses of crossbows are being considered.

The trustee’s report generally recommends a more passive approach than current department policy to the management of Chronic Wasting Disease (CWD). CWD–related rulemaking will be correspondingly limited in this proposal. However, regulation changes related to disease testing protocol, harvest permits and other hunting regulations may be identified and included if they are consistent with the report. The department establishes separate population goals for deer units that are in a CWD zone. Those goals and methods of population estimation will be modified or eliminated by these rules.

These rules may make other modifications to deer hunting regulations if they can be characterized as simplifications. These may include changes to the allowable hunting hours or allowable guns, ammunition, and other devices.

Chs. NR 11 and 15 related to Closed Areas and Game Refuges

Modifications to chs. NR 11 and 15 will likely be needed to update cross references with ch. NR 10 which will be modified significantly. Although the report did not recommend changes to these chapters of administrative code, additional modifications to these chapters may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 12 related to Wildlife Damage and Nuisance Control

Modifications to ch. NR 12 will likely be needed to update cross references with ch. NR 10 which will be modified significantly. Although the report did not recommend significant structural changes to the damage program, additional modifications to this chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 13 related to Chippewa Treaty Rights Participants

Chapter NR 13 is intended to regulate off–reservation treaty rights of treaty rights participants recognized by *Lac Courte Oreilles Band v. Voigt*, 700 F. 2d 341 (7th Cir. 1983). Modifications to ch. NR 13 will likely be needed to update

numerous cross references with ch. NR 10, which will be modified significantly.

Ch. NR 19 related to Miscellaneous Fur, Fish, Game and Outdoor Recreation

Modifications to ch. NR 19 will likely be needed to update cross references with ch. NR 10, which will be modified significantly. This section also contains regulations for feeding of wild animals and white-tailed deer related provisions which are not directly related to the report. Additional modifications to the chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

Ch. NR 45 related to the Use of Department Properties

Modifications to ch. NR 45 will likely be needed to update cross references with ch. NR 10, which will be modified significantly. The report did not recommend specific changes to this chapter of administrative code. However, many regulations in this chapter apply to deer hunters who are using department managed lands. Additional modifications to this chapter may be made if that assists with regulations simplification or improvement of hunting opportunities.

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

Department authority to conduct a variety of habitat and wildlife management activities is established in ss. 23.09 (2) (b), (d), and (h), (k) and (km), and (p), Stats. These sections authorize rulemaking related to deer and deer habitat management and: plans and priorities for conservation, game refuges, cooperative forest protection, research, resources inventory, and disease control. These sections authorize many of the existing provisions of chs. NR 1 (Natural Resources Board Policy), 11 (closed areas), 15 (game refuges), and 45 (use of department properties).

The department's ability to promulgate emergency rules to implement recommendations of the deer trustee report is established in non-statutory provisions of 2013 ACT 20. Specifically included in emergency rule authority is the ability to establish bonus antlerless deer permit fees and to establish a deer management assistance program. Additionally, the department is given authority to promulgate emergency rules that will implement recommendations of the assessment of this state's deer management plans and policies under s. 29.40 Stats. These emergency rules can remain in place until permanent rules are implemented. The department is not required to make a finding of emergency.

The primary authority to establish hunting regulations for deer and other species is established in s. 29.014, Stats. This section directs the department to establish and maintain open and closed seasons, bag limits, size limits, rest days, and other conditions for the taking of game that conserves the game supply and provides citizens with good hunting opportunities. This section authorizes many of the existing provisions of chs. NR 8 (license and permit procedures), 10 (game and hunting), and 19 (Miscellaneous Fur, Fish, Game and Outdoor Recreation).

The wildlife damage and nuisance program and rulemaking authority are established in s. 29.889 (2) (b), Stats., which directs the department to establish rules for program eligibility and funding, methods of abating damage, forms and procedures, prorating claims, and record keeping, audits and inspections. This is the authorizing legislation for much of ch. NR 12 related to wildlife damage.

The department's ability to establish fees for participation in the deer management assistance program is established in s. 29.020 (2), Stats.

Rules related to Chippewa treaty rights (ch. NR 13) are promulgated under general authority to establish hunting regulations in s. 29.014, Stats., and these rules are the department's interpretation of how laws must be interpreted or limited in order to comply with the general limitations on state regulatory authority expressed in *Lac Courte Oreilles v. State of Wisconsin*, 668 F. Supp. 1233 (W.D. Wis. 1987) and the specific limitations expressed in the regulatory phase of the Voigt litigation. (See e.g., *Lac Courte Oreilles v. State of Wisconsin*, 707 F. Supp. 1034 (W.D. Wis. 1989)).

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 emergency and permanent rule and program development will require the equivalent of 5 full time staff people, or 10,400 hours. This estimate includes developing new deer management programs in addition to time spent specifically on rule promulgation.

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

White-tailed deer affect nearly every Wisconsin resident in some way. Many of these effects are significant from a recreational, economic, and/or social perspective. A wide variety of groups and individuals will be interested in this proposed rule. Some groups include: Wisconsin Conservation Congress, Great Lakes Indian Fish and Wildlife Commission, Wisconsin Farm Bureau Federation, Wisconsin Deer Hunters Assn., The Nature Conservancy, Whitetails Unlimited, Wisconsin Bowhunters Assn., Wisconsin County Forest Association, Wisconsin Woodland Owners Assn., Quality Deer Management Association, Rocky Mountain Elk Foundation, and the Sierra Club.

Groups registered to lobby the Wisconsin legislature within the last year, many registered specifically on these rules, include: Wisconsin Bear Hunter's Assoc., White-tails of Wisconsin, Safari Club International — Wisconsin Chapters, WI-Force, Wisconsin Wildlife Federation, National Rifle Assoc. of America, and the Assoc. of Wisconsin Snowmobile Clubs.

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 allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

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

Agencies are exempted from the requirement to prepare an economic impact analysis for emergency rules under s. 227.137 (5), Stats.

For similar or potentially identical emergency rules which the department is also promulgating, the department estimates that the economic impact will be moderate. Pursuant to 2011 Executive Order 50, the department will facilitate a 30 day period for comment on a draft economic

impact analysis. The comment period will be held in late summer, 2013.

Contact Person

Scott Loomans, (608) 267–2452.

Public Instruction

SS 093–13

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 5.

Relating to

High School Equivalency Diplomas and Certificates of General Educational Development.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

Chapter PI 5 governs the issuance of high school completion credentials by the State Superintendent, which includes the General Educational Development (GED) Test and the High School Equivalency Diploma (HSED). This rule change is designed to align the rule with changes in the GED Test. The current rule references the number of subtests and the passing scores for the GED, which will be changing in January 2014, when a new test is implemented by GED Testing Service. Additionally, technical changes are needed to align the rule with statute.

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

This rule change is designed to align the rule with changes in the GED Test and with current statute.

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

115.29 General powers. The state superintendent may:

(4) HIGH SCHOOL GRADUATION EQUIVALENCY. (a) Grant declarations of equivalency of high school graduation to persons, if in the state superintendent’s judgment they have presented satisfactory evidence of having completed a recognized high school course of study or its equivalent. The state superintendent may establish the standards by which high school graduation equivalency is determined. Such standards may consist of evidence of high school courses completed in high schools recognized by the proper authorities as accredited, results of examinations given by or at the request of the state superintendent, successful completion of correspondence study courses given by acceptable correspondence study schools, a general

educational development certificate of high school equivalency issued by an agency of the U.S. government, course credits received in schools meeting the approval of the state superintendent or other standards established by the state superintendent.

(b) Promulgate rules establishing fees for issuing a declaration of equivalency of high school graduation or a general educational development certificate under par. (a). The rules may provide exemptions from the fees based on financial need.

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

Testing and preparation sites authorized by the state superintendent to administer the GED Test may be affected by the proposed rule, including technical colleges, community based organizations, correctional institutions and high schools throughout Wisconsin.

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), Stats.

9. Contact Person

Bureau for Policy and Budget

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Public Instruction

SS 094–13

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 25.

Relating to

Children At Risk Plan and 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 proposed rule change will modify s. PI 25.05 to align it with the statutory change made in 2011 Wisconsin Act 32,

which removed the statutory limitation on the number of children at risk a school district may contract with private agencies to provide services for.

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

This proposed rule change is a technical change that would modify s. PI 25.05 to align with s. 118.153 (3) (c) 2., Stats.

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

118.153 Children at risk of not graduating from high school.

(7) The state superintendent shall promulgate rules to implement and administer this section. The rules shall not be overly restrictive in defining approved programs and shall not serve to exclude programs that have demonstrated success in meeting the needs of children at risk.

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 this is only a technical change to align the rule with statutes.

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), Stats.

9. Contact Person

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Public Instruction

SS 095–13

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 31.

Relating to

Grants for STEM Programs.

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 31, the rule chapter for the Grants for Science, Technology, Engineering, and Mathematics Programs.

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 Science, Technology, Engineering, and Mathematics Programs under ss. 115.28 (46) and 20.255 (2) (fz), 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 PI 31.

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 (46), 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), Stats.

9. Contact Person

Bureau for Policy and Budget

Attn: Katie Schumacher

(608) 267–9127 or katie.schumacher@dpi.wi.gov

Safety and Professional Services —

Accounting Examining Board

SS 096–13

This statement of scope was approved by the Governor on July 23, 2013.

Rule No.

Revises Chapters Accy 1 to 9.

Relating to

Updating accounting and auditing practices and standards, clarifying licensure criteria, and general cleanup.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

One chapter in this series, Chapters Accy 1 to 9, was last updated in 2004; some chapters have not been updated to reflect current practices or adopted standards in the accounting profession since as far back as 1974. Incorporate current accounting, auditing practices and standards, and references from the American Institute of Certified Professional Accountants (AICPA), AICPA Auditing Standards Boards, National State Boards of Accountancy (NASBA), and other professional organizations. Additional references to professional organizations or standards are proposed to reflect the standards currently in use; these may include but are not limited to: The Uniform Accountancy Act (UAA), Public Company Accounting Oversight Board (PCAOB), international accounting standards, and Generally Accepted Accounting Principles (US GAAP).

Other areas proposed to be updated may include: professional conduct; firm mobility and notification requirements; equivalent education criteria; examination review; codifying reinstatement practices; attest and peer reviews; reciprocity and equivalent certificates; acceptable examination providers, and school accreditation. In addition, the proposal may include creating definitions, revising or repealing Appendix A ch. Accy 9; correcting inconsistencies between chapters or chapter sections; providing consistency in terminology and format; updating statutory references; and reflecting internal process efficiencies. Consequently, the objectives of this rule-making order may be incorporated into one or more rulemaking projects.

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 proposed changes will serve to clarify, correct, or repeal certain provisions to recognize contemporary standards and practices of the accounting profession, conforming to codified rules and practices of adjacent states, as well as modifying reinstatement and equivalent education issues.

Not evaluating and updating Chapters Accy 1 to 9 would create confusion amongst licensees practicing in more than one state. An update would provide the department the opportunity to have rules reflecting national standards widely-accepted and applied throughout the accounting industry.

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 442.01 (1), Stats., "...the examining board shall promulgate rules that adopt by reference ..." a number nationally-recognized standards boards.

Section 442.087 (3), Stats., "RULES. The examining board shall promulgate rules that describe the peer review required to renew a firm's license under sub. (2). The rules shall include requirements for the examining board to approve one or more persons to conduct the peer reviews. The rules shall also require each person approved by the examining board to conduct peer reviews to periodically report to the examining board on the effectiveness of the peer reviews conducted by the person and to provide the examining board with a listing of all firms that have undergone peer review conducted by the person."

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 210 hours will be needed to perform the review and develop any needed rule changes. This time includes meeting with the Accounting 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 (CPAs) and firms (corporations and establishments) and their clientele.

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 comparing these requirements resulted in 12 USC 1831n — Accounting objectives, standards, and requirements. The only references found regulating the use of uniform accounting standards related solely to the banking industry. No mention of CPA licensure or any specific nationally-recognized standards were found to be required or proposed to be required at the federal level.

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 Chapters Accy 1 to 9 will have a minimal economic impact on small business.

9. Contact Person

Jean MacCubbin, (608) 266-0955.

**Safety and Professional Services —
Real Estate Examining Board**

SS 089–13

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

Rule No.

Repeals Chapters REEB 22 and 26.

Relating to

Inactive real estate licenses and apprenticeships.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The Real Estate Examining Board in reviewing their rules, chs. REEB 11 to 26, and responding to their charge in Executive Order 61, determined that these two chapters be brought to the attention of department staff for future rule–making projects.

Section 452.09 (5), Stats., deals with apprenticeships in the real estate profession. Correspondingly, ch. REEB 22 allows a sponsoring broker to indenture an apprentice under a temporary salesperson permit for a period of one year and such permit is non–renewable. This chapter outlines various steps regarding application, supervision, compensation, contracts and duties. The Board and the department report that only one application has been received in the past 18–month period; therefore, ch. REEB 22, apprentices, is proposed to be repealed.

In addition, s. 452.12 (6), Stats., states that the ability is granted to a licensee, except for a time–share salesperson, to apply for an inactive license, but this ability has sunset as of October 31, 1995. Therefore, ch. REEB 26, inactive licenses, is proposed to be repealed.

Due to the repeal of these two chapters, there may be cross references or code citations in other chapters in this series requiring correction. These corrections in chs. REEB 11 to 26 are proposed to be included in this or subsequent rule–making orders; other corrections may include correcting typographical and formatting errors.

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 portion of the Statutes allowing for inactive licensees, s. 452.12 (6), Stats., sunset on October 31, 1995. The portion of the Statutes allowing for the application of apprenticeships, s. 452.09 (5), Stats., is used rarely and the process of application, approval and oversight is complicated and inefficient to all parties involved.

