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CHANGE NOTICE

(From the Department of Administration)

Effective January 1, 2015, pre-printed copies of the Administrative Code will remain available for purchase.

While state-sponsored printing and distribution of the Wisconsin Administrative Code and Register will end on December 31, 2014, printed copies of the Code will remain available to those who wish to purchase a copy.

Important points:

- The Wisconsin Legislative Reference Bureau will continue to electronically publish the Code and Register at their present locations on the Legislature's and Legislative Reference Bureau's websites.
- Electronic copies of the Code and Register may be accessed and printed at no charge from the Legislature's and Legislative Reference Bureau's websites.
- Effective January 1, 2015, those who prefer to receive a pre-printed version of their Code(s) may purchase the document(s) by contacting the Wisconsin Department of Administration's, Document Sales and Distribution Program at (608) 266-3358, 1-800-362-7253 or via email at DOADocumentSalesInformation@wisconsin.gov.

Electronic Register and Code:

- Electronic publication of the Register will occur every Monday rather than the current practice of bimonthly publication.
- Updated and new Code chapters, with insertion and removal instructions, will still be published in the last Register of each month.
- Code chapters will be published in the Register as PDF files in the exact format as they are currently printed, including page numbers.
- Users can continue loose-leaf notebook use by printing chapters to 3-hole punch paper from any printer or by making arrangements with a commercial printer. (Notebooks will no longer be available from the state and the notebook volume for insertion will no longer be designated for published chapters.)
- The format for Internet publication of the Code will not change. The Code will continue to be published in its entirety in both HTML and PDF formats and updated on the first day of each month to reflect changes published in the most recent end-of-month Register.
- An Email notice system is being developed to alert users to changes in only those rules and rulemaking notices that are of interest to the user. RSS feeds providing notice of new Registers and changes to the whole Code, Code chapters grouped by agency, and individual Code chapters are currently available. (For more information on RSS feeds see <https://docs.legis.wisconsin.gov/feed>.) Details on the email notice system will be published in future Registers prior to January 1, 2015.

Printed Code:

- Those who choose to purchase a pre-printed copy of the Code after January 1, 2015, may do so by contacting the Wisconsin Department of Administration's, Document Sales and Distribution Program.

Direct questions on Internet publication to: Wisconsin Legislative Reference Bureau, Bruce Hoesly (608) 266-7590, bruce.hoesly@legis.wi.gov. Direct questions on printed copies to: Wisconsin Department of Administration, (608) 266-3358.

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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
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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.

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Hearing Date: August 12, 2014
Extension Through: January 13, 2015

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

Extension Through: January 9, 2015

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
Extension Through: January 26, 2015

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
Hearing Date: **November 11, 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
Hearing Date: **November 12, 2014**

Workforce Development*Apprenticeship, Chs. DWD 295–296*

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

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

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

Finding of Emergency

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

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

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

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

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

(5) The department of workforce development has received general purpose revenue (GPR) funds of \$225,000 in fiscal year 2013–14 and 2014–15, to distribute up to 25%, or \$1,000, whichever is less, of the tuition costs incurred by the apprentice and sponsor of the apprentice. The amount of the first payment upon successful completion by the apprentice of the first year of the contract may not exceed \$250.

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

Filed with LRB: **March 26, 2014**
Publication Date: **March 27, 2014**
Effective Dates: **March 27, 2014 through**
 August 23, 2014
Hearing Date: **May 15, 2014**
Extension Through: **December 21, 2014**

Scope Statements

Natural Resources

Fish, Game, etc., Chs. 1—

SS 113–14

(DNR # WM–01–15)

The statement of scope was approved by the governor on October 31, 2014.

Rule No.

Chapters NR 10 to 12 (revise).

Relating to

The 2015 wildlife management spring hearing rule related to hunting, trapping, refuges and closed areas, and wildlife nuisance control.

Rule Type

Permanent.

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

These will be permanent rules.

2. Detailed Description of the Objective of the Proposed Rule

These rule changes are proposed for inclusion on the 2015 Wildlife Management Spring Hearing rules package and questionnaire. This rule package will create and amend regulations for hunting, trapping and closed areas found in Chs. NR 10, 11, and 12.

Specifically, these rules would;

1. Simplify the prohibition of hunting waterfowl in open water areas and expand the near–shore areas where hunting would be allowed. The WI Conservation Congress has recommended modifications to this rule.
2. Allow the use of foot activated cable restraints, a new device used to trap furbearing animals and for which best management practices have been approved by the Association of Fish and Wildlife Agencies.
3. Modify the spring wild turkey hunting season opening date so that it is always the third Wednesday in April.
4. Simplify the fall turkey hunting season framework so that hunting is always allowed on the day before the firearm deer hunting season and so that the season is continuous with no closed periods in Zones 1 to 5 in the southern part of the state.
5. Eliminate beaver and otter trapping in April in order to address concerns about beaver population declines.
6. Increase the limit on the number of small game animals a person is allowed to possess at home or in transport so that it is three times the daily bag limit, consistent with federal regulations for migratory game birds.
7. Modify the standards for construction of cable restraint devices used to trap furbearers to improve their efficiency for catching coyotes or wolves. Current

standards were developed before wolf trapping opportunities were available.

8. Eliminate the trapping hours restriction so that traps may be placed or tended at any time. The WI Conservation Congress has recommended modifications to this rule.
9. Modify the location or size of waterfowl hunting closed areas on DNR managed lands.
10. Modify the wildlife damage abatement program so that it is more responsive and effective at controlling bear damage.
11. Allow pheasant hunting beginning at 9:00 a.m. on the first day of the pheasant hunting season instead of noon under current rules, consistent with the start of hunting on the first day of duck seasons. The WI Conservation Congress has recommended modifications to this rule.
12. Additional rule changes may be pursued which are reasonably related to those discussed here. The department may also include other, minor, non–controversial rule proposals passed at the annual Spring Fish & Wildlife Hearings as advisory questions by the Conservation Congress.

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

All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest for conservation purposes and to authorize the removal of nuisance wild animals in certain situations.

A number of these proposals are recommendations of the Wisconsin Conservation Congress to the Natural Resources Board and initiating a process to promulgate those rules fulfills a role of the board and the congress established in s 15.348, Stats.

