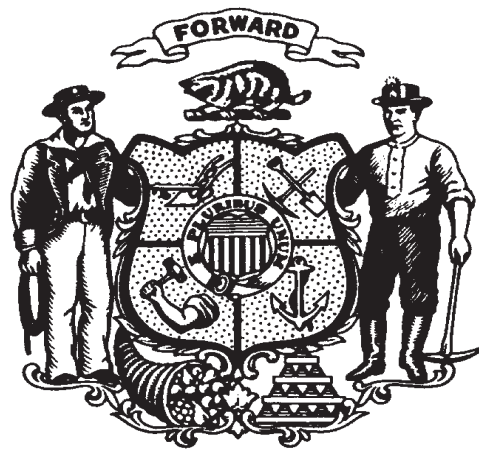


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Direct questions to Bruce Hoesly (608) 266-7590, bruce.hoesly@legis.wi.gov.

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Correction: The following notice of a rule published and final regulatory flexibility analysis was inadvertently omitted from Register July 2014, No. 703, effective date August 1, 2014. The rule, CR 13–048, was published in Register July 2014, No. 703, effective date August 1, 2014.

Natural Resources:

Notice of Invalidity of Part of Section NR 106.10 (1) pursuant to section 227.40 (6), Stats.

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. 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

2. EmR1413 (ATCP DOCKET # 14–R–09) — The Wisconsin Department of Agriculture, Trade and Consumer Protection adopts the following emergency rule to amend **chapter ATCP 127, subchapter V (Title) and section 127.82 (2)**; to repeal **sections ATCP 127.81 (3) (c), (d), (e) and (Note) and 127.82 (3), (4), (5), (6), and (7)**; to repeal and recreate **sections ATCP 127.80 (5), 127.81 (2) (j), 127.82 (Title) and (1) and 127.82 (8)**; and to create **section ATCP 127.80 (6r)**, relating to telephone solicitations and the state do–not–call registry.

This emergency rule was approved by the Governor on July 29, 2014.

The scope for this rule, SS 049–14, was approved by the Governor on May, 14, 2014, published in register No. 701 on May 31, 2014, and approved by the Board of Agriculture, Trade and Consumer Protection on June 12, 2014.

Finding of Emergency

(1) In Wisconsin, businesses wishing to solicit consumers by telephone must register with the department and pay an annual registration fee.

(2) A recent statutory change eliminated Wisconsin’s separate no–call list and requires telephone solicitors to use the Wisconsin portion of the national do–not–call registry.

(3) The law also requires the department to create telephone solicitor registration requirements by rule that will show proof that the businesses have registered with the federal trade commission’s do–not–call registry to obtain and use the Wisconsin portion of the national do–no–call registry.

(4) The statutory change takes effect August 1, 2014. However, the permanent rule–making establishing these registration requirements will not be effective until mid–2015.

(5) The department must adopt registration requirements by emergency rule by August 1, 2014 so telephone solicitors can register with the department and comply with the law before the permanent rule is completed.

(6) This temporary emergency rule is necessary to protect the welfare of businesses that wish to register as telephone solicitors in Wisconsin. Without this emergency rule, telephone solicitors would not be able to register with the department and would not be able to comply with the no–call law.

Filed with LRB: July 29, 2014
Publication Date: August 1, 2014
Effective Dates: August 1, 2014 through December 28, 2014

Children and Families

Safety and Permanence, Chs. DCF 35—59

EmR1414 — The Wisconsin Department of Children and Families orders the renumbering of **sections DCF 50.06 (2), 57.515 (1), and 58.04 (4) (a) and (b)**; the renumbering and amendment of **section DCF 57.515**; the amendment of **sections DCF 50.06 (3) (b) 1., 52.02 (2) (a) and (note), 52.03 (23), 52.12 (8) (b) and (9) (c) (intro.) and 1., 52.21 (3) (d) 2. a. and (9), 52.22 (1) (d), 52.41 (1) (a) 3., 52.48 (1) (b), 52.56 (24) (a), 52.58 (4) (b) 1. and 2., 52.61 (7) (a) 2. c. to e., 52.62 (4) (b) 4., and (7) (a) (intro.) and 2. to 5., 55.10 (4) (a) (intro.), 1., and 2. a., 56.03 (12), (13), (34p), and (38), 57.02 (2) and (note), 57.05 (1) (c) (note), 57.13 (1) (j), 57.14 (2) and (4) (a) 1., 57.16 (4), 57.17 (2) (h), 57.23 (2) (a) (intro.), 57.25 (6) (b) and (c), 57.33 (2), 57.38 (2), and 58.03 (12) and (15); the repeal and recreation of **sections DCF 52.03 (22), 52.21 (3) (d) (title), 1., and 2.c., 52.62 (4) (b) 5., 54.01 (4) (b), 56.03 (5), 57.04 (6) and (34), 57.19 (6), 58.03 (3), and 58.04 (4) (title)**; and the creation of **Chapter DCF 21 and sections DCF 50.06 (2) (a) (title) and 11., (2) (b), and (3) (b) 1. c., 52.03 (27m), 52.21 (3) (d) (note), 52.62 (4) (d) and (note), 55.10 (4) (a) 3. and (am), 56.04 (39), 56.09 (1m) (cm), 57.14 (2) (c), 57.23 (2) (a) 13., 57.515 (2) and (note), 58.03 (20), and 58.04 (4) (b)**, relating to the extension of out–of–home care to children and youth 18 years of age or over, but under 21 years of age, and affecting small businesses.**

This emergency rule was approved by the governor on July 25, 2014.

The statement of scope for this rule, SS 045–14, was approved by the governor on May 8, 2014, published in Register 701, on May 31, 2014, and approved by Secretary Eloise Anderson on June 20, 2014.

Finding of Emergency

Section 118 (1) (b) of 2013 Wisconsin Act 334 allows the department to promulgate an emergency rule to implement the extension of out–of–home care to children and youth 18 years of age or over, but under 21 years of age, under ss. 48.366 and 938.366, Stats., as an emergency rule without a finding of emergency.

Filed with LRB: July 29, 2014

Publication Date: August 1, 2014
Effective Dates: August 1, 2014 through December 28, 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
Hearing Date: August 27, 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

General Part I, Chs. 301–319

EmR1415 — An order of the Department of Safety and Professional Services to amend **section SPS 305.40 (2) (b), (3) (b), (4) (a) 1., (b), (c), and (d) 1., and (5) and to create sections SPS Table 305.02 Row 24r, Table 305.06 Row 19r, 305.40 (1) (bm), and 305.437**, relating to credentials for electricians.

This emergency rule was approved by the Governor on July 29, 2014.

The statement of scope for this rule, SS 041–14, was approved by the Governor on April 30, 2014, published in Register No. 701 on May 14, 2014, and approved by the Department on May 27, 2014.

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.

SECTION 15 of 2013 Wisconsin Act 143 exempts any electrician who was born on or before January 1, 1956, and who has at least 15 years of experience in installing, repairing, or maintaining electrical wiring, from the electrical licensure and supervision requirements in sections 101.862 (2) and (3) of the Statutes. SECTION 15 also requires the Department to promulgate rules establishing criteria and procedures for issuing a corresponding credential to these grandfathered electricians.

Because of Act 143, the statutory requirements are now out of step with the Department's administrative rules – and the stakeholders who are affected by these statutory changes are confused by the differences. For example, there has been substantial confusion on what these grandfathered electricians can or need to do and how local governmental units should treat them. Promulgating revisions to the rules through the emergency rule process is needed in order to minimize the confusion and any hardship as soon as possible.

Filed with LRB: August 1, 2014

Publication Date: August 6, 2014
Effective Dates: August 6, 2014 through January 2, 2015

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

Justice

SS 072–14

This scope statement was approved by the governor on July 28, 2014.

Rule No.

Chapter Jus 9 (revise).

Relating to

Procedures and standards for the submission of human biological specimens, the analysis of DNA in those specimens, the maintenance of a data bank of DNA analysis data, and the use and disposition of specimens and data in the data bank under ss. 165.76 and 165.77, Stats.

Rule Type

Permanent.

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

Not applicable

2. Description of the Objectives of the Rules

The State of Wisconsin Department of Justice proposes to repeal and recreate Wis. Admin. Code ch. Jus 9, which governs the procedures for the submission of human biological specimens to the Department of Justice crime laboratories for DNA analysis, the analysis of such specimens, the maintenance of a data bank of DNA analysis data, the use of the DNA data bank, the expungement of biological specimens and DNA analysis data, the confidentiality of some DNA data bank records, and the imposition of a DNA analysis surcharge in certain cases. The current rules also provide penalties for failure to submit a required biological specimen and require the department of corrections, the department of health services, county social services departments, and county sheriffs to cooperate with DOJ in meeting the requirements of the rules.

The proposed rules would repeal Wis. Admin. Code ch. Jus 9 and recreate that chapter so as to bring it into full compliance and consistency with the provisions in 2013 Wisconsin Act 20 and 2013 Wisconsin Act 214 that amended various statutes related to the collection and handling of biological samples, the conduct of DNA analysis, and the handling of DNA analysis data.

The proposed rules will cover the following subject areas:

Procedures and time limits for obtaining and submitting biological specimens from persons in multiple statutory categories, including:

- any person arrested for a violent crime or charged with a violent crime and making an initial appearance in criminal court
- any person sentenced or placed on probation by a court for any crime

- any person found to be a sexually violent person under ch. 980, Stats.
- any person found not guilty by reason of mental disease or defect of certain felony or sex–related offenses or of offenses for failing to provide required biological specimens
- any person taken into custody, in custody, or before a court for a juvenile offense that would be a violent crime if committed by an adult
- any person adjudicated delinquent for a juvenile offense that would be a felony if committed by an adult, for certain violent offenses or sex–related non–felony offenses, or for non–felony offenses for failing to provide required biological specimens
- any person involuntarily committed for treatment for a juvenile offense that would be a felony if committed by an adult, for certain violent or sex–related non–felony offenses, or for non–felony offenses for failing to provide required biological specimens
- certain persons on parole, extended supervision, or probation in this state based on violations in another state that, if committed in this state, would constitute a felony or certain non–felony sex–related offenses
- any person required by a court to provide a biological specimen

Procedures and time limits for obtaining and submitting biological specimens from persons in multiple statutory categories, based upon events occurring within a specified range of dates. These categories include:

- any person who is or was in institutional care or sentenced or placed on probation after August 12, 1993, for certain sex–related offenses
- any person who, on or after August 12, 1993, has been found not guilty or not responsible by reason of mental disease or defect and has been committed for certain sex–related offenses
- any person who, based on certain sexual assault offenses, is or was in a juvenile correctional facility, in a secured residential care center for children and youth, or on probation, extended supervision, parole, supervision, or aftercare supervision after August 12, 1993
- any person who, based on certain sexual assault offenses, is or was in prison after August 12, 1993, and before January 1, 2000
- any person found to be a sexually violent person under ch. 980 on or after June 2, 1994
- any person found guilty of a felony or who is or was in prison for a felony on or after January 1, 2000
- any person who, on or after January 1, 2000, has been found not guilty or not responsible by reason

of mental disease or defect for certain sex–related offenses or offenses for failing to provide required biological specimens

- any person who is or was in institutional care on or after January 1, 2000, for a felony or for certain sex–related non–felony offenses or non–felony offenses for failing to provide required biological specimens
- any person who, between January 1, 2000, and April 1, 2015, is found guilty of certain sex–related offenses or offenses for failing to provide required biological specimens
- any person found guilty of a misdemeanor on or after April 1, 2015

Procedures and standards under which DOJ will identify and notify individuals who are required to provide a biological specimen and who have not yet done so.

Procedures and standards for determining whether a person required to provide a biological specimen who has previously provided a specimen is required to provide another specimen.

Procedures and standards governing the submission of biological specimens by law enforcement agencies to the Department of Justice crime laboratories.

Procedures and standards governing the DNA analysis of biological specimens, the maintenance of a data bank of DNA analysis data, and the use of data in the data bank by the Department of Justice crime laboratories.

Procedures and standards governing the destruction of biological samples by the Department of Justice crime laboratories.

Procedures and standards for reimbursing law enforcement and tribal law enforcement agencies for the collection and handling of biological specimens.

Procedures and standards governing access to and use of records of the DNA analysis data bank and the confidentiality of some DNA data bank records

Procedures and standards for submitting biological specimens and data for inclusion in one or more national index systems and for ensuring compliance with any applicable requirements for participating in any such national index systems.

Procedures and standards governing requests from an individual for DNA analysis of the individual’s own specimen.

Procedures and standards governing requests from an individual for expungement of the individual’s biological specimens and DNA analysis data.

The rules will continue to require the department of corrections, the department of health services, county social services departments, county sheriffs, and law enforcement agencies to cooperate with DOJ in meeting the requirements of the rules.

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

In 2013 Wisconsin Act 20 (“Act 20”) and 2013 Wisconsin Act 214 (“Act 214”), the State of Wisconsin substantially revised existing statutes related to the requirement that certain

persons submit biological specimens to the crime laboratories in DOJ for DNA analysis and that the resulting data be included in a DNA data bank. Acts 20 and 214 expanded the range of categories of persons who are required to submit DNA samples to law enforcement, required courts to order the submission of DNA samples by persons from whom samples were not obtained at the time of arrest or custody, expanded the categories of persons immune from civil or criminal liability arising out of the statutorily–mandated acquisition of DNA samples, authorized certain officials to use reasonable force in obtaining a DNA sample in some circumstances, and expanded the circumstances in which specimens and information in the data bank may or must be expunged.

Acts 20 and 214 also revised the administrative rulemaking requirements imposed on DOJ under s. 165.76 (4), Stats. As revised, the statute requires DOJ to promulgate rules that accomplish a variety of enumerated tasks and that carry out all of DOJ’s other duties under s. 165.76, Stats. Acts 20 and 214 also revised some of the statutory requirements related to DNA analysis and the maintenance of the DNA data bank in s. 165.77, Stats. Under s. 165.77 (8), Stats., DOJ is required to promulgate rules to administer that statute, including its revised provisions.

