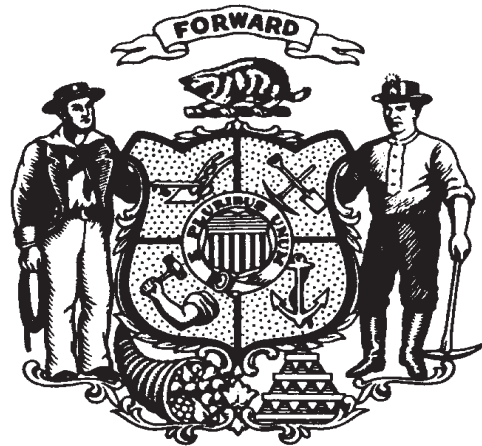


Wisconsin Administrative Register

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News About Code
Printing Inside



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REVISED CHANGE NOTICE (From the Department of Administration)

While state-sponsored printing and distribution of the Wisconsin Administrative Code and Register will end on December 31, 2014, printed copies of individual Code Books will remain available to those who wish to purchase a copy. Pre-printed copies of Code *Chapters* will not be available however they can be found on the [Legislature's](#) and [Legislative Reference Bureau's](#) websites for downloading.

Important points:

- The Wisconsin Legislative Reference Bureau will continue to *electronically* publish the Administrative Code, individual Codes, individual Chapters and the Register for downloading from 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 copy of the entire Administrative Code and/or individual Code Books 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. (*Note: Chapters will only be available for download from the Legislature's and Legislative Reference Bureau's websites.*)
- The subscription service for the Administrative Code and Register will end December 31, 2014. Thereafter, those wishing to secure a copy of the individual Code Books or the entire Administrative Code must access the Legislature's or Legislative Reference Bureau's website to download copies free of charge or contact the Document Sales and Distribution Program to purchase copies.

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 punched 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 Individual Codes or the complete Administrative Code after January 1, 2015, may do so by contacting the Wisconsin Department of Administration's, Document Sales and Distribution Program.
- All purchases of individual Code Books will be printed as loose-leaf paper, grouped by Code and shipped. The individual Codes will be printed on 2-sided, 3-hole pre-punched paper but will not be placed in binders or notebooks. Binders and notebooks will not be available from the state.
- All purchases of the complete Administrative Code will also be printed and shipped as loose-leaf paper. The complete Code will be printed on 3-hole pre-punched paper, separated by individual Code but not placed in binders or notebooks. Binders and notebooks will not be available from the state.

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
Extension Through: February 26, 2015

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
Extension Through: February 26, 2015

Health Services

Health, Chs. DHS 110—

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

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

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

Finding of Emergency

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

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

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

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

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

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

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

congenital and metabolic disorders using other screening methods including blood testing.

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

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

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

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

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

Filed with LRB: June 27, 2014
Publication Date: July 3, 2014
Effective Dates: July 3, 2014 through November 29, 2014
Hearing Date: August 15, 2014
Extension Through: January 28, 2015

Insurance

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

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

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

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date prior to July 1, 2014 in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 18, 2013 and the mediation panel fees established by the Board of Governors at the meeting held on March 19, 2014.

Filed with LRB: June 13, 2014
Publication Date: June 18, 2014
Effective Dates: June 18, 2014 through November 14, 2014
Hearing Date: August 12, 2014
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: March 10, 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
Extension Through: March 3, 2015

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. *NACCP 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
Hearing Date: December 11, 2014

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

Agriculture, Trade and Consumer Protection

SS 123–14

This statement of scope was approved by the governor on November 6, 2014.

The Department of Agriculture, Trade and Consumer Protection (DATCP) gives notice, pursuant to s. 227.135, Stats., that it proposes to adopt an emergency administrative rule as follows:

Rule No.

Chapter ATCP 21 (revise).

Relating to

Exotic plant pest emergency rule.

Rule Type

Emergency.

1. Description of the Objective of the Rule

An emergency rule authorized by this statement of scope will create county or multi-county or township or multi-township quarantines for an exotic plant pest in counties and townships where the pest is detected. Any emergency rule authorized by this scope statement will be submitted to the Governor for approval pursuant to s. 227.24 (1) (e) 1g, Stats., each time the department finds that a quarantine area for an exotic plant pest is required. The authorization to draft an emergency rule creating a quarantine area pursuant to this statement of scope will expire on the first day following the twelfth month of publication of this statement of scope pursuant to s. 227.135 (3), Stats., and a new statement of scope must be approved and published pursuant to s. 227.135 (2) and (3), Stats., to continue the authorization of emergency rulemaking related to exotic pest quarantines.

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

History and background

DATCP has authority under s. 93.07 (12), Stats., to conduct surveys and inspections for the detection and control of pests injurious to plants, and to make, modify, and enforce reasonable rules needed to prevent the dissemination of pests. DATCP also has plant inspection and pest control authority under s. 94.01, Stats. DATCP may by rule impose restrictions on the importation or movement of serious plant pests, or items that may spread serious plant pests.

In recent years the rate of arrival of new exotic plant pests to the United States has increased significantly. Some of the exotic pests which have already invaded our country include Emerald Ash Borer (EAB), Asian Longhorned Beetle (ALB), Hemlock Woolly Adelgid (HWA), Thousand Cankers Disease (TCD) and Gypsy Moth (GM). The national annual cost of these invasive forest insects to local governments is

estimated at over \$2 billion; residential property value loss due to exotic forest pests averages \$1.5 billion per year nationally. To date, EAB and GM have infested Wisconsin. To focus on one specific example, EAB is an exotic pest that endangers Wisconsin's 770 million ash trees and ash tree resources. This insect has the potential to destroy entire stands of ash, including up to 20% of Wisconsin's urban street trees and residential landscaping trees, and may result in substantial losses to forest ecosystems. The insect can cause great harm to state lands and to the state's tourism and timber industries. At this time, EAB has been identified in twenty-four states including Wisconsin, and two Canadian provinces. Thirty-six Wisconsin counties are currently quarantined to restrict the movement of ash wood in order to prevent the spread of EAB.

Proposed policies

This emergency rule is necessary to create a timely quarantine of the counties or townships, and possibly bordering counties or townships, with new exotic plant pest detections until a federal quarantine is enacted. The federal quarantine will take effect up to eight weeks or longer after a formal submission by the state plant regulatory official. A rule authorized by this statement of scope will do the following:

- Create county or multi-county or township or multi-township quarantines in which an exotic pest is detected. The quarantine will prohibit the movement of all articles potentially harboring the damaging pest. These regulated articles would likely include: firewood, nursery stock, green lumber, and other woody material living, dead, cut or fallen, including logs, stumps, roots, branches and composted and uncomposted chips. Some examples of current plant pests of concern include Emerald Ash Borer (EAB), Asian Longhorned Beetle (ALB), Hemlock Woolly Adelgid (HWA) or Thousand Cankers Disease of Walnut (TCD).
- Provide an exemption for items that have been inspected and certified by a pest control official and are accompanied by a written certificate issued by the pest control official (depending on the specific pest, some products, such as nursery stock, cannot be given an exemption).
- Provide an exemption for businesses that enter into a state or federal compliance agreement. The compliance agreement describes in detail what a company can and cannot do with regulated articles.

Policy alternatives

If DATCP does nothing, potentially infested wood or agricultural products will be allowed to move freely and the department will not be able to regulate its movement. The department would have no regulatory authority in the counties with new exotic plant pest finds, raising the potential of a more rapid spread of an exotic invasive plant pest.

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

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

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

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

(12) To conduct surveys and inspections for the detection and control of pests injurious to plants, make, modify, and enforce reasonable rules needed to prevent the dissemination of pests, declare and manage emergencies related to the detection and control of pests injurious to plants, provided such declaration does not supersede the authority of the chief state forester under s. 23.114 or the department of natural resources under s. 26.30, and suggest methods of control.

94.01 Plant inspection and pest control authority. In the conduct of survey and inspectional programs for the detection, prevention and control of pests, the department may impose quarantines or such other restrictions on the importation into or movement of plants or other material within the state as necessary to prevent or control the dissemination or spread of injurious pests.

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

DATCP estimates that it will use approximately 0.1 FTE staff time to develop these rules. This includes time required for investigation and analysis, rule drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

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

According to the American Forest and Paper Association (December 2012), Wisconsin is first in the nation in forestry jobs, employing over 53,000 workers and annually shipping forest industry products valued over \$17.7 billion. Our agricultural industry also annually produces over \$1.3 billion in corn grain, and over \$510 million in soybeans. Additionally, in 2013 Wisconsin led the nation in cranberry production (\$190 million) and ranked third in potato production (\$270 million). Wisconsin apple orchards produced a yield of \$19.3 million in 2013. This emergency rule could have an impact on persons or companies that deal in any agricultural crop or forest product from the quarantined counties or townships to locations outside of the quarantined counties.

The Wisconsin Department of Tourism reports that travelers to Wisconsin spent a total of \$10.8 billion in 2013. Tourism directly sustains an estimated 185,500 jobs, or 7.8% of total employment in the state. Should Wisconsin's forests, parks, and recreational areas be significantly damaged by an exotic plant pest, our tourism industry could also suffer substantially.

Nurseries, firewood producers/dealers, saw mills and farmers that sell or distribute articles potentially harboring the damaging exotic plant pest would all be impacted. In order to sell regulated products outside of a quarantined county, veneer mills and wood processors will have to enter into a compliance agreement with DATCP or APHIS. The agreement authorizes movement of products outside the quarantine only when there is assurance that the movement will not spread the plant pest to other locations. Licensed

nursery growers will not be able to sell regulated nursery stock outside of the quarantined counties. Firewood dealers would need to be certified to sell firewood outside of the quarantined counties. Other producers and farmers would be required to treat regulated products with an approved treatment option, should one exist, before movement out of the quarantine. Grain elevators could enter into compliance agreements with DATCP or APHIS.