This rule proposal would have the effect of expanding the areas where a waterfowl hunter can park a boat (or blind) and hunt. The boat would no longer need to be concealed by emergent vegetation such as rice or cattails. Under this proposal, on–shore vegetation such as reed canary grass could provide the needed concealment. Additionally, dead trees or stumps could be considered concealing vegetation. While it expands areas where waterfowl hunting may occur, this rule would still maintain Wisconsin’s requirement that people hunt from the edges of bodies of water and that they not hunt from open–water, offshore areas. Wisconsin’s open water hunting rule dates back to early conservation statutes and may have been designed to keep hunters from setting up in front of each other and to keep them out of the middle of waters that are used as staging areas by migrating ducks or geese. Providing these areas where there is no hunting pressure may encourage birds to remain in an area longer and provide more chance for birds to spend time feeding and resting during migration. Hunters have supported the rule because it increases hunting opportunity by encouraging birds to remain in an area for longer periods of time.

These rules would allow the use of foot activated cable restraints, a relatively new device used to trap furbearing

animals. This device has been the subject of research and it is recommended as a humane method of trapping and for which best management practices have been approved by the Association of Fish and Wildlife Agencies. This would allow the use of a humane device in the restraint of fox, coyote, wolves, and bobcats during latter portions of harvest seasons.

Currently, the spring turkey hunting season opens on the Wednesday nearest April 13. Under this structure, the spring turkey season overlaps the Memorial Day holiday weekend in approximately one out of every three years (when it falls on the third Wednesday of the month). This proposal would stabilize the season opener so that it falls on the 3rd Wednesday of the month every year, making it more predictable and easier for hunters to schedule their hunts, resulting in the 6th time period always overlapping the Memorial Day holiday weekend, and reducing the likelihood of cold and snow during the Youth Hunt, Learn to Hunt Turkey events, and early time periods.

The fall turkey hunting season is currently closed from the Friday immediately preceding the 9–day gun deer hunt through the Sunday immediately following the 9–day gun deer hunt. This proposal would allow fall turkey hunting on the Friday immediately preceding the 9–day gun deer hunt statewide and, in zones 1 through 5 where the turkey season re–opens after deer season, would eliminate that closed period. This proposal would make the fall turkey hunt consistent with other fall seasons, simplify hunting regulations, and provide some additional hunter opportunity.

A long term decline in beaver populations across Beaver Management Zones A & B in the Northern part of the state has been documented. A primary reason may be the long harvest season which is designed to both reduce the overall beaver population and to more directly affect beaver presence on priority trout waters. This proposal would address the need to maintain or slightly increase the overall beaver population by eliminating trapping pressure in April but to continue to apply harvest pressure in the spring on waters the department identifies as being very important for trout management by continuing to allow April trapping on those designated waters. The otter harvest season would be adjusted so that it is consistent with the beaver season.

For simplicity and consistency with new federal regulations for migratory birds, this proposal would increase the limit on the number of small game animals a person is allowed to possess at home or in transport. Instead of the current possession limit which is twice the daily bag limit, it would be three times the daily bag limit, consistent with federal regulations for migratory game birds.

A cable restraint is a device used for the live capture of furbearers. The device consists of a non–spring activated cable which includes a relaxing mechanical lock, stops, and swivel. International research on humane trap systems has documented the safe use of cable restraints on dry land, with much of the field research conducted here in Wisconsin from 2000 to 2002. A “breakaway” is a component of the cable restraint device that allows larger non–target animals to be able to pull free of the device and self–release if caught. Cable restraints became legal while the wolf was a protected species so a breakaway weight of 285 pounds was established by rule based on testing which showed that a 285 pound breakaway would allow most wolves to self–release from the device. However, this also allows some larger coyotes to self–release. In most states, a 350 pound rating is the standard. These rules would increase the maximum allowable pound rating.

Trapping hours currently in place may be designed to deter trap theft or simplify enforcement of a requirement to tend or check traps daily. These rules would eliminate trapping hours. Eliminating trapping hours would simplify regulations and would provide a particular benefit to people whose work schedule conflicts with trapping hours. There is not a furbearer population management purpose for trap checking hours. These rules would maintain the requirement that traps be checked daily.

These rules would modify the location and size of at least two waterfowl hunting closed areas on department managed lands that are part of the Lower Wolf River Bottomlands Natural Resources Area. These modifications were recommended following a planning process that involved members of the public. The closed areas would provide a more functional area for waterfowl to rest, creating more opportunity for waterfowl hunters in the area because birds would remain in the area for a longer period of time.

These rules would modify the wildlife damage abatement program so that it is more responsive and effective at controlling bear damage. The proposal would establish a threshold at which bear shooting permits would be issued of \$5,000 or more in appraised bear damages in the previous year. This proposal is similar to the current threshold in place for deer shooting permits. This is intended to reduce agriculture damage on properties that chronically experience excessive damages from bear where historically trapping and relocation abatement has not been sufficient. This proposal would restrict permittees and participants to retaining one bear on Agriculture Damage Bear Shooting Permits. The intention of this change is to engage multiple participants on bear shooting permits instead of one or two individuals removing bear. This proposed change is intended to prevent the perception of individuals monopolizing the resource. Finally, this proposal may allow the use of dogs to assist with tracking or trailing when bear shooting permits are being used, at the discretion of the permittee. The intention of this regulation is to provide an additional, efficient, bear damage abatement option for bear causing agriculture damages.

4. Detailed Explanation of Statutory Authority for the Rule

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule–making authority allows the department to make changes related to trapping methods and times and the seasons for taking game and furbearing animals.

The department’s authority to authorize the removal of wild animals that are causing damage is established under s. 29.885, Stats. Additionally authority to establish conditions for taking game, such as bears, is established in s. 29.014, Stats., as noted above.

The establishment of game refuges is authorized in s. 23.09 (b), Stats., relating to the department’s ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

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

306 hours.

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

Hunters and trappers are the principal groups that will be affected by this rulemaking. Farmers would be impacted by improved efficiency in responding to nuisance bear complaints.

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

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

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

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. The use of nuisance wildlife shooting permits or farmer’s participation in the Animal Damage Abatement and Claims program is discretionary and not a requirement of state laws or administrative rules.

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

The department hold a public hearing in each county on the second Monday in April, 2015.

These hearings will be held in conjunction with the annual Conservation Congress spring meeting, which will immediately follow the department’s administrative rule hearing at each hearing location.

Contact Person

Scott Loomans, Wildlife Regulation Policy Specialist, 608–267–2452, scott.loomans@wisconsin.gov.

Natural Resources

Fish, Game, etc., Chs. 1—
SS 114–14
(DNR # FH–14–14)

The statement of scope was approved by the governor on October 31, 2014.

Rule No.

Chapters NR 20, 21, 22, 23, 26 (revise).

Relating to

Fishing regulations on inland, outlying, and boundary waters that will be proposed at the 2015 Fish and Wildlife Spring Hearings.

Rule Type

Permanent.

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

The rule will be proposed as a permanent rule.

