

Report From Agency
STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

The Wisconsin Department of Transportation proposes an order to: **Repeal** Trans 102.02 (4), 102.025 (2) (Note), 102.07 (intro.), 102.09 (4) and (6), 102.10, 102.11 (2) (Note), 102.17, 102.18, and 102.20 (2) (i) (Note); **Renumber and amend** Trans 102.02 (6n) and (8), 102.025 (2), and 102.09 (title), (1), (2), (3), and (5); **Amend** Trans 102.02 (4p), (Note), (6r) (a), (7) (a), (b), and (7m), 102.025 (title), (3) (a) (intro.), 102.07 (title), 102.11 (title), (1) (intro.), 102.20 (2) (g), (10) (a) (Note), (13) (a), 102.21 (2) (b) and (4), and 104.06 (3) (a) (intro.), 1., and 2. and (Note); **Repeal and recreate** Trans 102.02 (6), (9), and (10), 102.03, 102.04, 102.07 (2), (3), 102.11 (2), 102.14, 102.15, 102.16, 102.19, and 102.20 (2) (i); **Create** Trans 102.02 (4s), (7p), (7r), (7v), and (11), 102.025 (1e), (1m), (1s), (2) (a), (b), (c), (3) (a) 6., 102.11 (3), (Note), (4), (5), (6), (Note), 102.145, 102.21 (1) (am), (2) (am), and 102.24, relating to operator's licenses and identification cards.

**AGENCY REPORT TO
LEGISLATURE
CLEARINGHOUSE RULE 23-042**

I. THE PROPOSED RULE:

The proposed rule revisions and the analysis are attached.

II. REFERENCE TO APPLICABLE FORMS:

No forms are newly required by these rule revisions.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Chapter Trans 102, Wis. Admin. Code, relating to operator's licenses and identification cards, is an existing rule that provides administrative interpretation of Wis. Stat. ch. 343 relating to the issuance of operator's licenses, identification cards, and vehicle titles and registration.

Chapter Trans 102 was initially written in 1982 and significantly revised in 1990, with subsequent incremental changes. Changes made to federal and state laws affecting the issuance of driver's licenses, identification cards, and titles and registration documents in the following years make updating ch. Trans 102 important in order to correlate and track the requirements of state statutory and federal statutory and regulatory requirements. Additionally, the Wisconsin Department of Transportation's Division of Motor Vehicles (DMV) has modified internal policies regarding documentation requirements and transaction methods to reflect current technologies used to further improve the customer's experience. As a result, modifications to the rule are necessary. The anticipated modifications to the existing rule will not change the objective of the rule.

Changes to state and federal laws have tightened security and identification standards for driver licenses and identification cards. Modifications to the language in ch. Trans 102 to reflect these changes will ensure that the DMV is compliant with federal requirements related to "REAL ID" (*Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes* (6 CFR Part 37)).

Modifications to the rule are necessary to ensure that the DMV is fully compliant with all statutory changes that have occurred since the last Wisconsin Administrative Code rule update and reflect administrative changes that have occurred since 2007.

This rulemaking is intended to rewrite much of the regulation related to driver license issuance in Wisconsin to improve department procedures and processes and to be consistent with state laws and federal laws and regulations.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, AND EXPLANATION OF ANY RESULTING MODIFICATIONS TO THE PROPOSED RULES:

The State of Wisconsin Department of Transportation held a public hearing on the permanent rule ch. Trans 102 on Thursday, January 18, 2024, at 10:30 a.m. at the Wisconsin Department of Transportation, 4822 Madison Yards Way, Room N134; Madison, WI 53705.

There were no public comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF COMMENTS:

1a. The following comments relate to the recitation of statutory authority in the rule summary:

- (1) Should the reference to "343.14 (2) (i) 1. and 2." be changed to "343.14 (2) (im) lm. a. and b."? The former provisions do not exist.*
- (2) The comma after "343.07 (4) (b) and (c)" should be changed to a semicolon.*

- (3) *In the reference to "343.15 (1) (a), (4) (a)", change the first comma to "and" and the second comma to a semicolon.*
- (4) *In the reference to "343.16(1) (a), (2) (a), (c), and (d)", change the first comma to "and".*

Department Response: The department made all of the suggested changes.

2a. *In the introductory clause for the proposed rule, make the following changes:*

- (1) *In the recitation of provisions renumbered and amended, in the list of subunits of s. Trans 102.09, move "and" to between "(3)" and "(5)".*
- (2) *In the recitation of provisions created, change "102.21 (1) (am), (2am)" to "102.21 (1) (am) and (2) (am)".*
- (3) *Update the recitations to reflect any changes made in response to these comments.*

Department Response: The department made all of the suggested changes.

