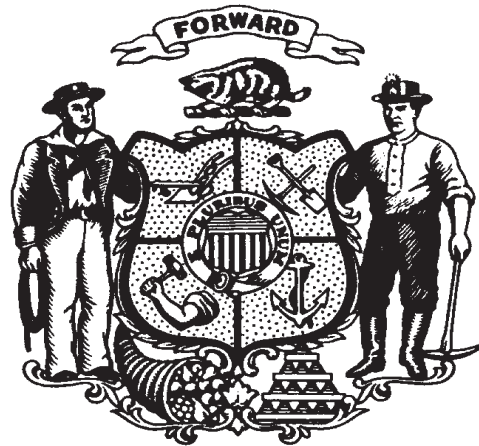


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Direct questions to Bruce Hoesly (608) 266-7590, bruce.hoesly@legis.wi.gov.

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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

EmR1321 — The Department of Administration hereby adopts an order to repeal **section Adm 2.14 (2) (vr) c.**; to renumber and amend **section Adm 2.14 (2) (v) 9. a. and b.**; to amend **sections 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 **sections Adm 2.03 (3m), (3r) and (6m), 2.04 (1m), (2m), (2r), (2z), (9), and (10), and 2.14 (2) (vm) and (2) (vm) 5.**

The statement of scope for this rule, SS 131–13, was approved by the Governor on October 8, 2013, and published in Register No. 694 on October 31, 2013, and approved by Department of Administration Secretary Mike Huebsch on November 13, 2013. This emergency rule was approved by the Governor on November 21, 2013.

Finding of Emergency

Since 1979 the legislature has vested the department of administration with the responsibility and authority to manage various state buildings and grounds, including those of the Wisconsin state capitol. S. 16.84 (1), 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. s. 16.845, Stats., and s. Adm 2.04.

Each year, the Wisconsin state capitol police issue nearly 500 permits 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. Permits are given to any person free of charge.

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 person or persons, and the state cannot allow any person or persons to occupy the capitol in disregard of the rights of permit holders, public employees, or visitors. It is imperative that the department gain compliance in order to protect the public safety and welfare.

On October 24, 2013, a lawsuit was dismissed based upon a stipulation of and settlement agreement between the parties. The department is obligated under the settlement agreement to advance certain changes in procedure. The department seeks to fulfill its obligations in a timely manner, which is not possible without engaging in the emergency rule process.

Filed with LRB:	November 26, 2013
Publication Date:	November 27, 2013
Effective Dates:	November 27, 2013 through April 25, 2014
Hearing Date:	February 21, 2014
Extension Through:	August 23, 2014

Agriculture, Trade and Consumer Protection

EmR1407 — The Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.10 (1) (b)** and to create **section ATCP 21.10 (1) (c)**, relating to the quarantine of Iowa County for the gypsy moth.

This emergency rule was approved by the Governor on March 13, 2014.

The blanket scope for this rule, SS 141–13, was approved by the Governor on October 30, 2013, published in register No. 695 on November 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on December 10, 2013.

Finding of Emergency

Gypsy moth is an exotic, invasive pest that poses a serious risk to Wisconsin's forest, shade and commercial trees. The 2013 DATCP survey in Iowa County shows that current and projected GM populations in that county have reached the threshold level to trigger implementation of further regulatory measures. Since 2011, multiple trap sites in Iowa County have caught over 100 individual moths, with an average trap count of 28 in 2013 (a five-fold increase from 2011). The survey data indicate that reproducing populations of GM now exist at significant levels in Iowa County and that eradication

is not feasible. This evidence supports the need for a quarantine to limit movement from this infestation. When APHIS declares a quarantine, DATCP has regulatory authority for import controls and quarantine for GM under s. ATCP 21.10. It is anticipated that APHIS will declare a quarantine for Iowa 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 GM infested material out of this county to areas of Wisconsin or other states that are not infested with GM.

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: March 28, 2014
Publication Date: March 31, 2014
Effective Dates: March 31, 2014 through August 27, 2014
Hearing Date: April 29, 2014

Health Services

Health, Chs. DHS 110—

EmR1410 — The Wisconsin Department of Health Services hereby adopts emergency rules to renumber and amend **section DHS 115.05 (3)**; to amend **sections 115.01, 115.02, and 115.04 (intro.)**; and to create **section 115.04 (15) and (16)**, relating to screening newborns for congenital and metabolic disorders.

This emergency rule was approved by the Governor on June 27, 2014.

The statement of scope for this rule, SS 057–14, was approved by the Governor on June 5, 2014, published in Register 702, on June 14, 2014, and approved by Secretary Rhoades on June 25, 2014.

Finding of Emergency

The Department of Health Services finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. The facts constituting the emergency are as follows:

1. Section 253.13 (1), Stats., requires attending physicians and nurses licensed under s. 441.15, Stats., to cause every infant born in each hospital or maternity home, prior to the infant's discharge to be subjected to tests for congenital and metabolic disorders, as specified in rules promulgated by the department. If the infant is born elsewhere than in a hospital or maternity home, the attending physician, nurse licensed under s. 441.15, Stats., or birth attendant who attended the birth shall cause the infant, within one week of birth, to be subjected to these tests.

2. Section DHS 115.04 lists the disorders for which newborns must be tested under s. 253.13 (1), Stats.

3. Critical congenital heart disease (CCHD) is described as those congenital cardiac malformations in which surgical or catheter-based therapy is necessary within the first months of life. There are 12 lesions commonly considered as CCHD. In some circumstances, infants with CCHD may be asymptomatic and have a normal physical examination prior to routine hospital discharge or completion of home birth care. Unrecognized CCHD can result in death or disability shortly after hospital discharge.

4. Death due to unrecognized CCHD from 2002 to 2006 occurred in 1:38,397 Wisconsin births and death or re-hospitalization occurred in 1:24,684 Wisconsin births before two weeks of age. The median age at death due to unrecognized CCHD was 4.5 days.

5. Pulse oximetry, a point of care testing, is the recognized screening method for CCHD.

6. Prior to 2013 Wisconsin Act 135, adding pulse oximetry screening for CCHD to the mandatory panel was not permitted because testing for congenital and metabolic disorders under s. 235.13 (1), Stats. (2011–12), was explicitly limited to blood testing. Section 253.13 (1), Stats., as amended by 2013 Wisconsin Act 135, now allows testing for congenital and metabolic disorders using other screening methods including blood testing.

7. The Wisconsin State Laboratory of Hygiene (WSLH) tests newborns for organic acidemias (OA), a group of inherited disorders that lead to an abnormal buildup of particular acids, known as organic acids, in the body.

8. Abnormal levels of organic acids in the blood (organic acidemia), urine (organic aciduria), and tissues can be toxic and can cause serious health problems. A baby affected with an OA is usually well at birth and for the first few days of life. The usual clinical presentation is that of toxic encephalopathy and includes vomiting, poor feeding, neurologic symptoms such as seizures and abnormal tone, and lethargy progressing to coma. Outcome is improved by diagnosis and treatment in the first ten days of life.

9. Propionic acidemia and methylmalonic acidemia are two types of organic acidemias. In propionic acidemia and methylmalonic acidemia, the body is unable to process certain parts of proteins and lipids (fats) properly. In most cases, the features of propionic acidemia become apparent within a few days after birth. Propionic acidemia affects about 1 in 100,000 people in the United States. The effects of methylmalonic acidemia, which usually appear in early infancy, vary from mild to life-threatening. Without treatment, this disorder can lead to coma and death in some cases. This condition occurs in an estimated 1 in 50,000 to 100,000 people.

10. Though OA was determined to have met the criteria under s. DHS 115.06 for being added to the list of congenital and metabolic disorders for which WSLH must test the blood samples of newborns, the conditions were inadvertently omitted from the list of conditions in s. DHS 115.04 during subsequent revisions.

11. The process for promulgating permanent rules may take 24 months to complete, or longer if the department is unable to submit the permanent rules to the legislature prior to its last general business floor period in 2016.

Filed with LRB: June 27, 2014
Publication Date: July 3, 2014
Effective Dates: July 3, 2014 through November 29, 2014
Hearing Date: August 15, 2014

Insurance

EmR1408 — The Commissioner of Insurance proposes an order to amend section Ins 17.01 (3); and to repeal and recreate section. Ins 17.28 (6), Wis. Admin. Code, relating to the Injured Patients and Families Compensation Fund Annual Fund and mediation panel fees, for the fiscal year beginning July 1, 2014 and affecting small business.

This emergency rule was approved by the Governor on June 12, 2014.

The statement of scope for this rule, SS 147–13, was approved by the Governor on November 18, 2013, published in Register No. 695, on November 30, 2013, and approved by the Commissioner on May 8, 2014.

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, 2014 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 18, 2013 and the mediation panel fees established by the Board of Governors at the meeting held on March 19, 2014.

Filed with LRB: June 13, 2014
Publication Date: June 18, 2014
Effective Dates: June 18, 2014 through November 14, 2014
Hearing Date: August 12, 2014

Natural Resources (7)

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

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

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

Finding of Emergency — Exemption

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

Filed with LRB: November 14, 2013

Publication Date: November 21, 2013

Effective Dates: November 21, 2013 through June 30, 2016, or the date on which permanent rules take effect, whichever is sooner.

Hearing Date: December 12, 2013 and December 19, 2013

4. EmR1401 (DNR # FH-26-13(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 20.20 (73) (n) 4. and 25.06 (1) (a)**, Wis. Adm. Code, relating to lake trout harvest limits in Lake Superior.

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

The statement of scope for this rule, SS 108-13, was approved by the Governor on August 13, 2013, published in Register No. 692 on August 31, 2013, and approved by the Natural Resources Board on September 25, 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 2013 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: January 14, 2014

Publication Date: January 13, 2014

Effective Dates: January 13, 2014 through June 11, 2014

Extension Through: October 9, 2014

5. EmR1405 (DNR # WM-24-13(E)) — The Wisconsin Natural Resources Board proposes an order to repeal sections **NR 10.01 (3) (ed), (es) 3., and (et), 10.07 (3), 10.09 (2), 10.28 (3), and 45.09 (9)**, to amend sections **NR 1.15 (1) (a), (b), and (c) 1., (2) (a) (intro.) and (at), and (3), 10.001 (2e), (6p), and (19e), 10.01 (3) (es) 1. and 2. and (3) (ev), 10.02 (3), 10.06 (8) (b) and (note), 10.07 (2m) (b) 1., 10.102 (1) (e) 4., 10.105 (1), (2), (4), and (7), 10.106 (intro.) and (1), 12.06 (1), (2), and (4), 12.16 (4), 13.38 (2) (b) and (Note), and 19.60 (2) (b) 1.**, to repeal and recreate sections **NR 1.15 (2) (a) 8., 10.01 (3) (e) and (em), 10.104, 10.106 (2), 10.28 (1) and (2), 10.28 (4), and 10.41**, and to create **Chapter NR 10 (Title.) and sections NR 10.001(1k) and (23a) and (b), 10.01 (2) (b) (Note) and (4) (dm) (Note), and Subchapter II**, relating to deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee Report.

This emergency rule was approved by the Governor on February 10, 2014

The statement of scope for this rule, SS 098-13, was approved by the Governor on July 23, 2013, published in Register No. 692, on August 14, 2013, and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency

A non-statutory provision, SECTION 9132 of 2013 Act 20, establishes that the department may promulgate rules to implement the 2012 final deer management report and that the department is not required to make a finding of emergency.