2. Detailed description of the Objective of the Proposed Rule

With this rule, the department will make changes to fish size limits, bag limits, seasons, and other regulations related to fishing in inland, outlying, and boundary waters. Fishing regulations are in place to help meet management goals and objectives for waters and their fish species, such as providing a trophy walleye fishery or a bass fishery that maximizes predation on smaller fishes. New regulations are proposed when management goals have changed or the department must address a critical need, such as a major fish population decline.

The regulation proposals included in this rule are based on surveys and analyses conducted by fish biologists and input from local stakeholders and the Wisconsin Conservation Congress. All proposals were peer–reviewed for justification, enforceability, and completeness by department Bureaus of Fisheries Management, Law Enforcement, and Legal Services. In addition to the list of proposed regulation changes below, other rule changes may be pursued which are reasonably related to those discussed here that would address size limits, bag limits, season, and other fishing regulations.

Returning special regulations to the general species statewide regulation:

SPECIES	NEW REGULATION GOAL	WATER	COUNTY
Bass	Sustain densities of largemouth bass while allowing harvest	Crooked Lake, Lund Lake	Bayfield
Bass	Revoke current regulation that does not work to help panfish size structure	Windfall Lake	Forest
Bass	Maximize bass harvest opportunities for anglers and possibly increase bass growth rates (county–wide species regulation)	Shell Lake	Washburn
Walleye	Re–establish an abundant walleye population	Franklin Lake	Forest
Walleye	Provide moderate to high density of walleyes	Cedar Lake, Catherine Lake, Spider Lake, Little Oxbow Lake, Oxbow Lake, Echo Lake, and the Turtle River	Iron
Walleye	No longer managing the lake for walleyes	Wilson Lake	Iron

Walleye	Provide low– to moderate–density walleye population and help control panfish abundance	Sackett Lake, North Harper Lake, South Harper Lake, Diamond Lake, Spirit Lake, North Spirit Lake, Winter Lake and the Brunet River upstream from Winter Lake	Price, Taylor, Sawyer
Walleye	Restore and maintain a walleye–dominated fishery	Chippewa Flowage	Sawyer
Pike	Utilize self–sustained, slow–growing northern pike populations	Tomahawk Lake, Sandbar Lake, and Muskellunge Lake	Bayfield
Pike	Increase northern pike density and provide improved harvest opportunities	Peshtigo Flowage	Marinette

Modifying regulations to meet new species management goals:

SPECIES	NEW REGULATION GOAL	WATER	COUNTY
Bass and Walleye	Increase catch rates of naturally reproduced walleye and learn from combined bass–walleye regulation package	Bayfield: Upper and Lower Eau Claire lakes; Chippewa: Sand Lake; Oneida: Squash Lake; Polk: Balsam Lake; Price: Solberg Lake; Rusk: Pulaski Lake; Sawyer: Durphee and Osprey lakes	7 counties
Bass	Provide bass harvest opportunity and improve size structure of largemouth bass	Ashland: Beaver Lake; Iron: McDermott Lake; Price: Riley Lake, Twin Lake; Sawyer: Blueberry Lake, Smith Lake, Spider Lake Chain (Spider, Clear, Fawn, and North lakes), Windigo Lake; Taylor: Kathryn Lake, North Twin Lake, South Twin Lake, Spruce Lake	5 counties
Bass	Provide bass harvest opportunity and improve size structure of largemouth bass	Chippewa Flowage and Quiet Lakes Chain (Lost Land Lake, Teal Lake, and Teal River Flowage)	Sawyer
Bass	Lower largemouth bass density, improve walleye recruitment, maintain smallmouth bass fishery	Long, Herde and Dark Lakes (Long Lake)	Chippewa
Bass	Lower largemouth bass density to improve size structure	Round Lake	Chippewa
Bass	Increase largemouth bass size structure	Spread Eagle Chain of Lakes, Keyes Lake and Halsey Lake	Florence
Bass	Provide moderate density of memorable–size smallmouth bass	Turtle–Flambeau Flowage, Trude Lake (connected)	Iron
Bass	Provide a balanced, multi–species fishery with largemouth bass and northern pike as the dominant predators	Julia Lake (near Rhinelander)	Oneida
Bass	Provide bass fishery with average growth rates and moderate to good size structure	Gunlock and Shishebogama lakes (connected)	Oneida/Vilas

Bass	Provide trophy fishery for smallmouth bass while maintaining largemouth bass in low numbers	Lac Courte Oreilles Chain (Lac Courte Oreilles, Little Lac Courte Oreilles, and Billy Boy Flowage) and Round Lake Chain (Round Lake and Little Round Lake at T41N–R8W–S36)	Sawyer
Bass	Provide harvest-oriented largemouth bass fishery	Osseo Club Pond	Trempealeau
Bass	Maximize trout management potential by encouraging harvest of bass and allowing anglers to remove as many predators and competitors with trout as possible	Langlade County — Crooked Lake, Pence Lake, Rogers Lake, Saul Spring, and Townline Lake (T33N R10E S6); Lincoln County — Ament Lake, Henson Lake, Larson Lake, Moraine Lake, and Tahoe Lake	Langlade and Lincoln
Walleye	Increase adult density and the proportion of quality-size walleye	Ashland: Spillerberg Lake; Price: Elk River from Musser Flowage Dam downstream to its confluence with South Fork Flambeau River including the Phillips Chain of Lakes (Duroy, Elk, Long, and Wilson lakes), Grassy Lake, and Lac Sault Dore; Price/Vilas: Pike Chain of Lakes (Amik, Pike, Round, and Turner lakes); Sawyer: Moose Lake and West Fork Chippewa River upstream to FR 174	4 counties
Walleye	Increase walleye abundance in an effort to improve natural reproduction	Spread Eagle Chain of Lakes & Sea Lion Lake	Florence
Walleye	Increase adult density, provide a memorable fishing opportunity, and improve natural reproduction	Archibald Lake, Bass Lake, Boot Lake, Maiden Lake, and Wheeler Lake	Oconto
Walleye	Provide walleye population of quality size fish	Shawano Lake, Washington Lake, Shawano Lake Outlet Channel, Wolf River Pond, Wolf River to Balsam Row Dam	Shawano
Walleye	Maintain a larger size range for quality walleye angling and panfish control	Deerskin Lake	Vilas
Walleye	Increase adult walleye abundance	Nagawicka Lake, Pine Lake, Pewaukee Lake	Waukesha
Walleye	Maximize predation on panfish and forage species	Lac LaBelle	Waukesha
Walleye	Increase density of larger walleye	Big Cedar Lake, Gilbert Lake	Washington
Northern Pike	Manage as a trophy pike lake	Lake Ellwood	Florence