The rules proposed here will not themselves establish new policies, but rather will carry into effect the legislative directives set forth in Acts 20 and 214 by providing specific procedures, time limits, and standards for carrying out various statutorily prescribed policy objectives.

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

A. Section 165.76 (4), Stats.

The department of justice shall promulgate rules to do all of the following:

(a) Establish procedures and time limits for obtaining and submitting biological specimens under this section and ss. 51.20 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), 970.02 (8), 971.17 (1m) (a), 973.047, and 980.063.

(b) Specify whether an individual who is required under this section or ss. 51.20 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), 970.02 (8), 971.17 (1m) (a), 973.047, or 980.063 to provide a biological specimen for deoxyribonucleic acid analysis must provide a new biological specimen if the crime laboratories already have a biological specimen from the individual or if data obtained from deoxyribonucleic acid analysis of the individual’s biological specimen are already included in the data bank under s. 165.77 (3).

(c) Allow a biological specimen, or data obtained from analysis of a biological specimen, obtained under this section, under s. 51.20 (13) (cr), 938.21 (1m), 938.30 (2m), 938.34 (15), 970.02 (8), 971.17 (1m) (a), 973.047, or 980.063, or, if the specimen is required to be analyzed under s. 165.84 (7) (am) 1m., under s. 165.84 (7) (ah), to be submitted for inclusion in an index established under 42 USC 14132(a) or in another national index system.

(d) Provide reimbursement from s. 20.455 (2) (Lm) to a person in charge of a law enforcement agency or tribal law enforcement agency at a rate of \$10 per specimen except that, if the department already has a biological specimen, or data obtained from analysis of a biological specimen, from the individual, the department may not reimburse the person in charge of the agency.

(e) Carry out the department’s duties under this section.

B. Section 165.77 (8), Stats.

The department shall promulgate rules to administer this section.

C. Section 227.11 (2) (a), Stats.

(2) Rule–making authority is expressly conferred as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.

2. A statutory provision describing the agency’s general powers or duties does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

Section 227.11 (2) (a), Stats., expressly confers on DOJ the general power to determine whether administrative rules interpreting statutory provisions that are to be enforced or administered by DOJ are necessary to effectuate the purpose of those statutory provisions and, if such necessity is found, to promulgate such administrative rules, as long as those rules do not exceed the bounds of correct interpretation of the governing statutes.

DOJ finds that the rules here proposed are necessary to effectuate the statutory objective described in detail above.

DOJ further finds that the rules here proposed:

- do not exceed the bounds of correct interpretation of the pertinent statutes;
- are authorized by those statutes and are not based on authority derived from any other statutory or non–statutory statements or declarations of legislative intent, purpose, findings, or policy;
- are authorized as necessary interpretations of specific statutory requirements and are not based on authority derived from any other general powers or duties of DOJ; and
- do not impose any standards or requirements that are more restrictive than the standards and requirements contained in the pertinent statutes.

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

It is estimated that state employees will spend approximately 800 hours on the rulemaking process for the

proposed rules, including research, drafting, and compliance with required rulemaking procedures.

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

The interests of those persons who are statutorily required to submit DNA samples to law enforcement will be directly affected by the provisions in the proposed rules governing:

- Procedures and time limits for obtaining and submitting DNA samples.
- Procedures and standards for identifying and notifying individuals who are required to provide a DNA sample but have not yet done so.
- Procedures and standards for determining whether a person who has previously provided a DNA sample may be required to provide another sample.
- Procedures and standards governing access to and use of DNA data bank records and the inclusion of such records in one or more national index systems.
- Procedures and standards governing the destruction of biological samples.
- Procedures and standards governing requests from an individual for DNA analysis of the individual’s own specimen.
- Procedures and standards governing requests from an individual for expungement of the individual’s DNA samples and data.

The interests of sexual assault victims may be affected by the provisions in the proposed rules governing the handling of DNA samples and data in sexual assault cases.

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

The activities regulated by the proposed rules are also affected by the federal statutes and regulations that govern the Combined DNA Index System (“CODIS”), which is the program of support for state and local criminal justice DNA databases operated by the Federal Bureau of Investigation, pursuant to 42 U.S.C. § 14132 and 28 C.F.R. Part 28.

CODIS includes the National DNA Index System (“NDIS”), a national database that contains DNA analysis data contributed by forensic laboratories at the federal, state, and local levels. Under s. 165.76 (4) (c), Stats., DOJ is expressly authorized to submit biological specimens or DNA analysis data for inclusion in NDIS.

Forensic laboratories participating in NDIS are required to be accredited by a nationally recognized forensic science association, to undergo an external audit every two years to demonstrate compliance with quality assurance standards established by the FBI, and to disclose DNA samples or analyses only in accordance with federal privacy requirements. *See* 42 U.S.C. § 14132(b)(2) and (3). Access to NDIS is subject to cancellation if the quality control and privacy requirements are not met. 42 U.S.C. § 14132(c).

The proposed rules will include procedures and standards for submitting biological specimens and data to NDIS and for ensuring consistency with all applicable federal requirements.

8. Anticipated Economic Impact of Proposed Rules

It is not anticipated that the proposed rules will have any economic impact on non–governmental persons and entities. The proposed rules will impose certain responsibilities on

local units of government. However, kits for collecting biological samples will be supplied to local units of government by the state and local units of government will also receive a reimbursement from the state for each biological sample submission. Accordingly, it is anticipated that the proposed rules will not have any net economic impact on local units of government.

9. Contact Person

Assistant Attorney General Thomas C. Bellavia, (608) 266–8690

Natural Resources

Fish, Game, etc., Chs. 1—

SS 079–14

(DNR # LE–17–13)

The scope statement was approved by the governor on July 29, 2014.

Rule No.

Chapters NR 50 and 64 (revise).

Relating to

Revisions to law enforcement aids to counties and municipalities under Chapter NR 50 and section NR 64.15.

Rule Type

Permanent.

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

These will be permanent rules.

2. Detailed Description of the Objective of the Proposed Rule

Make revisions to ss. NR 50.12 and 50.13, Wis. Adm. Code, and move language from s. NR 64.15 to ch. NR 50, Wis. Adm. Code, pertaining to law enforcement aids to counties and municipalities for boat, all–terrain/utility terrain vehicle, and snowmobile patrol units. The proposed revisions will provide consistency and standardization for the state, counties and municipalities in the administration of the law enforcement aids program.

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

All–Terrain Vehicle (ATV) Patrol Units — s. NR 64.15, Wis. Adm. Code.

- Move this section from ch. NR 64 to ch. NR 50, Wis. Adm. Code, to provide one code location for all law enforcement aids to municipalities. Each of the patrol units use the same forms and process for claims for reimbursement.
- Change current references to “all–terrain vehicle” to “all–terrain and/or utility terrain vehicles” to reflect law changes effective July 2012 under 2011 Wis. Act 208.
- Clarification of Definition: Under s. NR 64.02 (7) “Enforcement” means the detection and prevention of crimes and civil violations, and the arrest of those persons who violate such laws. To qualify for state aids under s. 23.33, Stats., and s. NR 64.15, Wis. Adm.

Code, officers involved in the “enforcement” of s. 23.33, Stats., must meet the requirements in s. 165.85, Stats., at the end of the patrol period and must have the authority to make arrests for the violations of the laws they are employed to enforce.

- Include hours for safety education teaching as a reimbursable cost, consistent with water safety patrol requirements. Allowing safety education teaching hours as exempt hours will allow the patrol units to include all relevant hours on their claim, while keeping the patrol hours as actual hours spent patrolling. A local unit of government may be reimbursed for the actual teaching hours of a law enforcement officer who conducts an authorized department ATV safety education course. Teaching hours are considered “exempt” hours and may not be included in patrol hour totals. Reimbursement will be limited to two (2) ATV Safety education courses per patrol year.
- Salary Schedule: Increase the allowable fringe rate to actual costs up to a maximum of 50% of the reimbursable straight time salary rate to allow the patrol units to more accurately reflect current day practices when calculating fringe rate percentage.
- Salary Schedule: To provide consistency across the three patrol unit types, create a maximum percentage limited to 30% of the total hours claimed for administrative hours that patrols may be reimbursed. To provide consistency across the three patrol unit types and to limit the administrative hours claimed by a patrol unit to ensure patrol units are reimbursed for time spent patrolling vs. administrative tasks, thereby reducing the cost per citation. Examples of Administrative hours: creating arrest reports, daily logs, court time, equipment purchasing/specifications, preparing claim packet.
- Patrol Hours: Increase the minimum patrols hours required for patrol units to be eligible for a reimbursement from 20 to 40 hours.
- Require Department approval prior to the purchase of capital equipment to ensure consistency across the state.
- Depreciation Schedule: To provide consistency across the three patrol unit types, changes would be made to the depreciation methods. Capital items (\$2,500 or over) authorized by the Department shall be depreciated over a period of five (5) years at 20% annually. Repairs under \$2,500 to authorized capital equipment may be reimbursed during the year the repairs were paid for. All repairs to capital equipment \$2,500 and over shall be depreciated over a period of five (5) years at 20% annually.
- Remove requirement for DNR to send forms to the patrols. Forms are available electronically on the DNR’s webpage.
- Remove requirement for patrol units to submit 2 copies of the completed forms to DNR. Two copies are unnecessary.

Snowmobile Patrol Units — s. NR 50.12, Wis. Adm. Code.

- Clarification of Definition: Under s. NR 50.03 (8) “Enforcement” means the detection and prevention of crimes and civil violations, and the arrest of those persons who violate such laws. To qualify for state aids under ss. 30.79 and 350.12, Stats., and ss. NR 50.12 and 50.13, Wis. Adm. Code, officers involved in

the “enforcement” of ss. 30.50 to 30.80, Stats., or ch. 350, Stats., must meet the requirements in s. 165.85, Stats., at the end of the patrol period and must have the authority to make arrests for the violations of the laws they are employed to enforce.

- Include hours for safety education teaching as a reimbursable cost, consistent with water safety patrol requirements. Allowing safety education teaching hours as exempt hours will allow the patrol units to include all relevant hours on their claim, while keeping the patrol hours as actual hours spent patrolling. A local unit of government may be reimbursed for the actual teaching hours of a law enforcement officer who conducts an authorized department ATV safety education course. Teaching hours are considered “exempt” hours and may not be included in patrol hour totals. Reimbursement will be limited to two (2) ATV Safety education courses per patrol year.
- Salary Schedule: Increase the allowable fringe rate to actual costs up to a maximum of 50% of the reimbursable straight time salary rate to allow the patrol units to more accurately reflect current day practices when calculating fringe rate percentage.
- Salary Schedule: To provide consistency across the three patrol unit types, create a maximum percentage limited to 30% of the total hours claimed for administrative hours that patrols may be reimbursed. To provide consistency across the three patrol unit types and to limit the administrative hours claimed by a patrol unit to ensure patrol units are reimbursed for time spent patrolling vs. administrative tasks, thereby reducing the cost per citation. Examples of Administrative hours: creating arrest reports, daily logs, court time, equipment purchasing/specifications, preparing claim packet.
- Patrol Hours: Increase the minimum patrols hours required for patrol units to be eligible for a reimbursement from 20 to 40 hours.
- Require Department approval prior to the purchase of capital equipment to ensure consistency across the state.
- Depreciation Schedule: To provide consistency across the three patrol unit types, changes would be made to the depreciation methods. Capital items (\$2,500 or over) authorized by the Department shall be depreciated over a period of five (5) years at 20% annually. Repairs under \$2,500 to authorized capital equipment may be reimbursed during the year the repairs were paid for. All repairs to capital equipment \$2,500 and over shall be depreciated over a period of five (5) years at 20% annually.
- Remove requirement for DNR to send forms to the patrols. Forms are available electronically on the DNR’s webpage.
- Remove requirement for patrol units to submit 2 copies of the completed forms to DNR. Two copies are unnecessary.

Water Safety Patrol Units — s. NR 50.13, Wis. Adm. Code

- Clarification of Definition: Under s. NR 50.03 (8) “Enforcement” means the detection and prevention of crimes and civil violations, and the arrest of those persons who violate such laws. To qualify for state aids under ss. 30.79 and 350.12, Stats., and ss. NR 50.12 and 50.13, Wis. Adm. Code, officers involved in the “enforcement” of ss. 30.50 to 30.80, Stats., or ch. 350, Stats., must meet the requirements in s. 165.85, Stats., at the end of the patrol period and must have the authority to make arrests for the violations of the laws they are employed to enforce.
- Salary Schedule: To provide consistency across the three patrol unit types, increase the maximum percentage from 20% to 30% of the total hours claimed for administrative hours that patrols may be reimbursed. To limit the administrative hours claimed by a patrol unit to ensure patrol units are reimbursed for time spent patrolling vs. administrative tasks, thereby reducing the cost per citation. Examples of Administrative hours: creating arrest reports, daily logs, court time, equipment purchasing/specifications, preparing claim packet.
- Patrol Hours: Increase the minimum patrols hours required for patrol units to be eligible for a reimbursement from 40 to 80 hours.
- Require Department approval prior to the purchase of capital equipment to ensure consistency across the state’s patrol unit.
- Warnings: To provide consistency across the three patrol unit types, allow patrol units to claim written warnings in addition to citations similar to the ATV and snowmobile patrol reimbursable items. Two (2) documented written warnings will be given the same weight as an arrest. No more than 50% of the credits to reach the standard may be written warnings.
- Add Municipal Boat Patrol US Coast Guard Annual Report (Form 8700–330) to the list of forms required as part of the annual reimbursement claim submittal. Information collected on this form is required in the US Coast Guard federal grant application process.
- Remove requirement for DNR to send forms to the patrols. Forms are available electronically from the DNR webpage.
- Remove requirement for patrol units to submit 2 copies of the completed forms to DNR. Two copies are unnecessary.

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

The chapter relating to water safety patrol units in s. 30.79, Stats., establishes that the department shall promulgate rules that restrict the costs eligible for state aid. Snowmobile enforcement aid language statutory authority is contained in s. 350.12 (4), Stats. All terrain/utility terrain vehicle enforcement aid language is contained in s. 23.33 (9), Stats.,

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

One month.