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

In order to limit the spread of exotic plant pests, the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) has imposed quarantines for EAB in twenty-four states, ALB in three states, and GM in eighteen states. Including Wisconsin, six states plus Canada have imposed an external quarantine for HWA, and sixteen states have done the same for TCD. DATCP rules currently prohibit movement of regulated plant articles from any federally quarantined area except under authorized conditions. This proposed rule is consistent with current state and federal rules.

7. Anticipated Economic Impact

DATCP expects the rule to have minimal economic impact statewide and minimal to moderate economic impact locally.

DATCP Board Authorization

DATCP may not begin drafting a rule until the Governor and the Board of Agriculture, Trade and Consumer Protection approves this scope statement. The Board may not approve this scope statement any sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. The scope statement may not be published in the administrative register until DATCP has received written approval of the scope statement from the Governor. Before the department may publish an emergency rule, it must receive written approval of the proposed emergency rule from the Governor.

Contact Person

Brian Kuhn, Director Bureau of Plant Industry; Phone (608) 224-4590

Agriculture, Trade and Consumer Protection

SS 124-14

This statement of scope was approved by the governor on November 7, 2014.

Rule No.

Chapter ATCP 40 (revise).

Relating to

Fertilizer mislabeling.

Rule Type

Permanent.

1. Description of the Objective of the Rule

This proposed revision is limited to reviewing whether administrative rule s. ATCP 40.14 ("ATCP 40.14"), which concerns labeling requirements for the nutrient contents of fertilizer, should be modified or updated. In particular, the

current formula in s. ATCP 40.14 to determine the “economic value” of fertilizer nutrients will be reviewed. DATCP may also propose other modifications to ATCP 40.14 resulting from that review.

Fertilizer product labels must provide minimum guarantees of certain nutrients if those nutrients are represented as part of that fertilizer product. Section ATCP 40.14 provides criteria to establish whether a fertilizer’s nutrient content falls below the label guarantees for those nutrients. If the criteria in the rule are not met, then the fertilizer is deemed mislabeled.

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

Background and history

Under current law, DATCP is authorized to regulate the manufacture, distribution, and labeling of fertilizer. *See* Wis. Stat. ss. 94.64 to 94.645. Fertilizer is considered to be “any substance, containing one or more plant nutrients, which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth” *See* Wis. Stat. s. 94.64 (1) (f). Administrative rules implementing fertilizer regulation are found in subchapter II of Wis. Admin. Code ch. ATCP 40.

Currently, s. ATCP 40.14 (titled “Fertilizer content deficiencies”) identifies the criteria used to determine whether a fertilizer product label properly states the nutrient content of the product. Under one criterion, fertilizer is mislabeled if, based on a sample collected and tested as specified in the rule, “[t]he *economic value* of primary nutrients actually present is less than 98% of the *economic value* of the amounts guaranteed, where the *economic value* is calculated according to sub. (3).” *See* ss. ATCP 40.14 (1) (c). (Emphasis added.) The economic value formula provided in s. ATCP 40.14 (3) states:

$$\text{Economic value} = \{[\text{total nitrogen (N) guarantee}] \times 2\} + \{[\text{total phosphate (P}_2\text{O}_5\text{) guarantee}] \times 2\} + \text{soluble potash (K}_2\text{O) guarantee}$$

The multipliers in the economic value formula are based on wholesale costs of nitrogen, phosphate, and potash, which may have changed since the formula was established in the 1970s and therefore could require revision.

Justification and policies

Some fertilizer industry representatives have suggested that either the economic value formula or the percentage listed in s. ATCP 40.14 (1) (c), or both, need review.

DATCP may examine whether the existing economic value formula accurately represents wholesale prices of these nutrients. DATCP may also examine whether “98% of the economic value of the amounts guaranteed” or another percentage should be used in the formula. DATCP may also review the other criteria described in s. ATCP 40.14 to determine whether the nutrient content in the fertilizer falls below the fertilizer label’s percentage guarantees of those nutrients.

DATCP may consider combinations of the above alternatives or consider other alternatives.

Additionally, DATCP may review s. ATCP 40.14 as a whole to determine if modifications or updates are needed. DATCP will seek input from the fertilizer industry, interested consumers, and the public at large to determine what, if any, changes are needed to address fertilizer mislabeling. DATCP

may amend other rules that are directly impacted by a change to s. ATCP 40.14, if any.

Policy Alternatives

If this scope statement is approved, DATCP expects to look at various alternatives when reviewing the current fertilizer mislabeling rule, as described above. If DATCP does nothing, then DATCP will be unable to explore any concerns relating to mislabeling that have been posed by some members of the fertilizer industry.

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

Wis. Stat. ss. 93.07 (1) and 94.64 (9) (b), (c), (d), and (f).

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

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

94.64 Fertilizer.

* * *

(9) RULES. The department may promulgate rules:

* * *

(b) Regulating the sale and labeling of fertilizer, including warning or caution statements or directions for use in connection with the labeling of fertilizer.

(c) Governing methods of sampling, testing, examining and analyzing fertilizer.

(d) Prescribing tolerances for deficiencies found in percentages of plant nutrient guaranteed to be present.

* * *

(f) Establishing standards of identity and purity for fertilizer materials.

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

DATCP estimates that it will use approximately 0.5 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

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

Fertilizer manufacturers and labelers. This rule revision may change the criteria currently being used to establish whether the nutrient contents of fertilizer meets the fertilizer’s label guarantees of those nutrients and could include modification of the economic value formula. While this rule revision will not affect any nutrient percentage guarantees that the fertilizer industry makes on fertilizer labels, it may reduce the instances in which tested fertilizer products fail to meet existing labeling criteria in s. ATCP 40.14.

Consumers of fertilizer products. This rule revision may benefit fertilizer product consumers because the criteria that ensure accurate labeling of guaranteed amounts of nutrient content in fertilizer products will be reexamined and updated if needed.

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

There is no significant federal regulation of fertilizers, although there is a long history of regulation by states.

7. Anticipated economic impact

DATCP expects the proposed rule revision to have minimal to no negative economic impact statewide or locally.

DATCP Board Authorization

DATCP may not begin drafting this rule revision until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after the scope statement is presented to the Board, the scope statement is considered approved. Before DATCP holds public hearings on this rule, the Board must

approve the hearing draft. The Board must also approve the final draft rule before the department adopts the rule.

Contact Person

Amy Basel, Feed and Fertilizer Program Supervisor, DATCP; Phone (608) 224-4541.

Controlled Substances Board

SS 118-14

This statement of scope was approved by the governor on November 12, 2014.

Rule No.

Chapter CSB 2 (revise).

Relating to

Scheduling suvorexant as a schedule IV controlled substance.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to schedule suvorexant as a Schedule IV controlled substance.

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

On August 28, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register placing suvorexant into Schedule IV of the federal Controlled Substances Act. The scheduling action was effective September 29, 2014. The Controlled Substances Board did not receive an objection to similarly treat suvorexant as a schedule IV under ch. 961, Stats., within 30 days of the date of publication in the federal

register of the final order designating tramadol as a controlled substance.

Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat suvorexant under ch. 961, Stats., by creating the following:

CSB 2.38 Addition of suvorexant to schedule IV.

Section 961.20 (2) (mr), Stats., is created to read:

961.20 (2) (mr) Suvorexant

The Affirmative Action order, dated October 8, 2014, will take effect on November 1, 2014 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

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

961.11 (2) After considering the factors enumerated in sub. (1m), the controlled substances board shall make findings with respect to them and promulgate a rule controlling the substance upon finding that the substance has a potential for abuse.

961.11 (4) If a substance is designated, rescheduled or deleted as a controlled substance under federal law and notice thereof is given to the controlled substances board, the board by affirmative action shall similarly treat the substance under this chapter after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h), unless within that 30-day period, the board or an interested party objects to the treatment of the substance. If no objection is made, the board shall promulgate, without making the determinations or findings required by subs. (1), (1m), (1r) and (2) or s. 961.13, 961.15, 961.17, 961.19 or 961.21, a final rule, for which notice of proposed rulemaking is omitted, designating, rescheduling, temporarily scheduling or deleting the substance. If an objection is made the board shall publish notice of receipt of the objection and the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall make a determination with respect to the treatment of the substance as provided in subs. (1), (1m), (1r) and (2) and shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the treatment by the board, action by the board under this chapter is stayed until the board promulgates a rule under sub. (2).

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

25 hours

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

Pharmacists, prescribers, courts, police, and the Controlled Substances Board.

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

On July 2, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register placing suvorexant into Schedule IV of the federal Controlled Substances Act. The scheduling action was effective September 29, 2014.

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

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

Contact Person

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

Controlled Substances Board

SS 119-14

This statement of scope was approved by the governor on November 12, 2014.

Rule No.

Chapter CSB 2 (revise).

Relating to

Scheduling tramadol as a schedule IV controlled substance.

Rule Type

Permanent.

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

N/A

2. Detailed description of the objective of the proposed rule

The objective of the proposed rule is to schedule tramadol as a Schedule IV controlled substance.

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

On July 2, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register placing tramadol into schedule IV of the federal Controlled Substances Act. The scheduling action was effective August 18, 2014. The Controlled Substances Board did not receive an objection to similarly treat tramadol as a schedule IV under ch. 961, Stats., within 30 days of the date of publication in the federal register of the final order designating tramadol as a controlled substance.

Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat tramadol under chapter 961, Stats., by creating the following:

CSB 2.36 Addition of tramadol to schedule IV.

Section 961.20 (4) (e), Stats., is created to read:

961.20 (4) (e) Tramadol, including any of its isomers and salts of isomers.

The Affirmative Action order, dated August 14, 2014, took effect on September 1, 2014 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

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

961.11 (2) After considering the factors enumerated in sub. (1m), the controlled substances board shall make findings

with respect to them and promulgate a rule controlling the substance upon finding that the substance has a potential for abuse.