Northern Pike	Provide good density of quality size fish	Caroline Pond	Shawano
Northern Pike	Maximize predation on panfish and forage species	Lac LaBelle, Pewaukee Lake, Eagle Spring Lake, Lulu Lake and connecting portions of the Mukwonago River	Waukesha, Walworth
Northern Pike	Restore a naturally reproducing pike population; remove sunset date of current regulation	Marion Millpond	Waupaca
Northern Pike	Allow harvest of small pike to help improve growth rates for a lower density population of pike	Waushara: Alpine Lake; Marquette: Sharon Lake	Waushara, Marquette
Musky and Walleye	Make regulations consistent with the connected Namekagon Lake, improve walleye size structure, provide trophy musky fishery	Garden, Jackson lakes	Bayfield
Musky	Consistency of regulations with Minnesota on boundary waters	St. Louis, St. Croix and Mississippi rivers	WI–MN boundary waters
Musky	Provide high density muskellunge populations that support high angler catch rates	Spider Lake Chain, Tiger Cat Chain, Mud/Callahan lakes, North Fork Chief River (from Tiger Cat dam downstream to Mud Lake)	Sawyer
Sturgeon	Provide additional angling opportunities and promote angler awareness; Consistency with MN regulations	St. Croix, Mississippi, and St. Louis rivers	WI–MN boundary waters
Panfish	Control panfish harvest and maintain a quality fishery	Hodge Lake	Chippewa
Panfish	Increase the size structure of panfish	Halsey Lake, Sea Lion Lake, and the Spread Eagle Chain of Lakes	Florence
Panfish	Improve panfish size structure on a subset of lakes to determine which regulations are most effective and socially acceptable	Approximately 110 lakes statewide	
Trout	Expand season opportunities, reduce categories of regulations, and create uniform regulations on streams	Trout streams and ponds statewide	

Multi–species and law enforcement proposals:

PROPOSAL	NEW REGULATION GOAL	WATER	COUNTY
Urban Pond	Provide designated youth and disabled persons fishing opportunities	Wiedenbach Park Pond	Washington
Refuges	Update list of fish refuges to match current management needs — remove or modify approximately 50 refuges	Statewide	

Season Opener	Adjust general fishing season opener date so it would not coincide with Mother’s Day weekend	Statewide	
Asian carp transport	Require that Asian carp are dead and unrevivable before transporting in or through WI	Statewide	

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 general policy behind fishing regulations is to protect and enhance fish populations while providing diverse fishing opportunities throughout the State. That policy will be continued and enhanced by these rule changes. Based on the management goals for individual waters and species, the department strives to provide:

- consumptive opportunities where anglers can fish for a meal from a self–sustained, slow–growing fish population;
- quality and memorable opportunities where anglers can catch large fish and the density of adult fish in the populations are sustained or increased; and
- trophy opportunities where anglers can catch large trophy–size fish and the survival of older and larger fish is increased.

Not making the proposed rule changes would result in less than optimal management of fish populations in the waterbodies and reduced fishing opportunities for resident and visiting anglers. However, existing regulations would remain in place to provide some level of continued protection of fish resources.

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

Section 23.09 (2) (c), Stats., provides that the department may designate fish refuges to secure the perpetuation and adequate supply of any species of fish and provide safe retreats in which fish may breed and replenish adjacent fishing waters.

Section 23.22 (2), Stats., directs the department to establish a statewide program to control invasive species, which are nonindigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health. The department created ch. NR 40, Wis. Adm. Code, that lists several species of Asian carp as prohibited invasive species.

Section 29.014 (1), Stats., directs the department to establish and maintain 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 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies. It also allows the department to establish a fishing season on specified bodies of water in certain urban areas to allow fishing only by persons who are under 16 years old or who are disabled, as specified in s. 29.193 (3) (a), (b), or (c), Stats.

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

Approximately 250 hours

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

The proposed rule will primarily affect sport anglers. As with any change in regulations, there will be a requirement for anglers to learn the new rules. The department works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets.

The proposal to require that Asian carp are dead and unrevivable before transporting in or through Wisconsin would affect fish haulers from other states and potentially commercial fishers in Wisconsin if Asian carp numbers increase. There is only a small number of Asian carp in Wisconsin waters so far and this proposal is intended to keep it that way by educating fishers and haulers on safe methods for transporting the invasive species.

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

Authority to promulgate fishing regulations is granted to states. None of the proposed changes 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)

It is not expected that there will be any economic impact or change directly related to these rule changes. The proposed rule will primarily affect sport anglers. Regulations are already in place and this rule is intended to continue protection and enhancement of the State’s fish resources. One purpose of the rule is to help maintain the general economic impact of fishing throughout Wisconsin.

The department will conduct an economic impact analysis to determine if any individuals, businesses, local governments, or other entities expect to be adversely affected economically by the rule. The proposed rule does not impose any reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rule does not allow for the potential to establish a reduced fine for small businesses, nor does it establish “alternative enforcement mechanisms” for “minor violations” of administrative rules made by small businesses. Minimal to no economic impact. (Level 3)

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

The department anticipates holding 72 public hearings in the month of April 2015. The rule will be available for public review and comments at the 2015 Fish and Wildlife Spring Hearings held on the second Monday of April 2015.

The department will hold these hearings in these locations to get statewide public input on all proposals. The draft list of questions that will be on the Spring Hearings questionnaire will be provided to the Natural Resources Board in January 2015.

Contact Person

Kate Strom Hiorns, Fisheries Policy Specialist,
608–266–0828.

Public Instruction

SS 115–14

Revised Statement of Scope

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

This scope statement takes the place of SS 111–13 (revises Chapter PI 26) and SS 114–13 (creates Chapter PI 49); both scope statements were published in the September 14, 2013, Wisconsin Administrative Register No. 693.

Rule No.

Chapter PI 26 (revise).

Relating to

Academic and career planning and education for employment plans and programs.

Rule Type

Permanent.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

Pursuant to s. 121.02 (1) (m), Stats., school districts are required to provide education for employment programs that are approved by the state superintendent. The Department of Public Instruction (DPI) promulgated ch. PI 26 to administer this requirement. Beginning in the 2017–18 school year, school districts will also be required to provide academic and career planning services under s. 115.28 (59), Stats. The DPI is required to promulgate rules to implement this new requirement.

The proposed rule will update ch. PI 26 to implement the new academic and career planning requirements. The proposed rule will connect school districts’ Education for Employment Plans and Programs to the new academic and career planning requirements.

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

Connecting school districts’ Education for Employment Plans and Programs with the new academic and career planning initiative will increase efficiency and effectiveness.