By not repealing these two chapters, the rules relating to real estate brokers and salespersons will continue to be out–of–date or overly cumbersome.

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

Section 15.08 (5) (b), Stats.: “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 227.11 (2), Stats.: “Rule–making authority is expressly conferred as follows: (a) 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.”

Section 452.07 Stats.: “Rules. (1) The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice.

(1m) The board shall promulgate rules that specify the supervisory duties of brokers under s. 452.12 (3).”

Section 452.12 (6), Stats.: Most of this subsection relates to inactive licenses, how inactive licensees may apply for reinstatement and the limitations on practicing real estate while in inactive status; all of this paragraph either sunset on October 31, 1995, or allowed application prior to November 1, 1990, with a 5–year limit.

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

The staff time needed to develop the rules is expected to be about 75 hours. This includes coordinating the rule–making process with the Board’s meeting schedule, conducting research, drafting and processing the proposed rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

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

Licensees.

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 *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to application for inactive or apprenticeship licenses in the real estate industry.

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

It is anticipated that there will be no economic impact on small business.

9. Contact Person

Jean MacCubbin, (608) 266–0955.

**Safety and Professional Services —
Real Estate Examining Board**

SS 090–13

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

Rule No.

Revises Chapters REEB 15 and 18.

Relating to

Obligation to furnish copies and maintain records, and trust accounts.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

Chapter REEB 15, Real Estate Broker's Obligation to Furnish Copies and Maintain Records, was created in November 1985 (as ch. RL 15) and with the exception of a minor correction in authority and chapter renumbering, there have been no substantial changes since this rule became effective. At this time the Real Estate Examining Board (the Board) intends in this proposed revision to make minor corrections in format, update the chapter to reflect any statutory changes, provide clarification where appropriate and allow new and current technology in records retention.

Chapter REEB 18, Trust Accounts, is added to this scope statement as provisions for maintaining records in ch. REEB 15 may allow the retention of records in electronic formats and the use of current electronic software. The bookkeeping section, s. REEB 18.13, may be revised to allow similar technology as in ch. REEB 15. In addition, depository institutions currently provide options for electronic bank statements and exporting such financial data to bookkeeping software. When requested by the department or board as in s. REEB 18.036, these records may be determined to be in an acceptable format. With the exception of renumbering and minor changes, this chapter has not been revised since 1994.

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

Existing rules relating to the retention of certain records that are used in the practice of real estate can be found in s. REEB 15.04. This section requires a real estate broker to retain for at least 3 years exact copies of documents and correspondence utilized in connection with any transaction. These documents and correspondence must be made available to the Department of Safety and Professional Services (the department) or the Board for inspection and copying upon request. The proposed rule may clarify what comprises a record. In addition, the proposed revision intends to provide the broker the ability to retain records in electronic format, stipulate retention times and offer possible discipline for not providing such records when so requested.

Existing rules relating to bookkeeping systems and examination of bank records are found in ch. REEB 18. It is widely known that ledger and journaling financial software is widely utilized in the real estate industry; the Board intends that these rule revisions recognize current practice and modernize the provisions for records and recordkeeping.

No new policies are expected to be created in these revisions. The alternative to not updating these chapters is

that record storage and current prescribe bookkeeping formats may continue to be costly and duplicative.

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

- Section 15.08 (5) (b), Stats.: This section requires any examining board to promulgate rules for their own guidance or the guidance of respective trade or profession.
- Section 227.11 (2), Stats.: This section confers that each agency has rule-making powers interpreting the authority to enforce and administer as provided in the statutes.
- Section 452.07, Stats.: This section provides the Real Estate Examining Board the express authority to draft and approve rules relating to the guidance of the real estate profession. "S. 452.07 Rules. (1) The board shall promulgate rules for the guidance of the real estate profession and define professional conduct and unethical practice."
- Section 452.13, Stats.: This section outlines procedures for brokers regarding their trust accounts, interest-bearing accounts and furnishing financial documents to the department, board or the Department of Administration on request.

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

The staff time needed to develop the rules is expected to be about 210 hours, depending on the complexity. This includes coordinating the rule-making process with the Board, research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to develop the rules.

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

Real estate licensees.

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 search of the U.S. Code and the code of federal regulations (CFR) did not reveal any existing or proposed regulations at the federal level for: applications and education relating to the licensing of real estate brokers and real estate salespersons, real estate broker's trust accounts, records retention or records kept in a specific format.

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

The anticipated cost of complying with the proposed rule is deemed minimal to none as it is expected that any electronic format required would include various options and may already be utilized.

9. Contact Person

Jean MacCubbin, Program Manager, Division of Policy Development, Department of Safety and Professional Services; P.O. Box 8935; Madison, WI 53708–8935; phone: (608) 266–0955 or Contact Through Relay; email: jean.maccubbin@wisconsin.gov.

Technical College System Board

SS 088–13

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

Rule No.

Revises Chapter TCS 3.

Relating to

Certification of personnel: requirements and procedures.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The Wisconsin Technical College System (WTCS) recently reviewed Chapter TCS 3 of the Wis. Admin. Code, entitled Certification of Personnel: Requirements and Procedures, 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. Chapter TCS 3, which was last amended in 1993, establishes the standards and procedures for implementation of a personnel certification system.

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

A committee of stakeholders, which included both System Office staff and college representatives — faculty members, presidents, chief academic officers, human resource directors, and certification officers — recommended a revised system that is lean, effective, flexible, and provides consistent process standards to ensure that WTCS institutions hire high quality faculty who will be supported with ongoing professional development that helps ensure learner success. The proposed Faculty Quality Assurance System would require each technical college district establish a process that meets WTCS Board established standards for occupational experience, academic qualifications, and ongoing professional development. WTCS staff will conduct reviews on behalf of the Board to ensure districts' quality assurance systems adhere to these standards. In addition, WTCS staff will work with district staff to provide technical assistance, identify best practices, and provide ongoing professional development opportunities for college faculty.

The proposed system would require rule changes that would delete or amend almost every section of ch. TCS 3.

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

The WTCS Board's responsibility for personnel certification is identified in Wis. Stat. s. 38.04 (4), which says that "the qualifications of educational personnel...shall be approved by the Board."

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 will be minimal.

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

The WTCS Board, System Office staff, and the 16 technical college districts.

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

There are no federal rules regarding the qualifications of technical college educational personnel.

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 rule will have minimal economic impact statewide and locally.

9. Contact Person

James Zylstra, (608) 266–1739.

Transportation

SS 092–13

This statement of scope was approved by the Governor on July 25, 2013.

Rule No.

Revises Chapter Trans 276.

Relating to

Size and weight of vehicles and vehicle combinations.

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 bring ch. Trans 276 into compliance with Wisconsin Statutes. First, the proposed rule seeks to conform s. Trans 276.05 (2) to (3) to s. 348.07 (4), Stats., by removing the outdated reference to "5–mile access routes." Second, the proposed rule seeks to conform ch. Trans 276 to ss. 348.07 (1) and 348.08 (1) (a), Stats., by repealing s. Trans 276.06 in its entirety. These removals will clarify changes made to s. 348.07 (1), Stats., as a result of 2011 Wisconsin Act 54, and to s. 348.08 (1) (a), Stats., as a result of 2011 Wisconsin Act 243.

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 Trans 276.05 (2) and 276.05 (3) specify that certain specified vehicles may not travel more than 5 miles on access routes to and from designated highways. These 2 sections of the rule are inconsistent with s. 348.07 (4), Stats.,

which specifies the distance as “15–miles.” The distance these specified vehicles may travel on access routes to and from designated highways may change in the future and should not appear in both the rule and statute. Therefore, the references to specific distance in s. Trans 276.05 (2) to (3) should be removed.

Section Trans 276.06 specifies the maximum overall length for vehicles operating in double or triple saddlemount without a permit as 75 feet or less. This rule has been made obsolete by s. 348.08 (1) (a), Stats., as amended by 2011 Wisconsin Act 243. Previously, s. 348.08 (1) (a), Stats., only permitted vehicles to operate in double or triple saddlemount without a permit if they were 65 feet or less in overall length. As a result of 2011 Wisconsin Act 243, s. 348.08 (1) (a), Stats., now specifies the distance as 75 feet or less. Since both the statute and the rule specify maximum overall length as 75 feet, this section of the rule is unnecessary and should be repealed.

Section Trans 276.06 also specifies the maximum overall length for a motor bus to operate without a permit as 45 feet or less. This rule has been made obsolete by s. 348.07 (1), Stats., as amended by 2011 Wisconsin Act 54. Previously, s. 348.07 (1), Stats., only permitted a motor bus to operate without a permit if they were 40 feet or less in overall length. As a result of 2011 Wisconsin Act 54, s. 348.07 (1), Stats., now specifies the distance as 45 feet or less. Since both the statute and the rule specify maximum overall length as 45 feet, this section of the rule is unnecessary and should be repealed.

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

Under s. 85.16, Stats., WisDOT has the authority to make reasonable and uniform rules for the discharge of its powers, duties and functions. Section 227.11 (2), Stats., identifies areas where rule–making authority is expressly conferred upon agencies, including where necessary to effectuate the purpose of the statute.

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

40 hours.

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

None. The proposed changes will amend language in ch. Trans 276 that is obsolete as a result of conflicts with recent statutory changes. The proposed changes will also clarify the law as it already exists.

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

There are no existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule changes.

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

Implementation of the proposed changes is not anticipated to have any economic impact on small businesses.

9. Contact Person

Reed McGinn, Legislative Liaison, Division of Motor Vehicles, Wisconsin Department of Transportation, (608) 266–7857.

Workforce Development

Unemployment Insurance, Chs. DWD 100–150

SS 097–13

This statement of scope was approved by the Governor on August 1, 2013.

Rule No.

Amendments to Chapters DWD 126, 127, and 129, Wis. Admin. Code.

Relating to

Unemployment Insurance Work Registration, Work Search and Benefit Claiming Procedures.

Rule Type

Permanent.

1. Detailed Description of the Objective of the Proposed Rule

The proposed rule will amend and update current rules related to the UI program by disqualifying claimants who are not actively seeking work and reducing the amount of time that claimants collect UI benefits. The amendments to the rules will ensure that those receiving UI benefits are engaging in activities that an unemployed person who wants to work would perform. The amendments will enhance the department’s ability to guarantee that claimants perform those activities directed by the department to assist claimants in becoming reemployed and prescribe methods by which claimants will be notified of requirements with respect to benefit eligibility.

- Section 108.04 (2) (a) 3., Stats., as amended by 2013 Wis. Act 20, requires weekly work search activities for a UI Benefit claimant be increased from 2 to at least 4 searches per week, and some claimants may be required to conduct more than 4 work searches per week.
- Section 108.04 (15), Stats., created by 2013 Wis. Act 36 authorizes the department to request information from UI benefit claimants related to work search efforts.
- Section 108.04 (2) (a) 4., Stats., as created by 2013 Wis. Act 36, authorizes the department to request information from UI benefit claimants related to work search efforts.

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

UI benefits provide a temporary safety net for employees who are out of work through no fault of their own until they secure additional employment. Section 108.04 (2), Stats., provides that an otherwise qualified claimant is eligible for UI benefits in any given week if the individual is able and available to work during that week, has registered for work, and the individual conducts a reasonable search for suitable work.

2013 Wisconsin Act 20 provided changes to these qualification requirements. First, 2013 Wisconsin Act 20 provides that an individual's registration for work must be done as directed by the department. Second, 2013 Wisconsin Act 20 increased the number of weekly work search actions a claimant must conduct from two to at least four, unless the department waives the work search requirement. Third, 2013 Wisconsin Act 20 specified that the department must adopt rules to prescribe when it may require a claimant to conduct more than four work search actions in a week. Finally, as the department enhances its focus on assisting claimants to become reemployed, the administrative rules must authorize the department to be able to provide claimants with notifications through email and other modern technological means.

The amendments to the administrative rules will make the rules consistent with the newly enacted legislation and will clarify and narrow the exemptions available to a claimant who is required to conduct work searches. These rule changes will strengthen the requirements for unemployed individuals to actively seek employment and thereby improve their employment prospects and align the job search requirements with the underlying goal of the UI program.

Currently, the department may require claimants to participate in a public employment office workshop which offers instruction in improving the claimant's skills for finding and obtaining employment. The amendments to the rules will enable the department to identify additional services it may provide claimants to become more quickly employed and potentially require claimants to attend training services to enhance their job prospects.

Finally, as required by 2013 Wisconsin Act 20, the amendments will provide criteria as to when the department may require a claimant to conduct more than four weekly work search actions.

The policy alternative of doing nothing is not acceptable, because, if the department fails to adopt amendments to the rules related to work search activities, the administrative rules will be inconsistent with state statutes. In addition, without updating the rules, the department will be deterred from verifying that claimants are actively seeking work. Moreover, it may encourage some claimants to remain unemployed and to continue to collect unemployment benefits rather than obtain employment.

3. Detailed Explanation of Statutory Authority for the Rule, Including the Statutory Citation and Language

Section 108.04 (2) (b), Stats., provides: "The requirements for registration for work and search for work shall be prescribed by rule of the department, and the department may by general rule waive these requirements under certain stated conditions."

In addition, s. 108.14 (2), Stats., provides in part: "The department may adopt and enforce all rules which it finds necessary or suitable to carry out this chapter."

Other statutory authority includes:

Section 108.03, Wis. Stats. Payment of benefits — authority to prescribe conditions.

Section 108.04, Wis. Stats. Eligibility for benefits — authority to adopt rules on the requirement for work searches.