961.11 (4) If a substance is designated, rescheduled or deleted as a controlled substance under federal law and notice thereof is given to the controlled substances board, the board by affirmative action shall similarly treat the substance under this chapter after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h), unless within that 30-day period, the board or an interested party objects to the treatment of the substance. If no objection is made, the board shall promulgate, without making the determinations or findings required by subs. (1), (1m), (1r) and (2) or s. 961.13, 961.15, 961.17, 961.19 or 961.21, a final rule, for which notice of proposed rulemaking is omitted, designating, rescheduling, temporarily scheduling or deleting the substance. If an objection is made the board shall publish notice of receipt of the objection and the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall make a determination with respect to the treatment of the substance as provided in subs. (1), (1m), (1r) and (2) and shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the treatment by the board, action by the board under this chapter is stayed until the board promulgates a rule under sub. (2).

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

25 hours

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

Pharmacists, prescribers, courts, police, and the Controlled Substances Board

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

On July 2, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register placing tramadol into Schedule IV of the federal Controlled Substances Act. The scheduling action was effective August 18, 2014.

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

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

Contact Person

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

Controlled Substances Board

SS 120-14

This statement of scope was approved by the governor on November 14, 2014.

Rule No.

Chapter CSB 2 (revise).

Relating to

Rescheduling hydrocodone combination products as schedule II controlled substances.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is reschedule hydrocodone combination products from schedule III to schedule II controlled substance.

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

On August 22, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register rescheduling hydrocodone combination products from schedule III to schedule II of the federal Controlled Substances Act. The scheduling action was effective October 6, 2014. The Controlled Substances Board did not receive an objection to similarly treat hydrocodone combination products as a Schedule II under ch. 961, Stats., within 30 days of the date of publication in the federal register of the final order designating hydrocodone combination products as a controlled substance.

Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat hydrocodone combination products under ch. 961, Stats., by creating the following:

CSB 2.37 Rescheduling of hydrocodone combination products. Sections 961.18 (5) (c) and (d), Stats., are repealed.

The Affirmative Action order, dated October 7, 2014, will take effect on November 1, 2014, to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

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

961.11 (2) After considering the factors enumerated in sub. (1m), the controlled substances board shall make findings with respect to them and promulgate a rule controlling the substance upon finding that the substance has a potential for abuse.

961.11 (4) If a substance is designated, rescheduled or deleted as a controlled substance under federal law and notice thereof is given to the controlled substances board, the board by affirmative action shall similarly treat the substance under this chapter after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h), unless within that 30-day period, the board or an interested party objects to the treatment of the substance. If no objection is made, the board shall promulgate, without making the determinations or

findings required by subs. (1), (1m), (1r) and (2) or s. 961.13, 961.15, 961.17, 961.19 or 961.21, a final rule, for which notice of proposed rulemaking is omitted, designating, rescheduling, temporarily scheduling or deleting the substance. If an objection is made the board shall publish notice of receipt of the objection and the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall make a determination with respect to the treatment of the substance as provided in subs. (1), (1m), (1r) and (2) and shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the treatment by the board, action by the board under this chapter is stayed until the board promulgates a rule under sub. (2).

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

25 hours

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

Pharmacists, prescribers, courts, police, and the Controlled Substances Board.

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

On August 22, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register rescheduling hydrocodone combination products from schedule III to schedule II of the federal Controlled Substances Act. The scheduling action was effective October 6, 2014.

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

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

Contact Person

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

Natural Resources

Fish, Game, etc., Chs. NR 1—

SS 116-14

(DNR #s FH-17-14(E) and FH-18-14)

This statement of scope was approved by the governor on November 7, 2014.

Rule No.

Chapters NR 20 and 23 (revise).

Relating to

Modifications in walleye harvest management in Ceded Territory waters.

Rule Type

Permanent and emergency.

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

The Department of Natural Resources (Department) finds that an 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 associated with reductions in walleye bag limits on off-reservation waters. Pursuant to treaties signed between the six Wisconsin bands of Lake Superior Ojibwe and the United States and affirmed by *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the bands have the right to harvest fish from off-reservation waters using efficient methods such as spearing and netting. The current model of reducing angling bag limits in response to annual tribal declarations to ensure a sustainable walleye harvest has become increasingly unpredictable in recent fishing seasons, and angling harvest management may be better accomplished with a stable set of regulations that achieve results similar to annual bag limit adjustments.

Authority to promulgate an emergency rule under this scope will provide the Department with the flexibility necessary to adjust angler regulations to potentially alleviate and minimize regional social and economic disruption associated with reductions in walleye bag limits on off-reservation waters within the Ceded Territory.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rules would allow emergency and permanent changes for making adjustments to fishing regulations in the Ceded Territory to allow more flexibility in responding to tribal declarations and harvest levels. Currently these regulations are prescribed in ss. NR 20.18, 20.20, 20.36, 20.37, and 23.055, Wis. Adm. Code. In particular, the Department may consider comparable alternatives to bag limit adjustments such as size limit or season adjustments.

Additional rule changes may be pursued which are reasonably related to those discussed here.

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

The proposed rules would make modifications to portions of chs. NR 20 and 23, Wis. Adm. Code, pertaining to sport fishing regulations on inland and border waters of Wisconsin. These changes are proposed to protect and enhance the State's fish resources.

Current administrative code requires the Department to make changes to angler bag limits for walleye in lakes named for harvest by any of the Chippewa Bands. These bag limit adjustments are designed to prevent exceeding 35% exploitation of individual walleye fisheries by joint tribal and angler harvest. Angler bag limit reductions are designed to accommodate the intended amount of tribal harvest.

Factors affecting expected tribal harvest in 2015 and beyond are currently uncertain and the Department requests approval to consider rule alternatives to bag limit reductions which could accomplish similar controls on angler harvest to preserve a sustainable walleye fishery

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

Section 29.014 (1), Stats., directs the Department to establish and maintain 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.

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

Licensed sport anglers.

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

The Department is not aware of any existing or proposed federal regulation that would govern sport fishing in Wisconsin's waters.

8. Anticipated Economic Impact of Implementing The Rule

The proposed rule change would impact sport anglers. Changes in angling regulations enacted to accommodate declared, expected, or realized tribal harvest could potentially alleviate and minimize regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters within the Ceded Territory. Exact economic impact of the rule is unknown, but positive impact is expected for businesses or business associations by virtue of more predictable, stable angling regulations.

No compliance or reporting requirements will be imposed on small businesses as a result of these rule changes. During rule development, the proposed rule will be available for review and comment at <https://health.wisconsin.gov/admrules/public/Search>.

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

The Department anticipates holding two public hearings in summer 2015. Hearing cities will be: Madison and Minocqua. If possible, hearings will be combined for the emergency and permanent rules.

The Department will hold these hearings in these locations to gather input from sport anglers and tribal interests.

Contact Person

Ron Bruch, (608) 267-0796,
Ronald.Bruch@wisconsin.gov.

Revenue

SS 117-14

This statement of scope was approved by the governor on November 11, 2014.

Rule No.

Section Tax 2.495 (revise).

Relating to

The apportionment of Wisconsin apportionable income of interstate brokers-dealers, investment advisers, investment companies, and underwriters.

Rule Type

Permanent.

1. Detailed Description of the Objective of the Proposed Rule

The department's objective is to evaluate other methods of assigning gross receipts from the sale of "trading assets" to Wisconsin in s. Tax 2.495 for purposes of computing the amount of income apportioned to Wisconsin for interstate brokers-dealers, investment advisers, investment companies, and underwriters.

"Trading assets" includes securities, commodities, and related financial instruments that a taxpayer acquires and holds for sale in its inventory account.

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

Existing policies for assigning the income of interstate brokers-dealers, investment advisers, investment companies, and underwriters to Wisconsin are set forth in the rules. Specifically, s. Tax 2.495 assigns gross receipts from the sale of trading assets to Wisconsin based on where the day-to-day decisions regarding the trading assets occur. If the day-to-day decisions occur in more than one state, the gross receipts are assigned to Wisconsin if the trading policies and guidelines are established in Wisconsin. There is a rebuttable presumption that the trading policies and guidelines are established at the taxpayer's commercial domicile.

The department will evaluate other methods of assigning gross receipts from the sale of trading assets to Wisconsin for purposes of computing the amount of income apportioned to Wisconsin for interstate brokers-dealers, investment advisers, investment companies and underwriters.

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

Sections 71.04 (8) (c) and 71.25 (10) (c), Wis. Stats., require the department to promulgate rules for apportioning income of specialized industries, specifically "The net business income of railroads, sleeping car companies, car line companies, pipeline companies, *financial organizations*, telecommunications companies, air carriers, and public utilities requiring apportionment shall be apportioned pursuant to rules of the department of revenue, but the income taxed is limited to the income derived from business transacted and property located within the state."

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

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

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

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

Brokers-dealers, investment advisers, investment companies, and underwriters.

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

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

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

It is the department's intent that any new methods of assigning gross receipts from the sale of "trading assets" to Wisconsin in s. Tax 2.495 for purposes of computing the amount of income taxable to Wisconsin will not have a significant economic impact on any interstate broker-dealer, investment adviser, investment company, underwriter or small business.

Contact Person

Dale Kleven, (608) 266-8253.

**Safety and Professional Services —
Examining Board of Professional Geologists,
Hydrologists and Soil Scientists**

SS 121-14

This statement of scope was approved by the governor on October 20, 2014.

Rule No.

Chapters GHSS 1 (revise) and 6 (create).

Relating to

Continuing education for professional geologists, hydrologists, and soil scientists.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The legislature granted rulemaking authority to the Board to establish continuing education requirements that a person credentialed by the Board must satisfy to be able to renew a credential. The objective of the proposed rule is to create continuing education requirements.