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

121.02 School district standards

(1) Except as provided in s. 118.40 (2r) (d), each school board shall:

(m) Provide access to an education for employment program approved by the state superintendent. Beginning in the 1997–98 school year, the program shall incorporate applied curricula; guidance and counseling services under par. (e); technical preparation under s. 118.34; college preparation; youth apprenticeship under s. 106.13 or other job training and work experience; and instruction in skills relating to employment. The state superintendent shall assist school boards in complying with this paragraph.

115.28 General duties. The state superintendent shall:

(59) ACADEMIC AND CAREER PLANNING.

(a) Ensure that, beginning in the 2017–18 school year, every school board is providing academic and career planning services to pupils enrolled in grades 6 to 12 in the school district.

(b) Procure, install, and maintain information technology, including computer software, to be used statewide by school districts to provide academic and career planning services to pupils in grades 6 to 12.

(c) Provide guidance, training, and technical assistance to school districts and school district staff, including teachers and counselors, on how to implement model academic and career plans, including training and technical assistance that is necessary to implement the information technology under par. (b).

(d) Promulgate rules to implement this subsection.

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

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminate.

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

This rule change will affect school districts.

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

Agency Contact

Bureau for Policy and Budget

Attn: Katie Schumacher

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

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

Professional Services, 1—299

CR 14–059

On October 29, 2014, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 014–14, was approved by the Governor on February 26, 2014, published in Register No. 699 on March 14, 2014, and approved by Department of Safety and Professional Services on March 17, 2014.

Analysis

Statutory Authority: Sections 227.11 (2) (a) and 440.88 (3) (a) and (b), Stats.

This proposed rule–making order revises Chapters SPS 160 and 166 and relates to substance abuse professionals.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 1, 2014 at 1400 East Washington Avenue, Room 121B, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Katie Paff, Department of Safety and Professional Services, Division of Policy Development, (608) 261–4472 and Kathleen.Paff@wisconsin.gov.

Safety and Professional Services

General Part II, 326—360

CR 14–060

On October 30, 2014, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

This rule is not subject to s. 227.135 (2), Stats., as affected by 2011 Wis. Act 21. The statement of scope for this rule, published in Register No. 662, on March 1, 2011, was sent to LRB prior to the effective date of 2011 Wis. Act 21.

Analysis

Statutory Authority: Sections 101.055 (3) and 227.11 (2) (a), Stats.

This proposed rulemaking order revises Chapter SPS 332 and relates to public–employee safety and health standards.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 1, 2014, at 1400 East Washington Avenue, Room 121B, 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.

Transportation

CR 14–061

On October 31, 2014, the Department of Transportation hand delivered a proposed rule to the Legislative Council,

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, under s. 227.185, Stats.

Analysis

The proposed rule revises Chapter Trans 102, relating to operator’s license and identification cards.

Agency Procedure for Promulgation

A hearing is required and will be scheduled.

The Division of Motor Vehicles is the organizational unit that is responsible for preparing the rule.

Contact Person

The name and contact information for a contact person:

Division of Motor Vehicles
4802 Sheboygan Ave., Rm 225
Madison, WI 53707

Ph: 608–261–8605

Email: Patrick.Fernan@dot.wi.gov

Rule–Making Notices

Notice of Hearings

Safety and Professional Services *Professional Services, 1–299* **CR 14–059**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in ss. 227.11 (2) (a) and 440.88 (3) (a) and (b), Wis. Stats., and interpreting, ss. 227.11 (2) (a) and 440.88, Wis. Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider an order to repeal section SPS 166.03 (4) and to amend sections SPS 160.01, 166.03 (1), 166.03 (2), 166.07 (1) (intro.), and 166.07 (1) (a), relating to substance abuse professionals.

Hearing Information

Date: Monday, December 1, 2014
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
 Room 121B
 Enter at 55 North Dickinson Street
 Madison, WI

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. All submittals must be directed to Katie Paff, Program and Policy Analyst, at Kathleen.Paff@wisconsin.gov; or 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 Katie Paff, Program and Policy Analyst, 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 Kathleen.Paff@wisconsin.gov. Comments must be received at or before the public hearing to be held on **December 1, 2014** at 10:00 a.m. to be included in the record of rule–making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, by email at Kathleen.Paff@wisconsin.gov or on our website at

<http://dps.wi.gov/Default.aspx?Page=44e541e8–abdd–49da–8fde–046713617e9e>

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Sections 227.11 (2) (a) and 440.88, Stats.

Statutory authority

Sections 227.11 (2) (a) and 440.88 (3) (a) and (b), Stats.

Explanation of agency authority

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 440.88 (3) (a) and (b), Wis. Stats. (a) Subject to pars. (b) and (c) and except as provided in sub. (3m), the department shall promulgate rules that establish minimum standards and qualifications for the certification of all of the following, including substance abuse counselors and clinical supervisors described under s. HFS 75.02 (11) and (84), Wis. Adm. Code, in effect on December 15, 2006:

1. Substance abuse counselors–in–training.
2. Substance abuse counselors.
3. Clinical substance abuse counselors.
- 4m. Clinical supervisors–in–training.
5. Intermediate clinical supervisors.
6. Independent clinical supervisors.
7. Prevention specialists–in–training.
8. Prevention specialists.

(b) Rules promulgated under par. (a) shall include standards based on demonstrated requisite competency, knowledge, skills, and attitudes of professional practice that are culturally competent and evidence–based.

Related statute or rule

Section 457.02 (5m), Stats.

Plain language analysis

Current Department administrative rules require an individual seeking substance abuse counselor certification to attend a comprehensive program that has been pre–approved by the Department. The proposed rule modifies the comprehensive program approval requirements to allow for competency–based flexible option programs. Competency–based flexible option programs address workforce shortage issues by providing an academically rigorous but less time–consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults.

Specifically, the current rule limits the number of education hours in a comprehensive program that may be obtained through internet based coursework. Since the initial promulgation of these rules, significant technological advancements in internet–based coursework have made it

essentially comparable to in–person coursework. The proposed rule eliminates the limitation on internet based coursework.

The current rule also requires an individual seeking approval of a comprehensive program to submit specific allocations of classroom hours toward each required content area for each course. In the proposed rule, an individual seeking approval of a program that is based on core competencies may allocate classroom hours toward each content area for each core competency.

Lastly, the proposed rule updates incorrect references to other code and statutes.

