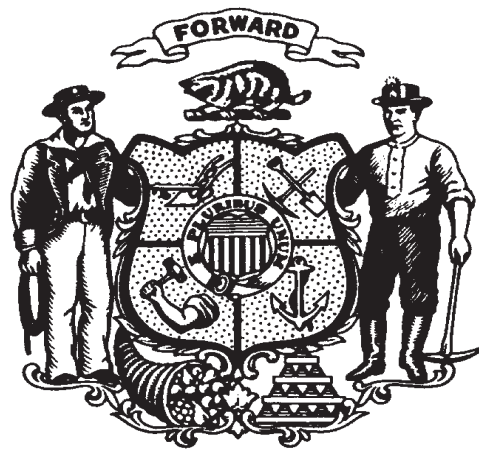


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Direct questions to Bruce Hoesly (608) 266-7590, bruce.hoesly@legis.wi.gov.

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. 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

2. EmR1424 — The Wisconsin Department of Agriculture, Trade and Consumer Protection adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (c)**, relating to the quarantine of Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties for the emerald ash borer beetle.

This emergency rule was approved by the Governor on September 11, 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 and Consumer Protection on December 10, 2013.

Finding of Emergency

(1) The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in the village of Fish Creek, Door County on June 10, 2014. EAB was also identified in the city of Sturgeon Bay on June 19, 2014. APHIS subsequently identified EAB in Nelson Dewey State Park, Grant County, and in the Village of Oakdale, Monroe County, on July 11, 2014. On July 17, 2014, APHIS identified EAB in the Town of Lodi, Columbia County. While EAB has not yet been positively identified in the southwestern contiguous counties of Richland, Iowa, Lafayette, and Green, these four counties are now completely surrounded by the state and federal EAB quarantine. It is very likely that these counties already contain some level of EAB infestation, and there is little economic or ecological benefit to keeping them out of the quarantine. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for

Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties but that it will take six to eight weeks for APHIS to act. An eight–week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of this county to areas of Wisconsin or other states that are not infested with EAB.

(2) 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: September 25, 2014
Publication Date: September 26, 2014
Effective Dates: September 26, 2014 through February 22, 2015
Hearing Date: October 27, 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
Hearing Date: October 16, 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 (10)

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. 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

5. 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

6. 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

7. EmR1418 (DNR # WM–11–14(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.01 (b) and 10.06 (5)** and to create **sections NR 10.01 (1) (a) and 10.06 (5) (a)**, related to establishing an early duck season for teal–only and the hunting regulations for teal and mourning doves.

The rule was adopted by the Natural Resources Board on June 25, 2014, approved by the Governor on August 27, 2014, and signed by Policy Director Michael L. Bruhn for Secretary Cathy Stepp, also on August 27, 2014.

The statement of scope for this rule, SS 020–14, 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 27, 2014.

Statement of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule–making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule–making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Filed with LRB: August 28, 2014
Publication Date: September 1, 2014
Effective Dates: September 1, 2014 through January 28, 2015
Hearing Date: October 29, 2014

8. EmR1419 (DNR # WM–04–14(E)) — The Wisconsin Natural Resources Board proposes an order to amend **section NR 10.01 (1) (b) and (1) (g) 1. d.** and to create **section NR 10.01 (1) (g) 1. dm.**, related to migratory bird hunting regulations.

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

The statement of scope for this rule, SS 020–14, 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 27, 2014.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule–making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule–making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Filed with LRB: September 8, 2014
Publication Date: September 11, 2014
Effective Dates: September 11, 2014 through February 7, 2015
Hearing Date: October 29, 2014

9. EmR1420 (DNR # WM–05–14(E)) — The Wisconsin Natural Resources Board proposes an order to repeal section **NR 10.001 (2e)**, **10.09 (1) (c) 1. e. and (Note)**; to amend **sections NR 10.06 (5), 10.06 (8) (a) and (b), 10.07 (1) (b) 3., 10.07 (2m) (g) 2., 10.09 (1) (c), 10.09 (3), 10.10 (2), 10.11 (5) (a), 10.103 (1), 10.104 (7), 10.104 (9r), 10.15 (1) (a), 10.15 (6), 10.16 (Intro.), 10.16 (2), 10.22 (1), 10.23 (2) (a), 10.24 (2), 10.25 (4) (a), 11.042 (intro.), 11.043 (intro.), 11.11 (intro.), 12.16 (4), 15.01 (intro.), 15.015 (intro.), 15.10 (1) (intro.) and 15.12 (intro.), 45.09 (1), and 45.13 (18), (21), and (24)**; and to create **sections NR 10.01 (3) (em) (Note) and (3) (ep), 10.104 (7) (c), 10.15 (3m), and 10.16 (2m)**, related to establishing a season for hunting deer with crossbows–only.

This rule was approved by the governor on September 8, 2014.

The statement of scope for this rule, SS 018–14, 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 27, 2014.

Finding of Emergency

The department is not required to make a finding of emergency before promulgating these rules. The department is directed to promulgate these rules in 2013 Act 61 and is exempted from making a finding of emergency under non–statutory provisions of the ACT.

Filed with LRB: September 9, 2014
Publication Date: September 12, 2014
Effective Dates: September 12, 2014 through February 8, 2015
Hearing Date: October 29, 2014

10. EmR1422 (DNR # WM–08–14(E)) — The Wisconsin Natural Resources Board proposes an order to amend **section NR 10.104 (8) (a)** and to create **sections NR 10.001 (7p) and (7w), 10.104 (9m) (a) and (b), 10.104 (5) (b) 8. and 10.104 (5) (c)**, related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committee.

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

The statement of scope for this rule, SS 056–14, was published in Register No. 702, on June 14, 2014 and approved by the Natural Resources Board at its June 25, 2014 meeting.

Finding of Emergency

The department is not required to make a finding of emergency before promulgating these rules. The department is directed to promulgate these rules in s. 29.040 Stats., established by 2013 ACT 20 and is exempted from making a finding of emergency under non–statutory provisions in Section 9132 of the ACT.

Filed with LRB: September 15, 2014
Publication Date: September 19, 2014
Effective Dates: September 19, 2014 through February 15, 2015
Hearing Date: October 29, 2014

Natural Resources

Environmental Protection — General, Chs. NR 100—

EmR1417 (DNR # OE–10–14(E)) — The Wisconsin Natural Resources Board proposes an order to repeal **sections NR 150.10 (1m) (b) and 150.20 (3) (a) 4. and 5.**; to amend **sections NR 150.03 (1), (15) (intro.), (19), (25), and (26), 150.10 (1) and (1m) (a), (c) (intro.), and (2) (a), 150.20 (1), (1m) (j), (k), and (L), (2) (a) (intro.), 4., 10., 11., and 16., (3) (a) (intro.), and (4) (b) (intro.), and 150.35**; and to create **section NR 150.20 (1) (Note), (1m) (k) (Note), (m) to (y), and (2) (a) 20. to 27.**, relating to the department’s environmental analysis and review procedures under the Wisconsin Environmental Policy Act.

The emergency rule was adopted by the Natural Resources Board On August 13, 2014, approved by the Governor on August 27, 2014 and signed by Policy Director Michael L. Bruhn for Secretary Cathy Stepp, also on August 27, 2014.

The scope statement number is SS 051–14. The governor approved the scope statement on May 15, 2014, and the scope statement was published in register No. 701 on May 31, 2014.

Finding of Emergency

Significant revisions to ch. NR 150 became effective on April 1, 2014. The changes proposed are needed to clarify procedures for the review and analysis of new administrative rules and other actions and policies to assure that the intent of the recent revisions to ch. NR 150 is being met and potential procedural questions do not invalidate years of work and public engagement. Additionally, the changes will clarify the intent of the April 1, 2014 revisions for procedures for WEPA compliance determinations, publication requirements, and plan approvals for various actions and policies, to prevent any misunderstandings or resulting challenge or delay regarding that intent.

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary to allow timely processing and implementation of department rule proposals, actions, and policies. Preservation of the public welfare necessitates putting the forgoing rule into effect prior to the time that it would take if the Department complied with normal rule promulgation procedures.

Filed with LRB: August 28, 2014

Publication Date: August 31, 2014
Effective Dates: August 31, 2014 through January 27, 2015
Hearing Date: September 26, 2014

Public Instruction

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
Hearing Date: September 12, 2014

Safety and Professional Services

Plumbing, Chs. SPS 381—387

EmR1423 — An order of the Department of Safety and Professional Services to renumber **Chapter SPS 384 Table 384.10 rows 1 to 5**, to renumber and amend **Chapter SPS 384 Table 384.10 row 6**, and to create **Chapter SPS 384 Table 384.10 rows 1 and 9 and (Note)**, relating to water-treatment devices.

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

The statement of scope for this rule, SS 037–14, was approved by the Governor on April 17, 2014, published in Register 701 on May 14, 2014, and approved by the Department on May 29, 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.

Under current rules, water treatment devices — including water softeners — may need two separate approvals before being used in Wisconsin. The first approval is typically from a third party, such as NSF International, and is based on an industry standard. The second approval is under SPS chapter 384, which addresses situations where a plumbing product must receive approval from the Department. Due to prolonged extreme weather conditions this past winter, spring, and summer, more private well owners than usual have

chosen to upgrade their water supply systems this year. The Department has reason to believe that its secondary review is delaying some of these well owners from accessing plumbing products which would improve the safety of their drinking water. These products have been approved under industry standards and are available to consumers in other states but have not yet received approval from the Department. Promulgating revisions through the emergency rule process is needed to avoid further delays in using these products.

Filed with LRB: September 25, 2014
Publication Date: September 27, 2014
Effective Dates: September 27, 2014 through February 23, 2015
Hearing Date: October 27, 2014, 2014

Transportation (2)

1. EmR1421 — The Wisconsin Department of Transportation proposes an order to amend **Chapter Trans 102**, relating to operator's licenses and Identification cards.

This emergency rule was approved by the Governor on September 11, 2014.

The scope statement for this rule, SS 080–14, was approved by the Governor on August 19, 2014, and published in Wisconsin Administrative Register No. 704, on August 31, 2014 and approved by the Secretary of Transportation on September 10, 2014.

Finding of Emergency

On July 31, 2014, the Wisconsin Supreme Court upheld 2011 Wisconsin Act 23, which requires certain identification in order to vote at a polling place or obtain an absentee ballot. *NAACP v. Walker*, 2014 WI 98.

The Department of Transportation's Division of Motor Vehicles ("DMV") is required by 2011 Wisconsin Act 23 to issue an identification ("ID") card free of charge to any U.S. citizen who will be at least 18 years of age on the date of the next election and who requests the ID card free of charge for voting purposes, provided they meet statutory requirements.

This emergency rule may be necessary to preserve public welfare by ensuring that DMV will implement the requirements of 2011 Wisconsin Act 23 in a manner consistent with the requirements of *NAACP v Walker*, should the federal injunction against that act be lifted.

Filed with LRB: September 15, 2014
Publication Date: September 17, 2014
Effective Dates: September 17, 2014 through February 13, 2015

2. EmR1425 — The Wisconsin Department of Transportation proposes an order to create **Chapter Trans 319**, relating to towing of vehicles.

This Emergency Rule was approved by the Governor on September 26, 2014.

The Statement of Scope for this Emergency Rule, SS 064–14, was approved by the Governor on July 1, 2014, published in Register No. 703 on July 14, 2014, and approved by Secretary of the State of Wisconsin Department of Transportation Mark Gottlieb, P.E., as required by s. 227.135(2), Stats, on July 28, 2014.

Exemption from Finding of Emergency

The Legislature by 2013 Wisconsin Act 76 s. 59 (2) provides an exemption from a finding of emergency for the adoption of the rule.

Filed with LRB: October 1, 2014
Publication Date: October 2, 2014
Effective Dates: October 2, 2014 through
 February 28, 2015

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

Veterans Affairs

EmR1416 — The Department of Veterans Affairs hereby adopts an order to create **section VA 2.07**, relating to grants to non–profit organizations.

This emergency rule was reviewed by the Board of Veterans Affairs on July 15, 2014 and approved by the Governor on August 20, 2014.

The statement of scope for this rule, SS 038–14, was approved by the Governor on April 21, 2014, published in Register No. 701 on May 14, 2014, and approved by Secretary John A. Scocos on May 27, 2014.

Finding of Emergency

The Legislature by Section 9 of 2013 Act 190 provides an exemption from a finding of emergency for the adoption of this rule.

Filed with LRB: August 28, 2014
Publication Date: August 29, 2014
Effective Dates: August 29, 2014 through
 January 25, 2015

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

Scope Statements

Agriculture, Trade and Consumer Protection

SS 099–14

The statement of scope was approved by the governor on September 22, 2014.

Rule No.

Chapters ATCP 70 and 71 (revise).

Relating to

Food warehouses.

Rule Type

Permanent.