Filed with LRB: February 25, 2014

Publication Date: March 7, 2014

Effective Dates: March 7, 2014 through June 30, 2015

6. EmR1409 (DNR # FH-03-14(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 20.36 (2) and 23.055 (2)**, relating to modifications in daily bag limits and minimum size limits in response to tribal harvest.

This emergency rule was approved by the Natural Resources Board on May 28, 2014, and by the governor on June 6, 2014.

The statement of scope for this rule was approved by the governor on February 14, 2014, published in Register No. 698 on February 28, 2014, and approved by the Natural Resources Board on March 19, 2014.

Statement of Emergency

This emergency rule is needed to promote the preservation and protection of public peace, health, safety, and welfare in the Ceded Territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters.

Filed with LRB: June 16, 2014

Publication Date: June 14, 2014

Effective Dates: June 14, 2014 through November 10, 2014

Hearing Date: July 14, 2014 and July 16, 2014

7. EmR1412 (DNR # ER-31-13(E)) — The Wisconsin Natural Resources Board proposes an order to create **sections NR 10.02 (11), 16.12 (3) (b) 12., 19.275 (4) (bm), 21.13 (4) (bm), and 22.13 (4) (bm)**, relating to the addition of the Blanding's turtle to the State's Protected Wild Animal list, possession exemptions, and turtle seasons and limits.

This emergency rule was approved by the Governor on June 25, 2014.

The statement of scope for this rule, SS 124-13, was approved by the governor on September 20, 2013, published in Register No. 694, on October 14, 2013, and approved by the Natural Resources Board on December 11, 2013.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified to preserve the public welfare and interest in ensuring a sustainable population of Blanding's turtles. The Blanding's turtle is proposed for delisting from the State's Threatened Species list per administrative rule ER-27-11, which is expected to take effect as early as December 2013. Although the Blanding's turtle no longer meets the scientific criteria for listing, the Department feels that the population is nonetheless too vulnerable to survive the threat of harvest and collection, and believes emergency rules are needed to ensure a proper recovery before these activities are permitted.

All turtles not listed as threatened or endangered in ch. NR 27 or as otherwise specified have a 135-day open season (July 15-November 30) during which members of the public may capture and possess up to 5 individuals [s. NR 19.275 (4),

21.13 (4) and 22.13 (4)] per day. Permanent rule-making to protect Blanding's turtles from this harvest will not go into effect until after the 2014 open season for turtles is already underway. An emergency rule is therefore necessary to prevent the harvest and possession of Blanding's turtles during the 2014 open season until the permanent rule goes into effect.

The anticipated impact of collection and harvest to Blanding's turtle conservation and recovery in the state necessitates putting the emergency rule into effect during the 2014 open season for turtles while the agency complies with the permanent rule-making procedures.

Filed with LRB: July 10, 2014
Publication Date: July 13, 2014
Effective Dates: July 13, 2014 through December 9, 2014

Public Instruction (2)

1. EmR1324 — The State Superintendent of Public Instruction hereby proposes to amend **sections PI 5.02 (6) and (11m), 5.035 (6), and 5.04**, relating to high school equivalency diplomas and certificates of general educational development.

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 the statement of scope or this rule.

The scope statement for this rule, SS 093-13, was published in Register No. 692, on August 14, 2013, and approved by State Superintendent Tony Evers on August 27, 2013.

Finding of Emergency

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

The number of subtests and the passing scores for the General Educational Development (GED) Test will be changing in January 2014 when a new test is implemented by the GED Testing Service.

Unless the rule is changed to reflect these new subtests and passing scores, the Department may be prevented from issuing credentials for test takers who pass the GED Test because the required passing scores will be incorrect.

Filed with LRB: December 27, 2013
Publication Date: December 27, 2013
Effective Dates: December 27, 2013 through May 25, 2014
Hearing Date: February 24, 2014
Extension Through: July 24, 2014

2. EmR1411 — The State Superintendent of Public Instruction hereby creates **Chapter PI 80**, relating to community programs and services.

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11-CV-4573, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope or this rule.

The scope statement for this rule, SS 043-14, was published in Register No. 701, on May 14, 2014, and approved by State Superintendent Tony Evers, on May 27, 2014.

Finding of Emergency

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

Unless an emergency rule is promulgated, school districts will not know which activities would be considered ineligible costs for the Community Programs and Services Fund for the 2014-15 school year. Not having this information could result in school districts unintentionally making expenditures from the Community Programs and Services Fund in 2014-15 that are deemed "ineligible costs" after the school board has made budget decisions and set a tax levy for the 2014-15 school fiscal year. Such a finding would then result in a negative adjustment to the district's revenue limit authority for the following 2015-16 school year, per s. 121.91 (4) (r), Stats., as created by 2013 Wisconsin Act 306. A district's revenue limit authority controls the amount of combined State General Aid and local property taxes revenues for a district. Thus, a district's revenue limit authority for the 2015-16 school year could be negatively impacted based on a definition of "ineligible costs" that was not in place at the time the district made its 2014-15 budget decisions and set the 2014-15 tax levy (by November 2014) for the Community Programs and Services Fund.

Filed with LRB: June 27, 2014
Publication Date: July 1, 2014
Effective Dates: July 1, 2014 through November 27, 2014
Hearing Date: September 4, 2014

Safety and Professional Services

Uniform Dwelling Code, Chs. 320—325

EmR1403 — The Wisconsin Department of Safety and Professional Services adopts an order to amend **sections SPS 321.02 (1) (c), 321.23, Table 321.25-A, 321.25 (7) (d) and (8) (a) (Note), and Chapters 320 to 325 Appendix — Minimum Fastener Schedule Table**; and to repeal and recreate **section SPS 321.25 (8) (b) to (h) and (9)**, relating to wall bracing for one- and two-family dwellings.

This emergency rule was approved by the Governor on January 28, 2014.

The statement of scope for this rule, SS 139-13, was approved by the Governor on October 28, 2013, published in Register 695 on November 14, 2013, and approved by the Department on November 26, 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.

Some building designers find the current rules for wall bracing for one- and two-family dwellings are too difficult to understand and apply, which results in unnecessary costs and delays in home building. Promulgating revisions to the rules through the emergency rule process is needed in order to avoid these costs and delays as soon as possible. In addition, the

report that the Dwelling Code Council is required to complete by July 1, 2014, under section 101.62 (4) of the Statutes is expected to include recommendations to clarify and simplify these rules through the emergency rule process.

Filed with LRB: February 13, 2014
Publication Date: February 19, 2014
Effective Dates: April 1, 2014 through August 28, 2014
Hearing Date: March 11, 2014
Extension Through: October 27, 2014

Transportation

EmR1404 — The Wisconsin Department of Transportation proposes an order to create **section Trans 327.14**, relating to motor carrier safety and affecting small businesses.

This emergency rule was approved by the Governor on February 10, 2014.

The statement of scope for this rule, SS 155–13, was approved by the Governor on December 16, 2013, published in Register 696, on December 31, 2013, and approved by Secretary Mark Gottlieb as required by s. 227.135 (2), Stats., on January 13, 2014.

Finding of Emergency

The welfare of commercial motor vehicle drivers who hold a commercial driver license (“CDL”) issued by the State of Wisconsin who operate commercial motor vehicles outside this state will be harmed beginning January 30, 2014, if they cannot demonstrate compliance with recent federal regulations because they will be treated by other states as unlicensed drivers. Beginning on January 1, 2014, federal regulations require CDL holders to have certified to DOT the type of commercial driving they do and, if required, to have submitted proof of medical fitness to drive, and to have their driving records updated by DOT to show these actions, before driving a commercial motor vehicle. The Department published the scope statement for permanent rulemaking in September 2011 to implement these federal requirements. The permanent rulemaking effort is ongoing but will not take effect before the January 30, 2014 deadline for compliance.

Filed with LRB: February 14, 2014
Publication Date: February 16, 2014
Effective Dates: February 16, 2014 through July 15, 2014
Extension Through: September 13, 2014

Workforce Development

Unemployment Insurance, Chs. DWD 100–150

EmR1316 — The Wisconsin Department of Workforce Development hereby adopts an order to repeal **sections DWD 126.02 (2), (3), and (4), 126.03 (1), 126.04, 126.05, 127.01 (2) (b), (f) to (i), and (3), 127.02 (intro.), (1), (2), (3), and (4), 127.02 (5) and (10), and 127.08**; to renumber and amend **section DWD 126.02 (1)**; to amend **sections DWD 126.01, 126.03 (intro.) and (2), 127 (title), 127.01 (1), (2) (intro.), (a), (c), and (d), 127.02 (7), (9), and (11), 127.04 (title), (1), and (2), 127.05, 127.06 (1), (2), and (3), 127.07 (title) and (1), 128.01 (2) (a), and 129.01 (1) and (2)**; to repeal and

recreate **sections DWD 127.01 (2) (j) and 127.07 (2)**; and to create **sections DWD 126.02 (Note), 126.03 (3), (4), (5), (6), and (7), 127.01 (2) (em), 127.02 (12), 127.04 (1m) (e), and 127.06 (1) (c)**, relating to unemployment insurance work registration, work search, and benefit claiming procedures.

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

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

Finding of Emergency

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

- (1) In order to fulfill the new statutory directives to require claimants for unemployment insurance benefits to increase their number of weekly work search actions from two to at least four;
- (2) In order to simplify the process and compliance with respect to requirements for unemployment insurance claimants to register for work;
- (3) In order to execute the new statutory requirement to request additional information from claimants;
- (4) In order to improve the unemployment insurance trust fund balance and thereby relieve employers of the burden of additional taxation;
- (5) In order to better assist unemployment insurance benefit claimants to obtain gainful employment; and,
- (6) In order to promote the improvement in the Wisconsin economy as a result of the immediate implementation of legislative directives with respect to the unemployment insurance program contained in 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

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

Filed with LRB: September 25, 2013
Publication Date: September 29, 2013
Effective Dates: September 29, 2013 through February 25, 2014, except that changes to ss. DWD 126.03 and 127.02 take effect after the Secretary determines the Department has the technological ability to implement the changes.
Hearing Date: November 4, 2013
Extension Through: June 25, 2014

Workforce Development

Apprenticeship, Chs. DWD 295–296

EmR1406 — The Wisconsin Department of Workforce Development hereby adopts the following emergency rule to create **section DWD 295.25**, relating to apprenticeship completion awards.

The emergency rule was approved by the governor on March 21, 2014.

The statement of scope for this emergency rule was approved by the Governor on February 13, 2014, published in Register No. 698 on February 28, 2014, and approved by the Secretary of the Department of Workforce Development on March 11, 2014.

Finding of Emergency

The department of workforce development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of facts constituting an emergency include:

(1) Wisconsin currently has more than 2,100 employers participating in, and training individuals, under the apprenticeship program.

(2) During 2013, Wisconsin had 9,723 valid apprenticeship contracts.

(3) Over the past ten years, the completion rate of the apprenticeship program averaged between 55–60%.

(4) 2013 Wisconsin Act 57 creates an apprenticeship completion award program to be administered by the department of workforce development to partially reimburse tuition costs incurred by an apprentice who has successfully completed part or all of the requirements of their apprenticeship contract, and is employed in the trade, occupation, or business under the apprenticeship contract, or the sponsor of the apprentice.

(5) The department of workforce development has received general purpose revenue (GPR) funds of \$225,000

in fiscal year 2013–14 and 2014–15, to distribute up to 25%, or \$1,000, whichever is less, of the tuition costs incurred by the apprentice and sponsor of the apprentice. The amount of the first payment upon successful completion by the apprentice of the first year of the contract may not exceed \$250.