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

None

Comparison with rules in adjacent states

Illinois: All professional staff providing clinical services at organizations licensed to provide alcoholism and substance abuse treatment and intervention by the Department of Human Services must hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Organization (IAODAPCA) or be a licensed professional counselor, licensed clinical professional counselor, a licensed physician, a licensed psychologist, or a licensed social worker or clinical social worker. All professional staff providing only clinical assessments, DUI evaluations or designated program intervention services shall meet one of the qualifications for staff providing clinical services or hold assessor certification as a Certified Assessment and Referral Specialist (CARS) from IAODAPCA. All staff providing DUI risk education services shall meet one of the qualifications for staff providing clinical services or hold Alcohol and Other Drug Abuse (AODA) certification from IAODAPCA. (77 Ill. Adm. Code 2060.309 Professional Staff Qualifications)

IAODAPCA does not pre–approve education courses for initial application. Acceptable sources of education include: college courses, seminars, conferences, in–services, and lectures (IAODAPCA AODA Counselor Model, page 8). IAODAPCA does not restrict online course credit hours.

Iowa: Iowa Administrative Rules do not require the certification of substance abuse professionals.

Michigan: Michigan Administrative Rules do not require the certification of substance abuse professionals.

Minnesota: All individuals who use the title alcohol and drug counselor and all individuals who provide alcohol and drug counseling services to clients who reside in Minnesota must be licensed as an alcohol and drug counselor by the Minnesota Board of Behavioral Health and Therapy. Education requirements for licensure include: a bachelor’s degree from an accredited school or educational program, 18 semester credits or 270 clock hours of academic course work, and 80 clock hours of supervised alcohol and drug counseling

practicum from an accredited school or education program. The course work and practicum do not have to be part of the bachelor’s degree. The statutes further specify the specific topic areas of the course work. Examination requirements for licensure include passing the IC&RC AODA written examination (or an equivalent exam as determined by the Board) or passing a written exam as determined by the board and one of the following: (1) Completing a written case presentation and passing an oral examination, or (2) Completing 2,000 hours of post–degree supervised professional practice. (Minnesota Statutes 148F.025)

An accredited school or educational program is defined as “a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.” (Minnesota Statutes 148F.01 subd. 3.)

Summary of factual data and analytical methodologies

The data and methodology for developing these rule revisions consisted primarily of comparing current requirements for the approval of substance abuse counselor comprehensive programs with the structure of competency–based, flexible option programs. Adjacent states’ rules were also reviewed.

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

The rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is below.

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

Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608–261–4472; email at Kathleen.Paff@wisconsin.gov.

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

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

SPS 160, 166

3. Subject

Substance Abuse Professionals

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

Current Department administrative rules require that an individual seeking substance abuse counselor certification attend a comprehensive program that has been pre–approved by the Department. The proposed rule modifies the comprehensive program approval requirements to allow for competency–based flexible option programs. Competency–based flexible option programs address workforce shortage issues by providing an academically rigorous but less time–consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults.

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.

This rule was posted for 14 days 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 government 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)

This rule will not have an economic or fiscal impact on businesses, business sectors, public utility rate payers, local government units or the state's economy as a whole.

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

Competency–based flexible option programs address workforce shortage issues by providing an academically rigorous but less time–consuming avenue for obtaining the substance abuse counselor education requirements that is appealing to working adults. The alternative to implementing the rule would be to continue with the rules as currently written. These rules inhibit the approval of competency–based flexible option programs.

14. Long Range Implications of Implementing the Rule

In the long run, implementing this rule could allow more individuals to receive certification as substance abuse counselors meeting the state’s growing demand for these professionals. As more individuals receive adequate treatment for substance abuse, Wisconsin could see a decrease in substance abuse rates.

15. Compare With Approaches Being Used by Federal Government

None

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

In Illinois, all professional staff providing clinical services at organizations licensed to provide alcoholism and substance abuse treatment and intervention by the Department of Human Services must hold clinical certification as a Certified Alcohol and Drug Counselor from the Illinois Alcoholism and Other Drug Abuse Professional Certification Organization (IAODAPCA) or be a licensed professional counselor, licensed clinical professional counselor, a licensed physician, a licensed psychologist, or a licensed social worker or clinical social worker.. (77 Ill. Adm. Code 2060.309 Professional Staff Qualifications) IAODAPCA does not pre–approve education courses for initial application. Acceptable sources of education include: college courses, seminars, conferences, in–services, and lectures (IAODAPCA AODA Counselor Model, page 8). IAODAPCA does not restrict online course credit hours.

In Minnesota, all individuals who use the title alcohol and drug counselor and all individuals who provide alcohol and drug counseling services to clients who reside in Minnesota must be licensed as an alcohol and drug counselor by the Minnesota Board of Behavioral Health and Therapy. Education requirements for licensure include: a bachelor’s degree from an accredited school or educational program, 18 semester credits or 270 clock hours of academic course work, and 80 clock hours of supervised alcohol and drug counseling practicum from an accredited school or education program. The course work and practicum do not have to be part of the bachelor’s degree. (Minnesota Statutes 148F.025) An accredited school or educational program is defined as “a school of alcohol and drug counseling, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of the education, practicum, and core function standards in this chapter.” (Minnesota Statutes 148F.01 subd. 3.)

Iowa’s and Michigan’s statutes and administrative rules do not require the certification of substance abuse professionals.

17. Contact Name

Kathleen Paff

18. Contact Phone Number

(608) 261–4472

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

Safety and Professional Services

General Part II, 326–360

CR 14–060

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services by ss. 101.055 (3) and 227.11 (2) (a) of the Wisconsin Statutes, and by interpreting s. 101.055 (3) of the Statutes, the Department will hold a public hearing at the time and place shown below to consider the proposed order below for Chapter SPS 332, relating to public–employee safety and health standards.

Hearing Information

Date: Monday, December 1, 2014
Time: 1:00 p.m.
Location: 1400 East Washington Avenue
 Room 121B

Enter at 55 North Dickinson Street
 Madison, WI

Appearance at the Hearing and Copies of the Rule

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 rules and an analysis of the rules follow. Copies of the proposed rules are also available upon request to the Rules Coordinator shown above, or on the Department’s website at

<http://dpsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>, through links to ch. SPS 332: Public Employee Safety and Health.

Place Where Comments are to be Submitted and Deadline For Submission

Comments may be submitted to 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 by e–mail at sam.rockweiler@wi.gov. Comments must be received on or before **December 1, 2014**, to be included in the record of rulemaking proceedings.