1. Description of the Objective of the Rule

This proposed rule will modify current food warehouse rules to align with federal regulations, state statutory requirements, and existing state regulations. The proposed rule may also exempt food warehouse operators from obtaining an additional food processing plant license for certain food processing activities conducted within a food warehouse. These changes may include, but are not limited to, the following:

- Stating that a food warehouse operator must have a written recall plan and/or keep specified records that ensure adequate trace–back and trace–forward capabilities in response to an emergency such as an outbreak of foodborne illness.
- Clarifying that warehouse operators who, handle, receive, store, sort, shuck, repack, or otherwise process molluscan shellfish for interstate commerce must be licensed for these activities as a food processing plant under ch. ATCP 70, Wis. Adm. Code.
- Clarifying that food warehouse operators storing fish or fishery products, including molluscan shellfish, must comply with the provisions of 21 CFR part 23 (Fish and Fishery Products). These federal regulations require implementation of the Hazard Analysis and Critical Control Point (HACCP) system by seafood processors. Federal regulations state that an establishment storing fish or fishery products is considered to be a processor subject to 21 CFR, part 123. Existing state regulations for food processing plants already require the implementation of HACCP, either by directly citing the federal regulations (s. ATCP 70.18 (1), Wis. Adm. Code) for businesses processing fish for wholesale) or by explicitly stating the HACCP requirements (s. ATCP 70.21 (18), Wis. Adm. Code; molluscan shellfish for interstate commerce).
- Stating that food warehouse operators licensed under ch. ATCP 71, Wis. Adm. Code, may engage in limited packaging or repackaging of foods, other than molluscan shellfish, without obtaining a food processing plant license under ch. ATCP 70, Wis. Adm. Code.

2. 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

Under state regulations, facilities engaged in food processing must create and maintain food recall plans. In order to facilitate trace–back and trace–forward activities during the response to a recall or foodborne illness outbreak, it may be advantageous to require warehouse operators to likewise have written recall plans or other documentation.

Under state law, food warehouses and food processing facilities are distinct entities that require separate licensing, regulations (chs. ATCP 71 and 70, Wis. Adm. Code, respectively), and oversight. Wisconsin regulations do not generally consider food storage to be food processing. However, the storage of fish and fishery products, including molluscan shellfish, can pose unique threats to human health. Federal regulations treat storage of fish and fishery products, destined for wholesale, as processing and therefore subject to regulations mandating the implementation of the Hazard Analysis and Critical Control Point (HACCP) system. Wisconsin food processing plant regulations (ch. ATCP 70, Wis. Adm. Code) adopt, by reference, the federal HACCP regulations for fish processing done in a food processing plant, but are silent on the federal requirement for HACCP implementation by operators of warehouses which handle fish and fishery products. Wisconsin regulations also explicitly require implementation of HACCP for handling of molluscan shellfish which are involved in interstate commerce. These regulations (which are adapted from model federal guidance) also require the handling, receiving, storing, sorting, shucking, repacking, or other processing of molluscan shellfish for interstate commerce to be done in a licensed food processing plant. This existing requirement means that some Wisconsin food warehouses, specifically those handling molluscan shellfish for interstate commerce, must hold a second (food processing plant) licenses. The existing regulations for food warehouse operators are silent on this topic. Therefore, Wisconsin’s regulations governing food warehouses must be revised to achieve clarity and consistency with the aforementioned existing federal and state regulations.

Under current rules, the minimal packaging and re–packaging of foods in an establishment, where the primary function is the storage of foods processed elsewhere, would also require a second (food processing plant) license. This additional license requirement may place an undue burden on businesses and the department should evaluate an exemption.

Confusion about regulatory and licensing requirements can impede the development of new food businesses. The department will evaluate the clarification of licensing requirements for firms storing fish and fishery products, including molluscan shellfish.

Policy alternatives

Currently, ch. ATCP 71, Wis. Adm. Code, does not require food warehouse operators to create food recall plans. The existing regulations do, however, require food warehouse operators to keep records of each lot of food received and shipped from the warehouse. If the department does not alter

the current rules, the lack of a recall plan, or more comprehensive records, at food warehouses could hinder food emergency response efforts by industry and regulators, thus increasing the risk of a public health hazard.

Without rule revision, there could still be confusion about whether federal seafood HACCP requirements are in effect. Fish and fishery product warehouses operating without HACCP plans would be in violation of federal law and could be increasing the risk of a food safety hazard if certain products are incorrectly stored.

If the department does not alter the current rules, state regulations would continue to require two licenses for food warehouse establishments performing only minimal packaging and re–packaging activities. The additional licensing cost may pose a sufficient economic burden to operators to discourage them from market participation. At the very least, additional licensing cost could be passed on to product consumers, making food products more expensive.

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

Statutory Authority: ss. 93.07 (1), 97.09 (4), 97.27 (5), and 97.29 (5), Stats.

93.07 Department duties. It shall be the duty of the department:

(1) **REGULATIONS.** To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, Stats., which regulations shall have the force of law.

97.09 Rules.

(4) The department may, by rule, establish and enforce standards governing the production, processing, packaging, labeling, transportation, storage, handling, display, sale, including retail sale, and distribution of foods that are needed to protect the public from the sale of adulterated or misbranded foods.

97.27 Food warehouses.

(5) **RULE MAKING.** The department may promulgate rules to establish the fees, required under sub. (3), or to govern the sanitary operation of food warehouses. Rules may include any of the following:

- (a) Standards for the construction and maintenance of food storage facilities.
- (b) Standards for the storage, identification and handling of food.
- (c) Record–keeping requirements to show the length of time that food is kept in storage.
- (d) Freezing and temperature requirements applicable to frozen–food warehouses, frozen–food locker plants and cold–storage warehouses.

97.29 Food processing plants.

(5) **RULE MAKING.** The department may promulgate rules to establish the fees, required under sub. (3) (a) or (c), or to govern the operation of food processing plants. Rules may include standards for the construction and maintenance of facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; food handling and storage; sanitary production and processing; and food sources and food labeling.

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

DATCP estimates that it will use approximately 0.05 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating stakeholder meetings, holding public hearings and otherwise communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

5. Description of all entities that may be impacted by the rule

Warehouse operators who store fish and fishery products, but have not already implemented a HACCP system, would be most directly impacted because they would be required to develop and operate a HACCP system. Warehouse operators engaged in minimal food packaging or repackaging would be exempted from a requirement to purchase a second (food processing plant) license, unless they were engaging in storage or other specified activities with molluscan shellfish destined for interstate commerce. Warehouse operators would be required to create recall plans or keep specified records needed to facilitate trace–back and trace–forward activities during a food emergency. Consumers would benefit from more comprehensive HACCP requirements related to fish and fishery products, and improved effectiveness of food emergency response efforts.

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

Federal fish and fishery products regulations require processors of these foods to adopt HACCP systems. HACCP is an approach for preventing food safety hazards that involves identifying key food processing steps essential for ensuring safety. Processors must develop a plan to monitor and document that each of these key steps is functioning properly and minimizing food safety risks. As part of their HACCP plans, federally–inspected processors are required by 21 CFR 123 (c) (1) (ii) to identify preventive measures for food safety hazards that could arise from microbiological contamination. Microbiological contamination of stored product may occur if appropriate sanitary controls are not maintained.

Federal food inspection is divided between the USDA Food Safety Inspection Service (FSIS) and the Food and Drug Administration (FDA). The FSIS regulates meat and poultry production while the FDA regulates almost all other foods. Under 9 CFR 418, enforced by USDA, and a proposed rule by FDA, pursuant to the Food Safety Modernization Act (FSMA), regulated food facilities are required to create and maintain written food recall plans. Our proposed revisions are consistent with the federal rules and will help integrate federal and state food emergency response efforts.

The department’s proposed rule revision will ensure Wisconsin’s requirements are consistent with federal regulations and expectations for minimizing food safety hazards and food emergency response capability, while reducing the regulatory burden on some food warehouse operators.

7. Anticipated Economic Impact

This rule change will have a small economic impact on fish and fishery products warehouse operators and all other warehouse operators engaged in food processing as they will

have to devote time and resources to developing HACCP systems, and food recall plans or related documentation. It is unlikely, however, that the additional cost will have a significant negative impact on business. Exemption from obtaining a separate food processing plant license in addition to a food warehouse license will help alleviate the economic burden.

Contact Person

Steve Ingham, Division of Food Safety Administrator, DATCP; Phone (608) 224–4701.

Insurance

SS 101–14

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

Rule No.

Section Ins 6.77 (revise).

Relating to

Exemption from required uninsured motorist, underinsured motorist and medical payment coverages.

Rule Type

Permanent.

1. Finding/Nature of Emergency

There is no emergency.

2. Detailed Description of the Objective of the Rule

The proposed rule will repeal the exemptions contained in Ins s. 6.77 (3) (am), (4) (am) and (b), and (6), Wis. Adm. Code, as these provisions are no longer required in the administrative code due to recently enacted legislation. 2011 Wisconsin Acts 14 and 224 created identical exemptions as contained in these sections of s. Ins 6.77, Wis. Adm. Code, therefore rendering s. Ins 6.77 (3) (am), (4) (am) and (b), and (6), Wis. Adm. Code, duplicative and unnecessary. The proposed rule will lessen confusion and administrative burdens on regulated insurers issuing policies affected by these provisions.

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

The proposed rule will repeal exemptions contained in s. Ins 6.77 (3) (am), (4) (am) and (b), and (6), Wis. Adm. Code, that are identical to exemptions recently added to s. 632.32 (4) and (4m), Wis. Stats. In particular, 2011 Wisconsin Acts 14 and 224 created exemptions for excess and umbrella policies and commercial liability policies covering only non–owned autos from having to offer or include uninsured motorist coverage, underinsured motorist coverage and medical payment coverage. The proposed rule repealing s. 6.77 (3) (am), (4) (am) and (b), and (6), Wis. Adm. Code, will remove redundant provisions and reduce the risk of confusion.

4. Detailed Statutory Authority for the Rule

The statutory authority for this rule is s. 227.11 (2) (a), Stats. and ss. 601.41 (3), 628.34 (12), 631.01 (5), and 631.36 (1) (c), Stats.

Under s. 631.01 (5), Stats., the commissioner is given authority to exempt certain classes of insurance from the requirements of s. 631.36 or 632.32, Stats. The commissioner has previously exercised this authority at various times in adopting and amending s. Ins 6.77, Wis. Adm. Code, and in this proposed rule to remove the exemptions.

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

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

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

No impact is anticipated by the repeal, since it maintains the status quo.

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

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

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

significant economic impact on small businesses?

yes

no

local/statewide economic impact (choose one)

minimal or none (< or = \$50,000)

moderate (\$50,000—\$20,000,000)

significant (>\$20,000,000)

Contact person

Kristine Burck, Kristine.Burck@wisconsin.gov, (608) 266–0082.

Justice

SS 100–14

The statement of scope was approved by the governor on September 25, 2014.

Rule No.

Chapter Jus 11 (revise).

Relating to

Awards for victims of crime.

Rule Type

Permanent.

Subject

The proposed rules will be additions to the regulations relating to awards for victims of crime contained in Wis. Admin. Code Chapter Jus 11. The new proposed rules would govern the provision of awards to health care providers under the Sexual Assault Forensic Examination (“SAFE”) program outlined in Subchapter II of Chapter 949 of the Wisconsin Statutes. Under the SAFE program, a health care provider who performs a forensic examination on a sexual assault

victim may apply for an award for the cost of the examination regardless of whether the victim cooperates with law enforcement.

Objective of the Rule

The State of Wisconsin Department of Justice (the “department”) proposes to promulgate rules, as required by Wis. Stat. s. 949.22, for the provision of awards to health care providers under the SAFE program. The proposed rules have the specific objectives of establishing guidelines for examinations, procedures, tests and medications that will be paid for as “examination costs” under Wis. Stat. s. 949.20 (3) and establishing procedures to ensure that any limitation of an award is calculated in a fair and equitable manner. The rules will comply with the statutory requirement in Wis. Stat. s. 949.22 “that any limitation of an award is calculated in a fair and equitable manner.”

Policy Analysis

No existing rules will be changed because there are no existing administrative rules governing the SAFE program. The department currently makes SAFE compensation awards to health care providers on a case–by–case basis based on the statutory language in Chapter 949. There are no alternatives to the proposed rules because the statutes direct the department to promulgate rules for SAFE compensation awards.

Statutory Authority

The proposed rules will implement subchapter II of chapter 949, Wis. Stats. ss. 949.20 through 949.38, which governs SAFE compensation awards to health care providers. Wisconsin Stat. s. 949.22 explicitly directs the department to “promulgate rules for the implementation and operation of this subchapter” and that the rules “include procedures to ensure that any limitation of an award is calculated in a fair and equitable manner.”

Entities Affected by the Rule

The proposed rule will primarily affect health care providers that perform examinations under the department’s Sexual Assault Nurse Examiner (“SANE”) program and the department, which makes SAFE compensation awards and will administer the rule.

Comparison with Federal Regulations

The proposed rules will comply with 42 U.S.C. § 3796gg–4(b)(2) and (d)(1), which provides that states may not receive federal funding to compensate patients or health care providers for the cost of forensic examinations unless the sexual assault victim receives the examination free of charge and without regard to whether the victim participates in the criminal justice system or cooperates with law enforcement. There is no other specific existing or proposed federal regulation that addresses the activities to be regulated by the rule.

Economic Impact

The department anticipates that the rule revision will have minimal or no economic impact, either locally or statewide.

Estimate of Time Needed to Develop the Rule

180 hours.

Agency Contact

Jill Karofsky, Director, Office of Crime Victims Services, Wisconsin Department of Justice, 17 West Main Street, Post Office Box 7951, Madison, WI 53707–7951, (608) 264–9497, karofskyjj@doj.state.wi.us.

Justice

SS 107–14

The statement of scope was approved by the governor on September 30, 2014.

Rule No.

Chapter Jus 14 (repeal).

Relating to

The sale and distribution of oleoresin of capsicum devices to private citizens.

Rule Type

Permanent.