(6) The department of workforce development is adopting this emergency rule to prevent a potential hardship to Wisconsin's apprenticeship program participants. Adoption of this emergency rule will ensure those participating in an eligible apprenticeship contract may begin receiving apprenticeship completion awards as soon as possible. Because a permanent rule cannot be adopted in time, GPR funds for fiscal year 2013–14 would be lost if the emergency rule is not adopted.

Filed with LRB: March 26, 2014
Publication Date: March 27, 2014
Effective Dates: March 27, 2014 through August 23, 2014
Hearing Date: May 15, 2014
Extension Through: October 22, 2014

Scope Statements

Revenue

SS 065–14

This scope statement was approved by the governor on July 1, 2014

Rule No.

Chapter Tax 13 (revise).

Relating to

Investment and Local Impact Board.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule will repeal unnecessary and confusing provisions and amend complex procedures related to the investment and local impact board's ("board") distribution of funds to local communities affected by metalliferous mining in this state. The provisions are repetitive of statutes, which were amended in 2013 Act 1. Chapter Tax 13 no longer accurately reflects the statute, and it is unnecessarily complex. The objective of the proposed rule is to clarify the procedures used by the board, reduce confusion and remove inaccuracies by repealing language that is found in the statute, and return the rule's contents to the subjects over which the board and the department of revenue were granted rule-making authority.

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

Chapter Tax 13 establishes application procedures for local communities affected by metalliferous mining who seek funds under s. 70.395, Stats. These procedures allow the board to certify the amounts of funds to be distributed by the department of administration under s. 70.395 (2) (c) 1, Stats. Chapter Tax 13 also defines acceptable use of funds and the sources of funds using statutory language. The proposed rule proposes no new policies and seeks to further the policy goals of the legislature under s. 70.395, Stats.

The alternative is to leave the rules as they are, burdensome and confusing. Rules with language repetitive of statutes are subject becoming outdated with any legislative change. Additional staff time would be required to amend the rule in every instance such as this, creating inefficiencies in state government. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 70.395 (2) (c), Stats., reads:

The board shall, according to procedures established by rule:

1. Certify to the department of administration the amount of funds to be distributed under pars. (d) to (g) and to be paid under (j).
2. Determine the amount which is not distributed under subd. 1. which shall be invested under s. 25.17 (1) (jc).

Section 70.395 (2) (c) 1., Stats., authorizes the board to promulgate parts of ss. Tax 13.05, 13.06, 13.07, and 13.08. Most of the statutorily authorized procedures are promulgated in s. Tax 13.07 (2). The proposed rule seeks to repeal the portions of these sections which repeat statutory provisions and lack statutory authority for promulgation.

Section 70.395 (2) (c) 2., Stats., authorizes the board to promulgates s. Tax 13.05 (1) (b) 3. and 4.

Section 70.395 (2) (hg), Stats., reads:

The board shall, by rule, establish fiscal guidelines and accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub (3) and ss. 293.65 (5) and 295.61 (9).

Sections Tax 13.10 and 13.11 implement the board's policies regarding fiscal guidelines and accounting procedures clearly authorized by s. 70.395 (2) (hg), Stats.

Section 70.395 (2) (hr), Stats., reads:

The board shall, by rule, establish procedures to recoup payments made, and to withhold payments to be made, under pars. . (d), (f), (fm) and (g), sub (3) and ss. 293.65 (5) and 295.61 (9) for noncompliance with this section or rules adopted under this section.

Section Tax 13.12 implements the board's policies regarding recoupment and withholding of payments clearly authorized by s. 70.395 (2) (hr), Stats.

Section 70.395 (2) (i), Stats., reads, in part:

The board may require financial audits of all recipients of payments made under pars. (d) to (g). The board shall require that all funds received under pars. (d) to (g) be placed in a segregated account.

Under s. 70.395 (2) (i), Stats., the board promulgated s. Tax 13.09 relating to audits of fund recipients.

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

The department estimates it will take approximately 200 hours to develop the rule.

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

Counties, cities, towns, villages, tribes, school districts, and local impact committees, under ss. 293.33 and 295.443, Stats., that are affected by metalliferous mining in this state.

7. Summary and Preliminary Comparison of any Existing or Proposed Federal Regulation that is

Intended to Address the Activities to be Regulated by the Proposed Rule

The investment and local impact board is not regulated by federal statutes or regulations.

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 or no economic impact, as the policies behind the current statute and rule will not change. Any economic impact is likely to be positive, as the proposed rule will make the availability of funds to affected local communities less complex and burdensome.

The rule will have no economic impact on small business.

9. Contact Person

Nate Ristow, (608) 266-6466 or Dale Kleven, (608) 266-8253.

University of Wisconsin System

SS 066-14

The statement of scope was approved by the governor on July 7, 2014.

Rule No.

Chapter UWS 11 (revise).

Relating to

Dismissal of academic staff for cause.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The Board of Regents of the University of Wisconsin System ("Board") seeks to modify ch. UWS 11, Dismissal of Academic Staff for Cause, to recognize published guidance from the U.S. Department of Education. In the guidance, the Department of Education has addressed expectations for higher education institutions to respond to sexual misconduct allegations involving school employees, including allegations of sexual assault.

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 current version of ch. UWS 11 provides a disciplinary process for pursuing dismissal of academic staff, including cases of serious criminal misconduct, such as sexual assault.

The U.S. Department of Education has issued guidance related to sexual assaults at higher education institutions and has reaffirmed that Title IX protects students from sexual harassment carried out by school employees. Some of the expectations of the U.S. Department of Education may require modifications to the provisions under the current ch. UWS 11 in order for them to be met.

The modifications contemplated by this rulemaking would incorporate into law some of the published expectations of the U.S. Department of Education. In particular, the new provisions would reflect the evidentiary burden of proof and the role of a complainant in the process.

If modifications are not made to ch. UWS 11, the UW institutions will continue to adhere to the provisions of ch. UWS 11 and to the federal guidance, but only to the extent that a conflict does not arise between the two. Further, following both policy guidance and the law may lead to confusion.

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

Wis. Stat. s 36.15 (3): "Procedural Guarantees. A person having an academic staff appointment for a term may be dismissed prior to the end of the appointment term only for just cause and only after due notice and hearing. A person having an academic staff appointment for an indefinite term who has attained permanent status may be dismissed only for just cause and only after due notice and hearing. In such matters the action and decision of the board, or the appropriate official authorized by the board, shall be final, subject to judicial review under ch. 227. The board shall develop procedures for the notice and hearing which shall be promulgated as rules under ch. 227."

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

50 hours

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

All 13 four-year University of Wisconsin System institutions, all 13 UW Colleges and the University of Wisconsin Extension.

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

Title IX of the Education Amendments of 1972 provides that "[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Currently, there are no federal regulations interpreting this law with respect to addressing allegations of sexual misconduct; however, the U.S. Department of Education has issued guidance through Dear Colleague Letters which establish the federal agency's expectations for institutions of higher education that receive federal funding. This guidance is being enforced by the U.S. Department of Education through the Office for Civil Rights.

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

There is no anticipated economic impact of the proposed rule.

Contact Person

Tomas Stafford, General Counsel, 608-262-2995.

University of Wisconsin System

SS 067-14

The statement of scope was approved by the governor on July 7, 2014.

Rule No.

Chapter UWS 17 (revise).

Relating to

Nonacademic student misconduct.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The Board of Regents of the University of Wisconsin System (“Board”) seeks to modify ch. UWS 17 regarding Student Nonacademic Misconduct to recognize the guidance that the U.S. Department of Education has published in regard to the manner in which higher education institutions should address and respond to sexual misconduct allegations involving a student, including sexual assault. Specifically, the Board seeks to amend ch. UWS 17 by creating a new section that would provide a process under which such allegations would be handled by University of Wisconsin System institutions.

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 current version of ch. UWS 17 provides a student disciplinary process under which allegations of a violation of those rules, including allegations of sexual misconduct, is handled. This process has been fair and effective since it was first published in 1996. In 2009, the Chapter was amended through the administrative rule-making process to update the Chapter and modify certain provisions to underscore the educational emphasis of the nonacademic student disciplinary process. The Chapter authorizes each institution of the University of Wisconsin System to adopt consistent policies and procedures.

In response to the guidance issued by the U.S. Department of Education in the last few years, the University of Wisconsin System Administration provided written guidance to UW institutions to acknowledge the U.S. Department of Education’s expectations for the manner in which institutions handle sexual misconduct on campus. This guidance, however, was developed with the acknowledgment that it does not supersede ch. UWS 17. Consequently, some of the expectations of the U.S. Department of Education cannot be met because they would conflict with certain provisions under the current Chapter, such as certain rights afforded only to an accused student.

The modifications contemplated by this rulemaking would incorporate into law what now exists in the System’s Guidance and thus reflect best practices as well as the expectations of the U.S. Department of Education. Further, the modifications would permit the University to incorporate those expectations which now are inconsistent with the

existing rule. Institutions would adopt policies consistent with the new Chapter.

The alternative would be to continue to operate with both Chapter UWS 17 and the guidance. This, however, would be less effective and could lead to confusion. Instead of one single policy that is intended to be easily understood by students, the current framework includes ch. UWS 17, the internal guidance provided by the University of Wisconsin System Administration, and guidance provided by the U.S. Department of Education.

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

Wis. Stat. s. 36.35: “The board shall promulgate rules under ch. 227 governing student conduct and procedures for the administration of violations.”

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

50 hours.

6. List with description of all entities that may be affected by the proposed rule

All 13 four-year University of Wisconsin System institutions, all 13 UW Colleges and the students thereof.

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

Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, there are no federal regulations interpreting this law with respect to addressing allegations of sexual misconduct; however, the U.S. Department of Education has issued guidance through Dear Colleague Letters which establish the federal agency’s expectations for institutions of higher education that receive federal funding. This guidance is being enforced by the U.S. Department of Education through the Office for Civil Rights.

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

There is no anticipated economic impact of the proposed rule.

Contact Person

Tomas Stafford, General Counsel, 608-262-2995.

University of Wisconsin System

SS 068-14

The statement of scope was approved by the governor on July 7, 2014.

Rule No.

Chapters UWS 4 and 7 (revise).

Relating to

Procedures for dismissal of faculty/dismissal of faculty in special cases.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The Board of Regents of the University of Wisconsin System (“Board”) seeks to modify ch. UWS 4, Procedures for Dismissal of Faculty, and ch. UWS 7, Dismissal of Faculty in Special Cases, to recognize published guidance from the U.S. Department of Education. In the guidance, the Department of Education has addressed expectations for higher education institutions to respond to sexual misconduct allegations involving school employees, including allegations of sexual assault.

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 current version of ch. UWS 4 provides a disciplinary process for pursuing dismissal of faculty for just cause. The current version of ch. UWS 7 provides a disciplinary process for pursuing dismissal of faculty in special cases of serious criminal misconduct, including sexual assault.

The U.S. Department of Education has issued guidance related to sexual assaults at higher education institutions and has reaffirmed that Title IX protects students from sexual harassment carried out by school employees. Some of the expectations of the U.S. Department of Education may require modifications to the provisions under the current chs. USW 4 and 7 in order for them to be met.

The modifications contemplated by this rulemaking would incorporate into law some of the published expectations of the U.S. Department of Education. In particular, the new provisions would reflect the evidentiary burden of proof and the role of a complainant in the process.

If modifications are not made to chs. UWS 4 and 7, UW institutions will continue to adhere to the provisions of chs. UWS 4 and UWS 7 and the federal guidance, but only to the extent that a conflict does not arise. Further, following both policy guidance and the law may lead to confusion.