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

ATV	BOAT	SNOWMO- BILE	MUNICIPALITY
1	1	1	ADAMS COUNTY SHERIFF'S DEPT
1	1	1	ASHLAND COUNTY SHERIFF'S DEPT
	1		BALSAM LAKE, VILLAGE OF
1	1	1	BARRON COUNTY SHERIFF'S DEPT
1	1	1	BAYFIELD COUNTY SHERIFF'S DEPT
	1		BIG CEDAR LAKE P&R DISTRICT
1	1	1	BROWN COUNTY SHERIFF'S DEPT
	1		BURLINGTON, TOWN OF
1	1	1	BURNETT COUNTY SHERIFF'S DEPT
	1	1	CALUMET COUNTY SHERIFF'S DEPT
	1		CHENEQUA, VILLAGE OF
1	1	1	CHIPPEWA COUNTY SHERIFF'S DEPT
	1		CHURCH PINE, ROUND & BIG LAKE
1	1	1	CLARK COUNTY SHERIFF'S DEPT
	1		COLOMA, TOWN OF
1	1	1	COLUMBIA COUNTY SHERIFF'S DEPT
1	1	1	DANE COUNTY SHERIFF'S DEPT
	1		DEERFIELD, TOWN OF
	1		DELAFIELD, CITY OF
	1		DELAVAN, TOWN OF
1	1	1	DODGE COUNTY SHERIFF'S DEPT
	1	1	DOOR COUNTY SHERIFF'S DEPT
1	1	1	DOUGLAS COUNTY SHERIFF'S DEPT
	1		DOVER, TOWN OF
		1	DUNN COUNTY SHERIFF'S DEPT
	1		EAGLE, TOWN OF
	1		EAST TROY, TOWN OF
1	1	1	EAU CLAIRE COUNTY SHERIFF'S DEPT
	1		ELKHART LAKE, VILLAGE OF
	1		FARMINGTON, TOWN OF
1	1	1	FLORENCE COUNTY SHERIFF'S DEPT
	1	1	FOND DU LAC COUNTY SHERIFF'S DEPT
	1		FONTANA, VILLAGE OF
1	1	1	FOREST COUNTY SHERIFF'S DEPT
	1		FOX LAKE, TOWN OF
	1		GENEVA LAKE LAW ENFORCEMENT
	1		GENEVA, TOWN OF
1		1	GREEN COUNTY SHERIFF'S DEPT
	1		GREEN BAY, CITY OF
1	1	1	GREEN LAKE COUNTY SHERIFF'S DEPT
	1		HANCOCK, VILLAGE OF
	1		HARTFORD, TOWN OF
1	1	1	IRON COUNTY SHERIFF'S DEPT
1	1	1	JACKSON COUNTY SHERIFF'S DEPT
1	1	1	JEFFERSON COUNTY SHERIFF'S DEPT
1	1	1	JUNEAU COUNTY SHERIFF'S DEPT
1	1	1	KENOSHA COUNTY SHERIFF'S DEPT
		1	KEWAUNEE COUNTY SHERIFF'S DEPT
	1		LA GRANGE, TOWN OF
	1		LAC LA BELLE, VILLAGE OF
	1		LACROSSE COUNTY SHERIFF'S DEPT
1			LAFAYETTE COUNTY SHERIFF'S DEPT

	1		LAKE DELTON, VILLAGE OF
	1		LAKE GENEVA, CITY OF
	1		LAKE MILLS, TOWN OF
1		1	LANGLADE COUNTY SHERIFF'S DEPT
	1		LAUDERDALE LAKE MGMT
	1		LAVALLE, TOWN OF
	1		LEGEND LAKE PRD
1	1	1	LINCOLN COUNTY SHERIFF'S DEPT
	1		LINCOLN, TOWN OF (LAKE WAPAGASSET/BEAR TRAP)
	1		LINN, TOWN OF
	1		LITTLE CEDAR LAKE P&R DISTRICT
	1		MANITOWISH WATERS, TOWN OF
1	1	1	MANITOWOC COUNTY SHERIFF'S DEPT
1	1	1	MARATHON COUNTY SHERIFF'S DEPT
1	1	1	MARINETTE COUNTY SHERIFF'S DEPT
	1		MARION, TOWN OF
	1	1	MARQUETTE COUNTY SHERIFF'S DEPT
1	1	1	MENOMINEE COUNTY SHERIFF'S DEPT
	1		MEQUON, CITY OF
	1		MERTON, TOWN OF
1	1	1	MILWAUKEE COUNTY SHERIFF'S DEPT
	1		MILWAUKEE, CITY OF
	1		MINOCQUA/WOODRUFF BOAT PATROL
	1		MUKWONAGO, TOWN OF
	1		MUSKEGO, CITY OF
	1		NORWAY, TOWN OF
	1		OAKLAND, TOWN OF
	1		OCONOMOWOC LAKE, VILLAGE OF
	1		OCONOMOWOC, CITY OF
	1		OCONOMOWOC, TOWN OF
1	1	1	OCONTO COUNTY SHERIFF'S DEPT
1	1	1	ONEIDA COUNTY SHERIFF'S DEPT
	1		OSCEOLA, TOWN OF
	1	1	OUTAGAMIE COUNTY SHERIFF'S DEPT
		1	OZAUKEE COUNTY SHERIFF'S DEPT
	1		PADDOCK LAKE, VILLAGE OF
	1		PARK LAKE MGMT DISTRICT
	1		PEWAUKEE, CITY OF
1	1	1	PIERCE COUNTY SHERIFF'S DEPT
1	1	1	POLK COUNTY SHERIFF'S DEPT
	1		PORT WASHINGTON, CITY OF
1	1	1	PORTAGE COUNTY SHERIFF'S DEPT
1	1	1	PRICE COUNTY SHERIFF'S DEPT
1	1	1	RACINE COUNTY SHERIFF'S DEPT
	1		RANDALL, TOWN OF
	1		RICHFIELD, TOWN OF
		1	RICHLAND COUNTY SHERIFF'S DEPT
	1	1	ROCK COUNTY SHERIFF'S DEPT
	1		ROCK RIVER SAFETY PATROL
	1		ROME, TOWN OF
1	1	1	RUSK COUNTY SHERIFF'S DEPT
	1	1	ST CROIX COUNTY SHERIFF'S DEPT
	1		SALEM, TOWN OF
1	1	1	SAUK COUNTY SHERIFF'S DEPT
1	1	1	SAWYER COUNTY SHERIFF'S DEPT
1	1	1	SHAWANO COUNTY SHERIFF'S DEPT

1	1	1	SHEBOYGAN COUNTY SHERIFF’S DEPT
	1		SILVER LAKE P&R DISTRICT
	1		SILVER LAKE, VILLAGE OF
	1		SPRINGWATER, TOWN OF
	1		STEPHENSON, TOWN OF
	1		STURGEON BAY, CITY OF
	1		SUMMIT, TOWN OF
		1	TAYLOR COUNTY SHERIFF’S DEPT
	1		THREE LAKES, TOWN OF
	1		TROY TOWN OF
	1		TWIN LAKES, VILLAGE OF
	1	1	VILAS COUNTY SHERIFF’S DEPT
1	1	1	WALWORTH COUNTY SHERIFF’S DEPT
1		1	WASHBURN COUNTY SHERIFF’S DEPT
		1	WASHINGTON COUNTY SHERIFF’S DEPT
	1		WATERFORD, TOWN OF
1	1	1	WAUKESHA COUNTY SHERIFF’S DEPT
	1	1	WAUPACA COUNTY SHERIFF’S DEPT
	1	1	WAUSHARA COUNTY SHERIFF’S DEPT
	1		WEBB LAKE, TOWN OF
	1		WHEATLAND, TOWN OF
	1		WHITEWATER, TOWN OF
	1		WILLIAMS BAY, VILLAGE OF
1	1	1	WINNEBAGO COUNTY SHERIFF’S DEPT
	1	1	WOOD COUNTY SHERIFF’S DEPT
46	123	62	

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

Not applicable

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

Proposed changes will have an overall negligible economic impact on the county sheriff’s departments and local municipalities identified in the list above.

A review of the reimbursement payments for the past three years indicates that increasing the minimum patrol hour requirement could affect 5 ATV patrol units, 12 water safety patrol units and 5 snowmobile patrol units that would have to increase their patrol requirements in order to meet the minimum standards. However, the revision will provide for an increased law enforcement presence thereby providing a positive impact for health and safety.

The revisions propose capping the reimbursable administrative time to 30%, which is close to the amount used for federal grants and other aids program within the State of Wisconsin. While reducing the maximum administrative time allowed will impact patrol unit reimbursement claims, the intent of the law enforcement aids program is to provide reimbursement for law enforcement activities.

These rules are applicable to country sheriff’s departments and local municipality enforcement units and impose no compliance or reporting requirements for small business.

9. Anticipated Number, Month and Locations of Public Hearings

The Department anticipates hold two public hearings in the month of September 2014. Hearing cities will be Madison and Wausau.

Contact Person

Roy Zellmer, 608–212–5385.

Revenue

SS 070–14

This scope statement was approved by the governor on July 24, 2014

Rule No.

Chapters Tax 1, 2, 4, and 14 (revise).

Relating to

Income, franchise, and excise tax provisions.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

The objectives of the rule are to:

- Repeal and recreate s. Tax 1.15 to comply with the requirement under s. 227.04 (2m), Stats., as created by 2013 Wis. Act 296.
- Repeal s. Tax 2.05 to reflect the repeal by 2013 Wis. Act 54 of the capital stock transfer reporting requirement under s. 71.69, Stats.
- Clarify an example of the carryforward of net business losses in s. Tax 2.61 (9) (c) 3.
- Revise ss. Tax 2.67 and 2.82 to change references to certain corporate franchise and income tax forms that are being consolidated and renamed as a result of forms redesign.
- Revise s. Tax 2.88 (3) to reflect that refund interest may not be paid on an overpayment that results from the carryback of a net operating loss. This provision is under s. 71.05 (8) (c), Stats., as created by 2013 Wis. Act 145.
- Amend s. Tax 4.10 (3) (b) 2. to reflect the removal by 2013 Wis. Act 54 of limits on the capacity of a vehicle transporting fuel and the distance between the destination of the import or export of fuel from a bulk plant and the Wisconsin border.
- Revise s. Tax 4.65 (3) (c) to reflect that 2013 Wis. Act 204 provides that exemption certificates used to claim exemption from the motor vehicle fuel tax on gasoline or diesel fuel are valid for 3 years.
- Amend s. Tax 14.01 to include Schedule H–EZ as a form for claiming homestead credit.
- Revise s. Tax 14.03 to reflect the current amount of the dependent deduction under s. 71.52 (5), Stats.; include net operating loss carrybacks as an item includable in income under s. 71.52 (6), Stats., as amended by 2013 Wis. Act 184; and clarify that only nontaxable pension rollovers are excluded from income.

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

Existing policies are as set forth in the rules. New policy is being proposed to reflect the law changes described above. 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)

Under s. 71.80 (1) (c), Stats., the department may make such regulations as it shall deem necessary in order to carry out chapter 71 of the Wisconsin Statutes, relating to income and franchise taxes. This provision applies to the revision of ss. Tax 2.05, 2.61, 2.67, 2.82, 2.88, 14.01, and 14.03.

Section 78.79, Stats., provides “[t]he department may promulgate reasonable rules relating to the administration and enforcement of this chapter...” This provision applies to the revision to ss. Tax 4.10 and 4.65 (3) (c).

Section 227.04 (2m), Stats., requires each agency to promulgate a rule that requires the agency to disclose in advance the discretion that the agency will follow in the enforcement of rules against a small business that has committed a minor violation. This provision applies to the repeal and recreation of s. Tax 1.15.

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

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

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

Tax professionals, businesses, and others who rely on clear, current, and concise rules

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

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

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

No economic impact is anticipated.

9. Contact Person

Dale Kleven, (608) 266–8253.

Revenue

SS 071–14

This scope statement was approved by the governor on July 24, 2014

Rule No.

Chapter Tax 11 (revise).

Relating to

Sales and use tax provisions.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

The objectives of the rule are (1) reflect various law changes, (2) clarify multiple rules, and (3) correct an error in current rule provisions.

a. Aircraft

- **Clarify Rule.** Amend s. Tax 11.84 (1), to add that a credit is permitted against the Wisconsin use tax paid to another state where the aircraft was purchased.
- **Exemption for Aircraft Parts, Maintenance, and Labor.** Reflect 2013 Wisconsin Act 185, which repeals and recreates the exemption in s. 77.54 (5) (a), Stats., and amends s. 77.52 (2) (a) 10., Stats. These provisions exempt the sale of aircraft parts, as well as the services performed to aircraft. This requires updates to s. Tax 11.84.

b. Bad Debts — Private Label Credit Card Companies. Reflect 2013 Wisconsin Act 229, which allows sales tax

return adjustments for bad debts incurred by private label credit card companies and dual purpose credit card companies. This requires an update to s. Tax 11.30 (2).

c. Clarify Rule. Amend s. Tax 11.11 (3), to clarify that the list of facilities is not an all–inclusive list but only types of municipal waste facilities recognized by the department.

d. Common Motor Carriers.

- Reflect 2013 Wisconsin Act 364, which amends the definition of “common motor carrier” in s. 194.01 (1), Stats. For purposes of the sales and use tax exemption in sec. 77.54 (5) (b), Stats., “common carrier” has the same meaning as s. 194.01 (1), Stats. This requires updates to s. Tax 11.16.
- **Clarify Rule.** Amend s. Tax 11.16 (1) (b), to include “cell phones,” “tracking devices,” “GPS units,” and “on board recorders” to the list of items in the rule to make it clear that these items qualify as exempt accessories and attachments if they are assigned to and carried on vehicles used exclusively as common and contract carriers.

e. Construction Contractors.