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

Currently continuing education is not required for professional geologists, professional hydrologists and professional soil scientists. The industry is changing with new technologies and continuing education for the professions credentialed by the Board would ensure their professional competency.

The alternative is to not require continuing education and have professionals practicing in the field without education in the current standards of practice of the profession.

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

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

470.03 (2) Upon the advice of the appropriate section of the examining board, the examining board may promulgate rules that establish continuing education requirements that a person must satisfy to be eligible to renew a license that is issued under this chapter.

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

80 hours

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

Licensed professional geologists, professional hydrologists, and professional soil scientists.

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

None

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

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

Contact Person

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

Safety and Professional Services —**Marriage and Family Therapy, Professional Counseling and Social Work Examining Board**

SS 122-14

This statement of scope was approved by the governor on October 20, 2014.

Rule No.

Section MPSW 16.01 (revise).

Relating to

Supervised hours required for marriage and family therapy licensure.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective is to correct rules which place a burden on the applicant by going beyond statutory 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

The current rule contains a requirement that an applicant for a marriage and family therapy license must complete their 3,000 hours supervised marriage and family therapy practice in no less than 2 years. The legislature removed the "no less than 2 year" requirement when it inserted the 3,000 hour requirement. The policy proposed is to remove the "in no less than 2 years" requirement.

The alternative to the proposed policy is to continue with rules which place the threshold above the statutory requirement and delay the person from obtaining licensure.

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

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

457.03 (1) Upon the advice of the social worker section, marriage and family therapist section, and professional counselor section, promulgate rules establishing minimum standards for educational programs that must be completed for certification or licensure under this chapter and for supervised clinical training that must be completed for licensure as a clinical social worker, marriage and family therapist, or professional counselor under this chapter and approve educational programs and supervised clinical training programs in accordance with those standards.

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

50 hours.

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

Marriage and family therapist applicants.

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

None.

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

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

Contact Person

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

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Natural Resources

*Fish, Game, etc., Chs. NR 1—
CR 14–062*

(DNR # LE–17–13)

The statement of scope for this rule, SS 079–14, was approved by the governor on July 29, 2014, published in Register No. 704, on August 14, 2014, and approved by the Natural Resources Board on September 24, 2014.

Date Submitted to the Rules

Clearinghouse: November 13, 2014

Board Order No.: LE–17–13

Subject: Law enforcement aids to
counties and municipalities

Administrative Codes: Chapters NR 50 and 64

Date of Public Hearing: December 12, 2014

Name and Organizational Unit of Agency Contact

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

Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board

CR 14–063

On November 18, 2014, the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this was published in Register No. 657 on September 14, 2010, prior to Act 21.

Analysis

This proposed rule-making order repeals section MPSW 1.09 and creates section MPSW 1.095, relating to substance abuse specialty.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 19, 2014, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Administrative Rules Coordinator,
Department of Safety and Professional Services, Division of
Policy Development, (608) 261–2377.

Rule-Making Notices

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1— CR 14-062

(DNR # LE-17-13)

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.16 and 227.17, Stats., the Department of Natural Resources, hereinafter the Department, will hold a public hearing on Chapters NR 50 and 64, relating to law enforcement aids to counties and municipalities on the date, time, and location listed below.

Hearing Information

Date: Friday, December 12, 2014
Time: 10:00 a.m. to 11:00 a.m.
Location: DNR Service Center
 Glacier's Edge/Gathering Waters
 Conference Room
 3911 Fish Hatchery Road
 Fitchburg, WI 53711

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

Availability of the Proposed Rules and Fiscal Estimate

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

Submitting Comments

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

Roy Zellmer
 Department of Natural Resources
 Bureau of Law Enforcement
 101 S Webster St,
 Madison, WI 53703
 Phone: 608-212-5358

Fax: 608-266-3696
 E-mail: roy.zellmer@wisconsin.gov

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

Phone: 608-228-9352
 Fax: 608-266-3696
 E-mail: penny.kanable@wisconsin.gov

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

Analysis Prepared by the Department of Natural Resources

Statute interpreted

Sections 30.79, 23.33 (9), and 350.12 (4), Stats.

Statutory authority

Sections 30.79, 23.33 (9), and 350.12 (4), Stats.

Explanation of agency authority

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

Related statutes or rules

N/A

Plain language analysis

The proposed rule makes several modifications to ch. NR 50.

Section 1 — Clarifies the definition of Enforcement Officer in order for the patrol agency to qualify for state aid.

Section 2, 3, 4, and 5 — Provide consistency for the patrol agencies and reduces the number of copies required to be submitted to the department. Create requirements for the all-terrain/utility terrain law enforcement aid program in ch. NR 50 to provide consistency for the patrol agencies.

Section 6 — Adds Municipal Boat Patrol U.S. Coast Guard Annual Report (Form 8700-330) to the list of forms required as part of the annual reimbursement claim submittal. Information collected on this form is required in the U.S. coast guard federal grant application process.

Section 7 — Reduces the maximum allowable administrative percentage to 30% of the total hours claimed. Provides consistency across the three patrol unit types and limits the administrative hours claimed by a patrol unit to ensure patrol units are reimbursed for time spent patrolling vs. administrative tasks, thereby reducing the cost per citation.

Section 8 — Creates the ability for patrols to include hours for safety education teaching as a reimbursable cost, consistent with water safety patrol requirements. Allowing safety education teaching hours as exempt hours will allow

the patrol units to include all relevant hours on their claim, while keeping the patrol hours as actual hours spent patrolling.

Section 9 — Removes all terrain law enforcement aids program requirements from ch. NR 64 in order to create language in ch. NR 50 to provide consistency for the patrol agencies.

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

Not applicable.

Comparison with similar rules in adjacent states

Not applicable.

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

Proposed changes will have an overall positive economic impact on the county sheriff’s departments and local municipalities identified in the list at the end of this document.

Effect on Small Business (Initial Regulatory Flexibility Analysis)

None. The rules are applicable to country sheriff’s departments and local municipality enforcement units and impose no compliance or reporting requirements for small business. The Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us, or by calling (608) 266–1959.

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

Environmental Analysis

Promulgation of permanent administrative rules under ch. 227, Stats., is an equivalent analysis action under ch. NR 150, Wis. Adm. Code.

Fiscal Estimate Summary

A Department analysis of the 174 patrol claims received for the 2013 boating season and the 2013–2014 ATV and Snowmobile seasons indicates that 78% of the patrols would receive an increase in their reimbursement payment, 10% would see a decrease in their reimbursement payment, and 12% of the patrols would need to increase their patrol numbers in order to meet the minimum standards proposed in this rule.

Contact Persons

Roy Zellmer
Department of Natural Resources
Bureau of Law Enforcement
Phone: 608–212–5358
E–mail: roy.zellmer@wisconsin.gov

Penny Kanable
Department of Natural Resources
Bureau of Law Enforcement
Phone: 608–228–9352
E–mail: penny.kanable@wisconsin.gov

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

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

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

NR 50 – Law Enforcement Aids to Counties and Municipalities

3. Subject

The Bureau of Law Enforcement recommends promulgating administrative rules that modify section of Chapter NR 50.12, NR 50.13 and NR 64.15 relating to law enforcement aids to counties and municipalities

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

- Yes No

9. Policy Problem Addressed by the Rule

The proposed revisions are intended to provide consistency of eligibility and reimbursement standards for recreational vehicle patrol units. Inconsistencies include the definition of allowable hours for patrol units, limits to the percentage of reimbursable administrative hours, eligibility to include time law enforcement officers spend teaching safety education classes, and depreciation methods. The proposed revisions would also increase the allowable fringe rate percentage and change the dollar amount of capital equipment and repairs to capital equipment from \$1,000 to \$2,500 to reflect current day practices and expenditures

The proposed revisions would increase the number of patrol hours required for reimbursement eligibility as follows: all-terrain vehicle from 20 to 40 hours, snowmobile from 20 to 40 hours and waters safety patrol from 40 to 80 hours providing an increased law enforcement presence throughout the state which will have a positive effect on health and safety

The proposed revisions will provide consistency and standardization for the state, counties, and municipalities in the administration of the law enforcement aids program.

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.

Revisions will affect county sheriff, city, village, township and lake protection districts conducting ATV, snowmobile and water safety patrol activities.

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

See list at end of this document.

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)

Proposed changes will have an overall positive economic impact on the county sheriff's departments and local municipalities identified in the list at the end of this document.

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

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

An analysis of the 174 patrol claims received for the 2013 boating season and the 2013–2014 ATV and Snowmobile seasons indicates that 78% of the patrols would receive an increase in their reimbursement payment, 10% would see a decrease in their reimbursement payment, and 12% of the patrols would need to increase their patrol numbers in order to meet the minimum standards proposed in this rule.

A final analysis will be completed after public comments are received.

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

The proposed revisions will provide consistency of eligibility and reimbursement standards for recreational vehicle patrol units. The revision will also provide for an increased law enforcement presence thereby providing a positive impact for health and safety.