Proposed Order

An order of the Department of Safety and Professional Services to repeal SPS 332.06, 332.11 (2), 332.16 (3) and (4), 332.22 (1) (b) and (2) (a), 332.26 (1), 332.28 (1) and (2), 332.32 (2), 332.35, 332.36, 332.38 (1) and (2), 332.39, and 332.50 (1) and Table 332.50–2; to renumber SPS 332.01 (8) (a) to (e), 332.205, 332.22 (1) (a) and (2) (b), and 332.32 (1); to renumber and amend SPS 332.01 (8) (intro.), 332.10, 332.11 (1), 332.22 (2) (intro.), 332.23 (intro.) and (1), 332.25 (intro.) and (1), 332.26 (intro.), 332.28 (intro.) and (3), 332.30 (intro.) and (1), 332.32 (intro.), 332.37 (intro.) and (1), 332.38 (intro.) and (3), 332.40, and 332.50 (2) and Table 332.50–1; to amend SPS 332.003 (1); 332.05 (1) (intro.) and (a); 332.16 (14) and (16); 332.29 (intro.), (1), and (2); 332.33 (intro.); and 332.34 (intro.) and (2); to repeal and recreate SPS 332.002, 332.003 (2), 332.01 (1) and (5) to (7), 332.05 (2) to (4), 332.21, and 332.24; and to create SPS 332.003 (3), 332.01 (8) and (9), and 332.205 (3), relating to public–employee safety and health standards.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 101.055 (3), Stats.

Statutory authority

Sections 101.055 (3) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 101.055 (3) of the Statutes requires the Department to adopt, by rule, standards to protect the safety and health of public employees. The standards must provide protection that is at least equal to the protection which is provided to private–sector employees under standards promulgated by the federal Occupational Safety and Health Administration (OSHA) and must be revised as necessary to maintain that equivalent protection.

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 rules are considered necessary to effectuate the purpose of the statute.

Related statute or rule

Section 101.02 (15) (j) of the Statutes requires the Department to promulgate rules for constructing, altering, adding to, repairing, and maintaining safe public buildings and places of employment. Under this authority, the Department has promulgated chs. SPS 361 to 366, which establish statewide, uniform requirements for design, construction, maintenance, and repair of public buildings and places of employment, and ch. SPS 314, which establishes

statewide minimum requirements for preventing unwanted fires in public buildings and places of employment.

Chapter SPS 330 contains Wisconsin’s statewide safety and health requirements for public–sector fire department employees. That chapter applies to those employees in addition to the requirements in ch. SPS 332.

Plain language analysis

These proposed changes to chapter SPS 332 would primarily incorporate the July 1, 2010, editions of the following OSHA standards as replacements to the currently incorporated July 1, 2003, editions of these standards:

- Title 29 of the *Code of Federal Regulations*, Part 1904 – Recording and Reporting Occupational Injuries and Illnesses.
- 29 CFR 1910 — Occupational Safety and Health Standards.
- 29 CFR 1915 — Occupational Safety and Health Standards for Shipyard Employment.
- 29 CFR 1917 — Occupational Safety and Health Standards for Marine Terminals.
- 29 CFR 1926 — Occupational Safety and Health Regulations for Construction.
- 29 CFR 1928 — Occupational Safety and Health Standards for Agriculture.

These 2010 OSHA editions contain numerous revisions to the 2003 editions. Many of these revisions simply improve clarity and consistency; correct errors; update cross–references to other industry standards; and add new cross–references to other contemporary industry standards. Other revisions that are more substantive include (1) establishing the employer’s responsibilities to provide personal protective equipment and training; (2) considerably reducing the permissible exposure limit for hexavalent–chromium compounds, from 0.5 to 0.005 mg/m³; (3) changing the repeat–exposure monitoring periods for acrylonitrile, vinyl chloride, 1–2–dipromo–3–chloropropane, and cotton dust; (4) changing the employer’s responsibility for exposure–monitoring notification for acrylonitrile, vinyl chloride, 1–2–dipromo–3–chloropropane, coke–oven emissions, and cotton dust; (5) lengthening the cycle for updating the compliance program for inorganic arsenic, vinyl chloride, 1–2–dipromo–3–chloropropane, and coke–oven emissions; (6) lengthening the minimum timeframe for medical examinations for vinyl chloride and coke–oven emissions; (7) replacing general fire–prevention provisions for shipyards with comprehensive fire–protection provisions; and (8) reinstating roll–over protective–structure provisions from 1996 for tractors used in agricultural operations.

These proposed rule changes would also clarify and update the chapter’s scope, application, definitions, inspection criteria, and incorporation–of–standards provisions and would update the Department’s current modifications of the incorporated OSHA standards. These updates to these modifications include (1) improving the clarity, consistency, format, and organization of these modifications; (2) clarifying which safety vests or other clothing provide adequate visibility protection for roadway workers; (3) clarifying that traffic–control devices for warning traffic and protecting roadway workers are required by other authorities to comply with the Uniform Traffic Devices Manual produced by the American Traffic Safety Services Association; (4) replacing the additional criteria for securing the footing of ladders, with reference to the standards that are

available from the American National Standards Institute for construction and use of portable ladders; (5) repealing the ventilation requirements that overlap with the design requirements in Wisconsin's uniform Commercial Building Code; (6) replacing the plan submittal requirements for spray booths with an informational Note that refers to the corresponding building–design requirements in the Commercial Building Code; (7) clarifying the first–aid and resuscitation training that is acceptable for work in confined spaces; (8) repealing the additional criteria for sampling devices and air monitoring, for confined spaces; (9) clarifying which emergency eyewash and shower facilities provide adequate protection for exposure to materials that are corrosive or can cause irreversible eye or body injury; (10) replacing the additional requirements that overlap with the requirements in ch. SPS 314 for separating incompatible materials from each other, with a revised informational Note that refers to ch. SPS 314; (11) no longer replacing the air–contaminant maximums in 29 CFR 1910 with the maximums from the 1992 edition of 29 CFR 1910, and no longer requiring the additional monitoring relating to those 1992 maximums; (12) requiring dump bodies of all vehicles, rather than just on trucks, to have a locking mechanism for preventing accidental lowering of the body while maintenance or inspection work is being done or while the vehicle is left unattended; (13) repealing the additional requirements for providing guarding along the edge of an excavation; and (14) repealing the additional requirements to provide yellow warning lights for nighttime exposure to excavations.

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

In Wisconsin, OSHA applies its above requirements to private–sector employees but not to public–sector employees. The requirements in ch. SPS 332 apply to public–sector employees but not to private–sector employees. Consequently, although the two sets of requirements are nearly but not entirely identical, they do not overlap in where or how they apply.

This update of ch. SPS 332 does not include consideration of any changes to the above OSHA standards that have occurred after July 1, 2010. The Department plans to consider those changes during its next update of this chapter.

Comparison with rules in adjacent states

An Internet–based search of state–level rules for public–employee safety and health standards in the adjacent states yielded the following results:

Illinois: The Illinois Department of Labor mostly adopts the OSHA standards without any modifications, for protecting all public–sector employees in the state, but has a unique standard for recordkeeping. OSHA has approved the Illinois State Plan, as established under section 18 of the federal Occupational Safety and Health Act of 1970, but maintains jurisdiction over all private–sector workplaces, federal agencies, maritime employers (e.g., shipyards, marine terminals, and longshoring), military facilities, Indian–sovereignty workplaces, and the United States Postal Service.