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

Wis. Stat. s. 36.13 (3): “Rules. The board and its several faculties after consultation with appropriate students shall promulgate rules for tenure and probationary appointments,

for the review of faculty performance and for the non-retention and dismissal of faculty members. Such rules shall be promulgated under ch. 227.”

Wis. Stat. s. 36.13 (5): “Procedural Guarantees. Any person having tenure may be dismissed only for just cause and only after due notice and hearing. Any person having a probationary appointment may be dismissed prior to the end of the person’s contract term only for just cause and only after due notice and hearing. The action and decision of the board in such matters shall be final, subject to judicial review under ch. 227. The board and its several faculties shall develop procedures for the notice and hearing which shall be promulgated by rule under ch. 227.”

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

50 hours

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

All 13 four-year University of Wisconsin System institutions, all 13 UW Colleges and the University of Wisconsin Extension.

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

Title IX of the Education Amendments of 1972 provides that “[N]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Currently, there are no federal regulations interpreting this law with respect to addressing allegations of sexual misconduct; however, the U.S. Department of Education has issued guidance through Dear Colleague Letters which establish the federal agency’s expectations for institutions of higher education that receive federal funding. This guidance is being enforced by the U.S. Department of Education through the Office for Civil Rights.

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

There is no anticipated economic impact of the proposed rule.

Contact Person

Tomas Stafford, General Counsel, 608-262-2995

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Insurance CR 14-046

On July 14, 2014, the Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse in accordance with ss. 227.14 (4m) and 227.15, Stats.

Scope

The statement of scope for this rule SS: 147-13, was approved by the Governor on November 18, 2013, published in Register No. 695, on November 30, 2013, and approved by the Commissioner on May 8, 2014.

Analysis

These changes will affect sections Ins 17.01 (3) and 17.28 (6), relating to Injured Patients and Families Compensation Fund annual fund fees and mediation panel fees and affecting small business.

Agency Procedure for Promulgation

The date for the public hearing is August 12, 2014.

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 Julie E. Walsh at (608) 264-8101 or e-mail at julie.walsh@wisconsin.gov in the OCI Legal Unit.

Public Instruction CR 14-045

On July 8, 2014, the Wisconsin Department of Public

Instruction submitted a proposed rule creating PI 80 to the Wisconsin Legislative Council Rules Clearinghouse.

Scope

The scope statement for this rule, SS 043-14, was published in Register No. 701 on May 14, 2014, and approved by State Superintendent Tony Evers on May 27, 2014. 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 the statement of scope or this rule.

Analysis

An identical emergency rule, EmR 1411, affecting the same rules contained in this proposed rule and relating to the same purpose as this proposed rule has been published and is in effect.

The proposed rule creates Chapter PI 80, relating to community programs and services.

Agency Procedure for Promulgation

Public hearings will be scheduled as required under ss. 227.16 (1) and 227.24 (4), Stats.

Contact Person

The Division for Finance and Management within the Department of Public Instruction is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Katie Schumacher, Administrative Rules Coordinator, at Katie.Schumacher@dpi.wi.gov or (608) 267-9127.

Rule–Making Notices

Notice of Hearings

Health Services Health, Chs. DHS 110— EmR1410

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a) and 253.13 (1) and (4) (b), Stats., the Department of Health Services will hold a public hearing to consider the emergency rules revising Chapter DHS 115, relating to screening newborns for congenital and metabolic disorders.

Hearing Information

Date: Friday, August 15, 2014
Time: 2:30 p.m. to 4:30 p.m.
Location: Department of Health Services
 1 W. Wilson Street
 Room 630
 Madison, WI 53701

Accessibility

English

The Department of Health Services is an equal opportunity employer and service provider. If you need accommodations because of a disability or need an interpreter or translator, or if you need this material in another language or in an alternate format, you may request assistance to participate by contacting Susan Uttech at (608) 267–3561. You must make your request at least 7 days before the activity.

Spanish

The Department of Health Services es una agencia que ofrece igualdad en las oportunidades de empleo y servicios. Si necesita algún tipo de acomodaciones debido a incapacidad o si necesita un interprete, traductor o esta información en su propio idioma o en un formato alterno, usted puede pedir asistencia para participar en los programas comunicándose con Susan Uttech al número (608) 267–3561. Debe someter su petición por lo menos 7 días de antes de la actividad.

Hmong

The Department of Health Services yog ib tus tswv hauj lwm thiab yog ib qhov chaw pab cuam uas muab vaj huam sib luag rau sawv daws. Yog koj xav tau kev pab vim muaj mob xiam oob qhab los yog xav tau ib tus neeg pab txhais lus los yog txhais ntaub ntawv, los yog koj xav tau cov ntaub ntawv no ua lwm hom lus los yog lwm hom ntawv, koj yuav tau thov kev pab uas yog hu rau Susan Uttech ntawm (608)267–3561. Koj yuav tsum thov qhov kev pab yam tsawg kawg 7 hnub ua ntej qhov hauj lwm ntawd.

Copies of Rule and Fiscal Estimate — Economic Impact Analysis

A copy of the rules and fiscal estimate may be obtained from the Department of Health Services at no charge by downloading the documents from www.adminrules.wisconsin.gov or by contacting Susan Uttech, Department of Health Services, 1 W. Wilson Street,

Room 218, Madison, WI, (608) 267–3561, susan.uttech@wi.gov.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Susan Uttech, Department of Health Services, 1 W. Wilson Street, Room 218, Madison, WI, (608) 267–3561, susan.uttech@wi.gov or to the Wisconsin Administrative Rules Website at <http://www.adminrules.wisconsin.gov> until **August 15, 2014**, 4:30 p.m.

Analysis Prepared by the Department of Health Services

Statute interpreted

Section 253.13 (1), Stats.

Statutory authority

Sections 227.11 (2) (a) and 253.13 (1) and (4) (b), Stats.

Explanation of agency authority

Section 227.11 (2) (a) reads: Rule–making authority is expressly conferred on an agency 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.

Section 253.13 (1) and (4) (b) reads: (1) TESTS; REQUIREMENTS. The attending physician or nurse licensed under s. 441.15 shall cause every infant born in each hospital or maternity home, prior to its discharge therefrom, to be subjected to tests for congenital and metabolic disorders, as specified in rules promulgated by the department. If the infant is born elsewhere than in a hospital or maternity home, the attending physician, nurse licensed under s. 441.15, or birth attendant who attended the birth shall cause the infant, within one week of birth, to be subjected to these tests.

(4) (b) The department may require reporting in connection with the tests performed under this section for use

in statistical data compilation and for evaluation of infant screening programs.

Related statute or rule

See the “Statute interpreted” section.

Plain language analysis

As provided in s. 253.13 (1), Stats. (2011–12), ch. DHS 115 specifies the congenital and metabolic orders for which newborns must be screened by means of a blood sample shortly after birth and tested by the WSLH. 2013 Wisconsin Act 135 modified s. 253.13 (1), Stats., relating to infant blood tests to provide that the required screening may be performed by methods in addition to blood testing. Under this emergency order the department revises ch. DHS 115 to conform the rules to s. 253.13, Stats.

The emergency order adds CCHD and OA as conditions for which newborns must be tested. CCHD is usually described as those congenital cardiac malformations in which surgical or catheter–based therapy is necessary within the first months of life, and is screened for by use of pulse oximetry. In September 2010, the federal Department of Health and Human Services’ Discretionary Advisory Committee on Heritable Disorders in Newborns and Children added CCHD to its Recommended Uniform Screening Panel Core Conditions. To date, 35 states have added CCHD screening to their newborn screening panel.

OA is a group of inherited disorders that lead to an abnormal buildup of particular acids known as organic acids in the body for which the WSLH currently tests newborns. Though the criteria under s. DHS 115.06 was met for OA to be added to the list of congenital and metabolic disorders for which WSLH must test blood samples, the disorders were inadvertently omitted from subsequent revisions of s. DHS 115.04.

The department intends to promulgate corresponding permanent rules to replace these emergency rules, except that the department intends to also propose, as permitted under s. 253.13 (4), Stats., reporting requirements in the proposed permanent rules.

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

There appears to be no existing or proposed federal regulations that address the activities to be regulated by the emergency rules.

Comparison with rules in adjacent states

For the past ten years Illinois, Iowa, Michigan, and Minnesota have mandated that newborns be screened for organic acidemias to include propionic acidemia and methylmalonic acidemia as part of their state’s newborn screening program. Also, each of these four states require by law that newborns be screened for CCHD using pulse oximetry screening and provide reports on all pulse oximetry results if sufficient funds are available to do so. Only Iowa has an administrative rule for CCHD.

Illinois:

Illinois 410 ILCS 240/1.10 (b) “The Department shall require that screening tests for critical congenital heart disease be performed at birthing hospitals and birth centers in accordance with a testing protocol adopted by the Department, by rule, in line with current standards of care, such as pulse oximetry screening...” 77 Ill. Adm. Code 661.10 Responsibility for Screening explains that a Genetic

and Metabolic Diseases Advisory Committee will recommend to the Department when an additional disorder should be added to the screening panel. Implementation of the Department’s determination is subject to that determination’s adoption by rule. This process is similar to Wisconsin’s procedure for adding a disorder.

Iowa:

Iowa Code s. 136A.5A requires that each Iowa newborn “shall receive a critical congenital heart disease screening by pulse oximetry or other means as determined by rule, in conjunction with the metabolic screening required pursuant to section 136A.5A.” Section 136.5A was added as part of 2013 Act, Ch. 140 Section 91 and Section 92 to address critical congenital heart disease screening; however the administrative rule is not yet written. Administrative Code 641 IAC 4.3 (1) states that CCHD will be included in the state’s newborn screening panel as included in the recommended uniform screening panel as approved by the United States Secretary of Health and Human Services.”

Michigan:

Under Michigan statute, MCLS, s. 333.5431 (1) (i) refers to CCHD generally as “other treatable but otherwise disabling conditions as designated by the department.” The Michigan Department of Community Health website lists all (55) of the disorders included in their screening panel which includes CCHD.

Minnesota:

Minn. Stats. s. 144.1251 (1) (a) requires testing and reporting as follows “each licensed hospital or state licensed birthing center or facility that provides maternity and newborn care services shall provide screening for congenital heart disease to all newborns prior to discharge using pulse oximetry screening.” The Minnesota Department of Health’s procedure for implementation includes: communicating CCHD screening protocol requirements; providing information to hospitals; providing training; establishing the mechanism for required data collection; coordinating implementation of universal standardized screening; and acting as a resources for providers which is similar to Wisconsin’s approach.

Summary of factual data and analytical methodologies

The Secretary’s Advisory Committee on Newborn Screening (Committee) recommended to the department, and the department concurred with the recommendation to add CCHD to the list of congenital or metabolic disorders for which newborns must be screened.

The WSLH tests newborns OA, a group of inherited disorders that lead to an abnormal buildup of particular acids, known as organic acids, in the body. Though OA was determined to have met the criteria under s. DHS 115.06 for being added to the list of congenital and metabolic disorders for which WSLH must test the blood samples of newborns, the conditions were inadvertently omitted from the list of conditions in s. DHS 115.04 during subsequent revisions.