Section 108.08, Wis. Stats. Notification of unemployment.

Section 108.09, Wis. Stats. Settlement of benefit claims — authority to adopt rules on filing claims.

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

The total amount of staff time is estimated to be 480 hours.

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

These rules will impact all individuals who qualify for UI benefits. The rules will also impact businesses in two aspects. First, the rule changes are projected to cause more unemployed individuals who are collecting benefits to find employment. As a result, unemployed individuals will be collecting lower amounts of UI benefits and there will be fewer charges to employers' UI accounts. This will result in employers having to pay lower amounts of unemployment tax. Second, more unemployed individuals will seek employment. As a result, there are likely to be more job applications for employers to review when employers are seeking to hire individuals.

6. 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 law states individuals must be registered for work and must be available and actively seeking work to be eligible for regular unemployment compensation. In addition, federal law requires claimants to participate in reemployment services to which they have been referred as a condition of UI eligibility. These rules will clarify what are the required work search activities a claimant must conduct and strengthen the ability of the department to monitor the claimants' efforts to obtain employment and require them to participate in reemployment services.

7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to have an Economic Impact on Small Businesses)

These rules will have a positive economic impact. The increase in the requirement for work search activities and work registration will likely decrease charges to the UI trust fund due to individuals obtaining employment sooner or becoming disqualified for not actively seeking work. This will have a positive economic impact on employers, due to fewer charges to employers' UI accounts.

Contact Person

Janell Knutson, Director, UI Bureau of Legal Affairs, (608) 266–1639, janell.knutson@dwd.wisconsin.gov.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Agriculture, Trade and Consumer Protection CR 13–058

(DATCP Docket # 13–R–01)

On July 26, 2013, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to s. 227.15, Stats.

The scope statement for this rule, SS 017–13, was approved by the Governor on February 18, 2013, published in Register No. 686 on February 28, 2013, and approved by the Board of Agriculture, Trade and Consumer Protection as required by s. 227.135 (2), Stats., on July 16, 2013.

Analysis

The proposed rule revises Chapters ATCP 10 and 12, relating to animal health and movement and animal markets, truckers, and dealers.

Agency Procedure for Promulgation

The department will hold public hearings on this rule beginning September 9, 2013.

Contact Person

The department's Division of Animal Health is primarily responsible for this rule. If you have questions, you may contact Loretta Slauson at (608) 224–4890.

Agriculture, Trade and Consumer Protection CR 13–063

(DATCP Docket # 13–R–02)

On July 29, 2013, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to s. 227.15, Stats.

The scope for this rule, SS 016–13, was approved by the Governor on February 19, 2013, published in register No. 686, on February 28, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on March 22, 2013.

Analysis

The proposed rule repeals s. ATCP 17.01 (19) and ch. ATCP 53; repeals and recreates ch. ATCP 21, Appendix A,

amends ss. ATCP 17.01 (9), 21.21 (1) (c) 1., 60.08 (3) and (6), 60.01 (23m), 70.03 (7) (b) 1., 80.01 (7) (c), 80.01 (27m), 80.24 (3) (a) 2., and 80.24 (3) (b); and, creates s. ATCP 80.24 (3) (a) 3., relating to Technical Changes Related to Livestock Premises Registration; Plant Inspection and Pest Control; Agricultural Enterprise Areas; Dairy Farms; Food Processing Plants; Dairy Plants.

Agency Procedure for Promulgation

The DATCP Board has approved this rule for public hearing; date for public hearing will be September 11, 2013, in Madison.

Contact Person

If you have any questions regarding this rule, you may contact Kelly Monaghan, Office of the Secretary at (608) 224–5033 or David Meany, Chief Legal Counsel at (608) 224–5022.

Insurance CR 13–059

In accordance with ss. 227.14 (4m) and 227.15, Stats., the Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on July 30, 2013.

The statement of scope of this rule, SS 069–12, was approved by the Governor on September 13, 2012, published in Register No. 681, on September 30, 2012, and approved by the Commissioner on October 15, 2012.

Analysis

These changes will affect section Ins 51.01 (4) (a) 2., Wis. Adm. Code, relating to risk based capital requirements and affecting small business.

Agency Procedure for Promulgation

The date for the public hearing is September 5, 2013.

Contact Person

A copy of the proposed rule may be obtained from the web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, Office of the Commissioner of Insurance, at (608) 264–8110. For additional information, please contact Sarah E. Norberg at (608) 266–0082 or e–mail at sarah.norberg@wisconsin.gov in the OCI Legal Unit.

Natural Resources

Environmental Protection — General, Chs. NR 100—;
Environmental Protection — Wis. Pollutant Discharge
Elimination System, Chs. NR 200—;
Environmental Protection — Air Pollution Control,
Chs. NR 400—;
Environmental Protection — Solid Waste Management,
Chs. NR 500—;
Environmental Protection — Water Supply,
Chs. NR 800—
CR 13–057

(DNR# WA–14–13)

On July 24, 2013, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The Statement of Scope for this rule, SS 032–13, was approved by the Governor on March 27, 2013, published in Register No. 688, on April 14, 2013, and approved by the Natural Resources Board as required by s. 227.135 (2), Stats., on May 22, 2013. The Natural Resources Board approved submittal of the proposed rule to Legislative Council as required by s. 227.135 (4m), Stats., on May 22, 2013.

Analysis

The proposed rule revises Chapters NR 103, 123, 130, 131, 132, 135, 140, 182, 213, 214, 406, 500 to 538, 812, and 815, Wis. Adm. Code, relating to requirements by section 103 of 2013 Wisconsin Act 1 (Ferrous Mining Law).

Agency Procedure for Promulgation

A public hearing is required and will be scheduled to be held in October, 2013.

Contact Person

Ann Coakley
 Bureau of Waste and Materials Management
 608–516–2492

Cheryl Heilman
 Bureau of Legal Services
 608–266–0235

Linda Haddix
 Bureau of Legal Services
 608–266–1959

Safety and Professional Services

Safety, Buildings, and Environment — Plumbing,
Chs. SPS 381–387
CR 13–062

On July 31, 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 048–13, was approved by the Governor on April 29, 2013, published in Register No. 689 on May 15, 2013, and approved by the Department on May 30, 2013.

Analysis

Statutory Authority: ss. 145.02 (1), 145.13, and 227.11 (2), Stats.

This proposed rule–making order proposes to renumber and amend s. SPS 381.01 (141) as s. SPS 381.01 (141) (a) to (c); amend s. SPS 381.20 Table 381.20–11 (partial) line 6., s.

SPS 384.20 (2) (b) (Note), s. SPS 384.40 (4) (intro.), and s. SPS 384.40 (8) (a) and (d); and create s. SPS 381.01 (141) (c) (Note), s. SPS 381.20 Table 381.20–11 (partial) line 7., relating to U.S. EPA lead–reduction rule, Safe Drinking Water Act amendments of 2011.

Agency Procedure for Promulgation

A public hearing is required and will be held on August 28, 2013, at 1:00 p.m. at 1400 East Washington Avenue, Room 121, 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.

Safety and Professional Services — Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors CR 13–064

On August 1, 2013, the Engineering Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 021–13, was approved by the Governor on March 6, 2013, published in Register No. 687 on March 31, 2013, and approved by the Engineering Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors on July 1, 2013.

Analysis

This proposed rule–making order revises ss. A–E 13.08 (4) and A–E 13.09, relating to comity renewal requirements.

Agency Procedure for Promulgation

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

Contact Person

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 608–261–4438.

Safety and Professional Services — Dentistry Examining Board CR 13–060

On July 31, 2013, the Dentistry Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 056–13, was approved by the Governor on May 17, 2013, published in Register No. 690 on June 15, 2013, and approved by the Dentistry Examining Board on May 1, 2013 (Motion included approval to publish Scope and implementation post–publication).

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2), and 447.03 (3) (f) 1., Stats.

This proposed rule–making order is to amend s. DE 9.02 (intro.), (1), (2), and (4); create s. DE 9.015; and repeal and recreate s. DE 9.01, relating to lab work authorizations.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 6, 2013, at 9:30 a.m. at 1400 East Washington Avenue, Room 121, 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.

**Safety and Professional Services —
Dentistry Examining Board
CR 13–061**

On July 31, 2013, the Dentistry Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 015–13, was approved by the Governor on February 4, 2013, published in Register No. 686 on February 28, 2013, and approved by the Dentistry Examining Board on January 9, 2013 (Motion to approve Scope for publication and implementation post–publication).

Analysis

Statutory Authority: ss. 15.08 (5) (b) and 447.02 (2) (b), Stats.

This proposed rule–making order is to amend ss. DE 11.05 (1), 11.06 (1), and 11.07 (1) and create s. DE 11.02 (9m), relating to sedation permits and classes of permits.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 6, 2013, at 9:30 a.m. at 1400 East Washington Avenue, Room 121, 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.

Rule–Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection CR 13–058

(DATCP Docket # 13–R–01)

NOTICE IS HEREBY GIVEN THAT the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) will hold public hearings on a proposed rule to revise Chapters ATCP 10 and 12, relating to animal health and movement and animal markets, truckers, and dealers.

Hearing Information

Date: Monday, September 9, 2013
Time: 6:00 p.m. to 7:00 p.m.
Location: Pinery Room
 Portage County Public Library–Stevens Point
 1001 Main Street
 Stevens Point, WI 54481–2860

Date: Tuesday, September 10, 2013
Time: 5:00 p.m. to 6:00 p.m.
Location: Board Room (1st Floor)
 Department of Agriculture, Trade and
 Consumer Protection
 2811 Agriculture Drive
 Madison, WI 53718–6777

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by August 30, 2013, by writing to Loretta Slauson, Division of Animal Health, P.O. Box 8911, Madison, WI 53708–8911; or by emailing loretta.slauson@wisconsin.gov; or by telephone at (608) 224–4890. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is handicap accessible.

Appearances at the Hearings, Copies of Proposed Rule, and Submittal of Written Comments

DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until **September 24, 2013**, for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, or to loretta.slauson@wisconsin.gov, or to <http://adminrules.wisconsin.gov>.

You can obtain a free copy of this hearing draft rule and related documents including the economic impact analysis by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–4890 or by emailing loretta.slauson@wisconsin.gov. Copies will also be available at the hearing. To view the hearing draft rule online, go to <http://adminrules.wisconsin.gov>.

Comments or concerns relating to small business may also be addressed to DATCP’s small business regulatory coordinator, Keeley Moll, at the address above, or by email to

keeley.moll@wisconsin.gov, or by telephone at (608) 224–5039.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

This proposed rule will modify current animal health rules to align with federal regulations, state statutory requirements, and previous rule modifications. The proposed rule will also make various modifications to provide for flexibility, clarity, and consistency.

Statutes interpreted

Statutes interpreted: ss. 93.07, 95.197, 95.20, 95.22, 95.31, 95.45, 95.55, 95.57, 95.60, 95.65, 95.68, 95.69, and 95.71, Stats.

Statutory authority

Statutory authority: ss. 93.07 (1) and (10), 95.197, 95.20, 95.22, 95.45 (4) (c), 95.55 (6), 95.60 (3) and (4s), 95.68 (8), 95.69 (8), and 95.71 (8), Stats.

Explanation of statutory authority

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) has broad authority to promulgate rules for the proper enforcement of its programs under s. 93.07 (1) and (10), Stats.

DATCP has broad authority under s. 95.20, Stats., to prohibit or regulate the importing of animals into this state or the movement of animals if there are reasonable grounds to believe it is necessary to prevent the introduction or spread of disease in this state.

DATCP has specific rulemaking authority on certificates of veterinary inspection under s. 95.45 (4) (c), Stats., regulation of the farm–raised deer industry under s. 95.55 (6), Stats., and regulation of fish farms under s. 95.60 (3) and (4s), Stats.

Related statutes and rules

The Department of Natural Resources has statutes and rules that are closely related to some of the program areas in DATCP. Section NR 16.45, Wisconsin Administrative Code, establishes fencing requirements and harvest plan requirements for keepers of farm–raised deer that are white–tailed deer. Section 29.87, Stats., establishes guidelines by which the Department of Natural Resources may dispose of escaped farm–raised deer. Section 29.735, Stats., establishes requirements for importation of fish other than health requirements and section 29.736, Stats., establishes requirements for the stocking of fish into waters of the state, other than health requirements.

Plain language analysis

Federal regulations

Many of the programs regulated by state administrative rules are also regulated by federal rules. As federal rules change over time, state rules must also be modified so Wisconsin producers have consistent, non–conflicting requirements to comply with when moving livestock interstate. This rule modifies provisions relating to documentation required for horses and to official individual identification of certain animals to align with federal

traceability rules. The rule also modifies provisions relating to the chronic wasting disease (CWD) herd status program to align with United States Department of Agriculture (USDA) rules that establish a Herd Certification Program (HCP) for CWD in farm–raised or captive cervids in the United States.

DOCUMENTATION REQUIRED FOR HORSES MOVING INTERSTATE

Current rule allows horses to be imported without a certificate of veterinary inspection (CVI) if the horse is not commingled with other horses and goes to slaughter within 10 days after arrival at an animal market. Federal regulations no longer allow for this CVI exemption. Therefore, this rule will eliminate this CVI exemption for horses to be consistent with federal regulations.