14. Long Range Implications of Implementing the Rule

None

15. Compare With Approaches Being Used by Federal Government

Not applicable

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

N/A

17. Contact Name

Roy Zellmer

18. Contact Phone Number

608-212-5385

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

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

1	1	1	JEFFERSON COUNTY SHERIFF'S DEPT
1	1	1	JUNEAU COUNTY SHERIFF'S DEPT
1	1	1	KENOSHA COUNTY SHERIFF'S DEPT
		1	KEWAUNEE COUNTY SHERIFF'S DEPT
	1		LA GRANGE, TOWN OF
	1		LAC LA BELLE, VILLAGE OF
	1		LACROSSE COUNTY SHERIFF'S DEPT
1			LAFAYETTE COUNTY SHERIFF'S DEPT
	1		LAKE DELTON, VILLAGE OF
	1		LAKE GENEVA, CITY OF
	1		LAKE MILLS, TOWN OF
1		1	LANGLADE COUNTY SHERIFF'S DEPT
	1		LAUDERDALE LAKE MGMT
	1		LAVALLE, TOWN OF
	1		LEGEND LAKE PRD
1	1	1	LINCOLN COUNTY SHERIFF'S DEPT
	1		LINCOLN, TOWN OF (LAKE WAPAGASSET/BEAR TRAP)
	1		LINN, TOWN OF
	1		LITTLE CEDAR LAKE P&R DISTRICT
	1		MANITOWISH WATERS, TOWN OF
1	1	1	MANITOWOC COUNTY SHERIFF'S DEPT
1	1	1	MARATHON COUNTY SHERIFF'S DEPT
1	1	1	MARINETTE COUNTY SHERIFF'S DEPT
	1		MARION, TOWN OF
	1	1	MARQUETTE COUNTY SHERIFF'S DEPT
1	1	1	MENOMINEE COUNTY SHERIFF'S DEPT
	1		MEQUON, CITY OF
	1		MERTON, TOWN OF
1	1	1	MILWAUKEE COUNTY SHERIFF'S DEPT
	1		MILWAUKEE, CITY OF
	1		MINOCQUA/WOODRUFF BOAT PATROL
	1		MUKWONAGO, TOWN OF
	1		MUSKEGO, CITY OF
	1		NORWAY, TOWN OF
	1		OAKLAND, TOWN OF
	1		OCONOMOWOC LAKE, VILLAGE OF
	1		OCONOMOWOC, CITY OF
	1		OCONOMOWOC, TOWN OF
1	1	1	OCONTO COUNTY SHERIFF'S DEPT
1	1	1	ONEIDA COUNTY SHERIFF'S DEPT
	1		OSCEOLA, TOWN OF
	1	1	OUTAGAMIE COUNTY SHERIFF'S DEPT
		1	OZAUKEE COUNTY SHERIFF'S DEPT
	1		PADDOCK LAKE, VILLAGE OF
	1		PARK LAKE MGMT DISTRICT
	1		PEWAUKEE, CITY OF
1	1	1	PIERCE COUNTY SHERIFF'S DEPT
1	1	1	POLK COUNTY SHERIFF'S DEPT
	1		PORT WASHINGTON, CITY OF
1	1	1	PORTAGE COUNTY SHERIFF'S DEPT
1	1	1	PRICE COUNTY SHERIFF'S DEPT
1	1	1	RACINE COUNTY SHERIFF'S DEPT
	1		RANDALL, TOWN OF
	1		RICHFIELD, TOWN OF
		1	RICHLAND COUNTY SHERIFF'S DEPT
	1	1	ROCK COUNTY SHERIFF'S DEPT

	1		ROCK RIVER SAFETY PATROL
	1		ROME, TOWN OF
1	1	1	RUSK COUNTY SHERIFF'S DEPT
	1	1	ST CROIX COUNTY SHERIFF'S DEPT
	1		SALEM, TOWN OF
1	1	1	SAUK COUNTY SHERIFF'S DEPT
1	1	1	SAWYER COUNTY SHERIFF'S DEPT
1	1	1	SHAWANO COUNTY SHERIFF'S DEPT
1	1	1	SHEBOYGAN COUNTY SHERIFF'S DEPT
	1		SILVER LAKE P&R DISTRICT
	1		SILVER LAKE, VILLAGE OF
	1		SPRINGWATER, TOWN OF
	1		STEPHENSON, TOWN OF
	1		STURGEON BAY, CITY OF
	1		SUMMIT, TOWN OF
		1	TAYLOR COUNTY SHERIFF'S DEPT
	1		THREE LAKES, TOWN OF
	1		TROY TOWN OF
	1		TWIN LAKES, VILLAGE OF
	1	1	VILAS COUNTY SHERIFF'S DEPT
1	1	1	WALWORTH COUNTY SHERIFF'S DEPT
1		1	WASHBURN COUNTY SHERIFF'S DEPT
		1	WASHINGTON COUNTY SHERIFF'S DEPT
	1		WATERFORD, TOWN OF
1	1	1	WAUKESHA COUNTY SHERIFF'S DEPT
	1	1	WAUPACA COUNTY SHERIFF'S DEPT
	1	1	WAUSHARA COUNTY SHERIFF'S DEPT
	1		WEBB LAKE, TOWN OF
	1		WHEATLAND, TOWN OF
	1		WHITEWATER, TOWN OF
	1		WILLIAMS BAY, VILLAGE OF
1	1	1	WINNEBAGO COUNTY SHERIFF'S DEPT
	1	1	WOOD COUNTY SHERIFF'S DEPT
46	123	62	

Notice of Hearings

Room 121A
Madison, Wisconsin

Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board CR 14-063

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board in ss. 15.08 (5) (b) and 457.02 (5m), Stats., and interpreting s. 457.02 (5) and (5m), Stats., the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal section MPSW 1.09 and create section MPSW 1.095, relating to substance abuse specialty.

Hearing Information

Date: Friday, December 19, 2014
Time: 10:30 a.m.
Location: 1400 East Washington Avenue
(Enter at 55 North Dickinson Street)

Appearances at the Hearing

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

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on **December 19,**

2014, to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, by email at Sharon.Henes@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 457.02 (5) and (5m), Stats.

Statutory authority

Sections 15.08 (5) (b) and 457.02 (5m), Stats.

Explanation of agency authority

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

The board establishes the educational and supervised training requirements in rules promulgated by the board to authorize an individual who is certified or licensed by the board to treat alcohol or substance dependency or abuse as a specialty. In promulgating rules under this subsection, the examining board shall consider the requirements for qualifying for a credential under s. 440.88, Stats.

Related statute or rule

N/A

Plain language analysis

Section 1 repeals s. MPSW 1.09 in its entirety.

Section 2 creates the educational and supervised training requirements for a person credentialed by the board to treat alcohol or substance dependency as a specialty.

The first subsection delineates the use of the title and scope of practice. If a person who is credentialed by the board wants to treat alcohol or substance dependency or abuse as a specialty, without being credentialed under s. 440.88, Stats., the person must meet the requirements in this section.

The second subsection recognizes that a credential holder who holds a master's degree would have received education in treatment, therefore, a minimum of 135 contact hours of substance use disorder education is required to supplement that education in four subject matter areas (understanding addiction; knowledge of addiction treatment; application to addiction practice; and professional readiness in addiction treatment). The credential holder would also be required to have 200 hours of supervised face-to-face client treatment. The education could be obtained in the course of earning the master's degree or in the addition of the degree. The 200 hours of supervised training may have been obtained during or separately of the hours required to obtain the underlying credential.

The third subsection provides the requirements for a credential holder who holds a bachelor's degree would not have had the advance education. The requirements include 180 contact hours of substance use disorder education in four subject matter areas (understanding addiction; treatment knowledge; application to practice; and professional

readiness) which must include specific content within each subject matter area and 1,000 hours of supervised face-to-face client substance use disorder treatment experience. The education could be obtained in the course of earning of the bachelor's degree or in addition to the degree. The 1,000 hours of supervised training may have been obtained during or separately of the hours required to obtain the underlying credential.

The fourth subsection indicates the qualifications for a person who is supervising the person obtaining the training for the specialty. The following people are qualified, provided they have knowledge in psychopharmacology and addiction treatment: a licensed marriage and family therapist, a licensed professional counselor, a licensed clinical social worker, a licensed psychologist, a licensed physician, a clinical supervisor as defined by s. DHS 75.02 (11) or another individual approved in advance of the training by the board.

The fifth subsection indicates that at least 6 continuing education hours in substance use disorder must be obtained during each biennial credentialing period. This continuing education may be counted toward the continuing education required for the renewal of the underlying credential.

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

None.

Comparison with rules in adjacent states

Illinois: Illinois does not have requirements for a marriage and family therapist, professional counselor or social worker to obtain specified education or training to specialize in substance use disorder treatment.

Iowa: Iowa does not have requirements for a marriage and family therapist, professional counselor or social worker to obtain specified education or training to specialize in substance use disorder treatment.

Michigan: Michigan does not have requirements for a marriage and family therapist, professional counselor or social worker to obtain specified education or training to specialize in substance use disorder treatment.

Minnesota: Minnesota does not have requirements for a marriage and family therapist, professional counselor or social worker to obtain specified education or training to specialize in substance use disorder treatment.

Summary of factual data and analytical methodologies

The Board considered the requirements for qualifying for a credential under s. 440.88, Stats., *Scopes of Practice & Career Ladder for Substance Use Disorder Counseling* (September 2011) by Substance Abuse and Mental Health Services Administration and U.S. Department of Health and Human Services and the Technical Assistance Publication Series *Addiction Counseling Competencies* (March 2008) by Substance Abuse and Mental Health Services Administration.

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

In preparation of the EIA, the rule was posted for economic comments for a period of 14 days and received no comments. The Board determines there is no effect on small business.

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.

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

Agency Contact Person

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

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

MPSW 1.09 and 1.095

3. Subject

Substance Abuse Specialty

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165 (1) (g)

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The proposed rule clarifies and updates the educational and supervised training requirements for a person credentialed by the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to treat alcohol or substance dependency as a specialty.

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

The rule was posted for 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 will not affect local governmental units.

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

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

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

The benefit is to clearly delineate the requirements for a person credentialed by the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to treat alcohol or substance dependency as a specialty.

14. Long Range Implications of Implementing the Rule

The long range implication is the requirements are clearer and have been updated to reflect current practices and trends.

15. Compare With Approaches Being Used by Federal Government

None

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

Our neighboring states do not have requirements for a marriage and family therapist, professional counselor or social worker to obtain specified education or training to specialize in substance use disorder treatment.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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

Notice of Hearings

Transportation CR 14-061, EmR1421

NOTICE IS HEREBY GIVEN that, pursuant to ss. 227.17 and 227.24 (4), Stats., the State of Wisconsin Department of Transportation (“WisDOT”) will hold a public hearing on EmR1421, an emergency rule and proposed permanent rule that will revise Wis. Admin. Code. ch. Trans 102, relating to operator’s licenses and identification cards.