1. Description of the Objective of the Rule

The objective of this rule is to repeal Wis. Admin. Code ch. Jus 14 regarding oleoresin of capsicum (“pepper spray”) devices because this administrative rule chapter can no longer be enforced by the Wisconsin Department of Justice (“DOJ”). Pepper spray devices are described in Wis. Stat. s. 941.26 (4) (a) as “any device or container that contains a combination of oleoresin of capsicum and inert ingredients but does not contain any other gas or substance that will cause bodily discomfort.”

Section 10 of 2013 Wisconsin Act 77 (“Act 77”) created Wis. Stat. s. 941.26 (4) (m), which expressly prohibits DOJ from enforcing any rule that regulates pepper spray devices. Wisconsin Stat. s. 941.26 (4) (m) states: “The department of justice may not promulgate or enforce any rule that regulates a device or container described under par. (a).”

2. 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

Prior to Act 77, Wis. Stat. s. 941.26 (4) (i) 2. required DOJ to promulgate rules governing standards for pepper spray devices, including percentage of active ingredients, range of spray, and weight. In addition, Wis. Stat. s. 941.26 (4) (j) 2. required DOJ to promulgate rules governing safety packaging for pepper spray devices. The statute also made it a Class A misdemeanor to sell a pepper spray device that did not satisfy DOJ’s safety rules or include the required packaging. *See* Wis. Stat. s. 941.26 (4) (i) 1. and (j) 1. (2011–12).

Act 77 has repealed Wis. Stat. s. 941.26 (4) (i), including both subparagraphs 1. and 2. DOJ’s authority to promulgate rules governing standards for pepper spray devices has been eliminated, as has the prohibition on the sale of pepper spray devices that do not meet those standards.

Act 77 also repealed Wis. Stat. s. 941.26 (4) (j) 2., thereby eliminating DOJ’s authority to promulgate rules governing safety packaging for pepper spray devices. The remaining portions of Wis. Stat. s. 941.26 (4) (j) have been revised and amended so that it is now a Class A misdemeanor to sell a pepper spray device that does not come with a proper label and written safety instructions. The previous requirement

prohibiting sale of a device that did not comply with DOJ's safety packaging rules has been eliminated.

In addition, Act 77 created Wis. Stat. s. 941.26 (4) (m), which expressly prohibits DOJ from promulgating or enforcing any rule that regulates pepper spray devices.

It is clear from these provisions that Act 77 has eliminated DOJ's former rulemaking authority under Wis. Stat. s. 941.26 and has rendered legally unenforceable Wis. Admin. Code ch. Jus 14. That chapter of the administrative code is without legal effect, and DOJ has no further rulemaking responsibilities vis-à-vis pepper spray devices.

To reflect the public policy of Wis. Stat. s. 941.26 (4) (m) and to eliminate possible confusion to the public of having Wis. Admin. Code ch. Jus 14 in the administrative code, DOJ proposes this permanent rule.

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

A. Wis. Stat. s. 227.10 (2): "No agency may promulgate a rule which conflicts with state law."

DOJ finds that Wis. Admin. Code ch. Jus 14 conflicts with state law in Wis. Stat. s. 941.26 (4) (m). DOJ's repeal of Wis. Admin. Code ch. Jus 14 will effectuate the public policy in Wis. Stat. s. 227.10 (2).

B. Wis. Stat. s. 227.11 (2) (a):

- (2) Rule-making authority is expressly conferred on an agency as follows:
 - (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

This statute confers on DOJ the power to determine whether existing administrative rules interpreting the statutory provisions created and amended by Act 77—rules which are no longer to be enforced or administered by DOJ—are necessary to effectuate the purpose of Act 77. DOJ finds that Wis. Admin. Code ch. Jus 14 is no longer necessary to effectuate the purpose of Act 77, and in fact would conflict with Act 77. Since DOJ finds that Wis. Admin. Code ch. Jus 14 is no longer necessary and is in fact contrary to public

policy, DOJ has the authority to promulgate an administrative rule to repeal the existing rules, as long as the proposed rule does not exceed the bounds of correct interpretation of the governing statutes.

4. 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 8 hours on the rulemaking process for the proposed rule, including research, drafting, and compliance with required rulemaking procedures.

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

DOJ does not believe that any entities will be impacted by the rule.

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

DOJ is not aware of any existing or proposed federal regulation that is intended to regulate these activities, particularly since the purpose of the instant rule is to repeal an existing administrative code chapter.

7. Anticipated Economic Impact of Proposed Rules

DOJ anticipates that the proposed rule will have minimal or no economic impact.

Contact Person

Assistant Attorney General Clayton P. Kawski, (608) 266-7477

Natural Resources

Fish, Game, etc., Chs. NR 1—

SS 097-14

(DNR # FH-16-14(e))

The statement of scope was approved by the governor on September 22, 2014.

Rule No.

Chapters NR 20 and 25 (revise).

Relating to

Lake trout harvest limits in Lake Superior.

Rule Type

Emergency.

1. Finding/Nature of Emergency

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 emergency rule is necessary to implement harvest limits for the 2014-15 lake trout harvest seasons.

2. Detailed Description of the Objective of the Proposed Rule

The purpose of the emergency rule is to amend Lake Superior lake trout harvest limits. The total allowable catch of lake trout in Wisconsin waters of Lake Superior is divided

among tribal commercial fisheries, state–licensed commercial fisheries, tribal subsistence fishers, and state recreational anglers.

The 10–year State–Tribal Lake Superior Agreement specifies annual allowable lake trout tribal and commercial harvests, defines refuges and special fishing areas, and establishes other terms and arrangements for state and tribal commercial fishing. The Agreement was last signed among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa in 2005, and has been amended four times, most recently in October 2013. Negotiations in September 2014 recommended new lake trout harvest limits that need to be put in place by emergency rule for the 2014–15 open season. The Wisconsin State–Tribal Technical Committee, which is made up of Department, Red Cliff, and Bad River biologists, has recommended a reduction in lake trout commercial harvest for the 2014–15 season.

Harvest limits are created for recreational fishers in Lake Superior as well in order to sustain and manage the total population. The proposed rule would limit the total number of fish that are harvested by recreational fishers, which is measured by department creel surveys.

The rule will:

- Modify the commercial fishing harvest limits for lake trout on Lake Superior.
- Revise rules used to determine the footage of gill net that may be set in the water by each fisher, also called “fishing effort.” No commercial fisher may set more than his or her allowable gill net effort during the lake trout open season, based on a formula to determine each commercial fisher’s allowable gill net effort in feet of net. When targeting whitefish with gill nets, each fisher is allowed to fish only the amount of net that would cause an incidental catch and kill of his or her lake trout quota. However, after fishers have used their allowable gill net effort they can shift to using trap nets, which are not subject to the same effort restrictions governing gill nets.
- Allow the department to enforce a reduced recreational daily bag limit and/or size limit for lake trout in the Apostle Islands region of Lake Superior.

Additional rule changes may be pursued which are reasonably related to those discussed in this scope.

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 allowable lake trout harvests are reviewed by a state–tribal biological committee, using the latest available data and modeling results. Based on those results and recommendations from the biological committee, the Agreement is re–negotiated as needed to change the total annual harvest of lake trout by all fishers, and possibly to address other issues related to shared harvest of lake trout and other species by state and tribal fishers.

There has been a steady decline in lean lake trout abundance in Lake Superior since the early 2000s. This decline has been confirmed by independent surveys conducted by the Department and has been projected by models used to set safe harvest levels. Some level of decline was expected because of high harvest limits in the early 2000s, which were in response to several large year classes

(numbers of fish spawned in the same year) predicted to enter the fishery. However, successive versions of a statistical catch–at–age model also suggest that previous estimates of lake trout abundance were inflated. This combination of increased harvest and re–scaled estimates of lake trout abundance has resulted in total allowable catch recommendations to decline. While relatively stable abundances of spawning lake trout suggest that this decline is still reversible, action needs to be taken to stop the lean lake trout population’s decline. The continued, persistent decline of the lake trout population necessitates harvest reductions in order to ensure a sustainable lake trout fishery over the long–term.

Rule alternatives are not being considered because the process is guided by the 2005 State–Tribal Lake Superior Agreement.

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

Section 29.014 (1), Stats., directs the Department to establish and maintain any bag limits and conditions governing the taking of fish that will conserve the fish supply and ensure the citizens of this state continued opportunities for good fishing.

Section 29.041, Stats., provides that the Department may regulate fishing on and in all interstate boundary waters and outlying waters.

Section 29.519 (1m) (b), Stats., grants discretion to the Department to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards. It also specifies that the limitations on harvests must be based on the available harvestable population of fish and in the wise use and conservation of the fish, so as to prevent over–exploitation.

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

Employees may spend up to 200 hours developing the emergency rule. It will require in–state travel to meet with tribal negotiators.

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

- State–licensed commercial fishers on Lake Superior
- Recreational fishers on Lake Superior
- Recreational fishing guides and charter fishing businesses
- Commercial fishers licensed by the Red Cliff Band of Lake Superior Chippewa
- Commercial fishers licensed by the Bad River Band of Lake Superior Chippewa

State–licensed and tribal commercial fishers will be affected by the amount of fish they are able to harvest. It is not expected that fishers will have any compliance expenditures or reporting changes associated with the 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

No federal regulations apply. None of the rule proposals violate or conflict with federal regulations.

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

The rule will impact the harvest of lake trout and other species by state–licensed commercial fishers, tribal fishers, and sport fishers. Because of the decline in lake trout populations, all of these three groups that fish in Lake Superior would have a reduction in overall harvest limits. The rule may alter the amount of gill net effort commercial fishers can use to target whitefish because lake trout are frequently caught in the same nets, potentially reducing harvest and income. However, the impact can be buffered if fishers shift to using trap nets, which are not subject to the same effort restrictions governing gill nets. Sport fishers will be affected by a change in the lake trout daily bag limit or size limit in order to reduce overall harvest, but this is not expected to cause any expenditures for sport fishers.

The rule imposing harvest reductions is necessary in order to ensure a sustainable lake trout fishery over the long–term, an economic and natural resource benefit for all affected. The rule may have a moderate economic impact in the Lake Superior region, but an exact amount of impact is unknown at this time. The Department will conduct an economic impact analysis to gather comments from any individuals, businesses, local governments, or other entities that expect to be affected economically by the rule change. In addition, the Department is planning to meet with the state licensed commercial fishers in September 2014 and to hold a public meeting in November 2014 to discuss the rule’s lake trout quotas, allocations, and options for the 2014–15 lake trout management actions on Lake Superior, before the rule is finalized.

The proposed rule will have an effect on small businesses, but does not impose any compliance or reporting requirements nor would any design or operational standards be contained in the rule.

9. Anticipated Number, Month, and Locations of Public Hearings

In November 2014, prior to rule implementation, the Department is planning to hold a public meeting in Ashland to discuss the rule’s lake trout quotas, allocations, and options for the 2014–15 lake trout management actions on Lake Superior. The Department anticipates holding one public hearing in the month of February 2015, or within 45 days after the emergency rule is in effect. Hearing city will be: Ashland, WI.

The Department will hold the hearing in this location to collect additional public input on the lake trout harvest quota.

Contact Person

Terry Margenau, Lake Superior Fisheries Supervisor, 715–779–4035 ext. 15.

Safety and Professional Services

Professional Services, Chs. SPS 1—299

SS 096–14

The statement of scope was approved by the governor on September 19, 2014.

Rule No.

Chapters SPS 175, 176 (revise).

Relating to

Registered sanitarian examination requirements.

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 incorporate rule changes to chs. SPS 175 and 176 as affected by the enactment of 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 Act 114 prohibits the department of safety and professional services or a credentialing board from requiring a person to complete any postsecondary education before the person is eligible to take an examination for a credential. The current rule requires sanitarian applicants to submit evidence of completion of educational requirements in order to receive Department approval to sit for the exam. The proposed rule will revise the rules to specify the requirements for registration rather than the requirements for examination. This will allow the applicant to complete the registration requirements in any order including allowing an applicant to take an examination prior to the completion of the education requirements.

The alternative to the proposed policy is to continue with the current rules that are in conflict with 2013 WI Act 114.

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

Section 227.11 (2) (a), Wis. Stats. Rule–making authority is expressly conferred as follows: (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

Section 440.98 (2), Wis. Stats. Registration qualifications. In order to safeguard life, health and property, to promote public welfare and to establish the status of those persons whose duties in environmental sanitation call for knowledge of the natural sciences, the department may establish minimum standards and qualifications for the registration of sanitarians.

Section 440.98 (5), Wis. Stats. Registration. Except as provided in s. 440.12 or 440.13, the department shall register as a sanitarian any person who satisfies the conditions in sub. (6) and who has presented evidence satisfactory to the department that sanitarian registration standards and qualifications of the department, as established by rule, have been met.

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

40 hours

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

Sanitarian applicants

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

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

Contact Person

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

SS 103–14

The statement of scope was approved by the governor on September 19, 2014.

Rule No.

Chapter DE 2 (revise).

Relating to

Pathway to licensure for foreign trained applicants for licensure as dentists.

Rule Type

Permanent.

**THIS STATEMENT OF SCOPE AMENDS AND
REPLACES THE STATEMENT OF SCOPE
APPROVED BY THE DENTISTRY EXAMINING
BOARD ON APRIL 3, 2014 AND APPROVED BY
THE GOVERNOR ON MAY 8, 2014**

(The original statement of scope, SS 044–14, was published in Register 701 on May 31, 2014.)

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 modify and clarify the pathway to licensure for foreign trained dentist applicants.