- **Clarify Rule.** Amend the example following s. Tax 11.68 (3) (b), to remove “hot” from “hot water heater” in the example.
- **Clarify Rule.** Amend s. Tax 11.68 (6) (d), to include “underground wiring” to the list of items in the rule to make it clear that the underground wiring becomes part of the realty.
- **Clarify Rule.** Amend s. Tax 11.68 (7) (a) 2, by removing “satellite dishes” from items listed. Create additional item number to be inserted in between s. Tax 11.68 (7) (a) 6. & 7. that clarifies tax treatment for both satellite dishes mounted to concrete foundation and the compact roof mounted satellite dishes that are installed in a residence or a business. Renumber remaining items accordingly.
- **Clarify Rule.** Amend s. Tax 11.68 (11) (c), to clarify that the items listed only retain their character as tangible personal property for repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance.

f. Correct Error. Amend s. Tax 11.945 (2) (intro.), to remove “telecommunications message services” from the list, since “telecommunications message services” are sourced under the general sourcing hierarchy.

g. Fertilizer Blending, Feed Milling, and Grain Drying Machinery and Equipment. Reflect 2013 Wisconsin Act 324, which creates exemptions in s. 77.54 (6) (am) 4. and 5., Stats., for equipment used in a fertilizer blending, feed milling, or grain drying operation and building materials used in constructing or repairing certain holding structures used in a fertilizer blending, feed milling, or grain drying operation. This requires the creation of s. Tax 11.68 (4) (h). It will also be useful to (1) create a new section to explain the exemption, and (2) add examples to s. Tax 11.68 (6) and (7).

h. Grocers’ Guidelist.

- **Clarify Rule.** Amend s. Tax 11.51 (2) (a), to include potato chips that are chocolate covered in the taxable list, unless they contain flour.
- **Clarify Rule.** Amend s. Tax 11.51 (2) (b), to clarify “chips, potato, corn and similar items” and “potato

chips” are exempt unless they are chocolate covered and do not contain flour as provided in par. (a).

- **Clarify Rule.** Amend s. Tax 11.51 (2) (b), to clarify “ice cream in cones” is exempt only when prepackaged by someone other than the retailer.

i. Printing Industry. Reflect 2013 Wisconsin Act 145, which, in part, amends the exemptions for the printing industry in s. 77.54 (61) (intro), (a), and (b), and creates s. 77.54 (61) (c), Stats. This requires updates to the provisions in s. Tax 11.56.

j. Radio and Television Broadcasting Equipment. Reflect 2013 Wisconsin Act 346, which creates an exemption in s. 77.54 (23n), Stats., for property used by certain commercial radio and television stations. This requires an update to s. Tax 11.63.

k. Utility Terrain Vehicles. Reflect 2011 Wisconsin Act 208, which relates to the registration and operation of utility terrain vehicles. This requires updates to ss. Tax 11.01 (1); 11.05 (2) (gm); 11.13 (6) (b) 2.; 11.33 (4) (a) (intro) and 3. and 5.(c); 11.34 (3) (bg); 11.50 (4) (a) 1.a., (5) (title) and (a); and 11.83 (1) (b).

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

Existing policies are as set forth in ch. Tax 11. New policy is being proposed to reflect the law changes described above. If the rules are not changed, they will not correctly and clearly reflect current law or current department policy.

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

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

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

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

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

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

Purchasers and sellers of the products described above.

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

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

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

No economic impact is anticipated.

9. Contact Person

Dale Kleven, (608) 266–8253.

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

SS 073–14

The scope statement was approved by the Governor on July 23, 2014.

Rule No.

Chapters A–E 3, 4, 6, and 9 (revise).

Relating to

Requirements for entrance to examinations.

Rule Type

Permanent.

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

None

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to bring pertinent Wisconsin Administrative Code in line with recently passed legislation, 2013 Wisconsin Act 114.

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

Prior to 2013 Wisconsin Act 114, architects, landscape architects, professional engineers, and land surveyors required a combination of experience and post–secondary education before taking the corresponding professional exam for either a license or a permit. 2013 Wisconsin Act 114 ushered in a change requiring the Department of Safety and Professional Services and its attached boards to refrain from making a person complete any postsecondary education before being eligible to take an examination for a credential. The proposed rule will reflect that change in policy by amending Wis. Admin. Code chs. A–E 3, 4, 6, and 9 and allowing applicants for an architect, landscape architect, professional engineer, or land surveyor credential to take the exam for licensure or permit before completing their postsecondary education.

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

Section 15.08 (5) (b), Stats., provides examining boards, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which is pertains. . .” The proposed rule seeks to provide guidance to applicants regarding examination requirements for the Architect, landscape architect, professional engineer, and land surveyor professions.

Section 227.11 (2) (a), Stats., discusses the parameters of an agency’s rule–making authority, stating an agency, “may promulgate rules interpreting provisions of statute, but a rule is not valid if it exceeds the bounds of correct interpretation. . . .” This section allows an agency to promulgate

administrative rules which interpret the statutes it enforces or administers as long as the proposed rule does not exceed proper interpretation of the statute.

The proposed rule interprets s. 443.09 (4m), Stats., which provides, “[n]o person may be registered as a landscape architect under this chapter unless he or she passes a written examination or written and oral examinations conducted or approved by the landscape architect section of the examining board under sub. (5).”

The proposed rule also interprets s. 443.06 (1) (a), Stats., which provides, “. . . [t]he land surveyor section may require applicants to pass written or oral examinations or both.” The proposed rule will set forth the examination requirements for applicants for land surveyor credentials.

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

State employees will spend approximately 50 hours developing the proposed rule.

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

Persons who will be affected by the rule include applicants for architect, landscape architect professional engineer, and land surveyor credentials.

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

None.

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

This rule is not likely to have a significant impact on small businesses.

Contact Person

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

SS 069–14

The scope statement was approved by the Governor on July 16, 2014.

Rule No.

Chapter Chir 11 (revise).

Relating to

Duty to inform patients of treatment options.

Rule Type

Permanent.

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

None.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule will bring current Wisconsin Administrative Code into compliance with new legislation, 2013 Wisconsin Act 345.

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

2013 Wisconsin Act 345, changed the manner in which chiropractors discuss treatment options and obtain informed consent from their patients. Under current case law, chiropractors have a duty to inform patients of reasonable alternative modes of treatment and their risks and benefits in such a manner that a reasonable patient would be able to make an intelligent choice with regard to treatment. Chiropractors are also required to document a patient’s informed consent in their patient’s record pursuant to Wis. Admin. Code s. Chir 11.02 (5). 2013 Wisconsin Act 345 created Wis. Stats. s. 446.08. This new statute codifies the chiropractor’s duty to inform their patients of reasonable alternate modes of treatment and the benefits and risks of treatment. The Act also institutes the reasonable chiropractor standard, instead of the reasonable patient standard, as the standard for informing patients regarding their treatment options. The reasonable chiropractor standard requires disclosure only of information that a reasonable chiropractor would know and disclose under the circumstances. The proposed rule will incorporate the new standard into the current rules governing chiropractic practice and make any additional changes that would make the rules consistent with the statute.

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

Section 15.08 (5) (b), Stats., provides examining boards, such as the Chiropractic Examining Board, “shall promulgate rules for its own guidance and for guidance of the trade or profession to which it pertains. . .” The proposed rule will provide guidance within the profession as to how chiropractors are to inform patients of their treatment options.

Section 227.11 (2) (a), Stats., states that an agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by an agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if it exceeds the bounds of correct interpretation.” The proposed rule will interpret s. 446.02 (7d) (a), (b), and (c) as it relates to a chiropractor’s duty to inform patients of treatment options.

Section 446.02 (7d) (a), (b), and (c), Stats., provides that chiropractors shall determine whether a patient has a condition that is treatable by the practice of chiropractic. If the patient does not have a condition that is treatable by chiropractic the chiropractor shall discontinue the practice of chiropractic on a patient, except that the chiropractor may provide maintenance, support and wellness care to a patient. Chiropractors that discontinue practice of chiropractic on a patient must inform the patient of the reason for discontinuing the practice of chiropractic.

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

State employees will spend approximately 60 hours developing the proposed rule.

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

The proposed rule will impact licensed chiropractors and their patients.

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

None.

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

The proposed rule is not likely to have a significant economic impact on small businesses.

9. Contact Person

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Safety and Professional Services — Cosmetology Examining Board

SS 074–14

The scope statement was approved by the Governor on July 23, 2014.

Rule No.

Chapters Cos 1 to 11 (revise).

Relating to

Cosmetology schooling, licensure, and practice requirements.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

This rulemaking project expects to include a comprehensive update of all rules in these chapters to make them consistent with contemporary industry, regulatory, and academic practices. It is also intended to bring these rules into compliance with recently enacted legislation including 2011 Wisconsin Act 190, 2013 Wisconsin Act 205, and 2013 Wisconsin Act 356.

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

Chapters Cos 1 to 11 currently contain all of the rules of the Cosmetology Examining Board relating to cosmetology. These rules address the practice of cosmetology, cosmetology establishments and inspection of them, sanitation and safety, courses of instruction, apprenticeship procedures and standards, examinations and licensure, license renewals and reinstatements, continuing education, and forfeitures.

The most recent broad–based update of some of these rules occurred over six years ago, and some of these rules have not

been updated for over 20 years. The updates included in this rulemaking expect to be similar to and consistent with updates that the Department of Safety and Professional Services recently promulgated for barbering in response to 2011 Act 190.

The alternatives of either partially updating or not updating these rules would be less beneficial to the entities affected by these rules.

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

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

Section 440.62 (5) (b) 1. of the Statutes requires the Board to establish the minimum curriculum for cosmetology schools and the minimum standards for instruction, materials, and equipment at cosmetology schools.

Section 454.06 (8m) (d) of the Statutes requires the Board to establish, by rule, the limits of minimal cosmetology work, for inactive licensees. Section 454.08 (1) (a), Stats., authorizes the Board to promulgate rules for providing cosmetology services outside of a licensed cosmetology establishment. Sections 454.08 (3) and (4), Stats., authorize the Board to establish, by rule, requirements for licensing cosmetology establishments; and require the Board to establish, by rule, minimum health and safety standards for such establishments, respectively. Section 454.10 (3) (b), Stats., requires the Board to prescribe, by rule, the practical training and schooling that a cosmetology apprentice must receive. Section 454.12 (2), Stats., authorizes the Board to promulgate rules imposing continuing–education requirements on licensees if the requirements are necessary to preserve public health, safety or welfare.

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

The staff time needed to develop the rules is expected to be about 200 hours, depending on the complexity. This includes coordinating the rule–making process with the Board, research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

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

Cosmetologists, cosmetology managers, cosmetology establishments, cosmetology apprentices, cosmetology schools and instructors, and continuing education–providers for the cosmetology profession.

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

The federal government does not regulate the cosmetology profession in the states. However, it does have regulations applicable to apprenticeships in all trades and professions registered with the United States Department of Labor. Those regulations are generally administered through state laws governing apprenticeship programs in a particular state. In

Wisconsin, the Department of Workforce Development is charged with that responsibility.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses)

The rule changes contemplated in this project are not expected to have any negative economic impacts on any of the entities listed above.

9. Contact Person

Shawn Leatherwood, at Shancethea.Leatherwood@wisconsin.gov; or at telephone (608) 261–4438 or 711 (Telecommunications Relay); or at 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI, 53708–8366.

Safety and Professional Services — Dentistry Examining Board

SS 077–14

The scope statement was approved by the governor on July 28, 2014.

Rule No.

Chapter DE 10 (create).

Relating to

Regulation of mobile dentistry programs.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to implement 2013 Act 244 by doing the following:

- Create a definition of “mobile dentistry program”;
- Define the activities that constitute the operation of a mobile dentistry program for purposes of the registration requirement;
- Requirements for obtaining a registration;
- Requirements for patient access to dental records; and
- Standards of conduct for the operation of a mobile dentistry program, the provision of dental services through a mobile dentistry program and the use of portable dental equipment.

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

Under 2013 Act 244, no person may own or operate a mobile dentistry program in Wisconsin unless the person is registered. The Dentistry Examining Board was given specific authority to promulgate rules to regulate mobile dentistry programs as outline in the above objective of the proposed rule.

The alternative to promulgation of rules would be to create confusion as to the definition of a mobile dentistry program,

the activities the program may perform, the process for obtaining registration and the standards of conduct which must be followed.

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

Section 447.02(2), Stats. The examining board shall promulgate rules specifying all of the following:

(f) A requirement that a mobile dentistry program registrant establish procedures for a patient treated in the mobile dentistry program to access his or her patient records.

(g) Standards of conduct for the operation of a mobile dentistry program in this state, the provision of dental services through a mobile dentistry program, and the use of portable dental equipment.

(h) A definition of “mobile dentistry program” and the activities that constitute the operation of mobile dentistry program for purposes of the registration requirement under s. 447.058.

Section 447.058 (2) (a), Stats. The examining board may grant a registration under this section to a person who does all of the following:

3. Satisfies any other requirements established by the examining board by rule.

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

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

200 hours

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

The owners, operators and employees of mobile dentistry programs and their patients will be affected by the proposed rule.

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

None

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses)

None to minimal. It is not likely to have a significant economic impact on small businesses.

9. Contact Person

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

Safety and Professional Services — Medical Examining Board

SS 075–14

The scope statement was approved by the Governor on July 28, 2014.

Rule No.

Chapters Med 3 and 5 (revise).

Relating to

Physician licensure.

Rule Type

Permanent.

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

2013 Wisconsin Act 240 has a delayed effective date of April 1, 2015. Emergency rules are needed to ensure that the proposed rules will be in effect by the April 1, 2015 date. Furthermore, the Legislature by Section 39 of 2013 Wisconsin Act 240 provides an exemption from a finding of emergency in promulgating the proposed rules.

2. Detailed Description of the Objective of the Proposed Rule

The purpose of the proposed rule is to bring current Wisconsin Administrative Code chs. Med 3 and 5 in line with recent legislation, specifically 2013 Wisconsin Act 240.