Hearing Information

Date: Thursday, December 11, 2014
Time: 6:00 to 8:00 p.m.
Location: Marquette University High School
 Cannon Commons
 3401 W. Wisconsin Avenue
 Milwaukee, WI 53208

If you have special needs or circumstances regarding communication or accessibility at a hearing, please call Jennifer Peters, Administrative Rulemaking Coordinator, at (608) 267-6979 prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available on request to the fullest extent possible.

Appearances at the Hearing and Written Comments

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their written comments. WisDOT will accept written comments until **December 18, 2014** at 4:30 p.m. Written comments may be sent to Patrick Fernan, Administrator, WisDOT Division of Motor Vehicles, 4802 Sheboygan Avenue, Room 225, Madison, Wisconsin 53705, Patrick.Fernan@dot.wi.gov.

Copies of the Rule

You may receive a paper copy of the rules or fiscal estimate by contacting Jennifer Peters, Administrative Rulemaking Coordinator at WisDOT Office of General Counsel, 4802

Sheboygan Avenue, Room 115B, Madison, Wisconsin 53705, Jennifer.Peters@dot.wi.gov. A copy of the rule is available at <http://adminrules.wisconsin.gov>. This site allows you to view documents associated with this emergency rule and proposed permanent rule promulgation.

Analysis Prepared by the Department of Transportation

Statutes interpreted

Statutes Interpreted: Sections 343.14, 343.50, Stats.

Statutory authority

Statutory Authority: Sections 85.16 (1), 343.02 (1), 343.14, and 343.50, Stats.

Explanation of statutory authority

Wis. Stat. ss. 343.14 and 343.50(4) specify the contents of applications for identification cards and authorizes the Department to require such information as the Department considers appropriate to identify the applicant.

Wis. Stat. s. 343.50 requires the Department to issue identification cards.

Wis. Stat. s. 343.50 (5) (a) 3. prohibits the Department from charging a fee for an identification card requested by a qualified applicant who requests it free of charge for purposes of voting.

Wis. Stat. s. 343.02 (1) authorizes the Department to promulgate such rules concerning ID cards that the Secretary considers necessary.

Wis. Stat. s. 85.16 (1) authorizes the Secretary of the Department to make rules deemed necessary to the discharge of the powers, duties and functions vested in the department.

Related statutes and rules

Wis. Stat. s. 343.50 requires the Department to issue identification cards.

Section Trans 102.15, Wis. Adm. Code, requires proof of identification for issuance, renewal, reissuance, reinstatement or duplicate driver license or identification card, and specifies the acceptable documentary proof. That section also establishes a petition process under which an applicant may request an exception to the documentary proof requirements for name and date of birth.

Plain language analysis

Background

The Department of Transportation, Division of Motor Vehicles (“DMV”) has evaluated the holding in *Milwaukee Branch of NAACP v. Walker*, 2014 WI 98, 851 N.W. 2d 262, and current statutes and has determined that rulemaking is appropriate to harmonize the two. In that case, the Wisconsin Supreme Court upheld this state’s law that requires presentation of specified identification, including identification cards issued by the Department, as a condition of voting (commonly referred to as the “Voter ID law”). The court found that the existing petition process allowed applicants to obtain an identification card required for voting without payment of any fee to a government agency.

This rulemaking is intended to prescribe the manner in which DMV can issue ID cards to individuals requesting them free of charge for voting purposes consistent with the holding in *NAACP v. Walker* and current statutes. The Department has a petition process that allows identification card applicants to provide secondary proof of name and date of birth in the event a birth certificate is unavailable. But the Department does not currently consider a document that is available upon payment of a fee to a government agency to be “unavailable” for the purpose of using the petition process.

Rule content

This rule considers any document that is required to be submitted as part of an application for an identification card requested without charge for voting purposes to be considered “unavailable” if the applicant does not have the document and cannot obtain the document without payment of a fee to a government agency. In such cases, the Department will request the applicant provide his or her name, date of birth, place of birth and other birth information. The Department will then verify that birth information with the Wisconsin Department of Health Services and, if confirmed, will issue the identification card. If the birth record information or naturalization information cannot be confirmed, the Administrator of DMV may approve secondary documentary proof of name, date of birth and U.S. citizenship.

Section 1 specifies that an identification card issued under the petition process must be readily identifiable as non-compliant with the federal REAL-ID law, similar to the treatment of certain driver’s licenses by s. 343.03 (3r), Stats.

Section 2 establishes qualifications for issuance of an identification card without charge for voting purposes, and prohibits the Department from inquiring further about the applicant’s qualifications to vote.

Sections 3 and 4 retain the existing definition of “unavailable” documents ordinarily required for issuance of a driver’s license or identification card, and creates a definition of “unavailable” that applies only to identification cards issued free of charge for voting purposes consistent with the Wisconsin Supreme Court’s decision in *NAACP v. Walker*, par. 69.

Sections 5 and 6 recognize the petition process under proposed s. Trans 102.15 (5m) creates an exception to the documentary proof requirements that ordinarily apply to identification cards.

Section 7 is amended so that an identification card issued without a birth certificate cannot be used as proof of name and date of birth for a driver’s license. The Department believes that without this treatment, unlicensed drivers 17 years of age

or older who lack a birth certificate could request an identification card free of charge for voting purposes and immediately exchange it for a driver’s license, thereby creating a state burden of birth record verification unrelated to the act of voting.

Section 8 rennumbers the existing petition process to a new subsection (5m). The Department intends to retain the existing petition process for driver’s licenses and for identification cards that are not requested without charge for purposes of voting.

Section 9 rennumbers the authority of the Administrator of the DMV to delegate authority to accept or reject extraordinary proof provided under the petition process, so that delegation will apply to the existing process as well as the petition process to be employed for identification cards requested without charge for voting purposes.

Section 10 creates a title for the petition process.

Section 11 creates the petition process to be employed if an applicant requests an identification card without charge for voting purposes does not have the documentary proof ordinarily required for an identification card. Under the petition process, the applicant must provide information sufficient for the Department of Health Services (DHS) to locate the applicant’s birth certificate, in this state or in another state. If DHS can verify the existence of the birth certificate and the birth record information, the Department will issue the identification card relying on that information as proof of name and date of birth. If the DHS cannot verify that information, the Department will notify the applicant that it cannot confirm a birth certificate match for the information supplied by the applicant, and that the Department cannot issue an identification card unless the applicant can provide some other documentary proof of establishing his or her name and date of birth. Similarly, the petition process will verify a naturalized applicant’s name and date of birth by verifying federally issued proof of a U.S. citizen’s foreign birth, U.S. citizenship and immigration service number, or U.S. citizenship certificate number if those documents are unavailable and can be obtained only upon payment of a fee to a government agency.

Section 12 creates a process of approving name changes without requiring the applicant to provide a document that may be available only upon payment of a fee to a government agency. The Department will verify the birth record information with the names associated with an individual’s records maintained by the federal social security administration. In this way, the Department can verify that an application for an identification card in the name of, for example, John Smith is proper if requested by an applicant who proves only that he was born John Doe.

Section 13 creates a judicial right of review of the petition decision made by the Administrator of DMV, similar to that created by s. 343.40, Stats., for driver licensing decisions.

Section 14 corrects a cross-reference to a rule rennumbered by this rulemaking.

Section 15 states the effective date of this rule.

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

Federal law generally does not regulate the issuance of identification cards by states, however federal law (the “REAL-ID law”, P.L. 109-13, section 202 (d) (11)) prohibits the use of state-issued identification cards for purposes of federal identification or any other official federal purpose, such as entering federal buildings or airports, unless the

identification card application included federally required documents and the state stored and retained those documents. Federal law requires that identification cards that do not meet those requirements be distinct in appearance from those that do.

There are no federal identification requirements to vote. In general, voting requirements are established by state law.

Comparison with rules in adjacent states

Illinois: Illinois requires applicants for an original identification card or driver's license to provide documentary proof of signature, date of birth, social security number and residency. Documents acceptable to prove date of birth are original: Adoption Records; Birth Certificate; Court Order — Change of Birth Date; Certified Grade/High School/College/University Transcript; U.S. Citizenship and Immigration Services (USCIS) forms; U.S. Visa Military Driver's License — U.S.; Military Identification Card — U.S.; Military Service Record — DD214; Naturalization Certificate; Passport — Valid with Complete Date of Birth; U.S. Passport Card — Valid with Complete Date of Birth; or Social Security Award Letter (Primary Beneficiary Only). 92 Ill. Adm. Code 1030 App. B.

Illinois issues identification cards for the homeless at no cost. Applicants for a no-fee homeless identification card must provide proof of name, date of birth and social security number ordinarily required, but in lieu of proof of address may submit a 'homeless status certification signed by the homeless applicant before a notary public and attested to by a representative of a homeless service agency that receives public funding; an attorney; a public school homeless liaison or school social worker; a human services provider funded by the State of Illinois; a representative of a religious organization that offers services to the homeless. 92 Ill. Adm. Code 1030.12; 92 Ill. Adm. Code 1030 App. B.