OFFICIAL INDIVIDUAL IDENTIFICATION OF ANIMALS

Current rule allows bovine animals to be officially identified with ear tags approved by the federal bureau or the department, registration numbers, or tattoos. Federal rules now only allow official ear tags to be used as official identification. The official ear tags must adhere to the National Uniform Eartagging System, the Animal Identification Number System, or other identification system approved by the federal bureau and the department. In addition, federal rules now require the following bovine animals to have official identification: all sexually intact cattle/bison over 18 months of age, all female dairy cattle of any age, all male dairy cattle born after March 11, 2013, and cattle/bison used for shows and exhibitions. The proposed rule modifies the definition of “official individual identification” and “official ear tag” when applied to bovine animals to align with federal traceability requirements.

Current rule allows farm–raised deer enrolled in the CWD herd status program to be officially identified with a CWD status program registration tag or a premises tattoo provided the farm–raised deer also has a unique individual identification number. Federal rules now only allow official ear tags to be used as official identification of these deer. The official ear tags must adhere to the National Uniform Eartagging System, the Animal Identification Number System, or other identification system approved by the federal bureau and the department. The proposed rule modifies the definition of “official individual identification” and “official ear tag” as applied to farm–raised deer to align with federal traceability requirements.

The current rule definition of “official individual identification,” as it pertains to other animals, is unclear. The proposed rule modifies the definition of official individual identification for clarity when the term is applied to other animals.

FARM–RAISED DEER ENROLLED IN THE CWD HERD STATUS PROGRAM

Current rule requires a farm–raised deer keeper (FRDK) whose herd is enrolled in the CWD herd status program to conduct an annual herd census and file a report of that herd census with the department. To comply with new federal requirements under 9 CFR 55.23 (b) (4), the proposed rule requires that a physical herd inventory be completed by a herd veterinarian or department–authorized agent before a FRDK may enroll in the CWD herd status program. Similar physical herd inventories must be completed every three years thereafter to maintain enrollment. For FRDKs currently

enrolled in the CWD herd status program, the proposed rule requires the first complete herd inventory to be submitted to the department by December 31, 2015, providing reasonable time to comply.

Current rule requires deer enrolled in the CWD herd status program to have one official identification. To comply with new federal requirements under 9 CFR 55.25 that became effective December 10, 2012, the proposed rule requires that two identifications (one official and the second either official or unique to the herd) be attached to farm–raised deer that are enrolled in the CWD herd status program. The proposed rule also requires the two identifications be recorded in the annual census report, as well as the physical herd inventory conducted every three years.

Current rule specifies that a farm–raised deer is CWD test–eligible if it is at least 16 months old, unless a different age is required under USDA rules. USDA rules, under 9 CFR 55.23 (b) (4), now requires herd owners enrolled in a CWD herd certification program to test deer aged 12 months or older for CWD upon death, including by slaughter or hunt (effective 12/10/12). The proposed rule clarifies that the age of test–eligible deer enrolled in the CWD herd status program is 12 months of age or older in accordance with USDA regulations.

State statutory modifications

All of the programs regulated by state administrative rules are authorized by Wisconsin Statutes. As statutory modifications are made, state rules must also be modified to be in compliance with Wisconsin Statutes. To be in compliance with state statutes, the proposed rule modifies provisions relating to:

1. Establishing veteran fee waivers for farm–raised deer and fish farm registration (pursuant to 2011 Wisconsin Act 209).
2. Eliminating certain record keeping requirements for persons who operate a fish farm but sell fish to an individual for the individual’s personal use as food or bait (pursuant to 2011 Wisconsin Act 207).
3. Eliminating the requirement that a person have an import permit when bringing fish or fish eggs from a fish farm in another state to a fish farm in this state if he or she has a valid fish health certificate that covers the fish or fish eggs (pursuant to Wisconsin Act 207).
4. Eliminating the DNR exemption from the requirement to obtain a permit from the department to bring fish into this state (pursuant to 2011 Wisconsin Act 207).

Flexibility, clarity, and consistency

The proposed rule makes the following modifications to provide for flexibility, clarity and consistency:

1. Definitions and terms.

Replacing the term “American association of zoological parks and aquariums” with “association of zoos and aquariums,” the current title of the entity.

Changing the definition of “feeder cattle” in ch. ATCP 10 to be consistent with the definition of feeder cattle in ch. ATCP 12.

Modifying the definition of “individual” for clarity.

Creating the definition of “immediate family member” to clarify what individuals are eligible to collect a CWD test sample once properly trained.

Creating a definition of “salvage value” to clarify that payment received from any source, other than state or federal indemnifications, are considered part of the salvage value of an animal.

Defining the new term “new world camelids” to allow vicunas to be classified as, and have the same import requirements as, llamas, alpacas, and guanacos, rather than classified as an exotic ruminant with additional import requirements.

2. Blanket import permit.

Creating a blanket import permit system to be used when the department is not open for business. An accredited veterinarian or a Wisconsin importer who anticipates a possible purchase of an animal from an out-of-state farm or sale at a time the department is not open for business may apply for a blanket import permit, by providing some specifics, and following up with the details on the first business day.

3. Johne’s program.

Clarifying that reimbursements under the Johne’s program are made only when funds are available. Funds for the Johne’s program are eliminated in the 2013–15 biennial budget.

4. Bovine.

Eliminating the requirement that official individual identification of bovine animals be inserted in the *right* ear of the animal.

5. Swine.

Eliminating the requirement that a certificate of veterinary inspection (CVI) include a statement that no pseudorabies vaccine has been used on a swine imported into Wisconsin. In the alternative, the proposed rule requires that a statement disclosing the porcine reproductive and respiratory syndrome status (PRRS) of the herd of origin, if known, be included on the CVI of an imported swine. This change was made in consultation with the swine industry which felt the genetics of the hogs bred in Wisconsin were in need of protection from the disease of PRRS.

6. Equine.

Changing the timing of the required negative equine infectious anemia (EIA) test result from “during the current calendar year” to “within 12 months” of the purchase, sale transfer or import of the equine into this state. This will make Wisconsin’s EIA testing intervals consistent with other states, facilitating interstate movement.

7. Poultry.

Eliminating the turkey commingling prohibitions to benefit small poultry farmers.

8. Farm–raised deer.

Eliminating a provision on deer moving to a tuberculosis isolation and testing facility as such facilities no longer exist.

Requiring that FRDKs include in their records the circumstances which resulted in an escape consistent with the information reported to the department whenever a farm–raised deer escapes a registered herd. Whatever is *reported* to the department must be *recorded* in herd records.

Requiring that FRDKs keep a record of where a carcass is buried or otherwise disposed of, consistent with record keeping requirements for deer killed on a hunting preserve.

Clarifying that all farm–raised deer that are killed intentionally, including escaped deer, must be tested for CWD if they are test–eligible.

Eliminating the requirement that the livestock premises code be included in the herd records of farm–raised deer added to a herd under the CWD herd status program.

Establishing training requirements for FRDKs, their immediate family members, and their employees to be qualified to collect CWD test samples. The proposed rule also establishes a fee for becoming a qualified CWD test sample collector.

Clarifying that official individual identification numbers be included on a certificate of veterinary inspection for farm–raised deer imported or moving in Wisconsin.

9. Fish.

Clarifying when a valid fish health certificate must accompany any fish and fish eggs moved from a fish farm that has registered two or more fish farms at a single location. Current rules require a valid health certificate accompany *any* fish or fish eggs moved between *any* of the registered fish farms. The proposed rule will require a valid health certificate accompany *only* fish or fish eggs of a species found to be susceptible to VHS, moving from a type 3 fish farm.

Eliminating the record keeping requirements for sales of farm–raised fish or fish eggs sold directly to a consumer for bait or food.

10. Appendices to ch. ATCP 10.

The current rule requires a person who diagnoses, or obtains, credible diagnostic evidence of a disease listed in Appendix A report that finding to the department within one day. The proposed rule removes *Mycoplasma meleagridis* from Appendix A and adds it to Appendix B which requires the listed diseases to be reported to the department within 10 days.

11. Animal markets, dealers and truckers.

Clarifying that Class A animal markets may conduct livestock and wild animal sales and auctions on any number of days during the license year.

Clarifying that Class B animal markets may conduct livestock sales on any number of days during the license year but may hold auctions on no more than 4 days during the license year.

Clarifying that any person, *as principal or agent*, engaged in the business of animal dealing must hold an animal dealer license. This language aligns the rule with Wisconsin Statutes.

Clarifying the language regarding the identification of bovine animals for sale or shipment to slaughter.

Clarifying, in a note, that if an animal dealer or trucker hauls bovine animals or swine direct to slaughter or to a slaughter sale held at a licensed market, an official backtag is adequate identification for the animal.

Clarifying that for animal trucker records, the individual backtags do not need to be recorded for animals being moved from a licensed dealer or market direct to slaughter. Also, clarifying that the owner of each animal must be included in animal trucker records.

Standards incorporated by reference

Pursuant to s. 227.21, Stats., DATCP has requested permission from the attorney general to incorporate the following standard by reference in this rule:

UNITED STATES DEPARTMENT OF AGRICULTURE,
ANIMAL PLANT HEALTH AND INSPECTION SERVICE

- Veterinary Services Memorandum No. 578.12, “National Uniform Eartagging Systems.” (March 15, 2011).

This primary standard was adopted by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA–APHIS).

Copies of this standard will be on file with DATCP and the legislative reference bureau.

Waivers

DATCP may waive any provision of ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing. DATCP may not waive a statutory requirement.

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

The United States Department of Agriculture (USDA) administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state.

Federal CWD Herd Certification Program (“HCP”) requirements include individual animal ID’s, regular inventories, and testing of all cervids over 12 months that die for any reason. Interstate movement of cervids will be dependent on a state’s participation in the program, maintaining compliance with program requirements, and having achieved herd certification status.

Federal traceability requirements establish minimum national official identification and documentation for the traceability of livestock moving interstate. These regulations specify approved forms of official identification and documentation for each species.

The proposed rules will align state rules relating to CWD and identification requirements for traceability with approaches used by the federal government. These changes will allow for the continued interstate movement of farm–raised deer and other livestock.

Comparison with rules in adjacent states

Surrounding state animal health programs are comparable to those in Wisconsin. Programs for historically important diseases, such as tuberculosis, brucellosis, and CWD, in other Midwest states are similar to Wisconsin as all are based on well–established federal standards.

States may apply to become an Approved State HCP if they meet (or exceed) national program requirements. Cervid owners can enroll and participate in their Approved State CWD HCP. Interstate movement of animals is dependent on

a state’s participation in the program, maintaining compliance with program requirements, and having achieved herd certification status. Wisconsin and Minnesota have approved CWD HCPs by the federal USDA, Animal and Plant Health Inspection Service (“APHIS”). Illinois, Iowa, and Michigan have conditional approval. Therefore, all are implementing the federal requirements and thus are similar to Wisconsin rules.

To meet federal CWD HCP requirements for farm–raised deer to move interstate, a state program must meet approved forms of official identification. Minnesota, Illinois, Iowa, and Michigan have applied for their programs to be accepted as meeting the federal traceability identification requirements in order to move livestock interstate. Therefore, all are implementing the federal requirements and those state rules should be similar to Wisconsin’s.

Summary of factual data and analytical methodologies

This proposed rule does not depend on any complex analysis of data. This proposed rule makes minor, technical changes, as well as changes to comply with USDA regulations relating to traceability, and the CWD herd certification program, in order to facilitate Wisconsin livestock in interstate commerce.

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

The majority of these proposed rule changes are to align Wisconsin Administrative Code with federal regulations, state statutory requirements and previous rule modifications.

The most significant rule changes (and fiscal impact) relate to farm–raised deer keepers enrolled in the Wisconsin CWD herd status program. Division of Animal Health staff met with a group of farm–raised deer keepers and their lobbyists in August 2012 to discuss the new federal requirements and how the rule would be updated to reflect the new federal regulations. Many of the small business fiscal effects were inferred from that meeting as well as discussions with individual FRDKs.

Effect on Small Business

The majority of these rule modifications are technical and have no fiscal effect or have already been implemented by the division due to prior changes in state law. Many of the rule modifications will ease program requirements and may reduce costs to small business. The rule modifications that may have a greater economic impact on small business are changes required to align with federal USDA regulations relating to farm–raised deer enrolled in the CWD herd status program.

The entities that may be affected by this rule modification include the following:

1. Wisconsin importers.

Vicunas. The import requirements for vicunas will be less costly and those reduced costs may be realized by the recipient of the vicuna. However, the number of vicunas imported into the state of Wisconsin is negligible and cost savings indeterminate.

Swine. The import costs for swine will most likely remain the same as the CVI content requirement for swine imports has replaced the pseudorabies vaccine statement with a statement regarding PRRS status of the herd of origin.

2. Poultry farmers.

Small poultry farmers have benefited from the elimination of the turkey commingling prohibitions in the proposed rule. The department has already issued a waiver from this rule prohibition so any cost savings from this rule modification have already been realized.

3. Farm–raised deer keepers (FRDKs) with herds enrolled in the CWD herd status program.

CWD test samples (State changes). Farm–raised deer keepers may realize a significant cost savings if they, their employees or their immediate family members choose to complete department–approved training and become qualified by the department to collect CWD test samples.

The qualification will allow the FRDK (or his/her employee or immediate family member) to collect CWD test samples rather than hiring a veterinarian to do so at an estimated \$75 per deer (depending on the number of deer tested at one time, this cost could be lower). This change is significant as 100 percent of all farm–raised deer aged 12 months or older enrolled in a CWD herd status program must be tested for CWD upon death, including those sent to slaughter. In addition, for non–enrolled herds for deer 16 months of age or older, 100 percent that are killed intentionally or die by accidental death or natural causes must be tested, 25 percent sent to slaughter must be tested and 50 percent that are intentionally killed while on a hunting preserve must be tested. Cost savings for non–enrolled herds could also be significant.