Analysis and supporting documents used to determine effect on small business

The department under this emergency order revises ch. DHS 115 to conform the rules to s. 253.13, Stats., as revised under 2013 Wisconsin Act 135 so that the required newborn screening may be performed by methods in addition to blood testing. Also under this emergency order, the department adds CCHD and OA to the list of congenital and metabolic

disorders for which newborns must be tested. Section 253.13 (1), Stats., requires attending physicians, nurse–midwives, and certified midwives to cause every infant born in Wisconsin to be screened for the congenital and metabolic disorders specified by the department by rule. To comply with s. 253.13 (1), Stats., hospitals, stand–alone birth centers, physicians, nurse–midwives, certified midwives, and other entities (purchasers) purchase newborn screening sample collection cards for \$109 from the WSLH for use when obtaining the newborn’s blood sample for testing. The addition of CCHD and OA to the list of congenital and metabolic disorders under s. DHS 115.04 for which newborns must be tested does not increase the current fee or impose any additional fees to purchasers of newborn screening sample collection cards.

Costs to providers for screening for CCHD is indeterminate. Pulse oximetry is the recognized screening method for CCHD. The cost of a reliable hand held device, with a reusable probe, costs about \$500, with probe wraps costing about \$.60 each. Administering the pulse oximetry testing on newborns averages about three minutes per baby and it is usually conducted by nurses. Some of the costs to providers for screening for CCHD have been mitigated through the Wisconsin SHINE Project (Screening Hearts in Newborns), a pilot project through the University of Wisconsin School of Medicine and Public Health, the Medical College of Wisconsin, the department, and the WSLH, which works to create a safety net for all babies born in Wisconsin by educating healthcare providers, improving access to screening and diagnostic technology, and creating a statewide CCHD screening and data collection system. The Wisconsin SHINE project has supplied pulse oximeters to hospitals and midwives who did not have them.

The inclusion of OA in the list of disorders for which newborns must be tested will not impose any additional costs to providers because the WSLH currently tests newborns for OA including propionic acidemia, methylmalonic acidemia, and related organic acidemias.

Effect on Small Business

Based on the foregoing analysis, the emergency rules are anticipated to have little or no economic impact on businesses.

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

Agency Contact Person

Susan Uttech, Department of Health Services, Bureau Director, Community Health Promotion, susan.uttech@wi.gov 608–267–3561

Statement on Quality of Agency Data

The department relied on the following information for the rules and analysis:

<http://cdc.gov>

US Secretary of Health and Human Services, Secretary’s Advisory Committee on Heritable Disorders in Newborns and Children

Wisconsin Newborn Screening Program — Condition Nomination Form

<http://wisconsinshine.org>

Ng B, Hokanson J. Missed congenital heart disease in neonates. *Congenit Heart Dis.* 2010;5:292–6.

Bissel DIJ, Goetz EM, Hokanson J.S. Pulse Oximetry for Congenital Heart Disease in Wisconsin. *Congenit Heart Dis.* 2011; 6:521–2

Initial Regulatory Flexibility Analysis

The rules affect hospitals, stand–alone birth centers, physicians, nurse–midwives, certified midwives, and other entities that are required by s. 253.13 (1), Stats., to test newborns for congenital and metabolic disorders. The rules do not impose any reporting, bookkeeping, or other procedures for compliance with the rules, nor do the rules require any professional skill beyond those used in the respective medical professions to comply with the rules.

Rosie Greer

Rosie.greer@dhs.wi.gov

(608) 266–1279

Fiscal Estimate—Economic Impact Analysis

The Fiscal Estimate—Economic Impact Analysis follows this hearing notice.

Agency Contact Person

Susan Uttech, Department of Health Services, 1 W. Wilson Street, Room 218, Madison, WI, 53701, (608) 267–3561, susan.uttech@wi.gov.

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DHS 115, Screening of Newborns for Congenital and Metabolic Disorders

3. Subject

Newborn screening for congenital and metabolic disorders (to add Critical Congenital Heart Disease (CCHD) and Organic Acidemia (OA) as conditions for which newborns must be tested)

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

As provided in s. 253.13 (1), Stats. (2011–12), ch. DHS 115 specifies the congenital and metabolic orders for which newborns must be screened by means of a blood sample shortly after birth and tested by the Wisconsin State Laboratory of Hygiene (WSLH). 2013 Wisconsin Act 135 modified s. 253.13 (1) Stats., relating to infant blood tests to provide that the required screening may be performed by methods in addition to blood testing. Under the emergency order, the department revises ch. DHS 115 to conform the rules to s. 253.13, Stats., and adds CCHD and OA as conditions for which newborns must be tested.

CCHD is usually described as those congenital cardiac malformations in which surgical or catheter-based therapy is necessary within the first months of life, and is screened for by use of pulse oximetry. In September 2010, the federal Department of Health and Human Services' Discretionary Advisory Committee on Heritable Disorders in Newborns and Children added CCHD to its Recommended Uniform Screening Panel Core Conditions. To date, 35 states have added CCHD screening to their newborn screening panel.

Adding OA as a condition for testing corrects an inadvertent omission from the list of congenital and metabolic disorders. OA is a group of inherited disorders that lead to an abnormal buildup of particular acids known as organic acids in the body for which the WSLH currently tests newborns. Though OA met the criteria under s. DHS 115.06 for being added to the list of congenital and metabolic disorders for which WSLH must test blood samples, the disorders were not included in subsequent revisions of s. DHS 115.04.

The department does not anticipate that the revisions to ch. DHS 115 will have a fiscal impact on the department or local government.

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.

Pursuant to s. 227.137 (5), Stats., the information required under this section does not apply to emergency rules.

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

Pursuant to s. 227.137 (5), Stats., the information required under this section does not apply to emergency rules.

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)

Pursuant to s. 227.137 (5), Stats., the information required under this section does not apply to emergency rules.

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

Section 253.13 (1), Stats., requires that every infant born in each hospital or maternity home, prior to its discharge, be tested for congenital and metabolic disorders, as specified in rules promulgated by the department. Therefore, there are no reasonable alternatives to the proposed rulemaking.

14. Long Range Implications of Implementing the Rule

Indeterminate

15. Compare With Approaches Being Used by Federal Government

Pursuant to s. 227.137 (5), Stats., the information required under this section does not apply to emergency rules.

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

Pursuant to s. 227.137 (5), Stats., the information required under this section does not apply to emergency rules.

17. Contact Name

Susan Uttech

18. Contact Phone Number

608-267-3561

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

Notice of Hearings

Insurance

CR 14-046, EmR1408

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in under ss. 227.18 and 227.24, Stats., OCI will hold a public hearing to consider the emergency rule issued on June 18, 2014 and the adoption of the attached proposed rulemaking order affecting sections Ins 17.01 (3) and 17.28 (3) (c) and (6), relating to Injured Patients and Families Compensation Fund annual fund and mediation panel fees for the fiscal year beginning July 1, 2014, and affecting small business.

Hearing Information

Date: Tuesday, August 12, 2014
Time: 1:30 p.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

Submission of Written Comments

Written comments can be mailed to:

Julie E. Walsh
 Legal Unit — OCI Rule Comment for Rule Ins 1728
 Office of the Commissioner of Insurance
 PO Box 7873
 Madison WI 53707-7873

Written comments can be hand delivered to:

Julie E. Walsh
 Legal Unit — OCI Rule Comment for Rule Ins 1728
 Office of the Commissioner of Insurance
 125 South Webster St, 2nd Floor
 Madison WI 53703-3474

Comments can be emailed to:

Julie E. Walsh
julie.walsh@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 **August 22, 2014**.

Copies of the Rule and Fiscal Estimate

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.

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

This rule does not impose any additional requirements on small businesses.

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:
 Small businesses that employ physicians or other health care professionals participating in the fund.
- 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 Cornelius and may be reached at phone number (608) 264-8113 or by email at Louie.Cornelius@wisconsin.gov.

Proposed Order Amending, Repealing, and Recreating a Rule

Rule No. Agency 145 — Sections Ins 17.01 (3) and Ins 17.28 (6), Wis. Admin. Code.

The Commissioner of Insurance proposes an order to amend s. Ins 17.01 (3), and to repeal and recreate s. Ins 17.28 (6), Wis. Admin. Code, relating to the Injured Patients and Families Compensation Fund annual fund and mediation panel fees, for the fiscal year beginning July 1, 2014 and affecting small business.

The statement of scope for this rule SS: 147-13, was approved by the Governor on November 18, 2013, published in Register No. 695, on November 30, 2013, and approved by the Commissioner on May 8, 2014.

Analysis Prepared by the Office of the Commissioner Of Insurance (OCI)

Statutes interpreted:

Sections 655.27 (3) and 655.61, Wis. Stats.

Statutory authority

Sections 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Wis. Stats.

Explanation of OCI's authority to promulgate the proposed rule

The injured patients and families compensation fund ("fund"), was established by and operated under Ch. 655, Stats. The commissioner of insurance with approval of the board of governors ("board") is required to annually set the fees for the fund and the medical mediation panel by administrative rule. The proposed fees comply with the limitation delineated in s. 655.27 (3) (br), Stats. Section 655.004, Stats., provides that the director of state courts and the commissioner may promulgate rules necessary to enable them to perform their responsibilities under this chapter. Pursuant to s. 655.27 (3) (b), Stats., the commissioner, after approval by the board, shall by rule set the fees to the fund and s. 655.61, Stats., requires the board, by rule, to set the fees charged to health care providers at a level sufficient to provide the necessary revenue to fund the medical mediation panels. Further, s. 601.41 (3), Stats., provides that the commissioner shall have rule-making authority pursuant to s. 227.11 (2), Stats.

Related statutes or rules

None.

Plain language analysis

This proposed rule establishes the fees that participating health care providers must pay to the fund for the fiscal year beginning July 1, 2014. These fees represent a 10% decrease from fees paid for the 2013–2014 fiscal year. The board approved these fees at its meeting on December 18, 2013, based on the recommendation of the board's actuarial and underwriting committee and reports of the fund's actuaries.

The board is also required to promulgate by rule the annual fees for the operation of the injured patients and families compensation medical mediation system, based on the recommendation of the director of state courts. The recommendation of the director of state courts was reviewed by the board's actuarial and underwriting committee. This rule implements the funding level approved by the board on March 19, 2014 by establishing mediation panel fees for the next fiscal year at \$7.75 for physicians and \$1.50 per occupied bed for hospitals, representing an increase of \$7.75 per physician and an increase of \$1.50 per occupied bed for hospitals from 2013–14 fiscal year mediation panel fees.

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

To the fund board's and OCI's knowledge there is no existing or proposed federal regulation that is intended to address fund rates, administration or to fund medical mediation panel activities.

Comparison with rules in adjacent states

To the fund board's and OCI's knowledge there are no similar rules in the adjacent states to compare this rule to as none of adjacent states have a fund created by statute where rates are directed to be established yearly by rule as is true in Wisconsin.

A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule:

None. This rule establishes annual fund fees pursuant to the requirements of the above-noted Wisconsin statutes. The recommendation to the board regarding the fund fee and the medical mediation panel assessment is developed and reviewed annually by the fund's actuaries and the board's actuarial and underwriting committee. The actuarial and underwriting committee after review and discussion with the fund's actuaries present the information and the actuaries report to the board for consideration. This proposed rule reflects the rates approved by the board at the December 18, 2013 and March 19, 2014 board meetings.

Analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small business or in preparation of an economic impact analysis

This decrease in fund fees will have a positive effect on small businesses in Wisconsin, particularly those that employ physicians and other health care professionals. The mediation panel fee is assessed only on physicians and hospitals, not on corporations or other health care providers. The mediation panel fees are increasing from the zero level of fiscal year 2013–2014 but are still lower than rates in fiscal year 2011–2012. The fund fee decrease will affect only those small businesses that pay the fund fees and mediation panel fees on behalf of their employed physicians. The fund fee decrease will not have a significant effect nor should it negatively affect the ability of small businesses to compete with other providers.