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 Board has determined that the standards for evaluating applications from individuals whose education were obtained from a school other than an accredited U.S. or Canadian dental school is inconsistent with our surrounding states. Wisconsin's standards for foreign trained dentists were last revised in 2007 and require evidence of the successful completion of an accredited postgraduate program in advanced education in general dentistry or an accredited

general dental practice residency. This is a minimum one year program. A one year program's content is not sufficiently equivalent to the education received at a U.S. or Canadian dental school.

Michigan requires a 2 year program leading to awarding of a DDS or DMD degree or a 2 year dental specialty program. Illinois requires a 2 year clinical training at a school resulting in meeting same level of scientific knowledge and clinical competence as all graduates from the dental school or 2 year accredited advanced dental education program. Iowa requires a 2 year undergraduate supplemental dental education program at an accredited dental college providing didactic and clinical education to the level of a DDS or DMD graduate of the same school. Minnesota requires evaluation of the foreign dental school by the International Credentialing Associates and the education must be equivalent to a school accredited by the Commission on Dental Accreditation and once the exam is passed and other requirements, the Minnesota Board issues a Limited General Dental License which requires practicing under a Minnesota licensed dentist for 3 years.

The alternative to proposed rule is for Wisconsin to license foreign trained dentists without ensuring that their training is equivalent to dentists trained at a school accredited by the Commission on Dental Accreditation.

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

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

447.04 (1) (b) 1. Except as provided in par. (c), the examining board may grant a license to practice dentistry to an individual who is licensed in good standing to practice dentistry in another state or territory of the United States or in another country if the applicant complies with all of the following requirements: Meets the requirements for licensure established by the examining board by rule.

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

150 hours

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

Applicants with dentistry training from a school located outside of the United States or Canada

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. The rule 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 —
Funeral Directors Examining Board**

SS 108–14

The statement of scope was approved by the governor on October 1, 2014.

Rule No.

Chapters FD 1, 4 (revise).

Relating to

Applications, exams, renewal of funeral directors and approved continuing education

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 rule is to bring the rule in compliance with 2013 Act 114 and to update procedures relating to examinations, renewal and continuing education providers.

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 Act 114 prohibits the department of safety and professional services or a credentialing board from requiring a person to complete any postsecondary education before the person is eligible to take an examination for a credential. In addition to this general prohibition, the act specifically amended s. 445.045, Stats., to remove the statutory requirement that the examination is to be taken after completion of the college and mortuary school instruction. The proposed rule will revise the rules to indicate the licensure requirements rather than the examination requirements. This will allow the applicant to complete the licensure requirements in any order including allowing an applicant to take an examination prior to the completion of the education requirements. The proposed rule will update and clarify the examination requirements including the removal of outdated and obsolete provisions.

The alternative to the rule is to not be in compliance with the new legislation resulting in confusion for the applicants. The rule will continue to have confusion regarding the obsolete provisions.

In addition, the proposed rule will update and clarify the board procedures for renewal and reinstatement requirements. The rule will also add a provision allowing a course approved by the Academy of Professional Funeral Service Practice (APFSP) to be approved by the board without approval application from the program provider in order to streamline the continuing education process.

The alternative to these provisions is to continue to have confusion regarding the renewal/reinstatement procedures and potential delays in continuing education approvals.

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

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

Section 445.03 (2) (a), Stats. The examining board may make and enforce rules not inconsistent with this chapter establishing professional and business ethics for the profession of funeral directors and for the general conduct of the business of funeral directing, and for the examination and licensing of funeral directors and the registration of apprentices.

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

80 hours

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

Funeral director applicants and licensees.

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

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. The rule 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 —
Examining Board of Professional Geologists,
Hydrologists and Soil Scientists**

SS 104–14

The statement of scope was approved by the governor on September 24, 2014.

Rule No.

Chapters GHSS 1 to 4 (revise).

Relating to

Licensure, exams and renewals of professional geologists, hydrologists and soil scientists.

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 rule is to bring the rule in compliance with 2013 Act 114 and to update procedures relating to renewals and reinstatements of licenses.

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 Act 114 prohibits a credentialing board from requiring a person to complete postsecondary education before the person is eligible to take an examination for a credential. The proposed rule will revise the rules to indicate the licensure requirements rather than the examination requirements. This will allow the applicant to complete the licensure requirements in any order including allowing an applicant to take an examination prior to the completion of the education requirements. The requirements for licensure will stay the same.

The proposed rule will update and clarify the examination requirements including the removal of outdated and obsolete provisions. In addition, the proposed rule will update and clarify the board procedures for renewal and reinstatement.

The alternative to the rule is to not be in compliance with the new legislation and to continue to have obsolete or confusing provisions relating to exams, renewals and reinstatements in the code.

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

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

470.03 (1) The examining board shall do all of the following:

(a) Upon the advice of the professional geologist section, promulgate rules establishing requirements and standards for the practice of professional geology by a person who is licensed as a professional geologist under this chapter, including a code of ethics that governs the practice of professional geology.

(b) Upon the advice of the professional hydrologist section, promulgate rules establishing requirements and standards for the practice of professional hydrology by a person who is licensed as a professional hydrologist under this chapter, including a code of ethics that governs the practice of professional hydrology.

(c) Upon the advice of the professional soil scientist section, promulgate rules establishing requirements and standards for the practice of professional soil science by a person who is licensed as a professional soil scientist under this chapter, including a code of ethics that governs the practice of professional soil science.

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

80 hours

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

Applicants, professional geologists, professional hydrologists, and soil scientists

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

Contact Person

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

Safety and Professional Services — Nursing Home Administrator Examining Board

SS 098–14

The statement of scope was approved by the governor on September 24, 2014.

Rule No.

Chapters NHA 2 to 4 (revise).

Relating to

Entrance to examination.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to bring 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 required that the Department of Safety and Professional Services and its attached boards may no longer necessitate applicants complete their postsecondary education before being eligible to take an examination for a credential. In accordance with Act 114, applicants for licensure as a nursing home administrator may take their credentialing examination before completing their postsecondary education. This change will impact Wis. Admin. Code chs. NHA 2, 3, and 4.

The proposed rule will also provide clarity to the process of renewing a license after 5 years by updating provisions regarding licensure renewal and reinstatement. The term reinstatement will be defined as a process by which a licensee

whose license has been surrendered or revoked or has a license with unmet disciplinary requirements which has not been renewed within five years of the renewal date may apply to have their license reinstated with or without conditions.

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 nursing home administrators.

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 456.02 (1), Stats., is administered by the Nursing Home Administrator Examining Board and provides that the board shall, “[d]evelop, impose and enforce standards which must be met by individuals in order to receive license as a nursing home administrator,” The proposed rule will provide guidance within the profession with regards to examination requirements for nursing home administrators.

Section 456.11 (1), Stats., “[t]he examining board may reinstate a license or registration to any person whose license or registration has been revoked. This subsection does not apply to a license or registration that is revoked under s. 440.12.

(2) Application for reinstatement of a license or registration shall not be made prior to one year after revocation and shall be made in such a manner as the examining board directs. This subsection does not apply to a license or registration that is revoked under s. 440.12.

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

Staff 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 seeking licensure as a nursing home administrator will be affected by the proposed.

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 likely to have minimal or no economic impact on small businesses.

Contact Person

Shawn Leatherwood at Shancethea.Laetherwood@wisconsin.gov or by telephone at 608–261–4438.

Safety and Professional Services — Pharmacy Examining Board

SS 105–14

The statement of scope was approved by the governor on September 19, 2014.

Rule No.

Chapters Phar 8 and 18 (revise).

Relating to

Recording name of person presenting ID and providing data to the prescription drug monitoring program.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

2013 Act 199 requires a person picking up certain controlled substances to present an identification card. The objective of the proposed rule is to implement 2013 Act 199 as it relates to maintaining the record of the name of the person presenting the identification card and the date by which that information must be transmitted to the prescription drug monitoring program (PDMP).

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 Act 199 creates a new policy requiring the pharmacist or other person dispensing or delivering certain controlled substances to record the name on the identification card presented by the person to whom the drug is being dispensed or delivered. The Act requires the record to be maintained for a time established by the board by rule or until the name is delivered to the PDMP. This proposed rule would establish the time for which the record must be maintained.

The Act also requires the identification card name to be submitted to the PDMP for any controlled substances required to be reported to the PDMP. The proposed rule will add the name on the identification card to the required data to be submitted. The Act further provides that this date may not be before April 9, 2016.

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

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.

450.02 (2), Stats. The board shall adopt rules defining the active practice of pharmacy. The rules shall apply to all applicants for licensure under s. 450.05.

450.02 (3) (d), Stats. The board may promulgate rules: Necessary for the administration and enforcement of this chapter and ch. 961.

450.11 (1b) (bm), Stats. A pharmacist or other person dispensing or delivering a drug shall legibly record the name on each identification card presented under par. (b) to the pharmacist or other person, and the name of each person to whom a drug is dispensed or delivered subject to par. (e) 2., and shall maintain that record for a time established by the board by rule or, for a record that is subject to s.450.19, until the name is delivered to the board under s. 450.19, whichever is sooner.

450.19 (2) (b), Stats. The board shall establish by rule a program for monitoring the dispensing of monitored prescription drugs. The program shall do all of the following: Identify specific data elements to be contained in a record documenting the dispensing of a monitored prescription drug, including the method of payment and, subject to sub. (2m), the name recorded under s. 450.11 (1b) (bm). In identifying specific data elements, the board shall consider data elements identified by similar programs in other states and shall ensure, to the extent possible, that records generated by the program are easily shared with other states.

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

80 hours

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

Pharmacists and pharmacies

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)

Significant. It may have an economic impact on small businesses.

Contact Person

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

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

SS 106–14

The statement of scope was approved by the governor on September 19, 2014.

Rule No.

Chapters Phar 1, 8, 18 (revise).

Relating to

Definitions, controlled substances and the operation of the Prescription Drug Monitoring Program (PDMP)

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 rule is to make the definitions in Phar 1 apply to all Phar chapters including ch. Phar 18 and then remove the redundant definitions in ch. Phar 18; move the misplaced word “emergency” in s. Phar 8.07 (2) to before the word “oral” and not “electronic”; to include in the definition of practitioner the holder of various Medical Examining Board temporary physician licenses (including the following: visiting professor license, camp physician license, locum tenens license, temporary educational permit, temporary physician license, and resident educational license); minor clean–up which includes to modify language to make gender neutral and incidents of the words “dispenser: and “dispenser delegate” which should be “pharmacist” or “pharmacist delegate; and the repeal of s. Phar 18.03 (2) and (3) which are no longer necessary because 2013 Act 124 included schedules IV and V listed in sub. (2) to the requirements in statute and tramadol is now federally scheduled so sub. (3) and thus covered by sub. (1).

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 Medical Examining Board liaison to the Prescription Drug Monitoring Program requested the inclusion of the various temporary licenses in order that these practitioners are allowed access to the PDMP without the requirement of becoming another practitioner’s delegate. This change will streamline the usage of the PDMP. The alternative to the existing policy is there would be that holders of temporary physician licenses who are not allowed access to PDMP without becoming a delegate of another practitioner.

The other proposed changes do not change policy and are a clean–up to remove redundancy and create clarity.

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

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.

450.02 (2), Stats. The Board shall adopt rules defining the active practice of pharmacy. The rules shall apply to all applicants for licensure under s. 450.05.

450.02 (3) (d), Stats. The board may promulgate rules necessary for the administration and enforcement of this chapter and ch. 961.

450.19 (2), Stats. The board shall establish by rule a program for monitoring the dispensing of monitored prescription drugs.

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

50 hours

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

A.) Pharmacists

B.) Licensees who are authorized to prescribe and dispense controlled substances: Physicians (including those holding temporary licenses and residents), advanced practice nurse prescribers, anesthesiologist assistants, physician assistants, dentists, podiatrists and pharmacies.

C.) Department of Safety and Professional Services PDMP staff

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 regulated by the proposed rule as it relates to PDMP.

Federal law under 21 C.F.R. Parts 1300, 1304, 1306 and 1311 pertain to the transfer of electronic prescriptions. The Drug Enforcement Administration revised its rules, effective June 1, 2010, to provide practitioners with the option of writing prescriptions for controlled substances electronically. The proposed rule does address the activity of the transfer of electronic prescriptions as it moves the misplaced word “emergency”.

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

Minimal or no 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 —
Psychology Examining Board**

SS 102–14

The statement of scope was approved by the governor on September 18, 2014.

Rule No.

Chapter Psy 3 (revise).

Relating to

Licensure for the private practice of school psychology.

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 update the rule to reflect the changes due to Wisconsin 13 Act 114. In addition, the objective is to streamline, clarify and update the licensure and examination process for applicants.

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

Wisconsin 13 Act 114 allows an applicant to take any required examination prior to graduation. The rule needs to be updated to reflect this change in the statute.

The code contains outdated practices and procedures, as well as provisions which go beyond statutory authority. This proposed rule would review and update all licensure and examination requirements in the interest of streamlining the process while maintaining the health, safety and welfare of the public.

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

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

Section 455.08, Stats. The examining board shall adopt such rules as are necessary under this chapter

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

80 hours

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

Private practice school psychologist applicants

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.

Contact Person

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

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Safety and Professional Services

Plumbing, Chs. SPS 381—387 **CR 14–056**

On September 25, 2014, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: sections 145.02 (2) and 227.11 (2) (a), Stats.

This proposed rulemaking order revises Chapter SPS 384, relating to water–treatment devices.

A related emergency rule, EmR1423, affecting similar Chapter SPS 384 sections contained in this proposed rule and relating to the same purpose as this proposed rule, has been published and is in effect.