The training for this qualification will first be provided in the summer of 2013 (before promulgation of this rule) and will be free of charge. The proposed rule will require a nonrefundable application fee of \$50 every five years per applicant so the department can recover some of the costs in the future of providing the CWD test training and qualification program.

Beginning June 30, 2018, veterinarians will also be required to take CWD test sample training to refresh their sampling techniques and to become qualified collectors. This will be a new cost to veterinarians who choose to collect CWD test samples.

Two forms of identification (Federal changes). Keepers of farm–raised deer enrolled in the CWD herd status program will have to apply two forms of identification to each deer that is 12 months of age or older and provide a complete herd inventory every three years by a veterinarian or department–authorized agent.

Participation in the CWD herd status program is voluntary. There are approximately 330 farm–raised deer keepers with 14,225 deer (elk, red deer, white–tailed deer, fallow, sika, reindeer, muntjac, moose, and mule deer) enrolled in the CWD herd status program in Wisconsin.

Approximately 50 of those FRDKs currently move their deer interstate and likely already have two identifications attached to each deer. These individuals also have their herds certified as tuberculosis–free since it is a requirement to move deer. A tuberculosis–free herd must be re–certified every three years by testing deer 12

months of age or older by a veterinarian. The newly required complete herd inventory can coincide with the tuberculosis testing every three years but must be done for *all* deer in the herd (including deer *under* 12 months of age). Because the herd inventory includes all deer (including deer *under* 12 months of age) and the tuberculosis testing includes only deer *over* 12 months of age, there will be an increase in cost to FRDKs having young deer under 12 months of age. The cost for a veterinarian to provide tuberculosis testing is approximately \$100 to \$200 per hour. The number of additional hours needed and costs will vary depending on the number of deer under 12 months of age that will need to be inventoried in each herd. It is unknown how many herds will have deer under 12 months of age.

Of the remaining 280 FRDKs, approximately 190 are enrolled in the CWD herd status program and many move their deer intra–state. Approximately 150 of these FRDKs have their herds certified as tuberculosis–free. These FRDKs will have the same fiscal costs as those described in the previous paragraph. The FRDKs that do not have herds certified as tuberculosis–free may incur the fiscal costs described in the following paragraphs.

Approximately 90 of the 280 FRDKs who don't move interstate are enrolled in the CWD herd status program but do not move live deer, do not have their herds certified as tuberculosis–free, and likely do not have two identifications attached to their adult deer. These FRDKs may choose to stop participation in the CWD herd status program. However, they will then need to comply with fencing requirements specified by the Department of Natural Resources under s. NR 16.45 (2), Wis. Admin. Code. The DNR rule requires white–tailed deer farms with perimeter fences less than 80 acres to be either enclosed by a double or solid fence (unless the deer farm is enrolled in the CWD herd status program).

The rules will have a greater fiscal impact on these FRDKs as they probably do not currently have facilities to catch deer in order to apply the required identification or to complete a physical herd inventory every three years. Depending on the animal, each deer may need to be chemically immobilized (tranquilized) in order to conduct the inventory, causing a greater risk of death, injury, and cost to the owner.

It is important to note that if these rule modifications are not promulgated to comply with federal regulations, Wisconsin may jeopardize its approval from USDA on implementing its herd certification program which allows keepers of farm–raised deer enrolled in the CWD herd status program to move deer interstate. No USDA approval means there is no interstate movement of deer.

4. Fish farmers.

Type 1 and 2 fish farmers may realize a cost savings as they will no longer have to have a veterinarian prepare a valid health certificate for fish or fish eggs moving from any of the registered fish farms at the same location. It is unknown how many type 1 and 2 fish farms move fish or fish eggs among the registered fish farms at the same

location. Therefore, any savings are indeterminate.

5. Owners of rodeo and exhibition cattle.

Owners of rodeo and exhibition cattle will have to apply eartags to their cattle to improve traceability. However, because these eartags are free, any fiscal impact should be minimal.

6. Animal markets.

Owners of Wisconsin animal markets selling equine may experience a slight decrease in costs as federal rules now require that horses imported to markets have a certificate of veterinary inspection (CVI) before entering the market. Current state rules allow horses to be imported to markets without a CVI if shipped directly to slaughter within 10 days of arrival but if the horse then

leaves the market other than for slaughter or is commingled with other equine, the market owner must then have a Wisconsin certified veterinarian issue a CVI for that horse. Under the proposed rule, the equines would come to market *with* a CVI. It is unknown how many markets this provision may affect and any cost savings are indeterminate.

Agency Contact Person

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 Telephone: (608) 224–4890
 E–Mail: loretta.slauson@wisconsin.gov

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Ch. ATCP 10, animal diseases and movement and ch. ATCP 12, animal markets, dealers and truckers.		
Subject		
Animal Disease and Movement and Animal Markets, Truckers and Dealers.		
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG–S	s. 20.115 (2) (ha), Stats.	
Fiscal Effect of Implementing the Rule		
<input type="checkbox"/> No Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	<input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input checked="" type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units	<input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
The majority of the proposed rule changes are technical or provide for flexibility, clarity and consistency. Significant proposed rule changes are being made because: <ul style="list-style-type: none"> • The current rule is inconsistent with federal regulations relating to animal traceability and the CWD Herd Certification Program (HCP). Therefore, state rules must be modified to allow Wisconsin livestock to move interstate. • The current rule is inconsistent with Wisconsin Statutes that were modified in the last biennium. Therefore, the rules must be modified to align and not conflict with state law. 		

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 majority of these rule modifications are technical and have no fiscal effect or have already been implemented by the division due to prior changes in state law.

Many of the rule modifications will ease program requirements and may reduce costs to small business. The entities that will be affected by these changes include:

1. Farm–raised deer keepers.
2. Individuals that become qualified (as registered farm–raised deer keepers, or family members or employees of registered farm–raised deer keepers) by the department to collect CWD test samples.
3. Wisconsin importers of vicunas and swine.
4. Poultry farmers.
5. Fish farmers.
6. Owners of rodeo and exhibition cattle.
7. Animal markets.

The rule modifications that may have a greater economic impact on small business are changes required to align state rules with federal USDA regulations relating to farm–raised deer enrolled in the CWD herd status program.

This rule will not have any significant negative economic or fiscal impact on business sectors, public utility rate payers, local governmental units, or the state's economy as a whole and does not create additional requirements that local governments must follow.

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

The majority of these rule modifications are technical or ease program requirements. There are no alternatives suggested for these changes.

The changes made as a result of changes in federal regulations will allow animals from Wisconsin to move interstate. Preventing and controlling animal disease is the cornerstone of protecting American animal agriculture. While ranchers and farmers work hard to protect their animals and their livelihoods, there is never a guarantee that their animals will be spared from disease. Traceability does not prevent disease, but knowing where diseased and at–risk animals are, where they have been, and when, is indispensable in emergency response and in ongoing disease control and eradication programs.

If the rule is not modified to align with federal regulations, state rules will conflict with federal regulations causing confusion for individuals wanting to move livestock interstate, and preventing that movement. Further, Wisconsin may jeopardize its approval from USDA to implement its Herd Certification Program (HCP) for cervids, which allows keepers of farm–raised deer enrolled in the CWD herd status program to move deer interstate.

Long Range Implications of Implementing the Rule

Overall, this rule continues to provide for disease control and prevention for the benefit of the entire livestock and aquaculture industry. In many cases, this rule will improve flexibility and reduce costs for individual businesses, including small businesses.

Compare With Approaches Being Used by Federal Government

The United States Department of Agriculture (USDA) administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state.

Federal CWD HCP requirements include individual animal IDs, regular inventories, and testing of all cervids over 12 months of age that die for any reason. Interstate movement of cervids will be dependent on the home state's participation in the program, maintaining compliance with program requirements, and achieving herd certification status.

Federal traceability requirements establish minimum national official identification and documentation for the traceability of livestock moving interstate. These new federal regulations specify approved forms of official identification and documentation for each species.

The proposed rule modifications will align state rules relating to CWD and identification requirements for traceability with approaches used by the federal government. These changes will allow for the continued interstate movement of farm–raised deer and other livestock.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan, and Minnesota)
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Surrounding state animal health programs are broadly comparable to those in Wisconsin. Programs for historically important diseases, such as tuberculosis, brucellosis and CWD, tend to be fairly similar between states and are based on well-established federal standards.

States may apply to become an approved State HCP if they meet (or exceed) national program requirements. Cervid owners can enroll and participate in their state's approved CWD HCP. Interstate movement of animals will be dependent on a deer owner's home state's participation in the program, maintaining compliance with program requirements, and achieving herd certification status. Wisconsin and Minnesota have CWD HCPs approved by the federal Animal and Plant Health Inspection Service (APHIS). Illinois, Iowa, and Michigan have conditional approval. Therefore, all neighboring states are moving to implement federal requirements and should ultimately have similar rules.

In addition to meeting federal CWD HCP requirements for farm-raised deer to move interstate, livestock, including farm-raised deer, are also required to have federally approved forms of official identification to move interstate. Minnesota, Illinois, Iowa, and Michigan must meet the federal traceability identification requirements in order to move livestock interstate. All these neighboring states are in the process of implementing the federal identification requirements and should ultimately have similar rules.

Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the DATCP external website or the statewide administrative rules website.

Notice of Hearing

Agriculture, Trade and Consumer Protection CR 13–063

(DATCP Docket # 13–R–02)

NOTICE IS HEREBY GIVEN THAT the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) will hold a public hearing on a proposed rule to repeal s. ATCP 17.01 (19) and ch. ATCP 53; repeal and recreate ch. ATCP 21, Appendix A, amend ss. ATCP 17.01 (9), 21.21 (1) (c) 1., 60.08 (3) and (6), 60.01 (23m), 70.03 (7) (b) 1., 80.01 (7) (c), 80.01 (27m), 80.24 (3) (a) 2., and 80.24 (3) (b); and, create s. ATCP 80.24 (3) (a) 3., relating to technical changes to Livestock Premises Registration; Plant Inspection and Pest Control; Agricultural Enterprise Areas; Dairy Farms; Food Processing Plants; Dairy Plants.

Hearing Information

Date: Wednesday, September 11, 2013
Time: 10:00 a.m. to 12:00 p.m.
Location: Boardroom, Room 106
 Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive
 Madison, WI 53718

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by August 30, 2013, by writing to Kelly Monaghan, Office of the Secretary, P.O. Box 8911, Madison, WI 53708–8911; or by emailing kelly.monaghan@wisconsin.gov; or by telephone at (608) 224–5033. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is handicap accessible.

Appearances at the Hearings, Copies of Proposed Rule, and Submittal of Written Comments

DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearing,

the hearing record will remain open until **September 24, 2013**, for additional written comments. Comments may be sent to the Office of the Secretary at the address below, or to kelly.monaghan@wisconsin.gov, or to <http://adminrules.wisconsin.gov>.

Kelly Monaghan
 Department of Agriculture, Trade and Consumer Protection
 P.O. Box 8911
 Madison, WI 53708–8911
 Telephone: (608) 224–4890
 E–Mail: kelly.monaghan@wisconsin.gov

You can obtain a free copy of this hearing draft rule and related documents including the economic impact analysis by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Office of the Secretary, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–5033 or by emailing kelly.monaghan@wisconsin.gov. Copies will also be available at the hearing. To view the hearing draft rule online, go to: <http://adminrules.wisconsin.gov>.

Comments or concerns relating to small business may also be addressed to DATCP's small business regulatory coordinator, Keeley Moll, at the address above, or by email to keeley.moll@wisconsin.gov, or by telephone at (608) 224–5039.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

This rule makes minor technical changes to a number of current rules administered by the department of agriculture, trade and consumer protection (“DATCP”).

Statutes interpreted

Statutes Interpreted: ss. 94.01 (1), 94.81 (1m) and (2m), 95.51, 97.20, 97.22, and 97.29, Stats.

Statutory authority

Statutory Authority: ss. 93.07 (1), 94.01 (1), 94.81 (2m), 95.51 (7), 97.20 (4), 97.22 (8), and 97.29 (5), Stats.

Explanation of statutory authority

DATCP has general authority, under s. 93.07 (1), Stats., to adopt rules to interpret laws under its jurisdiction. It also has specific rulemaking authority related to various matters addressed by this rule (see above). This rule makes minor changes to a number of different rules administered by DATCP. The changes are adopted under essentially the same authority used to adopt the original rules.

Related rules or statutes

This rule is not substantially affected by statutes or rules other than those identified in this rule.

Plain language analysis

This rule makes minor or technical changes to a number of current DATCP rules. This rule does all of the following:

Livestock premises registration

This rule amends current DATCP rule ch. ATCP 17, relating to Livestock Premises Registration. In s. ATCP 17.01, certain terms used in the chapter are defined. In that section, there are currently two definitions for “captive game birds,” at s. ATCP 17.01 (9) and (19). This rule amends s. ATCP 17.01 (9) by amending the current definition to conform to the definition for “captive game bird” now found in s. ATCP 17.01 (19), and repealing the definition now found in s. ATCP 17.01 (19).

Plant inspection and pest control

This rule makes two minor technical changes in ch. ATCP 21. The current rule defines, in s. ATCP 21.21 (1) (c) 1., an “infested area” by listing the states known to be infested at the time the current rule was adopted. The proposed amendment adds the states of North Carolina, Virginia, Ohio, and Pennsylvania to the list of states included in that definition. Each of those states now has quarantined counties based on a detection of TCD (Thousand Cankers Disease).

Appendix A to ch. ATCP 21 is being repealed and replaced because Hemlock Woolly Adelgid has been detected in additional counties in other states since the last time ch. ATCP 21 was updated. The proposed language identifies those new counties. In some states, the status has changed so that the entire state is now considered generally infested and the state as a whole is now listed. Because this pest is not federally regulated, DATCP cannot reference the Code of Federal Regulations to identify infested areas, but has to identify them specifically in our rule.