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 passage of 2013 Wisconsin Act 240 had a major impact on physician licensure in Wisconsin. The legislation changed current rules regarding eligibility for a regular license, licensure for graduates of foreign medical schools, temporary educational permits, and temporary license for visiting professors. Currently, applicants for any class of license to practice medicine and surgery must provide evidence to the Medical Examining Board (Board) that he or she is a graduate of a medical or osteopathic college approved by the Board and has completed 12 months of postgraduate training in a facility approved by the Board. Act 240 now requires applicants for a regular license to successfully complete 24 months of postgraduate training or the applicant must be currently enrolled in a post–graduate training program and have successfully completed 12 months of post graduate training and receive an unrestricted endorsement from the postgraduate training program director that the applicant is expected to complete at least 24 months of postgraduate training.

2013 Wisconsin Act 240 also requires graduates of a foreign medical school applying for a regular license to practice medicine and surgery, be a graduate of a foreign medical college credentialed by an agency approved by the Board, obtain certification by the Educational Council for Foreign Medical Graduates, or a successor organization, pass all the steps of the United States Medical Licensing Examination (USMLE), and successfully complete 24 months of postgraduate training. If the foreign medical school graduate has not completed 24 months of postgraduate training, he or she may successfully complete 12 months of postgraduate training and receive an unrestricted endorsement from the postgraduate training program director that the applicant is expected to complete at least 24 months of postgraduate training.

The former temporary license for visiting professor has been recreated as the new restricted license to practice as a visiting physician. The visiting professor license was restricted to foreign medical school graduates who were invited to serve on the academic staff of a medical school. The visiting physician license is open to any physician outside of

Wisconsin. The holder of the license must limit his or her practice of medicine to the medical education facility, research facility, or college where the holder is teaching, performing research, or practicing. The former temporary educational permit has been transformed into the new resident educational license. Unlike the temporary educational permit, the resident educational license grants an educational license to residents upon entry into their first year of post–graduate training and restricts the license holder to the practice of medicine and surgery only within the scope his or her duties under their postgraduate training program.

Lastly, the legislation has created a new licensure class, the administrative physician license. The administrative physician licensee must meet the same licensure requirements as a regular license holder to practice medicine and surgery. However, the administrative physician licensee may not engage in the practice of medicine except as authorized by s. 448.03 (2), Stats.

As a result of the changes instituted by Act 240, the Medical Examining Board is promulgating the proposed rule to amend chs. Med 3 and 5 and to create additional chapters as necessary.

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

Section 15.08 (5) (b), Stats., provides examining boards, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .” The proposed rule seeks to provide guidance on future licensure classes and licensure examination requirements.

Section 227.11 (2) (a), Stats., discusses the parameters of and agency’s rule–making authority, stating an agency, “may promulgate rule interpreting provisions of statute, but a rule is not valid if it exceeds the bounds of correct interpretation. . .” This section allows an agency to promulgate administrative rules which interpret the statutes it enforces or administers as long as the proposed rule does not exceed proper interpretation of the statute.

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

State employees will spend approximately 50 hours developing the proposed rule.

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

Persons who will be affected by the proposed rule include applicants for licensure as a physician.

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

None.

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

The proposed rule is not likely to have a significant impact on small businesses.

9. Contact Person

Shawn Leatherwood, Shancethea.Leachwood@wisconsin.gov, 608–261–4438.

Safety and Professional Services — Real Estate Examining Board

SS 078–14

The scope statement was approved by the governor on July 23, 2014.

Rule No.

Chapter REEB 24 (revise).

Relating to

Revocation due to being convicted of a felony that is a bar to licensure or registration.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

2013 Wisconsin Act 288 includes as a basis for revocation, a credential holder who has been convicted of a felony that is a bar to licensure or registration. The objective of the proposed rule is to add this to the Board’s conduct and ethical practices which define conduct which may result in board discipline.

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

2013 Wisconsin Act 288 creates as a basis for revocation, a credential holder who has been convicted of a felony that is a bar to licensure or registration. The proposed policy is to add this to the Board’s rules defining conduct which may result in discipline.

The alternative is for this basis for revocation not be included in the conduct and ethical practices chapter of the Board’s rules.

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

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

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

75 hours.

6. List with Description of all Entities that may be Affected By The Proposed Rule

Real estate salespersons and brokers.

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

None.

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

None to minimal economic impact. It is not likely to have a significant economic impact on small businesses.

Contact Person

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

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

SS 076–14

The scope statement was approved by the Governor on July 28, 2014.

Rule No.

Chapters VE 2, 3, and 8 (revise).

Relating to

Entrance to examinations.

Rule Type

Permanent.

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

None.

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to bring pertinent Wisconsin Administrative Code in line with recently passed legislation, 2013 Wisconsin Act 114.

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

2013 Wisconsin Act 114 mandated that the Department of Safety and Professional Services and its attached boards may no longer require initial applicants complete their postsecondary education before being eligible to take an examination for a credential. The proposed rule will reflect that change in policy by amending Wis. Admin. Code chs. VE 2, 3, and 8. The proposed rule will allow applicants for licensure as a veterinarian or certification as a veterinary technician to take the credentialing exam before completing any postsecondary education.

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

Section 15.08 (5) (b), Stats., provides examining boards, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .” The proposed rule seeks to provide guidance to applicants regarding examination requirements for veterinarians and veterinarian technicians.

Section 227.11 (2) (a), Stats., discusses the parameters of an agency’s rule-making authority, stating an agency, “may promulgate rules interpreting provisions of any statute, enforced or administered by the agency, . . . but a rule is not valid if it exceeds the bounds of correct interpretation.” This section allows an agency to promulgate administrative rules which interpret the statutes it enforces or administers as long as the proposed rule does not exceed proper interpretation of the statute.

Section 453.03, Stats., . . . “The examining board may promulgate rules relating to licensure qualifications, denial of a license, certificate or temporary permit, unprofessional conduct and disciplinary proceedings.”

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

State employees will spend approximately 50 hours developing the proposed rule.

6. List with Description of all Entities that may be Affected By The Proposed Rule

Persons who will be affected by the proposed rule include applicants for veterinary licensure and applicants for veterinary technician certificates.

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

None.

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

This rule is not likely to have a significant impact on small businesses.

9. Contact Person

Shawn Leatherwood, Shancethea.Leatherwood@wisconsin.gov, 608–261–4438.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Agriculture, Trade and Consumer Protection **CR 14–047**

On July 29, 2014, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred the following proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to s. 227.15, Stats.

SUBJECT: Technical Changes Related to: Plant inspection and pest control; pesticide use and control; pesticide product restrictions; fertilizer and pesticide bulk storage; agricultural chemical cleanup program; fertilizer and related products; commercial feed; farmland preservation; soil and water resource management program; food warehouses and bulk milk distributors; fair packaging and labeling; selling commodities by weight, measure or count; weights & measures; petroleum and other liquid fuel products; sales below cost; electronic communication services; direct marketing; agricultural development and market promotion

ADM. CODE REFERENCE: Chapters ATCP 21, 29, 30, 33, 35, 40, 42, 49, 50, 71, 90, 91, 92, 94, 105, 123, 127, and 161

DATCP DOCKET #: 14–R–03

Scope

The scope statement for this rule, SS 009–14, was approved by the Governor on February 10, 2014, published in Register No. 698 on February 28, 2014, and approved by the Board of Agriculture, Trade and Consumer Protection as required by s. 227.135 (2), Stats., on March 19, 2014.

Agency Procedure for Promulgation

The department will hold a public hearing on this rule August 28, 2014.

The department's Office of the Secretary is primarily responsible for this rule.

Contact Person

If you have questions, you may contact Kelly Monaghan at (608) 224–5023.

Natural Resources *Fish, Game, etc., Chs. 1–* **CR 14–048** (DNR # LE–01–14)

On August 4, 2014, the Wisconsin Department of Natural Resources referred the following proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

SUBJECT: Boat Rules and Regulations
ADMINISTRATIVE CODES: Chapter NR 5
DATE OF PUBLIC HEARING: September 5 and 10, 2014

Scope

The statement of scope for this rule, SS 019–14, was approved by the governor on March 10, 2014, published in Register No. 699, on March 31, 2014, and approved by the Natural Resources Board on May 28, 2014.

Name and Organizational Unit of Agency Contact

Linda Haddix
Department Rules Officer
DNR Bureau of Legal Services
(608) 266–1959
Linda.haddix@wisconsin.gov

Rule–Making Notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

CR 14–047

(DATCP DOCKET # 14–R–03)

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on a proposed rule relating to minor and technical changes to multiple department chapters: Chapters ATCP 21, 29, 30, 33, 35, 40, 42, 49, 50, 71, 90, 91, 92, 94, 105, 123, 127, and 161

Rule Relating to: Plant inspection and pest control, pesticide use and control; pesticide product restrictions; fertilizer and pesticide bulk storage; agricultural chemical cleanup program; fertilizer and related products; commercial feed; farmland preservation; soil and water resource management program; food warehouses and bulk milk distributors; fair packaging and labeling; selling commodities by weight, measure or count; weights & measures; petroleum and other liquid fuel products; sales below cost; electronic communication services; direct marketing; agricultural development and market promotion.

Hearing Information

Date: Thursday, August 28, 2014
Time: 10:00 a.m. to 11:00 a.m.
Location: Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive, Room 411
 Madison, WI 53718

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by August 20, 2014, by writing to Kelly Monaghan, Office of the Secretary, P.O. Box 8911, Madison, WI 53708–8911; or by emailing kelly.monaghan@wisconsin.gov; or by telephone at (608) 224–5023. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is handicap accessible.

Appearances at the Hearing and Copies of Proposed Rule

DATCP will hold one public hearing at the time and place shown above. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearing, the hearing record will remain open until **September 10, 2014** for additional written comments. Comments may be sent to the Office of the Secretary at the address below, or to kelly.monaghan@wisconsin.gov, or to <http://adminrules.wisconsin.gov>.

You can obtain a free copy of this hearing draft rule and related documents including the economic impact analysis by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Office of the Secretary, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–5023 or by

emailing kelly.monaghan@wisconsin.gov. Copies will also be available at the hearing. To view the hearing draft rule online, go to: <http://adminrules.wisconsin.gov>.

Place Where Comments are to be Submitted and Deadline for Submission

Questions and comments related to this rule will be accepted until **September 10, 2014**, and may be directed to:

Kelly Monaghan
 Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive
 Madison, WI 53718
 Telephone: (608) 224–5023
 E–Mail: kelly.monaghan@wisconsin.gov

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

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

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

Statutes interpreted

Sections 91.02, 92.05, 93.48, 94.01(1), 94.64, 94.65, 94.69, 94.72, 94.73, 97.27, 98.07, 100.20, and 100.30, Stats., and ch. 168, Stats.

Statutory authority

Sections 91.02, 92.05 (3) (c), 93.07 (1), 93.48 (1), 94.01 (1), 94.64 (9), 94.65 (9), 94.69 (1), 94.72 (13), 94.73 (11), 97.27 (5), 98.07 (4), 100.20 (2) (a), 100.30, Stats., and ch. 168, Stats.

Explanation of statutory authority

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

Related rules or statutes

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

Plain language analysis

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

Plant Inspection and Pest Control

Makes a small change indicating that a state plant regulatory official, rather than a U.S. department of agriculture official, may now declare an area to be infested with thousand cankers disease.

Pesticide Use and Control

- Decreases licensing fees and surcharges to be consistent with recent statutory changes.

- Corrects spelling and capitalization errors.
- Changes several notes to provide online resources for certification, training and examination materials.

Pesticide Product Restrictions

- Corrects incorrect references to subsections and the misspelling of “strychnine.”
- Amends notes to update website addresses.
- Removes outdated reference to treatment of aldicarb from the 1980s.
- Incorporates by reference the most recent edition of the current rule standard concerning pesticide poisonings.
- Modifies the record keeping provision relating to chloropicrin to reflect that soil temperature at the time of application is not required to be kept.

Fertilizer and Pesticide Bulk Storage

- Incorporates by reference the most recent edition of minimum design standards for concrete agrichemical containment.
- Updates sections relating to the use of tarps for dry fertilizer unloading from railway cars and sections relating to asphalt and concrete block structures.

Agricultural Chemical Cleanup Program

- Amends references required by the renumbering of an administrative code chapter relating to the department of natural resources and corrects a statutory reference to “hazardous substance.”

Fertilizer and Related Products

- Decreases various license and tonnage fees and surcharges to be consistent with recent statutory changes.
- Incorporates by reference the most recent edition of the current rule standard concerning fertilizers.

Commercial Feed

Updates the technical standards in the current rule to the most recent versions. Several notes have been modified to add more information about obtaining electronic copies of those publications.

Farmland Preservation

Makes a small change to add language into the zoning section to match language used in the planning section.

Soil and Water Resource Management Program

Updates several sections to reference the current versions of technical standards.

Food Warehouse and Bulk Milk Distributors

Corrects an outdated fee structure relating to the re-inspection of small warehouses which hold non-potentially hazardous foods versus those that hold potentially hazardous foods.

Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Petroleum and Other Liquid Fuel Products

Corrects small grammatical errors and updates the technical reference to cite the current NIST Handbook.

Sales Below Cost

Corrects a grammatical error.

Electronic Communications Services

Aligns the rule with recent legislature changes.

Direct Marketing

Deletes a note no longer necessary in that section.

Agricultural Development and Market Promotion

Amends the “Buy Local” section to reflect a statute change that directs the matching requirement to be an amount at least equal to the grant amount.

Standards Incorporated by Reference

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

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

The technical rule changes proposed in this rule will not create any disparities between Wisconsin rules and federal statutes and regulations.

Comparison with rules in adjacent states

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

Summary of factual data and analytical methodologies

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

Analysis and supporting documents used to determine effect on small business

Because this bill makes minor technical changes, no significant analysis or documentation was required to determine that the proposed rule will have no impact on small businesses.

Business Impact

This rule will not have any impact on small businesses or other business. This rule makes minor technical changes that will not have any impact on business standards, costs or operations. See the complete Initial Regulatory Flexibility Analysis that accompanies this rule.