Scope

The statement of scope for this rule, SS 037–14, was approved by the Governor on April 17, 2014, published in Register 701 on May 14, 2014, and approved by the Department on May 29, 2014.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 27, 2014, at 1400 East Washington Avenue, Room 121C, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sam Rockweiler, Department of Safety and Professional Services, Division of Policy Development, 608–266–0797, sam.rockweiler@wi.gov.

Executive Order 50, Paragraph III.2. Statement

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

Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board **CR 14–057**

On September 30, 2014, the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: Sections 15.08 (5) (b), 457.03 (1), and 457.03 (3), Stats.

This proposed rule–making order revises chs. MPSW 3 and 5, relating to social worker credentials.

Scope

The scope statement for this rule, SS 060–14, was approved by the Governor on June 23, 2014, published in Register No. 703 on July 14, 2014, and approved by Social Worker Section on July 30, 2014.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 28, 2014 at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Department of Safety and Professional Services, Division of Policy Development, (608) 261–2377, Sharon.Henes@wisconsin.gov.

Rule–Making Notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

EmR1424

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on its emergency rule, section ATCP 21.17, Wis. Admin. Code, relating to the quarantine of Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties for the emerald ash borer beetle.

DATCP will hold a public hearing at the time and place shown below.

Hearing Information

Date: Monday, October 27, 2014
Time: 1:00 p.m.
Location: Department of Agriculture, Trade and Consumer Protection
Conference Room 211 (2nd floor)
2811 Agriculture Drive
Madison, WI 53718

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by October 22, 2014, by writing to Barbara Stalker, at the address above, or by telephone (608) 224–4660. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is accessible to disabled users.

Appearances at the Hearing, Submission of Written Comments, and Copies of the Rule

DATCP invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until Monday, **November 10, 2014**, for additional written comments. Comments may be mailed to the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708, emailed to Christopher.Deegan@wisconsin.gov, or submitted online at <http://adminrules.wisconsin.gov>.

You may obtain a free copy of this emergency rule by mailing at request to the address above. You can also obtain a copy by calling (608) 224–4573, or by emailing your request to Christopher.Deegan@wisconsin.gov. Copies will also be available at the hearing. To view the emergency rule online, please go to: <http://adminrules.wisconsin.gov>.

To provide comments or concerns relating to small business, please contact DATCP’s small business regulatory coordinator, Keeley Moll, at the address above, or by emailing to Keeley.Moll@wisconsin.gov or by telephone at (608) 224–5039.

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

This emergency rule creates quarantines for Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland

Counties for the emerald ash borer beetle (“EAB”). Under this rule, the Department of Agriculture, Trade and Consumer Protection (“DATCP”) quarantines Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties to mitigate the risk of movement of emerald ash borer to other areas of Wisconsin and to other states.

DATCP is adopting this temporary emergency rule pending the adoption of a federal regulation to quarantine Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties. This emergency rule will take effect immediately upon publication in the official state newspaper, and will remain in effect for 150 days. The Legislature’s Joint Committee for Review of Administrative Rules may extend the emergency rule for up to 120 additional days.

Statutes interpreted

Sections 93.07 (12) and 94.01, Stats.

Statutory authority

Sections 93.07 (1), 93.07 (12), 94.01, and 227.24, Stats.

Explanation of statutory authority

DATCP has broad general authority, under s. 93.07 (1), Stats., to adopt regulations to enforce laws under its jurisdiction. DATCP also has broad general authority under ss. 93.07 (12) and 94.01, Stats., to adopt regulations to prevent and control plant pest infestations. Emerald ash borer quarantines created by this rule are part of an overall state strategy to prevent and control plant pest infestations, including EAB infestations. DATCP is adopting this temporary emergency rule under authority of s. 227.24, Stats., pending the adoption of federal regulations on the same subject.

Background

The United States Department of Agriculture – Animal and Plant Health Inspection Service (“APHIS”) positively identified EAB in the village of Fish Creek, Door County on June 10, 2014. EAB was also identified in the city of Sturgeon Bay on June 19, 2014. APHIS subsequently identified EAB in Nelson Dewey State Park, Grant County, and in the Village of Oakdale, Monroe County, on July 11, 2014. On July 17, 2014, APHIS identified EAB in the Town of Lodi, Columbia County. While EAB has not yet been positively identified in the southwestern contiguous counties of Richland, Iowa, Lafayette and Green, these four counties are now completely surrounded by the current state and federal EAB quarantine. It is very likely that these counties already contain some level of EAB infestation, and there is little economic or ecological benefit to keeping them out of the quarantine.

This emergency rule creates a DATCP quarantine for Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe and Richland Counties. A Federal quarantine will be enacted approximately six to eight weeks after a formal submission by the state plant regulatory official. EAB is carried and spread by untreated ash wood products. An eight–week delay until enactment of the federal quarantine leaves too much time for businesses or individuals to move potentially EAB infested material out of these eight counties to areas of Wisconsin or other states that are not infested with EAB.

EAB is an injurious exotic pest that now endangers Wisconsin's 750 million ash trees and ash resources. This insect has the potential to destroy entire stands of ash, and any incursion of EAB can result in substantial losses both to forest ecosystems and to urban trees, as well as the state's vital tourism and timber industries. The emerald ash borer has killed over fifty million trees in the Midwest and has cost several hundred million dollars in losses to the woodlot, nursery, landscape industries and municipalities. APHIS predicts the national urban impact alone from this pest may exceed \$370 billion.

DATCP has plant inspection and pest control authority under s. 94.01, Stats., to adopt rules establishing quarantines or other restrictions on the importation or movement of plants or other materials into and within this state, if these measures are necessary to prevent or control the spread of injurious plant pests. A quarantine order may prohibit the movement of any pest, or any plant, pest host or pest-harboring material, which may transmit or harbor a pest.

Emergency Rule Content

Under this emergency rule, movement of all hardwood (non-coniferous) firewood of any type, plus movement of any ash wood out of Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties, is prohibited with certain exceptions. The emergency rule will do the following:

- Create a quarantine for EAB for Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties that prohibits the movement of all hardwood species of firewood, nursery stock, green lumber, and other material living, dead, cut or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus* (Ash wood), out of these counties or any contiguous EAB quarantined counties.
- Provide an exemption for items that have been inspected and certified by a pest control official and are accompanied by a written certificate issued by the pest control official (some products, such as nursery stock, cannot be given an exemption).
- Provide an exemption for businesses that enter into a state or federal compliance agreement. The compliance agreement describes in detail what a company can and cannot do with regulated articles.

Summary of factual data and analytical methodologies

Data for this analysis was obtained from DATCP nursery license records, local business directories and field surveys of the wood products industry (e.g. timber, lumber, firewood) in the area. This analysis was based on the regulatory language of ATCP 21.17 and 7 CFR 301.53, on the observations of DATCP nursery inspectors, and on conversations with stakeholders in the nursery and other timber-related industries.

Analysis and supporting documents used to determine effect on small business

DATCP searched its nursery license database to obtain current records for licensed nursery growers operating in Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe and Richland Counties. Based on previous and ongoing work with Wisconsin's Gypsy Moth and firewood certification programs, DATCP staff also identified known saw mills, wood products companies and firewood industry concerns. Finally, online Yellow Pages business listings were also

searched to find related tree nursery, timber, firewood and tree service companies.

Business Impact

This emergency rule may have an impact on persons or companies that deal in any hardwood firewood or ash materials in Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties. The affected businesses are all small businesses. This emergency rule restricts the sale or distribution of ash trees, ash wood products, and any hardwood firewood from Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties to locations outside of these counties or any contiguously quarantined counties.

The business impact of this emergency rule depends on the number of 1) nurseries that sell or distribute ash nursery stock outside these counties, 2) firewood producers/dealers that sell or distribute outside these counties, 3) sawmills that move untreated ash stock (green lumber) outside these counties, and 4) untreated wood waste (e.g. ash brush, chips or mulch) that is moved outside these counties.

Columbia, Door, Grant, Green, Iowa, Lafayette, Monroe, and Richland Counties have a total of 48 licensed nursery growers that could possibly be growing ash nursery stock. Those growers will not be able to move or sell ash nursery stock outside of the quarantine area, though discussions with the Wisconsin Nursery Association indicate that few, if any, nurseries continue to sell ash trees. There are also an estimated 66 known firewood producers or dealers in these eight counties. Firewood dealers would need to be certified under s. ATCP 21.20, Wis. Admin. Code, to sell or move firewood outside of the quarantine area. To obtain certification, an inspected firewood dealer pays a \$50 annual fee to DATCP and treats the firewood in a manner that ensures it is free of EAB. There are 41 known lumber mills in these eight counties and an estimated 48 other tree service/wood processing facilities that may also deal with ash. To transport ash wood products outside of the quarantine area, they will have to enter into a compliance agreement with DATCP or APHIS that authorizes movement of ash products outside of the quarantine only when there is assurance that the movement will not spread EAB to non-quarantined locations. Certification and compliance agreements will require some additional recordkeeping on the part of those businesses.

Environmental impact

This emergency rule will not have a significant impact on the environment.

Federal and surrounding state programs

Federal programs

Under the federal Plant Protection Act, APHIS has responsibility for excluding, eradicating and controlling serious plant pests, including EAB. APHIS has instituted statewide quarantines on the movement of all ash wood for Illinois, Indiana, Iowa, Kentucky, Missouri, New Jersey, Ohio, Pennsylvania, Virginia, and West Virginia, in addition to portions of Colorado, Connecticut, Georgia, Kansas, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York, North Carolina, and Tennessee. APHIS has also enacted quarantines for Brown, Kenosha, Racine, Walworth, Rock, Milwaukee, Waukesha, Jefferson, Dane, Ozaukee, Washington, Dodge, Sheboygan, Fond du Lac, Winnebago, Trempealeau, La Crosse, Vernon, Sauk, Crawford, and Douglas Counties in Wisconsin. The

quarantines include restrictions on the movement of any hardwood (non–coniferous) firewood.

Surrounding state programs

Surrounding states where EAB has been identified (Illinois, Indiana, Iowa, Minnesota, and Michigan) have state and federal quarantines that prohibit the movement of regulated articles out of quarantined areas. A regulated article can only move out of quarantined areas after it is certified by USDA or state officials.

DATCP Contact

Questions and comments (including hearing comments) related to this rule may be directed to:

Brian Kuhn or Christopher Deegan
Department of Agriculture, Trade and Consumer
Protection
P.O. Box 8911
Madison, WI 53708–8911
Telephone: (608) 224–4590 or (608) 224–4573
E–Mail: brian.kuhn@wisconsin.gov
christopher.deegan@wisconsin.gov

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1—

EmR1418, EmR1419

(DNR #s WM–11–14(E) and WM–04–14(E))

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041 and 227.11 (2) (a), and 227.24, Stats., interpreting ss. 29.014, 29.041 and 29.192, Stats., the Department of Natural Resources will hold public hearings on revisions to Chapter NR 10, Wis. Adm. Code, relating to the 2014 migratory game bird seasons and hunting regulations. Emergency rule order WM–11–14(E) related to teal and mourning dove hunting took effect upon publication in the official state paper on September 1, 2014. Emergency order WM–04–14(E) related to migratory bird hunting regulations took effect upon publication in the official state paper on September 11, 2014.

Hearing Information

Date: Wednesday, October 29, 2014
Time: 1:00 p.m.
Location: Natural Resources State Office Building
(GEF–2)
Room 608
101 South Webster Street
Madison, Wisconsin

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267–2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of the Proposed Rule and Submission of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet

site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov. Comments may be submitted until **October 29, 2014**. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

Board Order WM–11–14(E) Related to Teal and Mourning Dove Hunting Seasons

Plain language analysis of WM–11–14(E) related to teal and mourning dove hunting seasons

SECTION 1 of this rule order establishes a seven day season beginning on September 1 and a six bird daily bag limit for a new, teal–only hunt. The teal–only season will occur prior to the youth duck season and the normal season for hunting all varieties of ducks.

SECTION 2 extends the mourning dove hunting season from the current 70 to 90 days.

SECTIONS 3 and 4 establish that the hunting hours for teal during the teal–only season shall begin at 9:00 a.m. on the first day and sunrise on following days. Hunting will end at 7:00 p.m. each day. The hunting hours for other migratory birds such as mourning doves or Canada geese are not modified by these rules.

Summary of, and comparison with, existing or proposed federal regulations for WM–11–14(E) related to teal and mourning dove hunting seasons

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

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

Comparison with rules in adjacent states for WM–11–14(E) related to teal and mourning dove hunting seasons

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

Summary of factual data and analytical methodologies for WM–11–14(E) related to teal and mourning dove hunting seasons

The department annually promulgates emergency rules establishing the same year’s migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final season framework to Wisconsin within months of the possible opening days each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season. The department has promulgated permanent rules in the past so that information related to zones, tagging requirements for geese, and other regulations remain relatively current. However, season dates and bag limits established in the administrative code reflect the prior season frameworks and the permanent rule often does not contain current information.

The species of primary interest to duck hunters, blue–winged teal, are an early migrating bird whose numbers may be low or declining in Wisconsin when the normal duck seasons begin at the end of September or early October. Many hunters are likely to appreciate the opportunity to hunt this species earlier during the fall season, possibly prior to migration, when they may be more abundant.