Agricultural enterprise areas

This rule repeals ch. ATCP 53 in its entirety for the following reasons: Section 91.84, Stats., authorizes the department to designate agricultural enterprise areas (AEAs) for the Farmland Preservation Program. Section 91.84 (2), Stats., previously required that designation to be made through the emergency rulemaking process. For two years, the department used emergency rulemaking to designate AEAs in ch. ATCP 53. In 2011 Wis. Act 253, s. 91.84 (2), Stats., on emergency rulemaking was repealed, sub. (2m) was created (requiring all previous designations by rule to remain in effect only through December 31, 2012), and other provisions of s. 91.84, Stats., were amended to authorize the department’s secretary to designate AEAs by order. Since, as of January 1, 2013, ch. ATCP 53 is no longer in effect, this proposed rule repeals that chapter in its entirety.

Dairy farms

This rule makes the following technical changes to ch. ATCP 60 relating to dairy farms. In s. ATCP 60.08 (3) and (6), the references to “NR 811 or 812” are changed to “NR 810, 811, or 812” due to the splitting of the former ch. NR 811 into chs. NR 810 and 811. This rule also amends the reference in s. ATCP 60.01 (23m) to the “2005 revision” of the Pasteurized Milk Ordinance (the “PMO”) to refer to the “2011 revision” of the PMO, since the PMO is updated every two years.

Food processing plants

This rule amends ch. ATCP 70 by making the following technical change. Section ATCP 70.03 (7) (b) 1. currently exempts a restaurant, which holds a permit under s. 254.64, Stats., from the requirement to obtain a food processing plant license if the restaurant “does not process food for wholesale distribution, and is not engaged in canning or production of processed fish.” This rule would amend that language to read “does not process food for wholesale distribution, and is not engaged in canning of food products or in the production of processed fish.” The proposed change clarifies that “canning” applies to all canned foods and not just processed fish.

Dairy plants

This rule amends ch. ATCP 80 relating to dairy plants as follows. Section ATCP 80.01 (7) (c) defines a “dairy product” as a “commodity in which milk or any milk product or by-product is a principal ingredient.” This rule amends this section by adding, after “ingredient,” the following: “except prepared foods made in a licensed food processing plant for which the federal food and drug administration has not prescribed a standard of identity under title 21 of the code of federal regulations and which contain dairy products manufactured at a dairy plant from ingredients that are pasteurized or are produced under other processes that eliminate or reduce to an acceptable level the food safety hazards associated with the dairy products, including aseptically processed foods, high acid foods, heat treated foods, aged foods, cold pack foods, and similarly processed foods.” The proposed amendment incorporates new statutory language in 2011 Wisconsin Act 195, which narrows the definition of a dairy product in s. 97.20 (2) (e) 5., Stats.

This rule amends s. ATCP 80.01 (27m) by changing the reference to the “2005 revision” of the PMO to the “2011 revision” of the PMO.

This rule amends s. ATCP 80.24 (3) (a) 2. by deleting “dried whey and nonfat dry milk.” This rule amends s. ATCP 80.24 (3) (a) by adding a new section, s. ATCP 80.24 (3) (a) 3., to read: “3. 10,000 per gram for nonfat dry milk, dried whey and dry milk products.” This rule amends s. ATCP 80.24 (3) (b) by deleting “other than cultured grade A dairy products” from that section. These changes reflect changes in the most recent PMO.

Standards incorporated by reference

Pursuant to s. 227.21, Stats., DATCP has requested permission from the Department of Justice to incorporate the updated technical standards incorporated by reference in this rule. Copies of the updated standards will be kept on file with DATCP and the Legislative Reference Bureau.

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

The vast majority of dairy farms in Wisconsin have Grade “A” permits, which means that their milk, or pasteurized milk

and certain other dairy products made from the farm’s milk, can be shipped across state and international boundaries. Milk moving in this manner, referred to as Grade “A” milk, must be produced, transported, and processed in accordance with the Pasteurized Milk Ordinance (PMO). The PMO is a document written by the US Food and Drug Administration and regulators from the 50 states and Puerto Rico, which participate in the biennial National Conference on Interstate Milk Shipments, and it is periodically revised. State regulations governing the production and processing of Grade “A” milk must be at least as stringent, and consistent with, the PMO. Some states adopt the PMO by reference; Wisconsin regularly revises ch. ATCP 60 (Dairy Farms), ch. ATCP 82 (Milk Haulers), and ch. ATCP 80 (Dairy Plants) to ensure the necessary stringency and consistency with the current PMO.

Comparison with rules in adjacent states

The housekeeping and technical rules changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

Summary of factual data and analytical methodologies

This rule does not depend on any complex analysis of data. This rule merely makes minor or technical changes to current rules.

Analysis and supporting documents used to determine effect on small business

Because this bill makes minor housekeeping technical

changes, no significant analysis or documentation was required to determine that the proposed rule will have no impact on small businesses.

Effect on Business

This rule will not have any impact on small business or other business. This rule makes minor technical “housekeeping” changes that will not have any impact on business standards, costs or operations. See the complete *initial regulatory flexibility analysis* that accompanies this rule.

Environmental Impact

This “housekeeping” rule will have no significant impact on the environment.

Agency Contact Person

Kelly Monaghan
 Department of Agriculture, Trade and Consumer Protection
 P.O. Box 8911
 Madison, WI 53708–8911
 Telephone: (608) 224–5033
 E–Mail: kelly.monaghan@wisconsin.gov

ADMINISTRATIVE RULES		
Fiscal Estimate & Economic Impact Analysis		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Chs. ATCP 17, 21, 53, 60, 70 and 80, Technical Rule Changes		
Subject		
Technical Rule Changes		
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 rule makes minor or technical changes to a number of current DATCP rules. This rule does all of the following:

Livestock Premises Registration

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Agricultural Enterprise Areas

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Dairy Farms

This rule makes the following technical changes to ch. ATCP 60 relating to dairy farms: In s. ATCP 60.08 (3) and (6), the references to “NR 811 or 812” are changed to “NR 810, 811, or 812” due to the splitting of the former ch. NR 811 into chs. NR 810 and 811. This rule also amends the reference in s. ATCP 60.01 (23m) to the “2005 revision” of the Pasteurized Milk Ordinance (the “PMO”) to refer to the “2011 revision” of the PMO, since the PMO is updated every two years.

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This rule amends s. ATCP 80.01 (27m) by changing the reference to the “2005 revision” of the PMO to the “2011 revision” of the PMO.

This rule amends s. ATCP 80.24 (3) (a) 2. by deleting “dried whey and nonfat dry milk.” This rule amends s. ATCP 80.24 (3) (a) by adding a new section, s. ATCP 80.24 (3) (a) 3., to read: “3. 10,000 per gram for nonfat dry milk, dried whey and dry milk products.” This rule amends s. ATCP 80.24 (3) (b) by deleting “other than cultured grade A dairy products” from that section. These changes reflect changes in the most recent PMO.

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)

Small Businesses

This rule makes technical housekeeping changes that will have no effect upon small businesses.

Utility Rate Payers

The rule will have no impact on utility rate payers.

Local Governments

This rule will not impact local governments. Local governments will not have any implementation or compliance costs.

General Public

This rule makes technical changes to the existing rules identified above. The proposed rule will not have any economic impact on the general public or the State’s economy different from the impact of the existing rules that are proposed to be amended.

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

Benefits

This rule will benefit the public and various business sectors, as described above, by making technical changes to existing rules.

General Public

The general public and consumers will benefit from the technical changes in this rule through the clarification and updating of existing rules.

Alternatives

This rule makes necessary technical changes in existing rules. If DATCP does not make the proposed technical changes, there will continue to be outdated provisions in existing regulations, inconsistencies between regulations and referenced documents, and certain regulations will lack necessary clarity.

Long Range Implications of Implementing the Rule

Long–term, implementing the rule will benefit businesses and the general public for the reasons stated above.

Compare With Approaches Being Used by Federal Government

The technical changes are proposed to ensure that the specified existing DATCP rules remain consistent with federal statutes and regulations administered by the United States Department of Agriculture and the Food and Drug Administration.

The vast majority of dairy farms in Wisconsin have Grade “A” permits, which means that their milk, or pasteurized milk and certain other dairy products made from the farm’s milk, can be shipped across state and international boundaries. Milk moving in this manner, referred to as Grade “A” milk, must be produced, transported, and processed in accordance with the Pasteurized Milk Ordinance (PMO). The PMO is a document written by the US Food and Drug Administration and regulators from the 50 states and Puerto Rico, which participate in the biennial National Conference on Interstate Milk Shipments, and it is periodically revised. State regulations governing the production and processing of Grade “A” milk must be at least as stringent, and consistent with, the PMO. Some states adopt the PMO by reference; Wisconsin regularly revises ch. ATCP 60 (Dairy Farms), ch. ATCP 82 (Milk Haulers), and ch. ATCP 80 (Dairy Plants) to ensure the necessary stringency and consistency with the current PMO.

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

The housekeeping and technical rules changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the DATCP external website or the statewide administrative rules website.

Notice of Hearing**Insurance
CR 13–059**

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting section Ins 51.01, Wis. Adm. Code, relating to risk based capital requirements and affecting small business.

Hearing Information

Date: September 5, 2013
Time: 10:30 a.m., or as soon thereafter as the matter may be reached
Location: Office of the Commissioner of Insurance
 Room 227
 125 South Webster St., 2nd Floor
 Madison, WI

Written comments can be mailed to:

Sarah E. Norberg
 Legal Unit — OCI Rule Comment for Rule Ins 51.01
 Office of the Commissioner of Insurance
 PO Box 7873
 Madison, WI 53707–7873

Written comments can be hand delivered to:

Sarah E. Norberg
 Legal Unit — OCI Rule Comment for Rule Ins 51.01
 Office of the Commissioner of Insurance
 125 South Webster St — 2nd Floor
 Madison, WI 53703–3474

Comments can be emailed to:

Sarah E. Norberg
sarah.norberg@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is **4:00 p.m. on September 19, 2013**.

Summary of Proposed Rule and Fiscal Estimate

For a summary of the rule, see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes, and the fiscal estimate are attached to this Notice of Hearing.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an effect on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected:
 - Domestic life and health insurers that complete a life annual statement and domestic fraternal insurers.
- b. Description of reporting and bookkeeping procedures required:
 - None beyond those currently required.
- c. Description of professional skills required:
 - None beyond those currently required.

OCI Small Business Regulatory Coordinator

The OCI small business coordinator is Louie Corneillus and may be reached at phone number (608) 264–8113 or at email address louie.corneillus@wisconsin.gov.

Contact Person

A copy of the full text of the proposed rule changes, analysis, and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and

Communications, OCI, at: inger.williams@wisconsin.gov, (608) 264–8110, 125 South Webster Street — 2nd Floor, Madison, WI or PO Box 7873, Madison, WI 53707–7873.

PROPOSED ORDER AMENDING A RULE

Office of the Commissioner of Insurance

Rule No. 145—: To amend s. Ins 51.01 (4) (a) 2., Wis. Admin. Code.

Relating to: risk based capital requirements and affecting small business.

The statement of scope of this rule, SS 069–12, was approved by the Governor on September 13, 2012, published in Register No. 681, on September 30, 2012, and approved by the Commissioner on October 15, 2012.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted

ss. 623.11 (1) and (2), Wis. Stats.

2. Statutory authority

ss. 227.11 (2) (a), 623.11 (1) and (2), Wis. Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes

Pursuant to s. 623.11 (1), Wis. Stats., “The commissioner shall, when necessary, determine the amount of compulsory surplus that an insurer is required to have in order not to be financially hazardous under s. 645.41 (4), Wis. Stats., as an amount that will provide reasonable security against contingencies affecting the insurer’s financial position that are not fully covered by reserves or reinsurance.”

Pursuant to s. 623.11 (2), Wis. Stats., “The commissioner may . . . establish by rule minimum ratios for the compulsory surplus in relation to any relevant variables, including the following: (a) amounts at risk; (b) premiums written or premiums earned; (c) liabilities; (d) equity investments of all or certain kinds in combination with any of the variables under pars. (a) to (c).”

The company action level provision under the regulation provides an early warning that an insurer might be approaching a financially hazardous condition. The proposed change to the regulation would modify a single variable, as authorized by s. 623.11 (2), Wis. Stats., potentially resulting in an earlier warning that a company is approaching financially hazardous condition.

4. Related statutes or rules

Section 623.11, Wis. Stats. and s. Ins 51.01, Wis. Admin. Code, both address risk based capital requirements. The proposed rule merely updates the minimum ratio for insurers.

5. The plain language analysis and summary of the proposed rule

The existing regulation establishes risk based capital requirements for an insurer based on the risks inherent in the insurer’s operations by requiring it to perform a calculation of its authorized control level risk based capital. Under the current regulation, a company action level event, which requires the company to take certain remedial steps, is triggered if:

(a) An insurer’s capital is between 1.5 and 2.0 times the authorized control level risk based capital, or

(b) The insurer’s capital is at or below 2.5 times the authorized control level risk based capital and the insurer has

a negative trend test result, calculated pursuant to the risk based capital instructions.

The proposed rule would change the “2.5” to “3.0”; i.e., a company action level event would occur if the insurer’s capital is at or below 3.0 times the authorized control level risk based capital and the insurer has a negative trend test result.

The proposed rule will update this regulation to be consistent with the NAIC model regulation and will also bring Wisconsin’s requirements for life insurers into alignment with the requirements for health insurers and property and casualty insurers.