Environmental Impact

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

Contact Information

Kelly Monaghan
Department of Agriculture, Trade and Consumer
Protection
2811 Agriculture Drive
Madison, WI 53718
Telephone: (608) 224–5023
E–Mail: kelly.monaghan@wi.gov

Initial Regulatory Flexibility Analysis

Rule Subject: Technical Rule

Adm. Code Reference: ATCP 20, 21, 29, 30, 33, 35,
40, 42, 49, 50, 71, 90, 91, 92, 94,
105, 123, 127, and 161

Rules Clearinghouse #: CR 14–047

DATCP Docket #: 14–R–03**Rule summary**

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

Plant Inspection and Pest Control

Makes a small change indicating that a state plant regulatory official, rather than a U.S. department of agriculture official, may now declare an area to be infested with thousand cankers disease.

Pesticide Use and Control

- Decreases licensing fees and surcharges to be consistent with recent statutory changes.
- Corrects spelling and capitalization errors.
- Changes several notes to provide online resources for certification, training and examination materials.

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- Corrects incorrect references to subsections and the misspelling of “strychnine.”
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- Removes outdated reference to treatment of aldicarb from the 1980s.
- Incorporates by reference the most recent edition of the current rule standard concerning pesticide poisonings.
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Fertilizer and Pesticide Bulk Storage

- Incorporates by reference the most recent edition of minimum design standards for concrete agrichemical containment.
- Updates sections relating to the use of tarps for dry fertilizer unloading from railway cars and sections relating to asphalt and concrete block structures.

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Fertilizer and Related Products

- Decreases various license and tonnage fees and surcharges to be consistent with recent statutory changes.
- Incorporates by reference the most recent edition of the current rule standard concerning fertilizers.

Commercial Feed

Updates the technical standards in the current rule to the most recent versions. Several notes have been modified to add

more information about obtaining electronic copies of those publications.

Farmland Preservation

Makes a small change to add language into the zoning section to match language used in the planning section.

Soil and Water Resource Management Program

Updates several sections to reference the current versions of technical standards.

Food Warehouse and Bulk Milk Distributors

Corrects an outdated fee structure relating to the re-inspection of small warehouses which hold non-potentially hazardous foods versus those that hold potentially hazardous foods.

Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Petroleum and Other Liquid Fuel Products

Corrects small grammatical errors and updates the technical reference to cite the current NIST Handbook.

Sales Below Cost

Corrects a grammatical error.

Electronic Communications Services

Aligns the rule with recent legislature changes.

Direct Marketing

Deletes a note no longer necessary in that section.

Agricultural Development and Market Promotion

Amends the “Buy Local” section to reflect a statute change that directs the matching requirement to be an amount at least equal to the grant amount.

Small business affected

This rule will not have any impact on small businesses or other business. This rule makes minor technical changes that will not have any impact on business standards, costs or operations.

Reporting, bookkeeping, and other procedures

The proposed rule does not create any reporting, bookkeeping or other requirement for small businesses.

Professional Skills Required

The proposed rule does not require any profession skill of small businesses.

Accommodation for Small Business

This rule has no impact upon small businesses and as a result, no accommodations are needed.

Conclusion

This rule will not have any effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22 (2) (e), Stats.

**ADMINISTRATIVE RULES
FISCAL ESTIMATE
AND ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Chaps. ATCP 20, 21, 29, 30, 33, 35, 40, 42, 49, 50, 71, 90, 91, 92, 94, 105, 123, 127 and 161

Subject

Technical Rule Changes

Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

Chapter 20 , Stats. Appropriations Affected

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

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

State's Economy
 Local Government Units

Specific Businesses/Sectors
 Public Utility Rate Payers

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

Yes No

Policy Problem Addressed by the Rule

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

Plant Inspection and Pest Control

Makes a small change indicating that a state plant regulatory official, rather than a U.S. department of agriculture official, may now declare an area to be infested with thousand cankers disease.

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Corrects a grammatical error.

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Aligns the rule with recent legislature changes.

Direct Marketing

Deletes a note no longer necessary in that section.

Agricultural Development and Market Promotion

Amends the “Buy Local” section to reflect a statute change that directs the matching requirement to be an amount at least equal to the grant amount.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Small Businesses

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

Utility Rate Payers

The rule will have no impact on utility rate payers.

Local Governments

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

General Public

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

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

Benefits

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

General Public

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

Alternatives

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

Long Range Implications of Implementing the Rule

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

Compare With Approaches Being Used by Federal Government

The technical changes are proposed to ensure that the specified existing DATCP rules remain consistent with federal statutes and regulations.

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

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

Comments Received in Response to Web Posting and DATCP Response

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

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. 1—

CR 14–048

(DNR # LE–01–14)

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.16 and 227.17, Stats, the Department of Natural Resources, hereinafter the Department, will hold a public hearing on Chapter NR 5 — Boat rules and regulations, relating to federal requirements, correct noise level testing procedures, improve officer safety, and establish a numbering system for approved waterway markers on the date(s) and at the time(s) and location(s) listed below.

Hearing Information

Date: Friday, September 5, 2014

Time: 10:00 a.m. to 11:00 a.m.

Location: DNR Satellite Center
DMV/DNR Conference Room
5301 Rib Mountain Road
Wausau, WI 54401

Date: Wednesday, September 10, 2014

Time: 10:00 a.m. to 11:00 a.m.

Location: DNR Service Center
Glacier’s Edge/Gathering Waters
Conference Room
3911 Fish Hatchery Road
Fitchburg, Wi 53711

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Penny Kanable, Madison, WI 53707; by E–mail to penny.kanable@wisconsin.gov or by calling (608) 228–9352. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Availability of the Proposed Rules and Fiscal Estimate

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link <https://health.wisconsin.gov/admrules/public/Home>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Penny Kanable, Department of Natural Resources, Bureau of Law Enforcement, 101 S. Webster St, Madison, WI, 53703, or by calling (608) 228–9352.

Submitting Comments

Comments on the proposed rule must be received on or before Friday, **September 19, 2014**. Written comments may be submitted by U.S. mail, fax, E–mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to either:

Roy Zellmer
Department of Natural Resources
Bureau of Law Enforcement
101 S Webster St
Madison, WI 53703

Phone: 608–212–5385

Fax: 608–266–3696

E–mail: roy.zellmer@wisconsin.gov

Penny Kanable
Department of Natural Resources
Bureau of Law Enforcement
101 S Webster Street
Madison, WI 53703

Phone: 608–228–9352

Fax: 608–266–3696

E–mail: penny.kanable@wisconsin.gov

Internet: Use the Administrative Rules System Web site accessible through the link provided

Analysis Prepared by the Department of Natural Resources

Statute interpreted

Sections 30.505, 30.62 (d) 2. and 3., (2) (d) 3., and (9), and 30.65 (2)

Statutory authority

Sections 30.505, 30.62 (d) 2. and 3., (2) (d) 3., and (9), and 30.65 (2).

Explanation of agency authority

The above statutes have been interpreted as giving the department authority to promulgate rules necessary to conform with federal regulations, establish noise level testing procedures, adjust to advances in technology, and necessary in the interest of public safety.

Related statutes or rules

N/A

Plain language analysis

The proposed rule makes several modifications to ch. NR 5.

Sections 1–5 add definitions for coastal waters, personal flotation devices, visual distress signal to conform to federal requirements.

Sections 6–12 require each recreational vessel owner provide a unique identification number with the birth date to register a vessel for a certificate of number as required by federal regulations. These elements are part of an approved vessel numbering system necessary to maintain overall program approval and eligibility to receive federal financial assistance under the State Recreational Boating Safety Grant Program.

Sections 13–14 change the term “state of principal use” to “state of principal operation” as required by federal regulations. State of principal operation means the State in whose waters a vessel is or will be operated most during a calendar year.

Sections 15–19 require the state issuing authority verify that the owner of a vessel that is issued a state assigned hull identification number has permanently affixed the assigned hull identification number to the vessel in compliance with 33 CFR Part 181, subpart C

Section 20 adds a requirement to label approved waterway markers with a department assigned number to allow law enforcement officers to determine the legality of markers that have been placed.

Sections 21–22 modify fire extinguisher requirements to match federal regulations.

Sections 23–27 correct noise level testing requirements to meet Society of Automotive Engineers recommended practices.

Sections 28–47 revise personal flotation device requirements to remove type requirements and replace with the terms wearable and throwable personal flotation devices as modified by federal regulations.

Sections 48–52 create requirements for visual distress signals and sound producing devices as required by federal regulations. U.S. Coast Guard conducted an on–site review of Wisconsin’s State Recreational Boating Safety (RBS) Program. Onsite reviews are used to help determine a state’s eligibility to receive funding made available under Title 46 U.S.C. Chapter 131 for the State RBS Program. A state’s eligibility is determined by the content of its RBS Program and its conformance to applicable federal laws and regulations.

Based on the programmatic review of Wisconsin’s State RBS program, two deficiencies were noted that require corrective action. The State laws and regulations do not include a provision for the carriage of visual distress signals (VDS) in waters where required under Title 33 Code of Federal Regulations (CFR), Part 175 Subpart C; and State laws and regulations do not include a provision for the carriage of a sound–producing device where required under the Navigation Rules; International–Inland. State law must require the carriage of the minimum federal equipment requirements in order to meet eligibility requirements as an adequate law enforcement program.

Section 53 prohibits vessel owners from displaying blue colored lights which may be confused with an authorized patrol or emergency vessel. Pleasure boaters with aftermarket blue LED lighting can easily be mistaken for Law Enforcement in the dark of night.

Section 54 requires vessel operators to operate at slow no wake speeds when approaching a patrol or emergency vessel that is displaying an emergency light and/or siren due to public safety and law enforcement officer safety concerns.

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

A state’s eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of its RBS Program and its conformance to applicable federal laws and regulations.

State law must require the carriage of the minimum federal equipment requirements in order to meet eligibility requirements as an adequate law enforcement program.

These elements are part of an approved vessel numbering system necessary to maintain overall program approval and eligibility

Comparison with similar rules in adjacent states

Adjacent states have substantially the same rules as eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of the state’s RBS Program and its conformance to applicable federal laws and regulations.

Summary of factual data and analytical methodologies used and how any related findings support the regulatory approach chosen

Eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of the state’s RBS Program and its conformance to applicable federal laws and regulations.

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

The department anticipates that the proposed rule will have no more than a minimal economic impact.

Effect on Small Business (Initial Regulatory Flexibility Analysis)

None. The Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us, or by calling (608) 266–1959.

Environmental Analysis

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

Fiscal Estimate Summary

The Department anticipates that the proposed rule will have no more than a minimal fiscal impact.

Contact Person

Penny Kanable
 Department of Natural Resources
 Bureau of Law Enforcement
 101 S Webster Street
 Madison, WI 53703
 Phone: 608–228–9352
 E–mail: penny.kanable@wisconsin.gov

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

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 5–Boat Rules and Regulations

3. Subject

The intent of the rule revisions are to meet federal requirements, correct noise level testing procedures, improve officer safety and establish a numbering system for approved waterway markers.

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

Revise Noise Level Testing Requirements — current language contained in NR 5.125 refers to testing methods J34a, J1970 or J2005. SAE only refers to J34 not J34a. NR 5 should reflect actual Test #/Title of that being J34. Updates to the J34 Monitoring Test reflect a correction factor to a 50’ distance/regulation and in J1970 (4.2.1) specifically states: “The applicable reading does not require the measured boat to be at any specific distance from the shoreline or microphone”. Officers should not be limited by a minimum distance requirement in code and should rely on each test procedure.

Add Slow No Wake within 100’ of patrol boat displaying emergency lights – NR 5.33 contains requirements for Restricted Speed Zones. However there are no restrictions for vessel operators approaching a law enforcement boat displaying emergency lights. Due to public safety and law enforcement officer safety concerns, WDNR requests a variation of the “move over law” currently in place on highways.

Prohibits vessel owners from displaying blue colored lights which may be confused with an authorized patrol or emergency vessel. Pleasure boaters with aftermarket blue LED lighting can easily be mistaken for law enforcement in the dark of night.

Adds a requirement to label approved waterway markers with a department assigned number to allow law enforcement officers to determine the legality of markers that have been placed.

Remove sailboards from the personal flotation device requirements per s. 30.62 (3) (a).

Modifications to meet federal requirements include:

Add visual distress signals and sound producing device requirements based on a 2013 U.S. Coast Guard program review of Wisconsin's State Recreational Boating Safety program. The state laws and regulations do not include a provision for the carriage of visual distress signals (VDS) in waters where required under Title 33 Code of Federal Regulations (CFR), Part 175 Subpart C; and the carriage of a sound-producing device where required under the Navigation Rules; International–Inland. State law must require the carriage of the minimum federal equipment requirements in order to meet eligibility requirements as an adequate law enforcement program.

Revisions to application information for boat certificate or number and application for transfer to meet federal requirements. Changes to federal regulations require the collection of unique identification information for each vessel owner who applies for a certificate of number. States have until January 1, 2017 to implement this change.

Require the state issuing authority verify that the owner of a vessel that is issued a state assigned hull identification number has permanently affixed the assigned hull identification number to the vessel in compliance with 33 CFR Part 181, subpart C. Vessel owners will be required to verify that a valid primary vessel HIN has been affixed to the vessel for which a certificate of number is issued, renewed, or upon the transfer of a vessel's ownership. Per the federal regulations, States may use methods of its choosing to verify that each vessel's owner has affixed a valid primary HIN. WDNR would propose to require the vessel owner to complete a statement on the application form or renewal form. States have until January 1, 2017 to implement this change.

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

To be completed after public comments are received.

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

To be completed after public comments are received.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The department anticipates that the proposed rule will have no more than a minimal economic impact. A final analysis will be completed after public comments are received.

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

This rule will protect Wisconsin's law enforcement officers while they patrol the waters of the state and ensure Wisconsin's Recreational Boating Safety program conforms to federal requirements, which will enable the department to continue receiving federal funds.

14. Long Range Implications of Implementing the Rule

Same as above.

15. Compare With Approaches Being Used by Federal Government

Modifications conform to applicable federal laws and regulations.

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

Adjacent states have substantially the same rules as eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of the state's RBS Program and its conformance to applicable federal laws and regulations.