In the 1960s the US Fish and Wildlife Service (USFWS) allowed states to experiment with an early duck season that offered additional duck hunting days outside of the regular duck season framework. Hunters were restricted to shooting only teal; blue–winged and green–winged teal; but the focus in the Mississippi Flyway was primarily the early migrating blue–winged teal. This “experimental season” was intended to measure whether hunters could successfully distinguish between duck species and what the impact was on non–teal ducks. The results were mixed and after debate among state and federal agencies involved, the decision was made that the “production” states (WI, MN, MI, and IA) within the Mississippi Flyway would not be allowed an early teal season. However, when blue–winged teal seasons were high, “nonproduction” states would be offered an operational early teal season. “Production” refers primarily to whether a state is a major breeding area for mallards and other ducks.

The continental population of blue–winged teal has grown in recent years and a harvest assessment concluded that teal could sustain higher harvest beyond that incurred during the regular duck season and the existing early teal seasons. Following a series of meetings and recommendations among states and the USFWS, it was decided that the 4 production states would be offered a 3 year experimental teal season. It is very important to understand that this is an experimental season and that the results of the experiment will determine if a state is granted an operational early teal season. The USFWS requires states to observe hunter behavior in the field to observe whether they shoot at non–teal ducks during the teal only season. If the number of attempts to shoot non–teal ducks is too high then we will fail the experiment.

Based on the public input and staff analyses, the department proposes an early teal season in Wisconsin for 2014 that would begin on September 1 and continue through September 7. Only blue–winged and green–winged teal can be harvested. The daily bag limit would be 6 teal. Shooting hours on opening day begin at 9 am and close at 7 pm. Shooting hours from September 2 through 7 will begin at sunrise and close at 7 pm.

This rule would also extend the mourning dove hunting season. At the February, 2014 meeting of about 20 states that are part of the Eastern Dove Management Unit, a recommendation was approved to increase the dove hunting season from 70 to 90 days across the management unit. The additional 20 days will result in an increase in hunting opportunity that some hunters will appreciate. However, these days will be at a time of the year when many other hunting seasons are also open. As a result, the additional hunting opportunity may not result in a significant amount of hunting effort focused primarily on mourning doves.

Anticipated private sector costs for WM–11–14(E) related to teal and mourning dove hunting seasons

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

Effects on small business for WM–11–14(E) related to teal and mourning dove hunting seasons

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

Board Order WM–04–14(E) Related to Migratory Bird Hunting Regulations

Plain language analysis of WM–04–14(E) related to migratory bird hunting regulations

This emergency rule order will modify regulations for migratory bird hunting during the 2014 seasons.

SECTION 1 of these rules reduces the daily bag limit for canvasback ducks from two birds to one.

SECTIONS 2 and 3 increase the season harvest limit for Canada geese in the Horicon Zone from six birds to twelve. The daily bag limit will be unchanged and continues to be two birds.

Summary of, and comparison with, existing or proposed federal regulations for WM–04–14(E) related to migratory bird hunting regulations

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

Wisconsin Canada goose harvest is supported by two different Canada goose populations; the local giant Canada geese which are part of the Temperate Breeding Population (TBP) of the Mississippi Flyway provide about 40% of our fall harvest while the Mississippi Valley Population (MVP) that breeds in northern Ontario provide about 60% of the fall harvest. These two populations are managed under cooperative management plans developed by several states and provinces. The TBP population has steadily grown and

management goals are to provide additional harvest opportunity and control population growth. In contrast, the MVP population has been on a slow decline so management objectives are to maintain a lower rate of harvest and have a stable or increasing population.

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

Comparison with rules in adjacent states for WM–04–14(E) related to migratory bird hunting regulations

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

Summary of factual data and analytical methodologies for WM–04–14(E) related to migratory bird hunting regulations

The department annually promulgates an emergency rule establishing the same year's migratory bird hunting regulations. The emergency rule is necessary because migratory game bird hunting is regulated by the United States Fish & Wildlife Service which offers a final season framework to Wisconsin on approximately August 1 each year. This timeframe does not allow for promulgation of a permanent rule prior to the hunting season.

For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year's data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid–Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin. In addition, harvest strategies have been developed to inform hunting season decisions for other individual duck species such as scaup, canvasback and pintail which could drive annual changes in bag limits or season lengths for those species.

The parameters of Wisconsin's regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and TBP Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations is measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and

studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The primary elements of Wisconsin's waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July each year, staff conduct a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting, staff provide the attendees with breeding status information and ask for any items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attend the MFC Technical and Council meetings. At these meetings, staff are provided status information and the proposed framework alternative from the USFWS. Department staff work with the other states in our Flyway to discuss and develop proposals and recommendations that are voted upon by the MFC. Proposals that passed at the MFC meeting are forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The USFWS announces its final waterfowl season framework recommendation at the end of July. Department staff then summarize waterfowl status and regulation information for Wisconsin citizens and present this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post–Flyway Meeting) of interest groups and individuals in early August. Staff gather public input and citizen suggestions at those meetings for the development of Wisconsin's waterfowl regulations, given the federal framework. In 2014, public hearings were held from August 4–7 around the state to solicit additional input on the proposed annual waterfowl rule.

Anticipated private sector costs for WM–04–14(E) related to migratory bird hunting regulations

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

Effects on small business for WM–04–14(E) related to migratory bird hunting regulations

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

Environmental Impact

The Department has made a determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code.

Contact Person

Scott Loomans, scott.loomans@wisconsin.gov.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Ch. NR 10, Game and Hunting. Board Order WM–11–14(E)		
Subject		
Establishing an early duck season for teal–only and the hunting regulations for teal and mourning doves.		
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG–S		None
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
<p>The species of primary interest to duck hunters, blue–winged teal, are an early migrating bird whose numbers may be low or declining in Wisconsin when the normal duck seasons begin at the end of September or early October. Many hunters are likely to appreciate the opportunity to hunt this species earlier during the fall season, possibly prior to migration out–of–the–state, when they may be more abundant.</p> <p>The department proposes an early teal season in Wisconsin for 2014 that would begin on September 1 and continue through September 7. Only blue–winged and green–winged teal can be harvested. The daily bag limit would be 6 teal. Shooting hours on opening day begin at 9 am and close at 7 pm. Shooting hours from September 2 through 7 will begin at sunrise and close at 7 pm.</p> <p>This rule would also extend the mourning dove hunting season. At the February, 2014 meeting of about 20 states that are part of the Eastern Dove Management Unit, a recommendation was approved to increase the dove hunting season from 70 to 90 days across the management unit. The additional 20 days will result in an increase in hunting opportunity that some hunters will appreciate. However, these days will be at a time of the year when many other hunting seasons are also open. As a result, the additional hunting opportunity may not result in a significant amount of hunting effort focused primarily on mourning doves.</p>		

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

Because these are emergency rules the department is not required to offer a comment period on this economic analysis. The department will hold a comment period pursuant to Governor's Executive Order 50, Section IV, when permanent rules are promulgated. Fiscal impacts on the department are also summarized in this analysis.

Economic Impact

A September season for hunting teal—only will be a new opportunity for Wisconsin hunters and it will result in an increase in the richness and diversity of hunting activities that people enjoy. It is likely to result in an increase in the amount of hunting activity that occurs at this time of year and the resulting incidental expenditures of hunters. However, the amount of increased activity may be limited and cannot accurately be anticipated prior to having experience with this new opportunity. A factor that may result in none or a very limited economic impact is that the hunting season for other migratory birds, Canada geese and mourning doves, are already established and will be open concurrently with the proposed teal season. Early September is considered the best time for hunting mourning doves. A certain amount of hunting during the early teal—only season may be by hunters who would otherwise have been hunting doves or geese and this teal hunting would not be considered new activity or related spending.

The additional 20 days of mourning dove hunting proposed in these rules will result in an increase in hunting opportunity that some hunters will appreciate. However, these days will be at a time of the year when many other highly anticipated hunting seasons are also open. As a result, the additional hunting opportunity may not result in a significant amount of hunting effort focused primarily on mourning doves, nor related expenditures by hunters or resulting economic impacts.

Both dove and teal hunters are likely to be people who already participate in those activities during the existing seasons. Dove and teal hunters are not likely to need to purchase new gear or durable goods such as boats, shotguns, or decoys.

Because the hunting season frameworks proposed in this rule will be comparable to those in place during previous seasons, no economic impacts are anticipated. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Fiscal Impact

The department anticipates no fiscal impact resulting from these rules. The USFWS does require states to observe hunter behavior in the field to observe whether they shoot at non-teal ducks during the teal only season. If the number of attempts to shoot non-teal ducks is too high then we will fail the experiment. The department anticipates that these observation efforts can be absorbed within the department's current budget. Though an undetermined amount of staff time will be needed to meet this federal requirement, this staff time will be accounted for by re-prioritizing work duties. The department will not hire new employees or be requiring additional hours of work.

Other regulations modified by this proposal will not require significant changes to past practices or procedures and will also have no fiscal impact.

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

The species of primary interest to duck hunters, blue-winged teal, are an early migrating bird whose numbers may be low or declining in Wisconsin when the normal duck seasons begin at the end of September or early October. Many hunters are likely to appreciate the opportunity to hunt this species earlier during the fall season, possibly prior to migration, when they may be more abundant.

The new teal and dove hunting opportunities will both contribute to the presence of excellent hunting opportunities which are enjoyed by outdoor enthusiasts.

Additional alternatives which were evaluated in preparation of these rules were to adopt a full 16 day season, which is an option offered by the United States Fish and Wildlife Service, and to decline to hold a season. This seven day season represents a compromise between two opinions commonly expressed during public participation in rule development; that Wisconsin should take full advantage of new hunting opportunities, and that Wisconsin should not hold an early teal season because it could result in incidental harvest of other duck species or have an impact on duck hunting which occurs later in the fall season.

Long Range Implications of Implementing the Rule

Implementing these rules will have little impact on the public except that they will continue to have good hunting opportunities into the future.

Compare With Approaches Being Used by Federal Government
Annually the department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. This proposal takes advantage of the new opportunities offered under the federal framework but the seven day teal–only season does represent a compromise between people who are opposed to a teal season and those who would prefer the full 16 day season.
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
The department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. Because of the federal guidelines, Wisconsin’s regulations are similar to those in neighboring states.
Name and Phone Number of Contact Person
Scott Loomans, Wildlife Regulation Policy Specialist, 608–267–2452.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS	
Type of Estimate and Analysis			
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected			
Administrative Rule Chapter, Title and Number			
Ch. NR 10, Game and Hunting. Board Order WM–04–14 (E)			
Subject			
Establishing the 2014 migratory game bird hunting regulations.			
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG–S		None	
Fiscal Effect of Implementing the Rule			
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs	
The Rule Will Impact the Following (Check All That Apply)			
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units		<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Policy Problem Addressed by the Rule			
This emergency rule order will modify regulations for migratory bird hunting during the 2014 seasons.			

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
<p>Economic Impact Because the hunting season frameworks proposed in this rule will be comparable or identical to those in place during previous seasons, no economic impacts are anticipated. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.</p> <p>Fiscal Impact Regulations modified by this proposal will not require changes to past practices or procedures and will have no fiscal impact.</p>
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.
Long Range Implications of Implementing the Rule
These are emergency rules that will be in effect for only the 2014 migratory bird hunting season.
Compare With Approaches Being Used by Federal Government
Annually the department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. This proposal takes advantage of nearly all of the opportunities offered under the federal framework.
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
The department establishes migratory game bird hunting seasons based on a federal framework that is presented to Wisconsin by the US Fish & Wildlife Service. Because of the federal guidelines, Wisconsin's regulations are similar to those in neighboring states.
Name and Phone Number of Contact Person
Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1—

EmR1420, EmR1422

(DNR #s WM-05-14(E) and WM-08-14(E))

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, and 227.24 (4), Stats., interpreting ss. 29.014, 29.041, and 29.192, Stats., the Department of Natural Resources will hold public meetings on revisions to Chapters NR 10, 11, 15, and 45. These emergency orders have been adopted by the Natural Resources Board, are currently in effect, and the public hearing is being held to fulfill statutory requirements. Natural Resources Board Order WM-05-14(E) is related to establishing a season for hunting deer with crossbows-only. Natural Resources Board Order WM-08-14(E) is related to implementation of the deer management assistance program and county deer management advisory committees.

Hearing Information

Date: Wednesday, October 29, 2014
Time: 2:00 p.m.

Location: Natural Resources State Office Building
(GEF-2)
Room 608
101 South Webster Street
Madison, WI 53707

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of the Rule and Submission of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site <http://adminrules.wisconsin.gov> or by searching the keywords "administrative rules" on the department's website. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov and must be submitted by **October 29, 2014**. Written comments, whether submitted

electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

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

Board Order WM–05–14(E) Related to Establishing a Season for Hunting Deer with Crossbows–Only

Plain language rule analysis of board order WM–05–14(E) related to establishing a season for hunting deer with crossbows–only

These rules are necessary to implement 2013 Act 61 which directs the department to establish deer hunting seasons where the use of crossbows is allowed and other crossbow related regulations. Specifically, these rules would:

SECTION 1 eliminates the definition of an “archery hunt” because it is no longer consistent with current law or a necessary provision in this chapter.

SECTION 2 describes the allowable uses of deer carcass tags by archery hunters in a location where deer hunting bag limits are established so that a person reading administrative code will be aware of them. The actual requirements are established by the act.

SECTION 3 establishes the season for hunting deer with a crossbow–only as required by the act. This section also describes the allowable uses of deer carcass tags by crossbow hunters in a location where deer hunting bag limits are established so that a person reading administrative code will be aware of them. The actual requirements are established by the act.