Iowa: The Iowa Division of Labor Services administers the OSHA–approved Iowa State Plan, which applies to all public and private sector workplaces in the state, with the

exception of private–sector maritime activities, marine terminals, and longshoring; federal–government–owned and contractor–operated military facilities; bridge construction projects spanning the Mississippi and Missouri Rivers between Iowa and other states; federal government employers and employees; and the United States Postal Service (these fall under OSHA jurisdiction). The State Plan includes the following state–specific standards in addition to the OSHA standards: Sanitation and Shelter Rules for Railroad Employees, Hazardous Chemical Risks Right to Know – General Provisions, Community Right to Know, Public Safety/Emergency Response Right to Know, and Asbestos Removal and Encapsulation.

Michigan: The Michigan Occupational Safety and Health Administration (MIOSHA) administers the OSHA–approved Michigan State Plan, which applies to all places of employment in the state, with the exception of federal–government employees, the United States Postal Service, maritime and mining activities, and domestic employment, which are subject to OSHA jurisdiction. MIOSHA has adopted most of the OSHA standards by reference, but has a unique standard for child labor.

Minnesota: The Minnesota Occupational Safety and Health Administration (MNOSHA) administers the OSHA–approved Minnesota State Plan, which applies to all places of employment in the state, with the exception of federal government employees, the United States Postal Service, and certain agricultural operations (those pertaining to the field sanitation standard and temporary labor camps), which are subject to federal jurisdiction. MNOSHA has adopted most of the OSHA standards by reference, and has the following unique standards: Toxic Chemical Handling and Exposure, Agriculture, Repetitive Motion Injuries, Heat Exposure, and Noise Exposure.

Summary of factual data and analytical methodologies

These proposed rule changes were developed primarily by comparing the July 1, 2003, editions of the six OSHA standards that are currently incorporated into ch. SPS 332 to the July 1, 2010, editions which are proposed to be incorporated in place of the 2003 editions. All of the Department's current modifications of the 2003 editions were then analyzed in comparison to the 2010 editions, and in comparison to current best practices. These comparisons and analyses were then presented to and discussed with the Department's Public Safety Advisory Council, and the Council's resulting recommendations were incorporated into these proposed rule changes. The following organizations and agencies were represented on this Council:

- City of Milwaukee
- Department of Administration, Division of State Facilities
- Department of Administration, State Risk Management
- League of Wisconsin Municipalities
- Madison Metropolitan Sewerage District
- Municipal Electric Utilities of Wisconsin
- University of Wisconsin System
- Wisconsin Alliance of Cities
- Wisconsin Association of School Boards
- Wisconsin Counties Association
- Wisconsin Rural Water Association
- Wisconsin Towns Association

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

These rule changes would apply only to public–sector employees and their employers, so any economic impacts on small business are expected to only be indirect.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is below.

Effect on Small Business

These rule changes are not expected to have an economic

impact on small businesses as defined in section 227.114 (1) of the Statutes. The Department’s Regulatory Review Coordinator may be contacted by 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.

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

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

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

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

SPS 332, Public Employee Safety and Health

3. Subject

Public Employee Safety and Health Standards

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 section 101.055 (3) of the Statutes, the Department is required to adopt, by rule, standards to protect the safety and health of public–sector employees. The standards must provide protection that is at least equal to the protection which is provided to private–sector employees under standards promulgated by the federal Occupational Safety and Health Administration (OSHA), and must be revised as necessary to maintain that equivalent protection. Chapter SPS 332 currently includes, by reference, the July 1, 2003, edition of these OSHA standards – except for maximum–permissible–exposure limits for air contaminants, which are carried forward from the 1992 edition. This rulemaking would primarily update this chapter to include the July 1, 2010, edition of these OSHA standards, and would no longer substitute the 1992 air–contaminants limits in place of the more–recent OSHA limits.

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

The safety and health risks that public–sector employees are exposed to would be reduced to the level that private–sector employees were exposed to under the 2010 edition of these OSHA standards.

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.

Public Notices

Department of Health Services

(Medicaid Reimbursement for Psychosocial Rehabilitation Services)

The State of Wisconsin reimburses providers for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health Services (the Department), is called Medical Assistance (MA) or Medicaid. In addition, Wisconsin has expanded this program to create the BadgerCare Plus program under the authority of Title XIX and Title XXI of the Social Security Act and ss. 49.471 of the Wisconsin Statutes. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

Change in Payment Methods

Among the services provided to members enrolled in Medical Assistance and BadgerCare Plus are three separate psychosocial rehabilitation programs: Community Support Programs (CSP), Comprehensive Community Services (CCS), and Community Recovery Services (CRS). These programs are overseen by the Division of Mental Health and Substance Abuse Services (DMHSAS). All three programs are administered by counties and/or tribes.

Wisconsin Medicaid will combine the federal legal authorities for CSP, CCS, and CRS under one psychosocial rehabilitation benefit. The CSP, CCS, and CRS services will continue to exist under the umbrella of the psychosocial rehabilitation program. Members will be able to receive any of the services they need that were previously provided by the three programs separately.

Wisconsin Medicaid will continue to provide counties/tribes with cost settlement/reconciliation for all three programs.

This notice is to inform the public that the Department intends to submit an amendment to Wisconsin's Medicaid state plan to effectuate this change. The changes will be effective January 1, 2015, and will apply to claims with dates of service on or after that date. The change to Medicaid and BadgerCare Plus is projected to result in no change in expenditures, as the existing services will continue unchanged, but in a more streamlined manner of administration.

The implementation date is the first day of the second quarter of federal fiscal year 2015 and is the first day of the third quarter of state fiscal year 2015.

Copies of Changes

Copies of the amendment to the Medicaid state plan, when drafted, may be obtained free of charge by calling or writing as follows:

Regular Mail:

Al Matano
Bureau of Fiscal Management
Division of Health Care Access and Accountability
P.O. Box 309
Madison, WI 53701–0309

Fax:

(608) 266–8317
Attention: Al Matano

Telephone:

Al Matano
Bureau of Fiscal Management
(608) 267–6848

E-Mail:

alfred.matano@dhs.wisconsin.gov

Copies of the state plan change will be made available for review at the main office of any county department of social services or human services.

Written Comments

Written comments are welcome. Written comments on the proposed changes may be sent by FAX, e-mail, or regular mail to the Division of Health Care Access and Accountability. The FAX number is (608) 266–1096. The e-mail address is alfred.matano@dhs.wisconsin.gov. Regular mail can be sent to the above address. All written comments will be reviewed and considered.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 318 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

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