17. Contact Name
Roy Zellmer

18. Contact Phone Number
608/212–5385

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

Notice of Hearings

Natural Resources EmR1412

(DNR # ER–31–13(E))

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.16 and 227.17, Stats., the Department of Natural Resources, hereinafter the Department, will hold a public hearing on the date and at the time and location listed below on Board Order ER–31–13(E) affecting Chapters NR 10, 16, 19, 21, and 22, Wis. Adm. Code., 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 board order was adopted by the Natural Resources Board on May 28, 2014, and by the Office of the Governor on June 25, 2014, and was published and became effective on July 13, 2014. The corresponding permanent rule order ER–30–13 was adopted by the Natural Resources Board on May 28, 2014 and approved by the Governor on June 25, 2014, and is awaiting submittal to the appropriate Legislative committees.

Hearing Information

Date: Wednesday, August 27, 2014
Time: 10:00 a.m.
Location: Wisconsin Natural Resources Building
 Room 613
 101 S. Webster St.
 Madison, WI 53707

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Terrell Hyde, Department of Natural Resources, Bureau of Natural Heritage Conservation, 101 S. Webster St, Madison, WI, 53707–7921; by E–mail to Terrell.hyde@wisconsin.gov or by calling (608) 264–9255. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Availability of the Proposed Rules and Fiscal Estimate

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link <https://health.wisconsin.gov/admrules/public/Home>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Terrell Hyde, Department of Natural Resources, Bureau of Natural Heritage Conservation, 101 S. Webster St, Madison, WI, 53707–7921, or by calling 608–264–9255.

Submitting Comments

Comments on the proposed rule must be received on or before **August 27, 2014**. Written comments may be submitted by U.S. mail, fax, E–mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to:

Terrell Hyde
 Department of Natural Resources
 Bureau of Natural Heritage Conservation
 101 S Webster St, Madison, WI 53707–7921

Phone: 608–264–9255
 Fax: 608–266–2925
 E–mail: Terrell.hyde@wisconsin.gov
 Internet: <https://health.wisconsin.gov/admrules/public/Home> search “ER–30–13”

Analysis Prepared by the Department of Natural Resources

Statutory authority, statutes interpreted and explanation

Statutes that authorize the promulgation of these rules are: ss. 29.011, 29.014, 29.039, and 29.604, Stats. These statutes establish management authority with the department, provide that the title to wild animals is vested with the state, and provide the department with authority to maintain open and closed seasons and other regulations and programs to conserve game and nongame species. Section 29.604 (3) (b), Wis. Stats., has been interpreted as allowing the department the authority to create and amend the list of Wisconsin’s endangered and threatened species, s. NR 27.03, Wis. Admin. Code. All rules promulgated under this authority are subject to review under ch. 227, Stats.

Related statutes or rules

Existing policies relevant to the rule are Wisconsin Adm. Codes, ch. NR 27 and ss. NR 10.02, 16.12, 16.13, 19.275, 21.13, and 22.13. No new policies are being proposed.

The department is also promulgating a corresponding permanent rule [ER–30–13], which was adopted by the Natural Resources Board on May 28, 2014 and approved by the Governor on June 25, 2014. The emergency and permanent rules both contemplate the following changes: add Blanding’s turtle to the list of Wild Protected Animals (s. NR 10.02); add Blanding’s turtles to the Captive Wildlife — Reptile and Amphibian Possession Exemptions [s. NR 16.12 (3) (b)]; and add Blanding’s turtles to the turtle season/limits with a season/limit of none/zero on ss. NR 19.275 (4), 21.13 (4), and 22.13 (4).

Plain language analysis

The objective of this proposed rule is to protect Blanding’s turtles from the threat of harvest and collection once they are removed from the Wisconsin Threatened species list. The Blanding’s turtle was delisted on January 1, 2014 per administrative rule ER–27–11. This emergency and permanent rule is a follow–up action that was proposed during the public comment for ER–27–11. As stated by the Department in the final adopted rule order for ER–27–11, that while the Blanding’s turtle no longer meets the scientific criteria for listing as Threatened, the population is vulnerable to harvest and collection and should be added to the Protected Wild Animal list (s. NR 10.02) and harvest/collection limits.

SECTIONS 1–5 add the Blanding’s turtle to the list of Wild Protected Animals, Captive Wildlife Exemptions, and to the turtle season’s and limits in Wisconsin’s waters to protect them from harvest and collection.

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

There are no federal regulations that would be in conflict with this proposed action. Blanding’s turtles are not federally listed. The Blanding’s turtle was included in appendix II of the Convention on International Trade in Endangered Species on December 6, 2013: <http://www.cites.org/eng/app/appendices.php>.

Comparison with similar rules in adjacent states

There are similar possession laws in adjacent other states. The Blanding's turtle is state listed in Illinois (End), Iowa (Thr), and Minnesota (Thr). In Michigan, Blanding's turtles are Special Concern and cannot be taken or possessed except as authorized by the Director of the Department of Natural Resources.

Summary of factual data and analytical methodologies used and how any related findings support the regulatory approach chosen

Since 1979, when the Blanding's turtle was added to the threatened list, there has not been a pet or food trade industry for this species in the state. However, as a result of delisting, the Blanding's turtle is subject to turtle harvest regulations as all turtles not listed as threatened or endangered in ch. NR 27 or otherwise specified have a 135–day open season between July 15 and November 30 where the public may capture and possess up to 5 individuals.

Internationally there is concern for this species because of the increasing trend in the pet trade and commercial collecting. Regionally the Blanding's turtle is state protected in Illinois, Iowa, and Minnesota. In Michigan, Blanding's turtles cannot be taken or possessed except as authorized by the Director of the Department of Natural Resources.

While the Blanding's turtle was removed from Wisconsin's Threatened species list because it no longer meets the scientific criteria for such listing, the population remains vulnerable to harvest and collection and should be added to the Protected Wild Animal list (s. NR 10.02) and harvest/collection limits.

These proposed rule changes were developed with the assistance of the Bureaus of Natural Heritage Conservation, Fisheries Management, Wildlife Management, and Legal Services.

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

Pursuant to s. 227.137, Wis. Stats., the department is required to solicit comments on the economic impact of the proposed rule. Small businesses, as defined in s. 227.114 (1), Wis. Stats., were asked to identify themselves as a small business in their comments. No comments were received in the 2–week comment period between January 22 and February 5, 2014.

The department anticipates minimal economic impact, with few entities affected as collection and possession limits will not change. Interested parties may include individuals using turtles as bait or food, and parties interested in developing a pet/food trade for the Blanding's turtle in Wisconsin.

Effect on Small Business

Pursuant to s. 227.137, Wis. Stats., the department is required to solicit comments on the economic impact of proposed rule. Small businesses, as defined in s. 227.114 (1), Wis. Stats., were asked to identify themselves as a small business in their comments. No economic comments were received in the 2–week EIA comment period held between January 22 and February 5, 2014. The Department's email distribution list will be submitted to the Governor's Office of Regulatory Compliance. The EIA does not indicate that the proposed rule is reasonably expected to have a total impact of \$20,000,000 in implementation and compliance costs. The

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

Environmental Analysis

This is a Type III action. A strategic analysis under the current s. NR 150.10 (1m), Wis. Adm. Code, is not required for Board Order ER–30–13 because the proposed rules do not involve unresolved conflicts concerning alternative uses of available resources. The Department has determined the rulemaking process for Board Order ER–30–13 constitutes an equivalent analysis action, under current s. NR 150.20 (2) (b), Wis. Adm. Code. The Department has complied with WEPA, pursuant to both the former ch. 150 and the current ch. NR 150, Wis. Adm. Code, for Board Order ER–30–13.

Fiscal Estimate Summary

The Department anticipates minimal economic impact as the proposed rule changes will continue similar possession and collection limits that the Blanding's turtle received under the protections afforded to the species on Wisconsin's Threatened species list. The Blanding's turtle was added to the Threatened species list in 1979. As such, there has not been a market for its collection and possession since then. No changes to the permitting process for researchers and rehabilitators are expected as part of this proposed rule change. Researchers will continue to need to apply for a Scientific Collectors Permit or Research License Authorization to collect or possess a Blanding's turtle instead of an Endangered and Threatened Species Permit. The effect of this proposed rule will be minimal with few entities affected as collection and possession limits will not change. Interested parties may include individuals using turtles as bait or food, and parties interested in developing a Blanding's turtle pet/food trade in the state. These proposed rules do not establish any requirements on businesses or local units of government.

Contact Person

Terrell Hyde
Department of Natural Resources
Bureau of Natural Heritage Conservation
Phone: 608–264–9255
E–mail: Terrell.hyde@wisconsin.gov

Notice of Hearings***Safety and Professional Services —
Psychology Examining Board
CR 13–103***

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Psychology Examining Board in ss. 15.08 (5) (b) and 455.065 (1) and (3), Wis. Stats., and interpreting ss. 455.06 and 455.065, Wis. Stats., the Psychology Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal section Psy 4.02, renumber and amend section Psy 4.03, amend Chapter Psy 4 (title), and create sections Psy 4.015, 4.025, 4.035, 4.04, and 4.05, relating to psychology continuing education.

This is a second hearing on Clearinghouse Rule 13–103. This Notice of Public Hearing reflects modifications the Psychology Examining Board has made to the proposed rulemaking order since the first hearing which was held on January 15, 2014.

Hearing Information

Date: Wednesday, August 27, 2014
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
 Room 121A
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule–making proceedings.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708–8935, or by email to SharonHenes@wisconsin.gov. Comments must be received (at or before the public hearing to be held on **August 27, 2014**) to be included in the record of rule–making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, by email at SharonHenes@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

Analysis Prepared by the Department of Safety and Professional Services**Statutes interpreted**

Sections 455.06 and 455.065, Wis. Stats.

Statutory authority

Sections 15.08 (5) (b) and 455.065 (1) and (3), Wis. Stats.

Explanation of agency authority

The examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular profession.

Specifically, the board shall promulgate rules establishing the minimum number of hours of continuing education, the topic areas that the continuing education must cover, the criteria for the approval of continuing education programs and courses required for renewal of a license, the criteria for the approval of the sponsors and cosponsors of those continuing education programs and courses, and the criteria for the approval of continuing education programs and courses required for the exemptions from the examination requirements under s. 455.04 (1) (e) and (4) (f), Stats.

Related statute or rule**Plain language analysis**

The rule reorganizes and clarifies the continuing education requirements for psychologists.

SECTION 1 inserts the words “continuing education” into the title in order to provide an easy reference for licensees.

SECTION 2 creates a definition section.

SECTION 3 repeals the current continuing education requirements in order to reorganize and create clarity.

SECTION 4 This section is created to include the general continuing education requirements.

SECTION 5 moves the current s. Psy 4.03 section to the end of the chapter. In addition, the section is amended to specify the number of continuing education hours which must be completed to renew a license which expired less than five years before the application for renewal.

SECTION 6 creates three new sections. The first section specifies approved continuing education. A psychologist may obtain continuing education as follows: completing courses from an organization approved by the American Psychological Association, National Association of School Psychologists or Canadian Psychological Association, courses sponsored by Wisconsin Psychological Association or Wisconsin School Psychologists Association, category I courses approved by the American Medical Association or the American Osteopathic Association, or courses approved in another state in which the licensee holder also holds a license or graduate level courses from an accredited college or university; teaching and presenting programs or courses; serving on a professional board or committee; authorship of a book, book chapter or article in peer reviewed journal; completing board certification; completion of a master’s or doctoral degree in psychopharmacology; providing supervision to trainees; and evaluation of community outpatient mental health programs. The second section provides postponement, waiver and exemptions to the continuing education requirements based upon hardship or retirement. The third section specifies records of continuing education must be kept for a minimum period of six years. In addition, the third section revises the current requirement for a mandatory audit of compliance with the continuing education requirements to instead allow a general audit to be conducted in the board’s discretion.

SECTION 7 states an effective date of October 1, 2015 which is the start of the next biennium.

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

None

Comparison with rules in adjacent states

Illinois: Illinois requires each biennial 24 hours of continuing education and of those 24 hours at least 3 hours must be related to the ethics. Continuing education may be earned by participating in a course or program by an approved continuing education sponsor; completing postgraduate training programs; and for teaching in the field of psychology in an accredited college, university, graduate school or as an instructor of a program by approved sponsors. Postgraduate course and teaching courses have maximums as to the number to be counted towards the required 24 hours. Continuing education records are to be maintained for the previous 8 years. Illinois has provisions for waivers of continuing education for hardship.

Iowa: Iowa requires 40 hours of continuing education each biennium. For the second renewal period, licensees' continuing education must include 6 hours in either Iowa mental health laws and regulations or risk management. For all subsequent renewals, licensees' continuing education must include 6 hours in any of the following: ethics, federal mental health laws, Iowa mental health laws or risk management. Board members may obtain continuing education hours based upon attendance and participation at board meetings. Continuing education may be earned as follows: mandatory reporter training; programs sponsored by the American Psychological Association or Iowa Psychological Association; approved workshops, conferences or symposiums; academic coursework; home study or electronically transmitted courses; scholarly research published in recognized professional publication; and preparing and teaching courses or programs. Iowa does not have provisions on hardship waivers.

Michigan: Michigan does not require continuing education for psychologists.

Minnesota: Minnesota requires 40 hours of continuing education each biennium. Continuing education may be earned as follows: developing and teaching an academic course; attending courses or presentations based on scientific, practice or professional standards foundations; graduate level courses in psychology; developing presentation, or taped or computerized materials based on scientific, practice or professional standards foundations; and authoring, editing or reviewing a psychological publication. Continuing education records must be maintained for 8 years after the renewal date. Variances may be granted for completion of continuing education outside the biennium. The board randomly audits

a percentage of renewing licensees each month for compliance with continuing education.

Summary of factual data and analytical methodologies

The Board considered the Association of State and Provincial Psychology Board's recommendations for continuing education and the continuing education requirements of other states. In addition, the Board reviewed recent audit results to determine what issues required clarification for the credential holders.