Iowa: An applicant for an original driver's license or identification card must provide proof of identity, date of birth, social security number, Iowa residency and current residential address, and lawful status in the United States. IA ADC 761-601.5(321) To establish identity and date of birth, an applicant must submit at least one of the following documents: A valid, unexpired U.S. passport or U.S. passport card; A certified copy of a birth certificate and, if applicable, a certified amended birth certificate showing a change in name, date of birth, or sex, filed with a state office of vital statistics or equivalent agency in the applicant's state of birth. The birth certificate must be a certified copy and have the stamp or raised seal of the issuing authority. A hospital-issued certificate is not acceptable; A Consular Report of Birth Abroad issued by the U.S. Department of State; A valid, unexpired Permanent Resident Card issued by the U.S. Department of Homeland Security or U.S. Immigration and Naturalization Service; An unexpired employment authorization document issued by the U.S. Department of Homeland Security; An unexpired foreign passport with a U.S. visa affixed, accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States; Certificate of Naturalization issued by the U.S. Department of Homeland Security; A Certificate of Citizenship issued by the U.S. Department of Homeland Security; A REAL ID driver's license or identification card issued in compliance with the standards established by 6 CFR Part 37; Such other documents as the U.S. Department of Homeland Security may designate as acceptable proof of identity and date of birth for REAL ID purposes by notice

published in the Federal Register; An Inmate Descriptor Inquiry, Client Information Inquiry or Offender Snapshot document issued by the Iowa department of corrections or the United States District Court, Northern and Southern Districts of Iowa. The document must contain the applicant's full legal name and date of birth and be notarized. IA ADC 761-601.5(321).

Michigan: Michigan requirements for state identification cards are set forth in statute, and do not appear to be set addressed in administrative code. In general, residents applying for a state ID card must present documentation of a valid Social Security number, U.S. citizenship or legal presence, identification and Michigan residency. Mich. Comp. Laws Annot. 28.304. Application requirements for a "Standard official state personal identification card" are set forth at Mich. Comp. Laws Annot. 28.291 to 28.300. The following documents are acceptable proof of identity: Out-of-state, U.S. territories, or Canadian driver's license or ID card, expired for less than one year; Marriage license issued in the U.S.; Divorce decree issued in the U.S.; U.S. court order for a name change; Photo ID card issued by a federal or Michigan government agency; U.S. Customs and Border Protection Trusted Traveler Card ; U.S. military ID card with photo; U.S. military discharge or separation documents; Tribal photo ID card from a federally recognized Native American tribe; Michigan Department of Corrections prisoner ID card (requires verification); Michigan driver education certificate (applicants age 18 and younger); Michigan adoption record; U.S. school records (School ID cards with name and photo, diplomas, transcripts or yearbooks); If the applicant is below age 18 and does not have one of the above, a parent or guardian must present their driver's license or ID and sign for the teen.

Minnesota: Minnesota requires applicants for original driver's license or identification card to provide documentary proof of date of birth, full legal name, social security number, photographic identity, and U.S. citizenship. The applicant must present one legible, unaltered, primary document that contains the applicant's full name and date of birth as proof of name, date of birth, and identity, which are described as follows: A copy of the applicant's record of birth certified by the issuing government jurisdiction of the United States or U.S. territory; A certified copy of an adoption certificate with the applicant's full name and date of birth from a United States court of competent jurisdiction ; An unexpired identification card issued to the applicant by the United States Department of Defense for active duty, reserve, or retired personnel; A valid unexpired passport issued to the applicant by the United States Department of State; An applicant or owner may present a valid, unexpired passport issued to the applicant from a jurisdiction other than the United States Department of State with either a United States Department of Justice or United States Department of Homeland Security Arrival and Departure Form I-94 attached or an unexpired I-551 stamp; An applicant or owner may present a Canadian birth certificate or Canadian naturalization certificate with a United States Department of Justice or a United States Department of Homeland Security Arrival and Departure Form I-94 attached, bearing the same name as that on the Canadian birth certificate or Canadian naturalization certificate and containing an unexpired endorsement of the alien's nonimmigrant status or authorized presence; one of the listed documents issued by the United States Department of Justice or the United States Department of Homeland Security including Certificate of Naturalization, Certificate of

Citizenship, United States Citizen Identification card, Permanent Resident or Resident Alien card, Northern Mariana card, American Indian card, employment authorization document with a photograph, or unexpired Re-entry Permit/Refugee Travel Document. MN Adm. Code 7410.0400.

Minnesota does grant variances to applicants whose required documentation is not available. MN ADC 7410.0600. If a person is unable to comply with the proof requirements of part 7410.0400, the person may make written application to the commissioner of public safety or a designee for a variance. The applicant must submit written documentation of the reasons why a variance should be granted, including the reasons the required documents are not available. The applicant must provide additional information regarding the applicant's name and identity, such as names of relatives, date and place of birth, place of residence, social security number, military service information, and any arrest information, to aid the commissioner in verifying the applicant's identity. In making a decision to grant or deny the variance, the commissioner or a designee shall consider the following: the availability of the required documents; the degree of hardship placed on the applicant; the effect of granting the variance on the public; the effect of granting the variance on the integrity of the record system; and the trustworthiness of the information supplied by the applicant regarding the applicant's name and identity. The commissioner shall grant the variance if all of the following conditions are present: the documents required by part 7410.0400 are either not reasonably available or do not exist; compliance with part 7410.0400 would cause an undue hardship for the applicant; granting the variance will have no adverse effect on the public; granting the variance will not jeopardize the integrity of the record system; and the applicant has established the applicant's name and identity by trustworthy evidence and documentation. MN Adm. Code 7410.0600.

Minnesota does issue a state identification card at a reduced fee to a qualified applicant with a condition of developmental disability, mental illness, or a physical disability. MN Adm. Code 7410.0700.

Summary of factual data and analytical methodologies

To develop this rule, the Department reviewed state laws related to issuance of an identification card, its past practice under the existing petition process and the number and facts of exceptions approved to the documentary proof requirements using the petition process. The Department also analyzed the list of documents acceptable to prove name and date of birth and U.S. citizenship under existing Trans 102.15, Wis. Adm. Code, to determine which documents were available without payment of any fee to a government agency, and which of those documents were available to the Department without charge to the applicant, particularly those available using existing electronic means of inter-governmental data exchange.

Analysis and supporting documents used to determine effect on small business

Identification cards are issued only to natural persons. The Department identified no effect on small businesses related to this rule.

Effect on Small Business

The Department anticipates no effect on small businesses as result of this rule. The Department is unaware of any business that provides assistance in obtaining government documents required to support an application for an identification cards that will no longer be required for certain applicants under this rule.

Initial Regulatory Flexibility Analysis

This rule is not expected to have an effect on small businesses.

Economic Impact Analysis

This rule addresses only documentary requirements for individuals wishing to obtain an identification card free of charge for voting purposes. The rule has no direct effect on small businesses, and no discernible indirect effects on small businesses. Accordingly, the Department anticipates no effect on specific businesses, business sectors, public utility ratepayers, local governmental units, or the state's economy as a whole. The Department did not solicit information or advice from businesses, associations representing businesses, local governmental units. The Department also did not solicit information from individuals that may be affected by the proposed rule, as the Department determined the rule had no direct or indirect financial effect on individuals.

DOT Contact

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

Patrick Fernan, Administrator
Division of Motor Vehicles
4802 Sheboygan Ave. Rm. 225
Madison, WI 53707
(608) 261-8605
Patrick.Fernan@dot.wi.gov

Text of Permanent Rule

Section 1. Trans 102.04 (4) is created to read:

Trans 102.04 (4). If any identification card is issued based upon extraordinary proof of name, date of birth or U.S. citizenship under Trans 102.15 (5m), the identification card shall, in addition to any other legend or label, be marked in a manner consistent with requirements under applicable federal law and regulations to indicate that the identification card is issued in accordance with P.L. 109-13, section 202 (d) (11), and is not intended to be accepted by any federal agency for federal identification or any other official purpose.

Section 2. Trans 102.14 (1g) is created to read:

Trans 102.14 (1g). The department may not issue an identification card without charge for voting purposes to any person who is not a U.S. citizen or is not age 17 or older. The department may not determine whether a person is otherwise eligible to vote.

Section 3. Trans 102.15 (1) is renumbered Trans 102.15 (1) (a) and amended to read:

Trans 102.15 (1) "UNAVAILABLE" DEFINED. (a) ~~Except as provided in par. (b), in~~ this section, "unavailable" does not include documents which persons have forgotten to bring with them when applying for a license or identification card, or a lost or destroyed document if a replacement original

or a certified copy of the document is available to those persons upon proper request.

Section 4. Trans 102.15 (1) (b) is created to read:

Trans 102.15(1)(b). For purposes of a person applying for an identification card who requests that the identification card be provided without charge for voting purposes, “unavailable” means that the applicant does not have the documents required by Trans 102.15 (3)(a) or proof of citizenship under sub. (3m) and would be required to pay a government agency to obtain them, in addition to the meaning given in par. (a).

Section 5. Trans 102.15 (2) (c) is amended to read:

Trans 102.15(2)(c) A Except as provided in sub. (5m), a person shall provide proof of the person’s name and date of birth under sub. (3), of the person’s identity under sub. (4), and of the person’s residency under sub. (4m), upon the first application for an original, renewal, reinstatement or duplicate operator’s license or identification card following:

Section 6. Trans 102.15 (3) (a) 2. Note is amended to read:

Trans 102.15 (3) (a) 2. Note: Neither Except as provided in Trans 102.15 (5m) (b) 2., neither a hospital birth certificate, a notification of birth registration nor baptismal certificate satisfies this requirement. Effective November 1, 1986 s. 69.24 (1) (a), Stats., prohibits Wisconsin hospitals from issuing a document which appears to be a birth certificate.

Section 7. Trans 102.15 (3) (a) 6. Is amended to read:

Trans 102.15(3)(a)6. A Wisconsin identification card issued under s. 343.50, Stats., bearing a photograph of the person, other than an identification card issued under sub. (5m)(b);

Section 8. Trans 102.15 (3) (b) is renumbered Trans 102.15 (5m) (a) and Trans 102.15 (5m) (a) (intro.), as renumbered, is amended to read:

Trans 102.15 (5m) (a) (intro.) If Except as provided in par. (b), if a person is unable to provide documentation under par. sub. (3) (a) and (3m), and the documents are unavailable to the person, the person may make a written petition to the administrator ~~of the division of motor vehicles~~ for an exception to the requirements of ~~par. sub. (3) (a) and (3m)~~. The application shall include supporting documentation required by sub. (4) and:

Section 9. Trans 102.15 (3) (c) is renumbered Trans 102.15 (5m) (c) and amended to read:

Trans 102.15(5m)(c) The administrator may delegate to the administrator’s subordinates the authority to accept or reject such extraordinary proof of name and date of birth, or citizenship under this subsection.