Effect on Small Business

This rule will have little or no effect on small businesses. The decrease contained in the proposed rule will require providers to pay reduced fund fees which will decrease the operational expenses for the providers. The increase in mediation panel fees promulgated by this rule should not result in a significant fiscal effect on the private sector.

A copy of any Comments and Opinion Prepared by the Board of Veterans Affairs under s. 45.03 (2m), Stats., for Rules Proposed by the Department of Veterans Affairs.

None.

Office of the Commissioner of Insurance Fiscal Estimate for Sections Ins 17.01 and 17.28 (6), Relating to Injured Patients and Families Compensation Fund Annual Fund Fees and Mediation Panel Fees for the Fiscal Year Beginning July 1, 2014 and Affecting Small Business

This rule change will have no significant effect on the private sector as this proposed rule reduces fees to participants in the fund and slightly increases mediation panel fees to \$7.75 for physicians and \$1.50 per occupied bed for hospitals. The fund is a segregated account and does not impact state funds. The rule decreases fees and therefore does not have an effect on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues.

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

Mail: PO Box 7873, Madison, WI 53707-7873

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

Original Updated Corrected

2. Administrative Rule Chapter Title and Number

INS 1728

3. Subject

Injured Patients and Families Compensation Fund Annual fund and Mediation Panel Fees for the fiscal year beginning July 1, 2014 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 type="checkbox"/> No	
		<input checked="" type="checkbox"/> Decrease Costs	

5. Fund Sources Affected:

GPR FED PRO PRS SEG 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:

Towns Villages Cities Counties School Districts WTCS Districts 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	May have significant economic impact on a substantial number of small businesses
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Decrease Costs	

10. Types of Small Businesses Affected:

Small businesses that employ physicians or other health care professionals participating in the Fund.

11. Fiscal Analysis Summary

No significant impact. For Fund fees a 10% decrease and although the rule proposes an increase from zero for mediation panel fees, the proposed fees are less than the 2011-2012 fees.

12. Long-Range Fiscal Implications

None

13. Name — Prepared by Julie E. Walsh	Telephone Number (608) 264-8101	Date May 9, 2014
14. Name – Analyst Reviewer	Telephone Number	Date
Signature—Secretary or Designee	Telephone Number (608) 267-3782	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

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Agency 145 Ch Ins 17.01 (3), and 17.28 (6)

3. Subject

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

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

None

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

To establish the annual fees that participating health care providers must pay to the Injured Patients and Families Compensation Fund ("Fund") as required by s. 655.27 (3), Wis. Stats., for fiscal year beginning July 1, 2014. The proposed rule will also establish the mediation panel fees for fiscal year 2015 commencing on July 1, 2014. This rule provides the Fund with appropriate and adequate funding and solvency for future years. This is the main vehicle for achieving and maintaining the Fund's solvency.

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 businesses, individuals, and local government units related to the implementation and compliance costs. Solicitations were sent to health insurance members of OCI's Health and Life Insurance Advisory Council and interested parties. Members included health insurance companies, health insurance agent representatives, consumer representatives, provider representatives and representatives of small business. Additional solicitations were made to associations representing various affected parties and local government representatives including:

- Wisconsin Association of Health Plans
- Wisconsin Association of Health Underwriters
- Independent Insurance Agents Association of Wisconsin
- National Federation of Independent Business–Wisconsin
- Wisconsin Association of Nurse Anesthetists
- Wisconsin Manufacturers and Commerce
- Wisconsin Dental Association
- Wisconsin Medical Society
- Professional Insurance Agents of Wisconsin
- National Association of Insurance and Financial Advisors–Wisconsin
- Wisconsin Hospital Association
- Wisconsin Association for Justice
- The League of Wisconsin Municipalities
- Wisconsin Counties Association
- Wisconsin Towns Association
- Wisconsin Association of School Boards
- Wisconsin Association of School District Administrators

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)

All health care provider participants in the Fund as set forth in s. 655.002 (1), Wis. Stat., will be required to pay a 10% reduced assessment for their medical malpractice coverage under Ch.655, Wis. Stat. The impact is considered to be minimal and in fact positive to the participants. In addition there is a fee this fiscal year for mediation panel fees so while greater than fiscal year 2013–2014 fees of zero, the fees are lower than the fees for fiscal year 2011–2012.

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

The proposed rule will benefit Fund participants by ensuring that fee revenue is adequate to cover anticipated administrative, operating and claims payments costs. The alternatives to this rule would be to establish a Fund fee increase, to maintain current fee amounts or to assess fees lower than the proposed 10% reduction in Fund fees. A greater reduction in fees would leave the Fund with inadequate funding to cover actuarially–based projected costs, while a fee increase or static fee level would present an unnecessary cost to Fund participants. The proposed rule does not significantly impact Wisconsin's economy, productivity, jobs or the overall economic competitiveness of Wisconsin. Wisconsin's health care marketplace is strengthened with an affordable layer of medical malpractice coverage. The Fund has existed in Wisconsin since 1975. Fund participants will benefit from a stable and solvent fund. Additionally, Fund participants should not experience increased compliance costs with the reduction of fund fees even with inclusion this year of mediation panel fees.

14. Long Range Implications of Implementing the Rule

The long–range implication of the rule as proposed will be an adequately funded and solvent Fund.

15. Compare With Approaches Being Used by Federal Government

Federal government does not address this subject matter.

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

None of the neighboring states have a patient compensation fund or a general program of state-sponsored liability insurance for physicians.

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)

The agency does not anticipate any implementation costs or additional compliance costs for fund participants. All health care provider participants in the Fund as set forth in s. 655.002 (1), Wis. Stat., will be required to pay the reduced assessment for their medical malpractice coverage under Ch. 655, Wis. Stat. In addition there is a fee this fiscal year for mediation panel fees however, while the fees are greater than fiscal year 2013-2014 fees of zero, the fees are lower than the fees for fiscal year 2011-2012.

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

The Fund contracts for actuarial services to develop the documentation and analysis necessary for the Actuarial and Underwriting Committee of the Fund. The documentation includes an actuarially indicated rate level for break even financial projections against expected claims reflective of all physician classifications. Since some physicians are small employer practices this information does relay information to the Committee and Board for the impact on small businesses directly impacted by the proposal. The actuarial firm presents its analysis to the Actuarial and Underwriting Committee of the Fund Board of Governors. The Committee reviews all documentation and projections and makes a recommendation to the full Board of Governors for consideration. The Fund Board of Governors reviewed the Committee's recommendation at its December 18, 2013 meeting as well as the underlying analysis by the actuarial firm. Following deliberation, the Board of Governors affirmed the Committee's recommendation of a decrease of 10% for Fund fees and at the March 19, 2014 meeting affirmed the change to the mediation panel fees from last year's fees of zero to \$7.75 for physicians and \$1.50 per occupied bed for hospitals.

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

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

X Other, describe:

The Board of Governors discussed maintaining fees at 2014 levels but determined that such action was unnecessary in light of the Fund's present financial condition and the reduced fees would adequately fund the Fund for claims incurred during fiscal year 2015 without shifting the burden of funding to future years and providers.

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

The proposed increase is below breakeven financing for the Fund but sufficient to cover anticipated claims, administrative and operating expenses.

5. Describe the Rule's Enforcement Provisions

This rule proposes fees. Failure to pay Fund fees is governed by s. Ins 17.01, Wis. Adm. Code, which requires the Fund to notify the medical examining board of each physician who has not paid the fee and notify the Department of Health Services of each hospital that has not paid the fee as required.

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

Yes **X** No

Notice of Hearings

Public Instruction CR 14–045, EmR1411

NOTICE IS HEREBY GIVEN That pursuant to s. 120.13 (19), Stats., and interpreting s. 120.13 (19), Stats., the Department of Public Instruction will hold a public hearing as follows to consider the creation of Chapter PI 80, relating to community programs and services. This hearing will be regarding both the Chapter PI 80 emergency and permanent rule changes.

Hearing Information

Date: Thursday, September 4, 2014
Time: 3:00 to 5:00 p.m.*
Location: GEF 3 building
 Room 041
 125 South Webster St.
 Madison, WI

*For those who cannot attend the public hearing, comments received by the Department will be given the same weight as testimony.

The hearing site is fully accessible to persons with disabilities. If you require reasonable accommodation to access the meeting, please call Katie Schumacher at (608) 267–9127, or leave a message with the Teletypewriter (TTY) at (608) 267–2427, at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Place Where Comments Are to be Submitted and Deadline for Submission

The proposed administrative rule is available to review at http://pb.dpi.wi.gov/pb_rulespg or <https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=17063>. Comments can be made by using the contact information below. Written comments on the proposed rules received no later than **September 12, 2014**, will be given the same consideration as testimony presented at the hearing.

Comments should be submitted to Katie Schumacher, Department of Public Instruction, Administrative Rules Coordinator and Small Business Regulatory Coordinator, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707–7841 or at Katie.Schumacher@dpi.wi.gov.

Analysis Prepared by the Department of Public Instruction

Statute interpreted

Section 120.13 (19), Stats.

Statutory authority

120.13 School board powers. The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(19) COMMUNITY PROGRAMS AND SERVICES. Establish and maintain community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils, under such terms and conditions as the school board prescribes. The

school board may establish and collect fees to cover all or part of the costs of such programs and services. The school board may not expend moneys on ineligible costs, as defined by the department by rule. Costs associated with such programs and services shall not be included in the school district's shared cost under s. 121.07 (6).

Explanation of agency authority

Under s. 120.13 (19), Stats., the Department is required to define ineligible costs by rule.

Related statute or rule

N/A.

Plain language analysis

Ineligible costs means school district costs that are not the actual, additional costs to operate community programs and services. First, costs are ineligible if they are not costs to operate community programs and services. Community programs and services do not include any program that is limited to only school district pupils or any program or service whose schedule presents a significant barrier for age–appropriate school district residents to participate in the program or service. Second, costs must not only be costs to operate community programs and services to be eligible but also must be actual, additional costs. Ineligible costs include costs that would be incurred by the school district if the community programs and services were not provided by the school district.

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

N/A.

Comparison with rules in adjacent states

No information.

Summary of factual data and analytical methodologies

Under current law, a school district may establish community education, training, recreational, cultural, or athletic programs and services. The school board may collect fees to cover all or part of the costs of such community programs and services. Current law excludes such costs from the school district's shared cost. The property taxes levied for community programs and services are outside the district's revenue limit.

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

It is unknown how many existing school district expenditures on community programs and services will remain eligible costs under this rule. To the extent that school district expenditures change based on the definition of eligible costs defined as a result of this rule, school district revenue limits and local property taxes may change. In 2013–14, school districts levied \$79,560,060 for community service fund programs.

Anticipated Costs Incurred by Private Sector

There is not expected to be a cost to the private sector.

Effect on Small Business

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

Agency Contact Person

Katie Schumacher
Budget and Policy Analyst

Wisconsin Department of Public Instruction

Katie.Schumacher@dpi.wi.gov
(608) 267-9127

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS	
Type of Estimate and Analysis			
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected			
Administrative Rule Chapter, Title and Number			
PI 80, Community Programs and Services			
Subject			
Defining Ineligible Costs			
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"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget	
<input type="checkbox"/> Decrease Costs			
The Rule Will Impact the Following (Check All That Apply)			
<input type="checkbox"/> State's Economy		<input type="checkbox"/> Specific Businesses/Sectors	
<input checked="" type="checkbox"/> Local Government Units		<input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Policy Problem Addressed by the Rule			
Under 2013 Wisconsin Act 306, the Department must define ineligible costs related to community programs and services. The proposed rule change will create PI 80, which defines the costs that cannot be included by school districts in Fund 80 (the revenue source for community programs and services).			
Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)			
Local: It is unknown how many existing school district expenditures on community programs and services will remain eligible costs under this rule. To the extent that school district expenditures change based on the definition of eligible costs defined as a result of this rule, school district revenue limits and local property taxes may change. In 2013-14, school districts levied \$79,560,060 for community service fund programs.			
State: None.			
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule			
The rule change gives the Department legal authority to prevent ineligible costs from being allocated to a school district's community programs and services fund. Without a rule, the Department provided guidance on what constituted ineligible costs but it was only advisory.			