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

This rule was posted for 14 days for economic comments and none were received. The Board determines that the modification of existing rules to clarify continuing education requirements, which does not increase the requirement, does not create an effect on small business nor have an economic impact.

Initial Regulatory Flexibility Analysis or Summary

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

Agency Contact Person

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608–261–2377; email at Sharon.Henes@wisconsin.gov.

Submittal of Proposed Rules to Legislature

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

**Safety and Professional Services —
Examining Board of Architects, Landscape
Architects, Professional Engineers, Designers
and Land Surveyors
CR 13–020**

On August 1, 2014, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a rule making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The rule revises section A–E 2.02 (7) (a) (intro) and (b) (intro) and 2., repeals and recreates section A–E 2.02 (7) (b) 2. (Note), and creates section A–E 2.02 (7) (a) a 1., relating to electronic seals and signatures.

This rule is not subject to s. 227.185, Stats. The scope statement for this rule was published in Register No. 612 on

December 31, 2006, and was sent to the LRB prior to June 8, 2011.

**Safety and Professional Services —
Medical Examining Board
CR 14–033**

On August 1, 2014, the Medical Examining Board submitted a rule-making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The order revises section Med 13.06, relating to continuing education audits.

The Governor approved the rule under s. 227.185, Stats., on July 23, 2014.

Rule Orders Filed with the Legislative Reference Bureau

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

Natural Resources

CR 13-051

Environmental Protection — General, Chs. NR 100—

(DNR # WT-06-12)

An order to amend section NR 115.01 (c) 2. d., repeal and recreate section NR 115.05 (1) (e), amend section NR 115.05 (1) (g) 4., 5 (intro), a., and c., and 6a., repeal section NR 115.05 (1) (g) 6. f. and 7., and amend sections NR 115.05 (4) (h), and (hm) and 115.06 (2) (b) 1. a., relating to minimum standards for county shoreland ordinances.
Effective 10-1-14.

Natural Resources

CR 13-096

Environmental Protection — General, Chs. NR 100—

Environmental Protection — Water Supply,

Chs. NR 800—

(DNR # DG-02-13)

An order to amend Chapter NR 146 (title) and sections NR 146.01 (1) and (2), 146.02 (3) and (4), 146.03 (1) and (2) (intro.), (2) and (3), 146.04 (1) (a) and (1) (d), 146.05 (title), (1) and (2), 146.07 (1) (a), (b) and (e), (2), (3) and (4), 146.08, 146.08 (1), 146.09, 146.09 (2), 812.01 (2), 812.03, 812.04 (1), 812.08, 812.08 (4), 812.09 (4), 812.09 (4) (a) 5. (intro.), (q), (5), (6), 812.10, 812.10 (2), (3), (4), (5), (6), (8), 812.11, 812.11 (2), (2) (g), 812.12, 812.12 (15), 812.17, 812.17 (2) (b) and (2) (d) 4., 812.20 (2) (c), (2) (j), (3)(a), (3)(b) and (7), 812.22 (7) (b), 812.26, 812.26 (2) 2. and 3., 5., 5. (b) 2., 812.26 (2) 5 (c) 1, (7) (b) and (8), 812.43; to repeal and recreate section NR 146.03 (2) (a) and (b); to create sections NR 146.01 (1) (note) and (note), 146.02 (1m), (4d), (4h), (4p), (4t) and (11), 146.03 (2) (e) and (2) (f), 146.04 (1) (a) (note) and (note), (5), (6) and (7), 146.065, 146.07(1) (f), (g) and (h), (2) (b), (c) and (d), 146.08 (8), (9), (10), (11), (12), and (13), 812.03 (5), 812.07 (50p) and (50s), 812.08 (5), 812.09 (4) (a) 5. (x), 812.10 (12), 812.20 (1) 7., 812.20 (1) 7. (c) 1., (d)1., (e) to (h), 812.22 (9), 812.26 (7) (a) 7., relating to licensing criteria for heat exchange drillers and to standards for heat exchange drillholes that will be approved with notification rather than individual review.
Effective 10-1-14.

Natural Resources

Environmental Protection — General, Chs. NR 100—

Environmental Protection — Water Supply,

Chs. NR 800—

CR 13-099

(DNR # DG-03-13)

An order to repeal sections NR 812.03 (2), 812.08 (4) (a)3., 4. 5., 6., 8., 13., (b) 9., 10., and 13., 812.26 (4), 812.26 (5) (e), 812.43 (1) (d); to renumber sections NR 146.02 (1), 812.07 (51) to 812.07 (52), 812.07 (52) to 812.07 (51), 812.07 (112g)

to 812.07 (111m); to renumber and amend sections NR 146.04(2)(c) and (note) to 146.04(2)(i) and (note), 146.04 (3) (a) and (note) to 146.04 (3) (c) and (note); to amend Chapter NR 146 (title) and sections 146.01 (1) and (2) and (note), 146.02 (3), (4), (7), (9), and (10), 146.03 (1) and (3), 146.04 (title), (1) (a) and (note), (b), and (d), 146.04 (2) (title), (intro), (a), (b), and (d), 146.04 (3) (title) and (intro), and (3) (b) 146.05 (title), (1) and (note), and (2), 146.06, 146.07 (1) (a), (b) and (e), 146.08, 146.09, 812.01 (2), 812.02 (1) (b) and (2), 812.03 (1), 812.05 (2) (b), 812.07 (3), (4), (6), (10), (23), (24), (35), (38), (42), (49), (53) (54), (57m), (60), (64), (67), (72), (74) (b),(80) (intro.), (a), (b), (84), (86), (90), (91), (93) (intro), (93)(a), (94), (104), (105), (106), (107), (108), (108), (122); 812.08 (1) (intro.), (b), and (d), (2)(a), (b), (c), (4) (intro.), (a)1., and 2., 11., 14. and 15., (4) (b) 2., 3., 4., 7., 12., and 15., (4) (c) 1., 2., 4. and 10., (4) (d) 1., 4., and 6., (4) (f)2., 7. and 8., (4) Table A, 812.09 (4) (a) 5. (4) (L), and (4) (r), 812 Subchapter II (title), 812.10 (2) and (8), 812.11 (1), 812.12 (16) 812.13 (3) (b) 7., 812.22 (7) (b), 812.26 (title) and (1), (2) (a) (intro.), 1., 2. and 4., (2) (b), (2) (c) (intro.) and (2) (d), (3), (5) (intro.), (6), (7), and (8), 812.27 (5), 812.27 (8) and (9), 812.28, 812.29, 812.30 (3), 812.31 (2) (a) and (b), (4) (e), 812.32 (1) (a) (intro.), (2) (b), (5) (b) 3. b., (6) (b) and (9) (c) 3., 812.33 (1) (a) 1., (1) (b), (2) (intro.), and (3), 812.34 (title), and (intro.), 812.35, 812.37 (4) (a), 812.42 (1) (title), (intro.), (a) and (b), (1) (c), (2) (intro), (a), (c) and (d), (3), (4) (f), (6) (intro.), (6) (a) 2., (6) (b) 4., (7), (8), (9) (a) and (b), 812.43 (1); to repeal and recreate sections NR 146.02 (5), 146.03 (2), 146.04 (4), 146.07 (2), 812.07 (82) and (124), 812.10 (11), Figures 5 (b)1., 6 (b) 1., 7 (b) 1., 8 (b) 1., 9 (b) 1. and 10 (b) 1., 812.22 (6), 812.27 (6), 812.30 (5), 812.32 (2) (a) 5. Figures 36b. and 36c., 812.41 (3); to create sections NR 146.01(note), 146.02 (1e), (1m), (3m) and (note), (4b), (4d), (4f), (4h), (4j), (4L), (4n) and (note), (4p), (4r), (4t), (4v), (5) (note), (7g), (7r), (9)(note), (9g), and (9r), 146.03 (4), 146.04 (2) (cm), (e), (f), (g), (h), (j), (k), (L) and (2m), 146.04 (3) (a), (d), and (3m), 146.04 (4m), (5), (5m), (6), (7) and (8), 146.07 (1) (f), (g), (h), and (i), 146.08 (8) to (19), 146.09 (3) (c) and (d), 146.10, 146.11, 146.12, 812.01(1)(c), 812.07(1d), (1h), (1p), (1t), (10m), (17m), (19m), (27t), (29m), (35e), (41m), (47m), (54g), (54r), (55m), (57s), (61g), (74) (c), (74) (d), (74) (e), (75c), (75g), (75L), (75p), (75t), (75x), (79e), (79p) and (note), (79t), (80m), (85m), (94g), (94r), (96g), (108r), (110s), (112m), (112v), (119g), (124m) and (note), 812.08 (1) (f), (2) (c) (note) and (note), (d), (e), (f), and (g), (4) (a) and (note) 16., 17. and 18., (4) (b) 16. and (note) and 17., (4) (c)16., 17., 18., 19., 20.,and (21), (4) (d) 10., 11. and 12., (4) (fm), 812.10 (12) and (13), 812.12 (2) (e), 812.22 (9) and (10), 812.26 (2) (a) 5. and 6., (6) (h) and (6) (i), (7) (b)1. Table VI, (9), 812.27 (10) and (11), 812.30 (6), 812.32 (1) (e) and (f), (4) (c) and (d), (9) (d), 812.33 (1) (a) 2. d., and (2) (b) 5. 812.36 (3), Figures 45A and 45B, 812.41 (4), 812.42 (1) (b) 2., 3., 4., and 5., (4) (g) and (h), (10), (11), (12), (13), and subchs. VI and VII of ch. 812, relating to licensing criteria for water well drilling rig operators, property transfer well inspectors and well filling

and sealing contractors, and criteria for citations and relating to standards for property transfer well inspections, well filling and sealing and criteria for citations.
Effective 10–1–14.

**Safety and Professional Services —
Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board
CR 13–094**

An order to to amend section MPSW 3.11 (5), relating to temporary credential.
Effective 10–1–14.

**Safety and Professional Services —
Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board
CR 13–118**

An order to repeal sections MPSW 2.01 (14) and 10.01 (3m), relating to the definition of psychotherapy.
Effective 10–1–14.

Safety and Professional Services —

**Occupational Therapists Affiliated
Credentialing Board
CR 13–109**

An order to repeal sections OT 2.07 (5) and 3.06 (b) (Note); to amend sections OT 2.03 (2) (e) and (j), 2.07 (4) and (6), 3.02, 3.05, 4.02 (2) (intro.), (a) and (b), 4.03 (1) (a), (2) (title), (c) to (e), (3) (a), (b), (f), (5) (b) and (c), and (6) (b) and (c), and 4.05 (6) and (7) (a); to repeal and recreate section OT 1.02; and to create sections OT 3.06 (r), 4.02 (2) (j) to (r) and (2) (intro.) (Note), relating to occupational therapy practice standards.
Effective 10–1–14.

**Technical College System
CR 13–050**

An order to repeal sections TCS 5.04 (1) (b) and (e) 2., (2) (b), (d) 3., (j), and (k), (3) (b) and (d) 2., and (4) (b), (d) 2., and (j), and 5.05 (3), and to amend sections TCS 5.04 (1) (e) 4., (2) (d) 5., (3) (d) 4., and (4) (d) 4. and (i), 5.06, and 5.09 (1) and (2), relating to facility development procedures.
Effective 10–1–14.

Public Notices

Correction

The following notice of a rule published and final regulatory flexibility analysis was inadvertently omitted from Register July 2014, No. 703, effective date August 1, 2014. The rule, CR 13–048, was published in Register July 2014, No. 703, effective date August 1, 2014.

Public Service Commission

CR 13–048

(PSC # 1–AC–229)

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

Effective 8–1–14.

Final Regulatory Flexibility Analysis

This rule will not affect small businesses. The s. 227.114(12), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since gas, electric, and water utilities are monopolies in their service territories, they are dominant in their fields, and so, are not small businesses.

Legislative Comments

No comments were reported.

Natural Resources

Notice of Invalidity of Part of Section NR 106.10 (1) pursuant to section 227.40 (6), Stats.

On July, 2014, in Case No. Case No. 12CV3654, Midwest Environmental Defense Center Inc. v. Wisconsin Department of Natural Resources, et. al., an action for declaratory judgment under s. 227.40, Stats., the Circuit Court for Dane County, Branch 1, entered a Final Order and Judgment as follows:

FINAL ORDER AND JUDGMENT

For the reasons stated in this Court’s Decision on Plaintiff’s Motion for Summary Judgment, dated July 1, 2014, it is hereby ORDERED that:

1. Wis. Admin. Code § NR 106.145(2)(b)2 is declared invalid.
2. Wis. Admin. Code § NR 106.33(2) is declared invalid.
3. Wis. Admin. Code § NR 106.91 is declared valid.
4. That portion of Wis. Admin. Code § NR 106.32(2)(b)2 which reads, “An additional period of time, not to exceed 6 months, shall be provided in the schedule of compliance under s. NR 106.37 to perform the demonstration.” is declared invalid.
5. That portion of Wis. Admin. Code § NR 106.32(3)(a)4.a which reads, “The department shall allow an extended compliance schedule in the permit not to exceed one year for the permittee to provide the demonstration.” is declared invalid.
6. Wis. Admin. Code § NR 106.37(2)–(3) is declared invalid.
7. Wis. Admin. Code § NR 106.88(1) is declared invalid.
8. As required by Wis. Stat. § 227.40(6), by copy of this Order, the Legislative

Reference Bureau is ordered to publish a notice of the Court’s determination as to the validity or invalidity of the rules (or portions thereof) referenced above in the Wisconsin Administrative

Register under Wis. Stat. § 35.93(2), and to insert an annotation of the Court’s determination in the Wisconsin Administrative Code under Wis. Stat. § 13.92(4)(a).

9. Plaintiff's claims based upon Wis. Admin. Code § NR 205.07(1)(v) and (2)(d) are dismissed as moot.

10. All other relief sought by Plaintiff is **DENIED**.

This is a Final Order under Wis. Stat. § 808.03(1).

Dated: 7/11/14

BY THE COURT:

John W. Markson

Circuit Court Judge, Branch 1

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