SECTIONS 4 and 5 establish that hunting hours for firearm and archery hunters also apply to hunters using crossbows.

SECTIONS 6 to 8, 11 to 13, 16, 19, 26, and 30 add the word “crossbow” to provisions where appropriate because firearms, bows, or handguns are currently listed. These sections also add a description or cross–reference to a crossbow license or season as appropriate in locations where archer or firearm licenses or seasons are already listed or cross–referenced.

SECTION 9 repeals the prohibition of the use of crossbows for most hunting purposes.

SECTION 10 updates language to include crossbows and bolts in a section where bows and arrows are currently listed. This section also explains the minimum poundage requirement for crossbows so that information is located in one place. However, the minimum poundage requirement is also established in statute.

SECTIONS 14 and 15 explain that a person who has already been issued a crossbow license will not receive archery deer carcass tags when they purchase an archer license and that the converse is also true. However, a person may use archery and crossbow deer carcass tags interchangeably if they possess both license types.

SECTIONS 17 adds “crossbow” to provisions which already restrict possession of bows and firearms at the Horicon

National Wildlife Refuge and notes that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun.

SECTION 18 establishes a season for hunting deer with crossbows that is consistent with the current archer season at Horicon National Wildlife Refuge.

SECTION 20 adds “crossbow” to provisions which already restrict possession of bows and firearms at the Necedah National Wildlife Refuge and notes that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun.

SECTIONS 21 and 22 update terminology and cross–references and establish a season for hunting deer with crossbows that is consistent with the current archery season at Necedah National Wildlife Refuge.

SECTION 23 to 25 add “crossbow” to provisions which already restrict possession of bows and firearms at the Sandhill Wildlife Demonstration Area, Grand River Experimental Hunting Area, and Bong State Recreation Area. For all three properties, these Sections also note that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun. For the Bong recreation area, a remedial revision is made to reflect previous rule making which established that rifles are now allowed statewide, particularly for deer hunting.

SECTIONS 27 and 28 establish crossbow hunting seasons which are consistent with archery deer hunting seasons at a number of waterfowl hunting closed areas where some archery deer hunting is currently allowed.

SECTION 29 establishes that crossbow deer hunting is not allowed at times when archery deer hunting is not allowed under current rules at the Buckhorn wildlife area.

SECTIONS 31 to 34 add “crossbow” to provisions which already restrict possession of bows and firearms at 37 game refuges and notes that possession of loaded, uncased handguns is allowed by people who are licensed to possess a concealed handgun.

SECTIONS 35 to 38 update language to include crossbows in various provisions where it is currently only required that bows and arrows be unstrung or enclosed in a carrying case on certain department managed lands.

Summary of, and comparison with, existing or proposed federal regulations for board order WM–05–14(E) related to establishing a season for hunting deer with crossbows–only

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

Comparison with rules in adjacent states for board order WM–05–14(E) related to establishing a season for hunting deer with crossbows–only

In Illinois, Iowa, and Minnesota, a doctor must certify that a person is unable to hunt by archery methods because of a physical disability before the use of a crossbow is authorized for deer during the archery deer seasons. An exception in Illinois is that anyone may use a crossbow for deer hunting during the later portion of the archery deer season beginning on the second Monday following the Thanksgiving holiday.

In Michigan, anyone who is 10 years old or older may use a crossbow throughout the archery deer season in the Lower Peninsula and during the early archery deer season in the Upper Peninsula.

Summary of factual data and analytical methodologies for board order WM–05–14(E) related to establishing a season for hunting deer with crossbows–only

The department is directed by 2013 Act 61 to promulgate emergency rules establishing deer hunting seasons in 2014 and 2015 where the use of crossbows is allowed. Under the act, the crossbow season must be identical to the archery season. Other substantive provisions of this rule, such as the allowable uses of carcass tags, are also written as directs by the act. For this emergency rule, the department has limited discretion in drafting.

When permanent rules which are also required by the act are promulgated, the department will have much greater statutory authority and more decision making ability.

This board order does make numerous remedial revisions to reflect the new status of crossbows as generally allowed for hunting. Additional remedial revisions reflect that statutes now allow the possession of loaded, uncased handguns by people who are licensed to possess a concealed handgun, including in department closed areas and game refuges where possession of other weapons is restricted.

Throughout the rule, references to “archery” and “crossbow” are intended to reflect statutory language which creates an “archer hunting” license and a “crossbow hunting” license.

Anticipated private sector costs for board order WM–05–14(E) related to establishing a season for hunting deer with crossbows–only

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

Effects on small business for board order WM–05–14(E) related to establishing a season for hunting deer with crossbows–only

No effects on small business are anticipated. State statutes have already established that crossbow hunting is allowed and the conditions for the use of crossbows, including the required licenses and the season dates for 2014 and 2015. These rules will not establish any additional requirements or exceptions that would have an economic impact. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have an economic impact on a substantial number of small businesses under s. 227.24 (3m), Stats.

Board order WM–08–14(E) Related to Implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees

Plain language rule analysis of board order WM–08–14(E) related to implementation of the deer management assistance program and county deer management advisory committees

Specifically, these rules would:

SECTIONS 1 and 2 establish definitions of an “authorized representative” and “primary contact” for purposes of the Deer Management Assistance Program.

SECTIONS 3 and 4 allow the sales of antlerless deer hunting permits to a landowner or primary contact who is enrolled in

the Deer Management Assistance Program or their authorized representative. The permits could then be transferred, for no more than face value cost, to hunters who would be able to use the tags on the enrolled property.

SECTION 5 establishes that membership on a County Deer Management Advisory Committee may also include a participant in the Deer Management Assistance Program.

SECTION 6 clarifies that the department will establish guidance for the operation of County Deer Management Advisory Committees and that background checks of volunteer committee members may be conducted.

Federal Regulatory Analysis for Board Order WM–08–14(E) related to implementation of the Deer Management Assistance Program and County Deer Management Advisory Committees

These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies.

Comparison with rules in adjacent states for board order WM–08–14(E) related to implementation of the deer management assistance program and county deer management advisory committees

Michigan is implementing a Deer Management Assistance Program which is comparable to the program being established in Wisconsin. All of Wisconsin’s surrounding states use hunting seasons to provide hunting opportunities and to manage white–tailed deer herds and involve the public establishing management goals hunting opportunities. Wisconsin’s efforts at public involvement are likely more extensive than those in our surrounding states. However, deer are a common wildlife species and provide significant hunting opportunities in all of our surrounding states.

Summary of factual data and analytical methodologies for board order WM–08–14(E) related to implementation of the deer management assistance program and county deer management advisory committees

This emergency rule order will facilitate the issuance of antlerless deer permits through the Deer Management Assistance Program. Additionally, this order allows additional representation on County Deer Management Advisory Committees, committees which are established for the purpose of seeking comment from members of the public on the status of the deer herd at the county level.

Under current rules and statutes, with limited exceptions, deer hunting permits can only be used by the individual to whom the permit is issued. During the winter and spring of 2014 the department has been working with stakeholders to develop the Deer Management Assistance Program which was a recommendation of the 2012 White–tailed Deer Trustee’s Report. During program development, the department has identified a need for more flexibility in the way that permits are issued and used in order to implement the program efficiently and to best serve customers.

These rules would allow sales of antlerless deer hunting permits to a landowner or primary contact for landowners who are enrolled in the Deer Management Assistance Program or their authorized representative. In the case of a cooperative, which is a number of properties enrolled and managed as a group, permits would be issued to the primary contact for the group. The permits could then be transferred, for no more than face value cost, to hunters who would be able

to use the tags on the enrolled property. These rules would not change existing requirements that the tags can only be used during the normal deer hunting seasons and in ways that are consistent with all other deer hunting regulations.

The Deer Management Assistance Program is designed to provide habitat and herd management assistance to landowners interested in managing their property for wildlife. The program is identified and defined under Wis. Stat. s. 29.020 and Wis. Admin. Code s. NR 10.70. Objectives of the program are to; promote sound land stewardship practices, provide outreach and educational information to landowners about wildlife habitat management practices, provide a means for site–specific deer management, and to improve relationships.

The program objective to provide site–specific deer management alternatives will benefit property managers in obvious ways by allowing them to work with the department to establish very specific harvest levels based on localized information.

Site specific deer management will benefit all hunters and people impacted by deer at the much larger management unit level as well. An example is that, in some situations, deer numbers that prevent forest regeneration or result in agricultural damage could be managed at a local, property specific level. This would eliminate a need to compromise with unit–wide antlerless deer permit levels that address pockets of over–abundance only minimally and which might also be perceived as allowing too much harvest of antlerless deer in other areas of the unit or county.

Maintaining the landowner’s control over the use of permits by allowing the landowner, primary contact, or their authorized representative to distribute them may be an important feature to make participation attractive to property managers or owners. Allowing permit transfers creates efficiency for the department because we would not need to establish rules or automated license system processes to assure that permits are distributed in a manner preferred by the landowner. Only one contact with the department is all that would be needed to purchase all antlerless permits for a property. It is possible that a landowner would not be a hunter – but someone who would be interested in purchasing and distributing the permits to family, friends, and others. Simplicity, value, and good success rates in the use of these antlerless deer permits will make an important contribution to the objective of site–specific deer management.

Emergency rules currently in place establish county deer management advisory committees for the purpose of seeking comment from members of the public on the status of the deer herd at the county level beginning in 2015. Membership on these committees, in the ceded territory as defined by s. NR 13.02 (1), may include a representative of Wisconsin Chippewa bands and, statewide, a representative of; agriculture, forestry, tourism, transportation, local government, and a local organization representing hunting interests. These rules establish that committee membership may also include a participant in the Deer Management

Assistance Program. The membership of a Deer Management Assistance Program participant may be important to provide information from the perspective of properties where habitat and deer herd conditions have been evaluated in detail.

This emergency rule will also clarify that the department is responsible for establishing the rules of operation for the county deer management advisory committees. Finally, the rule authorizes the department to conduct criminal backgrounds checks for people who apply to be committee members. It may be important that members are viewed as being in good standing to work with other members of the public to manage resources which are statutorily held in the public trust.

Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis for board order WM–08–14(e) related to implementation of the deer management assistance program and county deer management advisory committees

Because the hunting season frameworks and regulations proposed in this rule will be comparable to those in place under current rules, no economic impacts are anticipated. These rules are applicable to individual hunters and people who are interested in white–tailed deer management and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Anticipated private sector costs for board order WM–08–14(E) related to implementation of the deer management assistance program and county deer management advisory committees

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

Effects on small business for board order WM–08–14(E) related to implementation of the Deer Management Assistance program and county deer management advisory committees

These rules are applicable to individual sportspersons or others who are interested in deer management at a very local level. They impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under s. 227.114 (6) or 227.14 (2g).

Environmental impact

The department has made a determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code.

Contact Person

Scott Loomans, scott.loomans@wisconsin.gov

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Board Order WM 05–14 (E) modifying Ch.’s NR 10 Game and Hunting, 11 Closed Areas, 12 Wildlife Damage and Nuisance Control, 15 Game Refuges, and 45 Use of Department Properties.		
Subject		
Establishing a season for hunting deer with crossbows–only and remedial revisions.		
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG–S	None	
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
The department is directed, in the non–statutory provisions of 2013 ACT 61, to promulgate emergency rules that establish hunting seasons where the use of crossbows is allowed.		
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)		
Because these are emergency rules the department is not required to offer a comment period on this economic analysis. The department will hold a comment period pursuant to Governor’s Executive Order 50, Section IV, when permanent rules are promulgated. Fiscal impacts on the department are also summarized in this analysis.		
Economic Impact The department is directed by 2013 ACT 61 to promulgate emergency rules establishing deer hunting seasons in 2014 and 2015 where the use of crossbows is allowed. Under the Act, the crossbow season must be identical to the archery season. Other substantive provisions of this rule, such as the allowable uses of carcass tags, are also written as directed by the ACT. For this emergency rule, the department has limited discretion in drafting and any potential economic impacts would be a result of the ACT and not these rules.		
Fiscal Impact The department anticipates no fiscal impact resulting from these rules. Substantiative provisions of this rule are written as directs by the ACT. For this emergency rule, the department has limited discretion in drafting and any potential economic impacts would be a result of the ACT and not these rules. The department has invested significant resources to update automated license systems in preparation of the 2014 crossbow season.		