Long Range Implications of Implementing the Rule
It is unknown how many existing school district expenditures on community programs and services will remain eligible costs under this rule change.
Compare With Approaches Being Used by Federal Government
No information.
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
No information.
Name and Phone Number of Contact Person
Katie Schumacher, Department of Public Instruction Administrative Rules Coordinator, (608) 267-9127.

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.

Corrections

CR 13-038

An order to repeal and recreate chapter DOC 350, relating to jails.

Effective 9-1-14.

Safety and Professional Services

Professional Services, Chs. SPS 1—299

General Part I, Chs. SPS 301—319

General Part II, Chs. SPS 326—360

CR 14-010

An order of the Department of Safety and Professional Services to repeal SPS Chapter 132 (title), 132.01, 132.02, 132.025, 132.04, Chapter 133 (title), 133.01 (2), Chapter 134 (title), 134.01, Chapter 135, 305.01 (4) (i), 305.01 (4) (i) (Note), Table 305.02 row 8m., Table 305.02 (Note), Table 305.06 row 8m., Table 305.06 column (5), Table 305.06 (Note), 305.08 (3) (b), 305.125 (3) (a) 1., 305.125 (3) (a) 1. (Note), 305.30, 305.30 (Note), 305.90 (4) (d), 305.91 (1) (a), 305.91 (1) (b), 305.91 (1) (Note), 305.91 (5) (b) 1., 305.91 (5) (b) 2., 305.92 (1) (a), 305.92 (1) (b), 305.92 (1) (Note), 305.92 (5) (b) 1., 305.92 (5) (b) 2., 305.92 (6) (b), 305.93 (1) (b) 1., 305.93 (1) (b) 2., 305.93 (1) (b) (Note), 305.93 (5) (b) 1., 305.93 (5) (b) 2., 305.94 (1) (a) 2., 305.94 (1) (b) 1., 305.94 (1) (b) 2., 305.94 (1) (b) (Note), 305.94 (3) (b), 305.94 (5) (b) 1., 305.94 (5) (b) 2., 323.16 (2) (a), 332.16 (4), and 361.295 (2); to renumber SPS 132.05 (1) (a), 132.05 (1) (c), 132.06, 133.01 (1), 133.01 (3), 133.02, 133.03, 133.04, 134.03, 305.315 (3) (a) 1., 305.94 (1) (a) 1., 305.94 (3) (a) 2., 305.315 (3) (b) 2., 323.16 (2) (b), and 323.16 (2) (c); to renumber and amend sections SPS 132.03, 132.05 (title), 132.05 (1), 132.05 (1) (b),

132.05 (2), 132.05 (2) (b), 132.05 (3), 134.02, 134.04, 305.315 (3) (b) 1., 305.90 (4) (a), 305.90 (4) (b), 305.90 (4) (c), 305.94 (3) (a), 305.94 (3) (a) 1.; to amend SPS Chapter 131 (title), 131.01, 305.07 (2) (b) 1. b., 305.08 (1) (e) 1., 305.08 (3) (a), 305.09 (title), 305.327 (5) (b) 1., 305.33 (7) (b) 1., 305.36 (4) (b) 1., 305.43 (7) (b) 1., 305.435 (7) (b) 1., 305.44 (6) (b) 1., 305.443 (6) (b) 1., 305.447 (6) (b) 1., 305.45 (2) (c) 2., 305.51 (7) (c) 1. a., 305.51 (7) (c) 1. b., 305.52 (6) (c) 1. a., 305.52 (6) (c) 1. b., 305.54 (5) (c) 1. a., 305.54 (5) (c) 1. b., 305.56 (6) (c) 1., 305.60 (5) (c) 1., 305.61 (6) (b) 1., 305.62 (7) (b) 1., 305.625 (6) (b) 1., 305.63 (7) (b) 1., 305.64 (2) (b), 305.64 (3) (d), 305.64 (4) (c) 1., 305.64 (4) (d), 305.66 (6) (b) 1., 305.68 (7) (b) 1., 305.84 (6) (b) 1., 305.85 (6) (b) 1., 305.90 (4) (intro.), 305.91 (1) (intro.), 305.91 (5) (b) (intro.), 305.91 (8) (b) 1., 305.92 (1) (intro.), 305.92 (5) (b) (intro.), 305.92 (8) (b) 1., 305.93 (1) (b) (intro.), 305.93 (5) (b) (intro.), 305.93 (6) (b) 1., 305.94 (title), 305.94 (1) (b), 305.94 (2) (intro.), 305.94 (4), 305.94 (5) (b) (intro.), 305.94 (6) (a) 1., 305.94 (6) (a) 2., 305.94 (6) (b) 1., 305.94 (6) (b) 2., 305.97 (7) (c) 1., 305.99 (5) (c) 1., 305.992 (6) (b) 1., 305.993 (6) (b) 1., 305.997 (6) (b) 1., 334.36, and 334.45 (4) (b); to repeal and recreate section SPS 305.003 (15); and to create chapter SPS 131 Subchapter I (title), 131.02 (4e), 131.02 (4m), 131.02 (4s), 131.02 (25m), 131 Subchapter II (title), 131 Subchapter III (title), 131 Subchapter IV (title), 131 Subchapter V, 305.09 (note), 305.315 (3) (c), 305.315 (3) (d), 305.315 (4), 305.64 (2) (b) (Note), 305.945, 323.16 (2) (b) (Note), 332.16 (20) (Note), 334.36 (Note), and 334.45 (4) (b) (Note); relating to licenses, certifications, and registrations of trades credentials; continuing education requirements of home inspectors; and rule changes affected by 2013 Wisconsin Act 20. Effective 9-1-14.

Rules Published with this Register and Final Regulatory Flexibility Analyses and Repeals and Modifications of Rules by Legislative Acts

The following administrative rule orders and legislative acts that repeal or modify rule have been adopted or enacted and the changes, additions, and deletions to the Wisconsin Administrative Code contained in these rules and acts have been incorporated into the affected chapters of the Administrative Code. The affected chapters are published in this edition of the Wisconsin Administrative Register. (see sections 35.93 and 227.265, Wis. Stats.)

For subscription information, contact Document Sales at (608) 266-3358. (Paper publication of and subscriptions to the Wisconsin Administrative Code and the subscription service will cease January 1, 2015. The administrative code will be published on the Internet at <http://legis.wisconsin.gov/rsb/code.htm>. See that site or <http://legis.wisconsin.gov/rsb/codenews.pdf> for details.)

Administrative Rules Published

Administration

CR 14-001

An order of the Wisconsin Department of Administration to repeal section Adm 2.14 (2) (v) 9.c.; to renumber section Adm 2.14 (2) (v) 1. to 4. and 6. to 9. (intro.); to renumber and amend section Adm 2.14 (2) (v) 5. and 9. a. and b.; to amend sections Adm 2.02 (1) (a), 2.04 (1) (intro), (2), (3), (5), and (7), 2.07 (2), 2.08 (1) (intro.) and (d), 2.11, and 2.14 (2) (intro.), (e), and (v) (intro.); and to create sections Adm 2.03 (3m), (3r), and (6m), 2.04 (1m), (2m), (2r), (2z), (9), and (10), and 2.14 (2) (fm) and (vm) (intro.), relating to the use of state buildings and facilities.

Effective 8-1-14.

Effect on Small Business

The proposed rule changes will have no impact upon small businesses.

Summary of Comments

No comments were reported.

Agriculture, Trade and Consumer Protection

CR 13-104

An order of the Department of Agriculture, Trade and Consumer Protection (DATCP) to revise Chapter ATCP 82, relating to bulk milk collection, sampling, and transportation.

Effective 8-1-14.

Business Impact Analysis (Summary)

This rule will impact dairy producers, dairy plants, and companies that operate bulk milk tankers, many of which may be small businesses. Milk is shipped from each of Wisconsin's 10,900 licensed dairy farms in a licensed bulk milk tanker (approximately 4,000 in Wisconsin) to one of more than 400 licensed dairy plants in the state or to a dairy plant in another state.

The rule allows, but does not require, partial collection of milk from bulk tanks under certain conditions. Partial collection of milk will provide industry with the flexibility they need to manage milk collection from farms more efficiently. The rule clarifies and strengthens reciprocity requirements with other states for bulk milk tanker Grade "A"

permits and establishes a certified industry inspection program for bulk milk tankers. In order to deliver Grade "A" milk and milk products, bulk milk tankers must hold a Grade "A" permit and tankers must demonstrate that within the past year the tanker passed an inspection. The rule will better ensure that bulk milk tankers are inspected in a timely manner.

Other changes are designed to modernize the rule and further align it with the Food and Drug Administration's (FDA's) 2011 Pasteurized Milk Ordinance (PMO).

The rule does not substantially alter requirements dairy-related businesses already meet and does not increase license or permit fees. Some dairy producers who choose to voluntarily allow partial collections of milk from their bulk milk tanks and who own older tanks may incur costs because they would be required to purchase a 7-day temperature recording device to meet requirements of this rule. However, producers may offset some costs through reduced water and chemical use for bulk tank cleaning and sanitizing.

Comments from Legislative Committees (Summary)

On March 12, 2014, DATCP transmitted the above rule for legislative committee review. The rule was referred to the Senate Committee on Agriculture, Small Business and Tourism, and the Assembly Committee on Consumer Protection. Neither committee took action on the rule. The Senate referred the rule to the Joint Committee for Review of Administrative Rules (JCRAR) on April 21, 2014 and the Assembly referred the rule to JCRAR on April 29, 2014. JCRAR took no action on the rule.

Natural Resources

Environmental Protection — Air Pollution Control, Chs. NR 400— CR 13-070

(DNR # AM-21-12)

An order of the Wisconsin Natural Resources Board to repeal sections NR 400.02 (101) and (106) and 410.03 (3); to amend sections NR 400.02 (123m) and (124), 405.02 (21) (b) 5. a. and b. and 6., and (25i) (a), 408.02 (20) (e) 5. a. and b. and 6. and (29m) (c), and 408.06 (1) (a); and to create section NR 405.02 (25i) (ag) and (ar) and (29m) (d), relating to revisions to air pollution control rules in chs. NR 405 and 408, necessary to maintain consistency with federal requirements,

as well as in chs. NR 400 and 410, related to the repeal of ch. NR 411.

Effective 8-1-14.

Final Regulatory Flexibility Analysis

The proposed rule will not have an impact on small businesses because they are addressing USEPA identified SIP deficiencies by aligning rules to current practice.

Summary of Comments

No comments were reported.

Natural Resources

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

CR 13-089

(DNR # AM-19-13)

An order of the Wisconsin Natural Resources Board to amend sections NR 446.12 (1), 446.13 (1), 446.14 (1) (a), (b), and (c) 1., 446.17 (1) (intro.), and 446.185 (1) (b), and to create section NR 446.17 (1) (Note), relating to the control of mercury emitted by coal-fired electric generating units.

Effective 8-1-14.