The proposed rule will apply to domestic life and health insurers that complete a life annual statement, and domestic fraternal insurers. The impact is expected to be minimal.

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

7. Comparison of similar rules in adjacent states as found by OCI

Illinois: 215 ILCS 5/35A–15 (a) (1) (B) (2013) contains provisions comparable to Wisconsin’s existing rule.

Iowa: IAC s. 521E.3 1. a. (2) (2013) contains provisions comparable to Wisconsin’s existing rule.

Michigan: MCLS s. 50.1204a (2013) adopts the NAIC Model Law by reference.

Minnesota: Minn. Stat. s. 60A.60 Subd. 11 (1) (2013) contains provisions less stringent than Wisconsin’s existing rule.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule

The Office is proposing this rule change to make the regulation consistent with the NAIC model regulation for the purposes of maintaining accreditation. The amendment will also bring Wisconsin’s requirements for life insurers into alignment with the requirements for health insurers and property and casualty insurers. Little, if any, Wisconsin insurers will be affected by this rule change.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114

Based upon revenue and ownership structure, there may be an effect on small businesses but any effect would be minimal as very few, if any, insurers meet the definition of a small business and non–insurance small businesses are protected by this proposed rule change as the amendment provides an earlier warning that a life insurer might be approaching a financially hazardous condition.

10. See the attached Private Sector Fiscal Analysis.

11. A description of the Effect on Small Business

There may be an effect on small businesses but any effect would be minimal as very few, if any, insurers meet the definition of a small business and non–insurance small businesses are protected by this proposed rule change as the amendment provides an earlier warning that a life insurer might be approaching a financially hazardous condition.

12. Agency contact person

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:
 Phone: (608) 264–8110
 Email: inger.williams@wisconsin.gov
 Address: 125 South Webster St — 2nd Floor, Madison WI 53703–3474
 Mail: P.O. Box 7873, Madison, WI 53707–7873

13. Place where comments are to be submitted and deadline for submission

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:
 Sarah E. Norberg
 Legal Unit — OCI Rule Comment for Rule Ins 51.01
 Office of the Commissioner of Insurance
 PO Box 7873
 Madison WI 53707–7873

Street address:
 Sarah E. Norberg
 Legal Unit — OCI Rule Comment for Rule Ins 51.01
 Office of the Commissioner of Insurance
 125 South Webster St — 2nd Floor

Madison WI 53703–3474
 Email address:
 Sarah E. Norberg
sarah.norberg@wisconsin.gov
 Web site: <http://oci.wi.gov/ocirules.htm>

The proposed rule changes are:

SECTION 1. Ins 51.01 (4) (a) 2., is amended to read:

Ins 51.01 (4) (a) 2. If a life or health insurer that completes the life annual statement for the reporting year, the insurer has total adjusted capital which is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 2.53.0 and has a negative trend.

SECTION 2. These changes first apply January 1, 2014.

SECTION 3. These changes will take effect on the first day of the month after publication, as provided in s. 227.22 (2) (intro.), Wis. Stats.

SECTION 4. This section may be enforced under ss. 601.41, 601.64, 623.11, Wis. Stats., or any other enforcement provision of chs. 600 to 646, Wis. Stats.

Private Sector Fiscal Analysis for section Ins 51.01 relating to risk based capital requirements and affecting small business

This rule change will have no significant effect on the private sector regulated by OCI.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA–2049 (C04/2011)		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			
1. Fiscal Estimate Version <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected			
2. Administrative Rule Chapter Title and Number Ins 51.01 (4) (a) 2.			
3. Subject Risk based capital requirements and affecting small business.			
4. State Fiscal Effect:			
<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	May be possible to absorb within agency’s budget.
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
5. Fund Sources 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		6. Affected Ch. 20, Stats. Appropriations: None	
7. Local Government Fiscal Effect:			
<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs	
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Decrease Costs	
8. Local Government Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts <input type="checkbox"/> Others: None			

9. Private Sector Fiscal Effect (small businesses only):		
<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	May have significant economic impact on a substantial number of small businesses
	May have significant economic impact on a substantial number of small businesses	<input type="checkbox"/> Decrease Costs
10. Types of Small Businesses Affected: Domestic health or life insurers or domestic fraternal insurers that meet the definition of a small business.		
11. Fiscal Analysis Summary		
12. Long–Range Fiscal Implications None		
13. Name – Prepared by Sarah E. Norberg	Telephone Number (608) 266–0082	Date 07/02/2013
14. Name – Analyst Reviewer	Telephone Number	Date
Signature—Secretary or Designee	Telephone Number	Date

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 <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	
2. Administrative Rule Chapter, Title and Number Agency 145 Ch. Ins 51.01 (4) (a) 2.	
3. Subject Risk Based Capital Requirements and affecting small business amendment beginning January 1, 2014.	
4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG–S	5. Chapter 20, Stats. Appropriations Affected None
6. 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 Cost	
7. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State’s Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
8. Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9. Policy Problem Addressed by the Rule The proposed rule potentially results in an earlier warning that a company is approaching a financially hazardous condition. The proposed rule updates an existing regulation to be consistent with the NAIC model regulation and will also bring Wisconsin’s requirements for life insurers into alignment with the requirements for health insurers and property and casualty insurers.	

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.
 OCI solicited comments generally through publication requesting comments from the public utilizing the OCI website. Additionally OCI solicited comments from the following businesses, associations representing businesses, local governmental units and individuals:

Northwestern Mutual
 Trilogy
 Johnson Insurance
 Thrivent
 Network Health
 United HealthCare
 Group Health Cooperative of Eau Claire
 Group Health Cooperative of South Central Wisconsin
 HIRSP
 Arrowhead Strategies
 Capital Group of Wisconsin
 Wisconsin Health Plans
 Wisconsin Medical Society
 WPS Insurance
 Dean Health Plan
 Unity Health Plan
 TASC
 Physicians Plus Insurance Corporation
 Wisconsin Hospital Association
 Gundersen Lutheran
 Wisconsin Dental Association
 Security Health Plan
 NAIFA Wisconsin
 Assurant Health
 Wisconsin Counties Group Health Trust
 Blue Cross Blue Shield of Wisconsin
 Ministry Health Care
 Humana
 Aurora Health Care
 Mayo Health Care
 WEA Trust
 Health Partners
 Mercy Health System
 WellPoint
 Arise Health Plan

11. Identify the local governmental units that participated in the development of this EIA.
 None beyond solicitation for comments.

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 will affect domestic life and health insurers who complete a life annual statement, and domestic fraternal insurers. The impact is expected to be minimal. Non–insurance small businesses are protected by this proposed rule change as the amendment provides an earlier warning that a life insurer might be approaching a financially hazardous condition. There may be an effect on small businesses but any effect would be minimal as very few, if any, insurers meet the definition of a small business.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
 The proposed rule potentially results in an earlier warning that a company is approaching a financially hazardous condition. The proposed rule updates an existing regulation to be consistent with the NAIC model regulation and will also bring Wisconsin's requirements for life insurers into alignment with the requirements for health insurers and property and casualty insurers. This change makes the application of standards uniform across lines of insurance minimizing disparate treatment of insurers.

14. Long Range Implications of Implementing the Rule
 The long–range implications of the rule as proposed are: 1) earlier warning that a company is approaching a financially hazardous condition, 2) consistency in risk based capital requirements for life, health and property and casualty insurers, and 3) consistency with the NAIC model regulation for the purposes of maintaining accreditation for domestic insurers conducting business in other states.

15. Compare With Approaches Being Used by Federal Government OCI is unaware of any existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule change.	
16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) Illinois and Iowa have laws comparable to Wisconsin's existing rule (215 ILCS 5/35A–15 (a) (1) (B) (2013) and IAC s. 521E.3 1. a. (2) (2013)). Michigan adopts the NAIC Model Law by reference (MCLS s. 50.1204a (2013)). Effective December 31, 2013, Minnesota will have a requirement comparable to Wisconsin's proposed rule (Minn. Stat. s. 60A.62 Subd. 1 (1) (ii) (2013)).	
17. Contact Name Louie Cornelius	18. Contact Phone Number 608–264–8113

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

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred) Non–insurance small businesses are protected by this proposed rule change as the amendment provides an earlier warning that a life insurer might be approaching a financially hazardous condition. There may be an effect on small businesses but any effect would be minimal as very few, if any, insurers meet the definition of a small business.
2. Summary of the data sources used to measure the Rule's impact on Small Businesses Section 227.114, Wis. Stats., defines a "small business" as "a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full–time employees or which has gross annual sales of less than \$5,000,000." OCI reviewed premium revenue for domestic life insurers and fraternal. Based on either too much revenue or the ownership structure, it appears that none of Wisconsin's insurers qualify as small businesses.
3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses? <input type="checkbox"/> Less Stringent Compliance or Reporting Requirements <input type="checkbox"/> Less Stringent Schedules or Deadlines for Compliance or Reporting <input type="checkbox"/> Consolidation or Simplification of Reporting Requirements <input type="checkbox"/> Establishment of performance standards in lieu of Design or Operational Standards <input type="checkbox"/> Exemption of Small Businesses from some or all requirements <input type="checkbox"/> Other, describe: N/A. Any effect of the proposed rule on small businesses will be minimal. The proposed rule nominally increases the risk based capital requirement and should not change any charging structures.
4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses N/A. Any effect of the proposed rule on small businesses will be minimal.
5. Describe the Rule's Enforcement Provisions The proposed rule nominally increases the risk based capital requirement for domestic life and health insurers who complete a life statement and domestic fraternal insurers. Failure to comply with the risk based capital requirement may be enforced by the Commissioner pursuant to ss. 601.41(4) and 601.64, Wis. Stats.
6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Notice of Hearing

Safety and Professional Services
Safety, Buildings, and Environment — Plumbing,
Chs. SPS 381–387
CR 13–062

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in ss. 145.13 and 227.11 (2), Stats., and interpreting s. 145.02 (2), 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 renumber and amend s. SPS 381.01 (141) as s. SPS 381.01 (141) (a) to (c); amend ss. SPS 381.20 Table 381.20–11 (partial) line 6., 384.20 (2) (b) (Note), 384.40 (4) (intro.), and 384.40 (8) (a) and (d); and create ss. SPS 381.01 (141) (c) (Note), 381.20 Table 381.20–11 (partial) line 7., relating to U.S. EPA lead reduction rule, Safe Drinking Water Act amendments of 2011.

Date: August 28, 2013
Time: 1:00 p.m.
Location: 1400 East Washington Avenue*
Room 121C
Madison, Wisconsin
*Enter at North Dickinson Street

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions, and argument in writing as well. Facts, opinions, and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708–8935. 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. Comments must be received on or before **Wednesday, August 28, 2013 at 1:00 p.m.** to be included in the record of rule–making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708–8935, by email at jean.maccubbin@wisconsin.gov or on our 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 145.02 (2), Stats.

Statutory authority

Sections 145.13 and 227.11 (2), Stats.

Explanation of agency authority

Section 227.11 (2), Stats.: “Rule–making authority is expressly conferred as follows: (a) 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.”

Section 145.02 (2), Stats.: “The department shall have general supervision of all such plumbing and shall after public hearing prescribe and publish and enforce reasonable standards therefore which shall be uniform and of statewide concern so far as practicable. ...”

Section 145.13, Stats.: “Adoption of plumbing code. The state plumbing code and amendments to that code as adopted by the department have the effect of law in the form of standards statewide in application and shall apply to all types of buildings, private or public, rural or urban, including buildings owned by the state or any political subdivision thereof. The state plumbing code shall comply with ch. 160 (Wisc. Stats.). All plumbing installations shall so far as practicable be made to conform to such code.”

Related statute or rule

Chs. SPS 381 to 387 and SPS 391.

Plain language analysis

SECTION 1. This section mirrors the three specific definitions of lead–free in the SWDA, specifically relating to solders and flux, fixtures and components, and calculation of weighted average.

SECTION 2. This section creates a Note, which provides additional resources for calculating weighted average.

SECTIONS 3., 4. and 5. These two sections are revisions to tables listing the adoption of NSF standards reflecting the

SWDA provisions. The Note reflects the more recent NSF standard adopted.

SECTIONS 6. and 7. The text of these sections is amended to reflect the use of the updated standards.

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

The U.S. Safe Drinking Water Act amendments of 2011 [SDWA, 42 USC 300g–6] becomes effective January 4, 2014, in which water service piping, piping materials and fixtures must be “lead–free”. This Act updates the definition for “lead–free” and adopts by reference two national standards, ANSI/NSF–61 and ANSI/NSF 372 reflecting the revisions to the SDWA. Most importantly, this Act provided a 3–year enactment period for manufacturers, suppliers and users to become educated and comply with the rule revisions and allow for the use of new materials meeting the standard to be ready for sale by the effective date.

Comparison with rules in adjacent states

An Internet–based search of the four adjoining states revealed the following:

Illinois: The Illinois public health code was searched for conformity to the SDWA revisions regarding EPA lead reduction rule; the definition of lead–free has not changed nor has the state adopted the most recent edition of the NSF 61 standard, drinking water system components. No pending legislation was found. [Title 77: public health code, chapter I, subchapter r, part 890 Illinois Plumbing Code]

Iowa: The Iowa state plumbing code has adopted the UPC — Uniform Plumbing Code, 2009 edition [Ch. 25, State Plumbing Code]. The Internet–based search did not find any changes or proposed changes, to date, reflecting the definition of lead–free, and the calculation of lead–free in materials and fixtures, or the adoption of the most recent edition of the NSF 61 standard, drinking water system components.