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The department is required to implement these rules.
Long Range Implications of Implementing the Rule
These emergency rules will only be in place for the 2014 and 2015 deer hunting seasons and long range implications are not anticipated.
Compare With Approaches Being Used by Federal Government
Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
In Illinois, Iowa and Minnesota, a doctor must certify that a person is unable to hunt by archery methods because of a physical disability before the use of a crossbow is authorized for deer during the archery deer seasons. An exception in Illinois is that anyone may use a crossbow for deer hunting during the later portion of the archery deer season beginning on the second Monday following the Thanksgiving holiday. In Michigan, anyone who is 10 years old or older may use a crossbow throughout the archery deer season in the Lower Peninsula and during the early archery deer season in the Upper Peninsula.
Name and Phone Number of Contact Person
Scott Loomans, Wildlife Regulation Policy Specialist, 608–267–2452.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Board Order WM 08–14 (E) modifying Ch. NR 10 Game and Hunting.		
Subject		
Issuance of antlerless permits through the Deer Management Assistance Program and participation in County Deer Management Advisory Committees, Ch. NR 10 Wis. Admin. Code.		
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG–S	None	
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

<u>Policy Problem Addressed by the Rule</u>
This emergency rule will facilitate the issuance of antlerless deer permits through the Deer Management Assistance Program. This order will also allow additional representation on County Deer Management Advisory Committees, committees which are established for the purpose of seeking comment from members of the public on the status of the deer herd at the county level.
<u>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)</u>
Because these are emergency rules the department is not required to offer a comment period on this economic analysis. The department will hold a comment period pursuant to Governor's Executive Order 50, Section IV, when permanent rules are promulgated. Fiscal impacts on the department are also summarized in this analysis. <u>Economic Impact</u> Because the hunting season frameworks and regulations proposed in this rule will be comparable to those in place under current rules, no economic impacts are anticipated. These rules are applicable to individual hunters and people who are interested in white-tailed deer management and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. <u>Fiscal Impact</u> The department anticipates no fiscal impact resulting from these rules. Additional automated licensing system programming will not be required to implement the proposals. These rules would allow issuance of antlerless deer hunting permits to a primary person who is enrolled in the Deer Management Assistance Program or their designee. The permits could then be transferred, for no more than face value cost, to hunters who would be able to use the tags on the enrolled property. Allowing permit transfers creates efficiency for the department because we would not need to establish automated license system processes to assure that permits are distributed only to people designated by the primary program enrollee (there is also not time to implement such a system in 2014 and, since an alternative could not be implemented anyway, our proposed rule is not considered to be a cost savings). Only one contact with the department is all that would be needed to issue all antlerless permits for a property.
<u>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</u>
Simplicity, value, and good success rates in the use of these antlerless deer permits will make an important contribution to the objective of site-specific deer management. Alternatives to this method of implementation are limited because of the importance of implementing the program in 2014. There is limited time for the development of needed technology to implement alternatives. Not implementing the rule is an alternative but this may not result in delivering the best customer service.
<u>Long Range Implications of Implementing the Rule</u>
These emergency rules will only be in place for the 2014 deer hunting season. Long range implications may be evaluated in an economic impact analysis of a permanent rule.
<u>Compare With Approaches Being Used by Federal Government</u>
Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.
<u>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</u>
Michigan is implementing a Deer Management Assistance Program which is comparable to the program being established in Wisconsin. All of Wisconsin's surrounding states use hunting seasons to provide hunting opportunities and to manage white-tailed deer herds and involve the public establishing management goals hunting opportunities. Wisconsin's efforts at public involvement are likely more extensive than those in our surrounding states. However, deer are a common wild-life species and provide significant hunting opportunities in all of our surrounding states.
<u>Name and Phone Number of Contact Person</u>
Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.

Notice of Hearings

Safety and Professional Services

Plumbing, Chs. SPS 381—387

EmR1423, CR 14–056

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in sections 145.02 (2), 227.11 (2) (a), and 227.24 (1) (a) of the Wisconsin Statutes, and interpreting section 145.02 (2) of the Statutes, the Department will hold a public hearing at the time and place shown below to consider an order to renumber Chapter SPS 384 Table 384.10 rows 1 to 5, to renumber and amend Chapter SPS 384 Table 384.10 row 6, and to create Chapter SPS 384 Table 384.10 rows 1 and 9 and (Note), relating to water–treatment devices. As provided in section 227.24 (4) of the Statutes, this hearing will also be for emergency rules that identically address these Chapter SPS 384 criteria.

Hearing Information

Date: Monday, October 27, 2014
Time: 1:00 p.m.
Location: 1400 East Washington Avenue
 Room 121C
 (enter at 55 North Dickenson street)
 Madison, Wisconsin

Appearance 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 arguments in writing as well. Facts, opinions, and arguments may also be submitted in writing without a personal appearance, by e–mail to sam.rockweiler@wi.gov or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708–8366. Written comments must be received at or before the public hearing to be included in the record of rulemaking proceedings.

The proposed rulemaking order and permanent rules and an analysis of the rules follow. Copies of the emergency rules and the proposed permanent rules are also available upon request to the Rules Coordinator shown above, or on the Department's website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e> through links to SPS 384: Water–Treatment Devices.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to the agency contact person as listed immediately above. Comments must be received on or before **October 27, 2014**, to be included in the record of rulemaking proceedings.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 145.02 (2), Stats.

Statutory authority

Sections 145.02 (2), 227.11 (2) (a), and 227.24 (1) (a), Stats.

Explanation of agency authority

Under section 145.02 (2), Stats., the Department has general supervision of all plumbing in connection with all buildings in Wisconsin, and must prescribe and enforce reasonable standards therefor that must be uniform statewide so far as practicable, in order to safeguard the public health.

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

Section 227.24 (1) (a), Stats., authorizes the Department to promulgate rules as emergency rules if preservation of the public peace, health, safety, or welfare necessitates putting the rules into effect prior to the time they would take effect if the agency complied with the otherwise–applicable procedures in ch. 227, Stats.

Related statute or rule

Chapter SPS 382 contains the Department's statewide requirements for construction, installation, and maintenance of all plumbing in connection with all buildings in Wisconsin.

Plain language analysis

These rule revisions discontinue the Department's review of water treatment devices that (1) are certified as complying with a material–safety standard by a certification body which is accredited by the American National Standards Institute, and (2) are then used in compliance with that listing.

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

Maximum levels for contaminants in drinking water are established in Title 40 of the *Code of Federal Regulations*, Part 141. Individual states develop and apply health or plumbing codes to achieve compliance with those maximums.

Comparison with rules in adjacent states:

An Internet search of state–level rules for water–treatment devices in the adjacent states yielded the following results:

Illinois: The Illinois Department of Public Health requires their approval of all devices in all plumbing systems, under section 890.210 of subchapter r in chapter I of title 77 of the Illinois Administrative Code. All plumbing devices must comply with an applicable referenced standard, and be listed by an accepted third–party agency. The only referenced standard for water softener and treatment systems that was found is NSF/ANSI 44–2012, in section 890.Appendix A, Table A.

Iowa: The Iowa state plumbing code incorporates the 2012 edition of the *Uniform Plumbing Code*[®] (UPC), from the International Association of Plumbing and Mechanical Officials. The 2012 UPC requires compliance with and incorporates several industry standards for water treatment devices. The UPC similarly requires testing and listing of these devices — to demonstrate compliance with these standards — by a similarly accredited, third–party certification body.

Michigan: The Michigan state plumbing code incorporates the 2012 edition of the International Plumbing Code[®] (IPC), from the International Code Council[®]. The 2012 IPC requires compliance with and incorporates several industry standards for water treatment devices.

Minnesota: No references to adopted standards for water treatment devices were found in the Minnesota state plumbing code.

Summary of factual data and analytical methodologies

These rule revisions were developed by reviewing current industry and regulatory best practices, in conjunction with stakeholder input — and in relation to the Department’s corresponding statutory authority.

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

Because these rule revisions, in essence, simply discontinue a duplicative review by the Department, they are not expected to negatively affect small business.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis follows.

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

Effect on Small Business

These rule revisions do not have an economic impact on small businesses, as defined in s. 227.114 (1) of the Statutes. The Department’s Regulatory Review Coordinator may be contacted by e–mail at Tom.Engels@wisconsin.gov, or by calling (608) 266–8608.

Agency Contact Person

Sam Rockweiler, Rules Coordinator, at the Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI, 53708–8366; or at telephone (608) 266–0797; or by e–mail at sam.rockweiler@wi.gov; or by telecommunications relay services at 711.

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

**ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis**

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

SPS 384, Plumbing Products

3. Subject

Water Treatment Devices

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

20.165 (2) (j)

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

Under current rules, water treatment devices – including water softeners – may need two separate approvals before being used in Wisconsin. The first approval is typically from a third party, such as NSF International, and is based on an industry standard. The second approval is under SPS chapter 384, which addresses situations where a plumbing product must receive approval from the Department. Due to prolonged extreme weather conditions this past winter, spring, and summer, more private well owners than usual have chosen to upgrade their water supply systems this year. The Department has reason to believe that its secondary review is delaying some of these well owners from accessing plumbing products which would improve the safety of their drinking water. These products have been approved under industry standards and are available to consumers in other states but have not yet received approval from the Department.

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.

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

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

No significant negative economic or fiscal impact is expected.

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

Well owners who are waiting to upgrade their water supply systems until the Department's duplicative review is completed could stop waiting for this upgrade.

14. Long Range Implications of Implementing the Rule

Same as number 13.

15. Compare With Approaches Being Used by Federal Government

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

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

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

17. Contact Name
Sam Rockweiler

18. Contact Phone Number
608–266–0797

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

Notice of Hearings

Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board CR 14–057

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board in ss. 15.08 (5) (b), 457.03 (1), and 457.03 (3), Stats., and interpreting s. 457.08, Stats., the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend sections MPSW 3.09 (3) and (3m) and 5.01 (2) and (3), relating to social worker credentials.

Hearing Information

Date: Tuesday, October 28, 2014
Time: 12:30 p.m.
Location: 1400 East Washington Avenue
(enter at 55 North Dickinson St.)
Room 121A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional

Services, Division of Policy Development, P.O. Box 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 Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held at 12:30 p.m. on **October 28, 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 Sharon.Henes@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 457.08, Stats.

Statutory authority

Sections 15.08 (5) (b), 457.03 (1), and 457.03 (3), Stats.

Explanation of agency authority

Each board shall promulgate rules for its own guidance and 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.

The Board shall promulgate rules establishing the minimum standards for supervised clinical training that must be completed for licensure as a clinical social worker and establish appropriate educational, training, experience, examination, and continuing education requirements for each level of social worker credentials.

Related statute or rule

Section 440.071, Stats.

Plain language analysis

Section 1 removes the two requirements which are not in statute for licensure as a clinical social worker. The legislature removed the requirement that the supervised clinical social work practice be completed in no less than 2 years when it inserted the 3,000 hour requirement. This rule removes the requirement which remained in the administrative code after the statutory change. The other requirement is deleting the requirement that the 1,000 hours of face-to-face include DSM diagnosis and treatment of individuals. The statute requires only that the 3,000 hours experience be in clinical social work practice. The requirement that the supervised experience must include DSM diagnosis and treatment of individuals is not in the statutes and creates a higher burden on the applicant than the statutory requirements.

Section 2 brings the rule in compliance with Wisconsin 2014 Act 114 which created a provision that a credentialing board may not require a person to complete the postsecondary education before the person is eligible to take an exam. The current rule allows an applicant to take the exam for social worker or advanced practice social worker prior to graduation provided the school confirms the applicant is in good standing and is within 6 months within graduation. The current rules go beyond the statutes by requiring the school to indicate the person is in good standing and limiting the ability of the applicant to decide when to take the test. This rule removes the requirement for the school to confirm the applicant is in good standing and the requirement that the student must be within 6 months of graduation.

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

None

Comparison with rules in adjacent states

Illinois: Illinois does not require completion of education prior to taking the exam. Illinois does not require the supervised clinical hours to be completed in a specified time

frame. An applicant is required to obtain 3,000 hours of supervised professional experience in clinical social work practice but does not specifically require “DSM treatment and diagnosis”.

Iowa: Iowa does not require completion of education prior to taking the exam. An applicant is required to have 2 years full time practice or 4,000 hours over a minimum of 2 years and maximum 6 years period of performing psychosocial assessment, diagnosis and treatment. At least one component of the diagnostic practice must include working knowledge of DSM.

Michigan: Michigan does not require completion of education prior to taking the exam. Michigan requires at least 4,000 hours in not less than 2 years. An applicant is required to obtain hours in clinical social work practice but does not specifically require “DSM treatment and diagnosis”.

Minnesota: Minnesota does not require the completion of education prior to taking the exam. Minnesota does not require the supervised clinical hours to be completed in a specified time frame. An application is required to have 200 hours of supervision during not less than 4,000 hours and not more than 8,000 hours of supervised clinical social work practice, which must include both diagnosis and treatment.

Summary of factual data and analytical methodologies

The methodology was removing portions of the rule which are inconsistent with statutes.

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

This rule was posted for economic comments for 14 days and none were received.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis follows.

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.

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

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ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

MPSW 3, 5

3. Subject

Social Worker Credentials

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

20.165(1)(g)

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The policy problem is to correct rules which place a burden on the applicants by going beyond statutory requirements. The legislature removed the 2 year requirement when it inserted the 3,000 hour requirement for supervised clinical social work. The current rule also requires the 1,000 hours of face-to-face client contact to include DSM diagnosis and treatment of individuals which is a requirement that is not in the statutes. Therefore, these two requirements put a higher burden on the applicants than the statutory requirements. In addition, current rules are not in conformity with 2013 Act 114 by requiring the exam may be taken prior to completion of the required degree only upon confirmation from the applicant's school that the applicant is in good standing and is within 6 months of graduation, thus limiting the ability of the applicant to decide when to take the test.

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

The rule was posted for economic impact comments and none were received.

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

None. This rule does not affect local governmental units.

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

There is no economic or fiscal impact.

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

The benefit to implementing the rule is to bring the current rules in conformity with the statutes and reduce the burden on the applicant.

14. Long Range Implications of Implementing the Rule

The long range implication is the rule will conform to the statute.

15. Compare With Approaches Being Used by Federal Government

None

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

Illinois and Minnesota do not require the clinical hours to be completed in a specific timeframe; Iowa requires 2 years of full time practice or 4,000 hours between a 2 and 6 year period; and Michigan requires at least 4,000 in not less than 2 years. Illinois and Michigan do not specifically require DSM treatment and diagnosis; Iowa requires at least one component of the diagnostic practice must include a working knowledge of DSM; and Minnesota requires both diagnosis and treatment. Our neighboring states do not require the completion of education prior to taking the exam.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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