Final Regulatory Flexibility Analysis

The proposed rule will only affect electric utilities generating electricity and will not affect small businesses. Therefore, a final regulatory flexibility analysis was not required or prepared.

Summary of Comments

No comments were reported.

Public Instruction

CR 13-115

An order of the Department of Public Instruction to amend section PI 25.05 (1) (intro), relating to the children at risk plan and program.

Effective 8-1-14.

Effect on Small Business

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

Summary of Comments

No comments were reported.

Public Instruction

CR 13-116

An order of the Department of Public Instruction to repeal Chapter PI 42, relating to the school breakfast program.

Effective 8-1-14.

Effect on Small Business

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

Summary of Comments

No comments were reported.

Safety and Professional Services — Controlled Substances Board

CR 14-009

An order of the Controlled Substances Board to create section CSB 3.045, relating to granting a limited special use authorization and denial of a special use authorization.

Effective 8-1-14.

Effect on Small Business

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

Summary of Comments

No comments were reported.

Safety and Professional Services — Board of Nursing

CR 13-097

An order of the Board of Nursing to repeal section N 7.04, amend section N 7.01 (2), repeal and recreate section N 7.03, and create section N 7.02 (1m), relating to code of conduct.

Effective 8-1-14.

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 Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Summary of Comments

No comments were reported.

Safety and Professional Services — Board of Nursing

CR 13-098

An order of the Board of Nursing to create Chapter N 9, relating to the nurse licensure compact.

Effective 8-1-14.

Effect on Small Business

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

Summary of Comments

No comments were reported.

Safety and Professional Services — Board of Nursing

CR 14-002

An order of the Board of Nursing to repeal and recreate Chapters N 2 and 3, relating to nurse licensure and examining councils.

Effective 8-1-14.

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 Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Summary of Comments

No comments were reported.

Safety and Professional Services — Board of Nursing

CR 14–004

An order of the Board of Nursing to repeal and recreate Chapter N 1, relating to school approval.

Effective 8–1–14.

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 Tom.Engels@wisconsin.gov, or by calling (608) 266–8608.

Summary of Comments

No comments were reported.

Transportation

CR 13–093

An order of the Wisconsin Department of Transportation to repeal sections Trans 254.10 (5) and 255.10 (5); to amend sections Trans 254.03 (2) (a), 254.11 (1), (2) (intro.) , (3) (intro.) and (b), and (4) (intro.), 254.12 (2), 254.16 (1) and (2), 255.03 (2) (a), 255.11 (1), (2) (intro.), and (3) (intro.) and (b), and 255.12 (2); to create sections Trans 254.02 (2) (c) and (note), 254.03 (1m), 254.11 (4) (c) and (4a) (note), 255.02 (2) (c) and (note), 255.03 (1m), (2) (c) and (note), and 255.11 (4) (c) and (4a) (note); to repeal and recreate sections Trans 254.03 (2) (c) and (3) (note) and 254.11(2) (a), (b), (c), and (d), and (4) (a) and (b); and to renumber and amend section Trans 255.11(4), relating to single and multiple trip permits for oversize or overweight vehicles or loads and affecting small businesses.

Effective 8–1–14.

Effect on Small Business

This rule generally relaxes restrictions in the following ways:

1. It reduces the hours and days during which oversize vehicles are prohibited from operation on state highways under a permit.

2. It increases vehicle size allowed under the permits.
3. It expands use of the Milwaukee County Expressway System.

The department anticipates this rule will reduce costs to motor carriers, including those that are small businesses, by increasing the hours during which oversize vehicles and loads may be transported under a permit, by allowing the transportation of longer loads under the permits, and by shortening trip length and time, particularly in Milwaukee County.

The rule will not change the manner in which applicants obtain permits for oversize vehicles or loads from WisDOT.

Summary of Comments

No comments were reported.

Workforce Development

Unemployment Insurance, Chs. 100–150

CR 13–106

An order of the Department of Workforce Development to repeal sections DWD 111.07 and 132.03; to renumber section DWD 140.001 (2) (a); to amend sections DWD 113.01 (1) (intro.), 115.07 (2) (a), and 140.001 (1) and (2) (intro.); and to create sections DWD 113.01 (1) (c), 113.025, ch. DWD 114, 140.001 (2) (ag) and (am), and 140.22, relating to quarterly wage reporting, settlement of disputes and compromise of liabilities, license revocation and financial record matching, business transfers, determining eligibility of benefits, unemployment insurance appeals, and small business.

Effective 8–1–14.

Effect on Small Business (Summary)

This rule will have a positive impact on employers by allowing DWD flexibility in resolving issues encountered by employers within the unemployment insurance (UI) system due to inadvertent mistakes. The rule modifications will ease program requirements and likely reduce costs for small businesses. The small businesses that may be affected by this rule include small businesses that are delinquent in paying UI taxes and small businesses that are involved in UI administrative appeals.

Legislative Comments

No comments were reported.

Administrative Code Sections Affected by Rule Revisions, Legislative Acts, and Corrections

*The following administrative code provisions were revised by rule orders, modified or repealed by legislative act, or corrected by the Legislative Reference Bureau in **July 2014**. Revised, modified, and corrected administrative code chapters are published in this Register. Repealed chapters of the administrative code are removed from the code on the first day of the first month following publication of this Register. For additional information, contact the Legislative Reference Bureau at (608) 266-3651.*

Revisions by Rule Order

Administration

Ch. Adm 2

Adm 2.02 (1) (a)
Adm 2.03 (3m), (3r), (6m)
Adm 2.04 (1) (intro.), (1m), (2), (2m), (2r), (2z), (3),
(5), (7), (9), (10)
Adm 2.07 (2)
Adm 2.08 (1) (intro.), (d)
Adm 2.11
Adm 2.14 (2) (intro.), (c), (fm), (v), (vm), (vr)

Agriculture, Trade and Consumer Protection

Ch. ATCP 82

ATCP 82 (title)
ATCP 82.01 (1s), (2), (4m), (6)
ATCP 82.02 (7) (a), (b), (8)
ATCP 82.04 (title), (3) to (11)
ATCP 82.08 (title), (1), (2), (3) (intro.), (a), (4) (title),
(a) to (d), (6) (d)
ATCP 82.10 (1) (a), (b), (2) (intro.), (c) to (e), (3), (4)
(b), (5) to (9), (10) (intro.), (a), (b), (d), (e), (11) (a)
to (c)
ATCP 82.12 (1) (a), (b), (2), (2m), (3), (4) (d), (5)
(intro.), (6)
ATCP 82.14 (3), (4)

Controlled Substances

Ch. CSB 3

CSB 3.045

Natural Resources

Ch. NR 400

NR 400.02 (101), (106), (123m), (124)

Ch. NR 405

NR 405.02 (21) (b) 5., 6., (25i) (a), (Note), (ag), (ar)

Ch. NR 408

NR 408.02 (20) (e) 5., 6., (29m) (c), (d)

NR 408.06 (1) (a)

Ch. NR 410

NR 410.03 (3)

Ch. NR 446

NR 446.12 (1)
NR 446.12.13 (1)
NR 446.14 (1) (a), (b), (c) 1.
NR 446.17 (1) (intro.), (Note)
NR 446.18 (1) (b)

Nursing

Ch. N 1

Entire Chapter (Repealed and recreated)

Ch. N 2

Entire Chapter (Repealed and recreated)

Ch. N 3

Entire Chapter (Repealed and recreated)

Ch. N 7

N 7.01 (2)
N 7.02 (1m)
N 7.03
N. 7.04

Ch. N 9

Entire Chapter (Created)

Public Instruction

Ch. PI 25

PI 25.05 (1) (intro.)

Ch. PI 42

Entire Chapter (Repealed)

Public Service Commission

Ch. PSC 113

PSC 113.0301 (1m) (i), (j), (3)
PSC 113.0406 (7)
PSC 113.0408
PSC 113.0409

Ch. PSC 134

PSC 134.051
PSC 134.053
PSC 134.062 (1) (k), (L), (2)
PSC 134.13 (7)

Ch. PSC 185

PSC 185.30
PSC 185.305
PSC 185.33 (18)

PSC 185.37 (2) (k), (L)

Transportation

Ch. Trans 254

Trans 254.02 (2) (c), (Note)
 Trans 254.03 (1m), (2) (a), (c), (3) (Note)
 Trans 254.10 (5)
 Trans 254.11 (1), (2) (intro.), (2) (a) to (d), (3) (intro.),
 (b) to (d), (4) (intro.), (a) to (c), (4a) (Note)
 Trans 254.12 (2)
 Trans 254.16

Ch. Trans 255

Trans 255.02 (2) (c), (Note)
 Trans 255.03 (1m), (2) (a), (c), (Note)
 Trans 255.10 (5)
 Trans 255.11 (1), (2), (3) (intro.), (b) to (d), (4), (4a)
 (Note)
 Trans 255.12 (12)

Workforce Development

Ch. DWD 111

DWD 111.07

Ch. DWD 113

DWD 113.01 (1) (intro.), (c)
 DWD 113.025

Ch. DWD 114

Entire Chapter (Created)

Ch. DWD 115

DWD 115.07 (2) (a)

Ch. DWD 132

DWD 132.03

Ch. DWD 140

DWD 140.001 (1), (2) (intro.), (a), (ag), (am), (ar)
 DWD 140.22

Repeals and Modifications of Rules by Legislative Act

Repeals and modifications by legislative act under authority of s. 186.118, Stats.

Editorial Corrections

Corrections by the Legislative Reference Bureau under the authority of ss. 13.92 (4) (b) or 35.17 (2), Stats.

Administration

Ch. Adm 21

Adm 21.01 (2)

Agriculture, Trade and Consumer Protection

Ch. ATCP 82

ATCP 82.04 (6) (c) (title)

Architect, Engineer, Designer and Surveyor

Ch. A-E 9

Chapter reprinted to correct page heading

Controlled Substances

Ch. CSB 3

CSB 3.045 (title)

Natural Resources

Ch. NR 47

NR 47.958 (1) (a) (Note), (d) (Note)

Ch. NR 149

NR 149.21 (1) (c) d. (Note)

Nursing

Ch. N 1

N 1.01 (5g), (5r), (7), (9)
 N 1.04 (1) (d) (intro.)
 N 1.05 (1) (intro.)
 N 1.08 (3), (4) (intro.), (c) (intro.), (5) (intro.), (d)
 (intro.)
 N 1.09 (1) (title)

N 1.10 (5) (intro.)

N 1.11 (1) (intro.), (2) (b) (intro.)

N 1.12 (4) (intro.)

Ch. N 2

N 2.10 (2) (intro.)

N 2.11 (3)

N 2.12 (3)

Ch. N 5

N 5.03 (1) (Note), (2) (Note)

Ch. N 7

N 7.03 (intro.), (1) (intro.), (3) (intro.), (4) (intro.), (e),
 (f), (5) (intro.), 96) (intro.), 97) (intro.), (8) (intro.)

Public Instruction

Ch. PI 32

Reprinted to correct printing error in (4) (a)

Public Service Commission

Ch. PSC 113

PSC 113.0408 (4) (a)

Ch. PSC 134

PSC 134.01 (2)

PSC 134.051 (2) (f) (Note)

PSC 134.053 (4) (a)

Ch. PSC 185

PSC 185.30 (2) (f) (Note)

PSC 185.361 (1)

Transportation

Ch. Trans 255

Trans 255.11 (4)

Workforce Development

Ch. DWD 801

(Note Inserted)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 138. Relating to a Proclamation Declaring a State of Emergency Due to Severe Weather and Flooding. **(June 20, 2014)**

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