Michigan: In the Michigan state plumbing code, 605.3 water service pipe, water service pipe must conform to NSF 61 standard, although such an edition does not, to date, reflect the EPA lead–free definition or the calculation of lead–free in piping materials and fixtures based in sec. 1417 of the SDWA. No pending legislation or proposed rule revisions were found on this issue. [Part 7. Plumbing code, r 408.30701 applicable code. Rule 701].

Minnesota: The Minnesota plumbing code, updated Oct. 31, 2012, adopts NSF 61 standard, but an edition prior to the lead–free definition and calculation of lead reduction in the recent revisions to sec. 1417 of the SDWA. No pending legislation or proposed rule revisions were found on this issue. [Chapters 4715 and 4716].

Summary of factual data and analytical methodologies

No factual data or analytical methods were used. The proposed revisions reflect only U.S. EPA 2011 amendments to the SDWA, which is expected to be enforced at the federal level.

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

This rule–making project will not impose any additional impact on small business above or beyond what is required by the federal government.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is 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 greg.gasper@wisconsin.gov, or by calling (608) 266–8608.

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, Wisconsin 53708–8935; telephone 608–266–0955; email at 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 <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected			
2. Administrative Rule Chapter, Title and Number Chs. SPS 381 to 384, State Plumbing Code			
3. Subject EPA Lead Reduction Rule, US EPA Safe Drinking Water Act (SDWA) of 2011			
4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG–S		5. Chapter 20, Stats. Appropriations Affected s. 20.165 (2) (j)	
6. 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 Cost			
7. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
8. Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
9. Policy Problem Addressed by the Rule No policy is being addressed through this rule revision. The purpose of the rule is to update definition of “lead–free” and incorporate by reference national standards consistent with US EPA Safe Drinking Water Act (SDWA) revisions of January 2011, which restricts permissible levels of lead in drinking water components and provides manufacturers and distributors a protocol to assure compliance.			
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 water purveyors, product manufacturers and distributors, plumbing designers and inspectors.			
11. Identify the local governmental units that participated in the development of this EIA. None known.			
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 federal rule was enacted in January 2011 with a three–year enactment date; manufacturers of pipes and pipe fittings and fixtures sold nation–wide have been noticed that covered products will be required to meet this rule.			
13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Pipes and pipe fittings and fixtures sold in Wisconsin will meet the requirements of s. 1417 (d) (2) of the SDWA of 2011, thereby reducing the leaching of lead from various materials used in water service into the drinking water.			
14. Long Range Implications of Implementing the Rule These products are intended to restrict permissible levels of lead in drinking water.			
15. Compare With Approaches Being Used by Federal Government This rule revision is in response to a federal rule, revisions to the SDWA of 2011.			
16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) An Internet–based search found no pending legislation for the four adjacent states: Illinois, Iowa, Michigan and Minnesota.			
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 — Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

CR 13–064

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss.15.08 (5) (b), 227.11 (2) (a), and 443.015, Wis. Stats., and interpreting s. 443.015, Wis. Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to amend ss. A–E 13.08 (4) and 13.09, relating to comity renewal applicants.

Hearing Information

Date: August 29, 2013
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
Room 121A
Madison, Wisconsin

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

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to shancethea.leatherwood@wisconsin.gov. Comments must be received on or before **August 29, 2013** to be included in the record of rule–making proceedings.

Copies of Rule

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

Analysis prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 443.015, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) (a), 443.015, Stats.

Explanation of agency authority

Examining boards are generally empowered by the legislature pursuant to ss. 15.08 (5) (b), and 227.11 (2) (a), to promulgate rules that govern their profession. The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors have been specifically empowered by s. 443.015, Stats., to promulgate rules regarding continuing education requirements for renewal of a credential. Therefore, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule

Wis. Admin. Code ss. A–E 13.03 (1) and A–E 13.09.

Plain language analysis

The proposed rule seeks to revise ch. A–E 13 to insure comity applicants are treated the same as newly registered engineers. Comity applicants are applicants from another state who apply for registration to practice professional engineering in Wisconsin. As of now, the rule requires comity applicants to complete 30 professional development hours of qualifying continuing education during the first two years prior to licensure while regularly in–state applicants are not required to do so. The proposed rule will also address retired engineers. Retired engineers seeking a waiver from the continuing education requirement are eligible for the waiver if they have not performed any engineering services nor received remuneration for services rendered.

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

None.

Comparison with rules in adjacent states

Illinois: Illinois grants licensure by endorsement for applicants who are licensed in other states. 225 ILCS 325/19. There are no specific professional development hours required for endorsement applicants. Illinois does not grant a waiver for retired professional engineers.

Iowa: Iowa grants licensure by comity. 193C IAC 4.2 (542B). Comity applicants are judged on the applicants' record of education, references, experiences and completion of exams. 193C IAC 4.2 (2). The administrative rules are silent on whether comity applicants are required to fulfill their renewal by way of continuing education requirements or professional development hour requirements.

Waivers may be granted by written request. Hardship or extenuating circumstances are considered before granting a waiver. There are no specific waiver requirements for retired engineers. 193C IAC 7.7 (542B, 272C).

Michigan: Michigan grants licensure by reciprocity for out–of–state applicants. Mich. Admin. Code R339.16025. The statutes and administrative rules are silent on whether reciprocity applicants are required to fulfill their renewal by way of continuing education requirements or professional development hour requirements.

Minnesota: Minnesota grants licensure by comity. Minn. R. 1800.0800. Comity applicants that are licensed or certified in another state, may meet continuing education requirements, without completing the entire renewal form, if the other state of which the comity applicant is coming from is listed by the Minnesota board as having continuing education requirements acceptable to the Minnesota board.

and the license or certificate holder, “certifies in the appropriate section [on the form] that all continuing education and licensing or certification requirements for that state, province, or district have been met.” Minn. Stat. § 326.107 Subd. 5.

Summary of factual data and analytical methodologies

Drafting of these proposed rules was initiated by the Engineering Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors as a result of a review of the current rules. No other factual data or analytical methodologies were used in drafting these proposed rules.

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

These proposed rules do not have an economic impact on

small businesses as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at greg.gasper@wisconsin.gov, or by calling (608) 266–8608.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Agency Contact Person

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608–261–4438; email at 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 <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	
2. Administrative Rule Chapter, Title and Number ss. A–E 13.08 (4) and 13.09	
3. Subject Comity	
4. Fund Sources 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	5. Chapter 20, Stats. Appropriations Affected
6. 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 Cost	
7. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State’s Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
8. Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9. Policy Problem Addressed by the Rule The proposed rule seeks to amend s. A–E 13.09 to insure out-of-state comity applicants are treated the same as in-state renewal applicants when applying for renewal of credentials. Currently, in-state first time renewal applicants are not required to complete the 30 PDH hours for continuing education during their first renewal. The proposed rule will alleviate comity applicants from fulfilling the 30 PDH continuing education hours during their first renewal period as well. The proposed rule will also address retired engineers. Retired engineers seeking a waiver from the continuing education requirements are eligible for the waiver if they are retired from the active practice of engineering and have not received any remuneration for services rendered.	
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 rule was posted on the Department of Safety and Professional Service’s website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.	
11. Identify the local governmental units that participated in the development of this EIA. No local governmental units participated in the development of this EIA.	
12. Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The Department anticipates that his proposed will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state’s economy as a whole.	
13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule Applicants applying by comity will be relieved from the time and expense of obtaining the 30 PDHs within their first biennium.	

<p>14. Long Range Implications of Implementing the Rule This proposed rule will result in consistency in the treatment of comity applicants and in–state renewal applicants.</p>	
<p>15. Compare With Approaches Being Used by Federal Government N/A</p>	
<p>16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota) Illinois: Illinois grants licensure by endorsement for applicants who are licensed in other states. 225 ILCS 325/19. There are no specific professional development hours required for endorsement applicants. Illinois does not grant a waiver for retired professional engineers. Iowa: Iowa grants licensure by comity. 193C IAC 4.2 (542B). Comity applicants are judged on the applicants’ record of education, references, experiences and completion of exams. 193C IAC 4.2 (2). The administrative rules are silent on whether comity applicants are required to fulfill their renewal by way of continuing education requirements or professional development hour requirements. Waivers may be granted by written request. Hardship or extenuating circumstances are considered before granting a waiver. There are no specific waiver requirements for retired engineers.193C IAC 7.7 (542B, 272C). Michigan: Michigan grants licensure by reciprocity for out–of–state applicants. Mich. Admin. Code R339.16025. The statutes and administrative rules are silent on whether reciprocity applicants are required to fulfill their renewal by way of continuing education requirements or professional development hour requirements. There are no specific provisions regarding granting waivers for retired engineers. Minnesota: Minnesota grants licensure by comity. Minn. R. 1800.0800. Comity applicants that are licensed or certified in another state, may meet continuing education requirements, without completing the entire renewal form, if the other state of which the comity applicant is coming from is listed by the Minnesota board as having continuing education requirements acceptable to the Minnesota board and the license or certificate holder, “certifies in the appropriate section [on the form] that all continuing education and licensing or certification requirements for that state, province, or district have been met.” Minn. Stat. § 326.107 Subd. 5. There are no specific provisions regarding granting waivers for retired engineers.</p>	
<p>17. Contact Name</p>	<p>18. Contact Phone Number</p>

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

Submittal of Proposed Rules to Legislature

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

Employee Trust Funds CR 13–029

On July 24, 2013, a copy of proposed Clearinghouse Rule 13–029, in its final draft form, was forwarded by the Department of Employee Trust Funds to the presiding officers of the Senate and Assembly for review by the Legislative Standing Committees. The proposed rule revises Chapter ETF 52, relating to the administration of the Duty Disability Program under s. 40.65, Stats.

The rule was not required to be approved by the Governor. The statement of scope was published in Register No. 654 on June 30, 2010.

Health Services *Health, Chs. DHS 110—* CR 13–028

In accordance with the provisions of s. 227.19 (2), Stats., on July 26, 2013, the Department of Health Services submitted a proposed rule for legislative review. The rule revises Chapter DHS 132, relating to the establishment of rules to guide the actions of the quality assurance and improvement committee to review proposals and award moneys for innovative projects in regards to nursing homes.

The Governor’s approval of the proposed rule was received on July 18, 2013.

If you have any questions about the rule, please contact Rosie Greer at 608–266–1279.

Natural Resources *Fish, Game, etc., Chs. NR 1—* CR 13–010

(DNR # ER–27–11)

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Subject of Rules: Wisconsin’s Endangered/Threatened Species List, amending s. NR 27.03 (2) and (3).

Date of Transmittal: July 23, 2013

This date of the Governor’s written approval under s. 227.185, Stats., was July 3, 2013.

Send a copy of any correspondence or notices pertaining to the rule to:

Linda Haddix
Department Rules Coordinator
101 South Webster, LS/8
P. O. Box 7921
Madison, WI 53707–7921

An electronic copy of the proposed rules submittal may be obtained by contacting: linda.haddix@wisconsin.gov.

Natural Resources *Fish, Game, etc., Chs. NR 1—* CR 13–023

(DNR # FR–24–11)

Pursuant to s. 227.19, Stats., notice is hereby given that on July 26, 2013, final draft rules were submitted to the presiding officer of each house of the legislature. The rules being submitted create s. NR 1.27, relating to regenerating harvested areas of state owned lands.

This rule was approved by the Governor on July 18, 2013.

Send a copy of any correspondence or notices pertaining to the rule to:

Linda Haddix
Department Rules Coordinator
101 South Webster, LS/8
P. O. Box 7921
Madison, WI 53707–7921

An electronic copy of the proposed rules submittal may be obtained by contacting: linda.haddix@wisconsin.gov.

Safety and Professional Services *Safety, Buildings, and Environment — General Part I,* *Chs. SPS 301–319* CR 13–042

A copy of a rule–making order revising Chapter SPS 316, relating to electrical construction, was submitted on July 29, 2013, to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats.

Due to the publication date of the scope statement, February 28, 2011, the approval by the Governor under s. 227.185, Stats., was not required.

Rule Orders Filed with the Legislative Reference Bureau

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

Natural Resources

*Environmental Protection — General, Chs. NR 100—;
Environmental Protection — Investigation and
Remediation of Environmental Contamination,
Chs. NR 700—*

CR 12–023

(DNR # RR–04–11)

Amended

An order to revise chs. NR 169 and 700 to 750, relating to investigation and remediation of contaminated properties. Effective 10–1–13 or 11–1–13. **(Revised date)**

Safety and Professional Services

*Safety, Buildings, and Environment —
General Part I, Chs. SPS 301–319;
General Part II, Chs. SPS 326–360*

CR 13–014

A order to revise chs. SPS 305 and 345, relating to credentials for HVAC contractors, refrigerant handling technicians, master plumbers, and elevator mechanics. Effective 10–1–13.

Safety and Professional Services — Veterinary Examining Board CR 12–051

An order of the Veterinary Examining Board to repeal s. VE 1.02 (8); and to amend s. VE 1.02 (7), relating to the definitions of patient and prescription legend animal drugs. Effective 10–1–13.

Safety and Professional Services — Veterinary Examining Board CR 12–052

An order to repeal ss. VE 7.06 (22) (c), (d), (e), and (Note), VE 9.05 (12) (c), (d), (e), and (Note), VE 10.02 (1) (a) 1. and 2., VE 10.02 (2) (a) 1. and 2., and VE 10.04; and to amend ss. VE 7.06 (22) (intro.), VE 9.05 (12) (intro.), VE 10.02 (1) (a), and VE 10.02 (2) (a), relating to continuing education and training in the use of pesticides by veterinarians and certified veterinary technicians. Effective 10–1–13.

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