Section 10. Trans 102.15 (5m) (title) is created to read:

Trans 102.15(5m)(title) EXTRAORDINARY PROOF OF NAME, DATE OF BIRTH, OR U.S. CITIZENSHIP.

Section 11. Trans 102.15 (5m) (b) is created to read:

Trans 102.15 (5m) (b) 1. If a person requests an identification card without charge for the purposes of voting and the person’s birth certificate is unavailable, the person may make a written petition to the administrator for an exception to the requirements of proof of name and date of birth under sub. (3) or of proof of citizenship under sub. (3m). The petition shall include: the person’s statement under oath or affirmation that the person is unable to provide documentation under sub. (3) or proof of citizenship under

sub. (3m); that the documents are unavailable to the person; and his or her name, date of birth, place of birth, and such other birth record information requested by the department, or the person’s alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number. Upon receiving a petition, the department shall provide the person’s birth record information to the department of health services, for the sole purpose of verification by the department of health services of the person’s birth certificate information or the equivalent document from another jurisdiction, other than a province of the Dominion of Canada, or to a federal agency for the sole purpose of verifying the person’s certificate of birth abroad issued by the U.S. department of state, or of verifying the person’s alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number. The department may not complete application processing prior to receiving verification under this subdivision, unless the petition is approved under subd. 2.

2. If the department does not receive verification under subd. 1, the department shall notify the person of that failure to verify. The department may thereafter issue an identification card to the person only if the department receives verification under subd. 1, the person provides proof required under sub. (3) or (3m), or the department receives other secondary documentation that is extraordinary proof and deemed acceptable to the administrator to prove name, date of birth or U.S. citizenship, which may include the following:

- a. Baptismal certificate.
- b. Hospital birth certificate.
- c. Delayed birth certificate.
- d. Census record.
- e. Early school record.
- f. Family Bible record
- g. Doctor’s record of post–natal care.
- h. Other documentation deemed acceptable to the administrator, within his or her reasonable discretion.

Note: Whoever under oath or affirmation makes or subscribes a false statement which he or she does not believe is true, when such oath, affirmation, or statement is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action, is guilty of a Class H felony, per s. 946.32, Stats.

Section 12. Trans 102.15 (3) (d) is created to read:

Trans 102.15 (3) (d) The administrator may approve a name change requested by a person who cannot provide documentation of the name change if the administrator receives proof of the name change from the federal social security administration and proof of identity in the new name.

Section 13. Trans 102.15 (5m) (e) is created to read:

Trans 102.15 (5m) (e) The denial of a petition under par. (b) is subject to judicial review in the manner provided in ch. 227 for the review of administrative decisions.

Section 14. Trans 102.15 (6) (intro.) is amended to read:

Trans 102.15 (6) TEMPORARY DRIVER RECEIPT. The department may issue a temporary driver receipt for operation of class D or M vehicles to a person who is temporarily unable to meet the identification requirements of sub. (3). The temporary driver receipt shall state the date of issue, shall be clearly marked “NOT VALID FOR IDENTIFICATION,” and shall be validated for the operation of a vehicle for a stated

period of up to 60 days from the date issued. The person may complete his or her license application within this period by presenting proof of the person’s name and date of birth in accordance with sub. (3) (a). For good cause shown, the department may renew the driving receipt once for an additional period of no more than 60 days. This subsection does not prohibit a person from proceeding under sub. (3)(b) (5m)(a). This subsection applies only to persons who meet all of the following:

Section 15. EFFECTIVE DATE: This rule shall take

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

effect on the first day of the month following the Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this 13th day of November 2014.
WISCONSIN DEPARTMENT OF
TRANSPORTATION

By:

Mark Gottlieb, P.E., Secretary

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

Chapter Trans 102, Operator’s Licenses and Identification Cards

3. Subject

This rule change expands the definition of documents that are ‘unavailable’, during an application for a no-fee identification card for voting purposes to include documents that the applicant does not possess and would be required to pay a fee to a government agency in order to acquire.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

This rule change is needed to ensure the Department’s Division of Motor Vehicles (DMV) has a documented means to provide free identification (ID) cards for the purposes of voting, without requiring documentation that costs a governmental fee to obtain.

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

The Department of Transportation did not contact any of these non-individual entities for comments, as the rule affects only individuals.

This rule change will allow DMV to serve individuals that request an ID card for the purposes of voting, but who do not possess the documentation ordinarily required for proof of name, date of birth or U.S. citizenship (e.g. a birth certificate) and cannot obtain those documents without payment of a fee to a government agency, to obtain an ID card using alternative documentary proof. DMV will facilitate no-fee source documentation verification to replace the need for those individuals to present proof of name, date of birth, or U.S. Citizenship when obtaining the ID card for voting purposes.

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

N/A

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)

DMV has completed training for all field personnel (approximately 385 individuals) in DMV service centers, instructing them how to process ID card requests made without the documentary proof ordinarily required, in conformity with Emergency Rule EmR1421. EmR1421 took effect on September 17, 2014. DMV will continue to incur costs assessing and verifying any documentation submitted by an individual as part of the petition process. From September 15, 2014 through October 28, 2014, DMV has issued 6,476 ID cards through the normal application process and has received 387 applications for ID cards through the petition process. DMV's costs incurred in these processes have been absorbed by existing staff.

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

The rule change will allow DMV to provide ID cards without charge for the purposes of voting, without requiring documentation that costs a governmental fee to obtain, while ensuring that the ID card positively identifies the bearer.

14. Long Range Implications of Implementing the Rule

This change would adjust the process of ID card issuance that will continue indefinitely.

15. Compare With Approaches Being Used by Federal Government

N/A

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

Illinois: Applicants for an original identification card or driver license are required to provide documentary proof of signature, date of birth, social security number and residency. Illinois issues identification cards for the homeless at no cost. Applicants for a no-fee homeless identification card must provide proof of name, date of birth and social security number ordinarily required, but in lieu of proof of address may submit a 'homeless status certification' signed by the homeless applicant before a notary public. This certification must be attested to by a representative of a homeless service agency that receives public funding; an attorney; a public school homeless liaison or school social worker; a human services provider funded by the State of Illinois; a representative of a religious organization that offers services to the homeless.

Iowa: An applicant for an original driver license or identification card must provide proof of identity, date of birth, social security number, Iowa residency and current residential address, and lawful status in the United States.

Michigan: Residents applying for a state identification card must present documentation of a valid social security number, U.S. citizenship or legal presence, identification, and Michigan residency. If the applicant is below the age of 18 and does not have one of the acceptable forms of proof of identity, a parent or guardian must present their driver's license or identification card and sign for the applicant who is a minor.

Minnesota: Applicants for an original driver license or identification card are required to provide documentary proof of date of birth, full legal name, social security number, photographic identity, and U.S. citizenship. Minnesota does grant variances to applicants whose required documentation is not available. If a person is unable to comply with the proof requirements, the person may make written application to the commissioner of public safety or a designee for a variance. The applicant must submit written documentation of the reasons why a variance should be granted, including the reasons the required documents are not available. The applicant must provide additional information regarding the applicant's name and identity, such as names of relatives, date and place of birth, place of residence, social security number, military service information, and any arrest information, to aid the commissioner in verifying the applicant's identity. Minnesota does issue a state identification card at a reduced fee to a qualified applicant with a condition of developmental disability, mental illness, or a physical disability.

17. Contact Name

Robert Combs, DMV, Wisconsin Dept. of Transportation

18. Contact Phone Number

(608) 266-1449

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

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

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

Small businesses are not involved in the issuance of these identification cards and are not eligible to receive them.

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

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

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

5. Describe the Rule's Enforcement Provisions

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

Yes No

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

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

Revisions by Rule Order

Repeals and Modifications of Rules by Legislative Act

Repeals and modifications by legislative act under authority of s. 227.265, Stats.

Editorial Corrections

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

Natural Resources

Ch. NR 146

NR 146.02 (4) (Note)

NR 146.03 (History Note)

Ch. NR 812

NR 812.22 (7) (b) (Note)

NR 812.26 (8) (Note)

Safety and Professional Services

Ch. SPS 314

SPS 314.27 (Note)

Veterans Affairs

Ch. VA 2

VA 2.01 (2) (a) (Note)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 142. Relating to the Declaration of an Energy Emergency. **(October 31, 2014)**

Executive Order 143. Relating to the Declaration of an Energy Emergency. **(November 10, 2014)**

Public Notices

**Department of Financial Institutions —
Division of Banking
Notice of Interest Rate on Required
Residential Mortgage Loan Escrow Accounts
For 2015**

Under Section 138.052 (5) (a), Stats., with some exceptions, a bank, credit union, savings bank, savings and loan association, or mortgage banker, which originates a residential mortgage loan requiring an escrow account to assure the payment of taxes or insurance, shall pay interest on the outstanding principal of the escrow.

Section 138.052 (5) (am) 2., Stats., directs the division of banking to determine annually the required interest rate. The rate is based on the average of interest rates paid on regular passbook deposit accounts by institutions under the division of banking or office of credit unions' jurisdiction.

The Department of Financial Institutions, Division of Banking, has calculated the interest rate required to be paid on escrow accounts under Section 138.052 (5), Stats., to be 0.15% for 2015. This interest rate shall remain in effect through December 31, 2015.

Contact Person

Mr. Michael J. Mach, Administrator
Department of Financial Institutions
Division of Banking
Telephone (608) 261-7578

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