2b. *In the summary for the proposed rule, an entry should be inserted to describe the analysis and supporting documents used to determine the effect on small business and in preparation of the economic impact analysis.*

Department Response: The economic impact analysis has already been completed, so no additional supporting documentation was included.

2c. *Throughout the proposed rule, the department should carefully examine terminology for precision and consistency. Consider the following examples:*

- (1) *The proposed rule refers to the authorization to operate a motor vehicle interchangeably as a "license," a "driver license," or an "operator's license". None of those terms are defined in ch. Trans 102. SECTION 7 creates a definition for "product", which itself uses the term "operator's license". "Operator's license" there is described in broad terms as including "a driving receipt, instruction permit, occupational license, a license extended by an extension card, or other authorization to operate a motor vehicle, issued by the department". Given that, would it make sense to separately define "operator's license" in ch. Trans 102 and then use that term consistently throughout the chapter instead of using the terms "license" or "driver license"?*

Department Response: The department revised the rule to use “operator’s license”, as the consistent term throughout, which is defined in s. 340.01 and adopted in the intro. to Trans 102.02.

- (2) *In SECTION 7 of the proposed rule, the definition of "REAL ID non-compliant product" in s. Trans 102.02 (7v) refers to a product that is not a "REAL ID". But*

"REAL ID" is not by itself a defined term. Should the definition of "REAL ID non-compliant product" instead refer to a product that is not a "REAL ID compliant product", which is a defined term? See also SECTION 33, where s. Trans 102.15 (6) (a) refers to a "REAL ID".

Department Response: The department made the suggested changes, using defined terms.

(3) *In SECTION 18, s. Trans 102.03 uses the words "person" and "applicant" interchangeably. A uniform approach should be utilized unless the circumstances require one word or the other.*

Department Response: The department made the suggested changes, using “applicant” throughout except where the circumstances required the use of “person”.

(4) *In SECTION 19, s. Trans 102.04 refers to both "REAL ID non-compliant identification card" and "REAL ID driver licenses and identification cards". Neither of those terms is defined for purposes of ch. Trans 102. This section should either define those terms or use terms already defined in s. Trans 102.02.*

Department Response: The department made the suggested changes, using defined terms.

(5) *In SECTION 19, s. Trans 102.04 (6) reads as follows: "Products shall identify Wisconsin as the state that issued the license". Should "license" be changed to "product"? Or is the intent that this subsection apply only to a license and not to any other type of product? If so, that should be made clear.*

Department Response: The department revised the language to clarify that it applies not only to licenses.

(6) *In SECTION 33, terminology within s. Trans 102.15 (11) should be made uniform. Paragraph (a) uses the term "REAL ID non-compliant 'Class D' or 'M' license", and par. (b) uses the term "Class D or M REAL ID non-compliant driver license". Do these refer to different products? Note that SECTION 19 uses a similar term "REAL ID non-compliant identification card or 'Class D' or 'M' license".*

Department Response: The department made the suggested changes.

(7) In SECTION 33, s. Trans 102.15 (4) (b) 3. refers to a "REAL ID product". This should be changed to either "REAL ID compliant product" or "REAL ID non-compliant product", whichever of those defined terms is correct in this instance.

Department Response: The department made the suggested change.

(8) In SECTION 33, s. Trans 102.15 (6)(a) and (b) each refer to a "REAL ID applicant". That is not a defined term. Does the department mean "applicant for a REAL ID compliant product"?

Department Response: The department made the suggested changes, using the recommended language.

2d. Throughout the proposed rule, the department should endeavor to use the singular form of a word and use the plural only when specifically referring to multiples of the word used. [s. 1.05 (c), Manual.] As one example, in SECTION 18, s. Trans 102.03 uses the plural "persons" in several places where "a person" or "the person" would be preferable. As another example, in SECTION 19, s. Trans 102.04 (7) uses the singular "a REAL ID compliant product", but s. Trans 102.04 (8) uses the plural "Real ID compliant products".

Department Response: The department made the suggested changes.

2e. Throughout the proposed rule, the department should consider the following issues relating to definitions:

(1) In SECTION 6, the definition of "name" in s. Trans 102.02 (6r) states that it can include "middle name or initial". However, in the rule summary's plain language analysis, the first paragraph describing SECTION 6 states that the rule requires the **entire** middle name rather than only a middle initial. Thus, the plain language analysis and rule text do not align.

Department Response: The department made the suggested change to make the rule text and the plain language analysis consistent.

(2) In SECTION 7, the definition of "product" in s. Trans 102.02 (7p) concludes with the following sentence: "An extension card as defined ins. Trans 102.02 (4s) is not a product". This sentence could be rephrased as part of the definition, along the following lines: "'Product' does not include an extension card". Also, because "extension card" is a defined term for purposes of ch. Trans 102, there is no need to include the cross-reference to s. Trans 102.02 (4s).

Department Response: The department made the suggested changes.

(3) SECTION 10 defines the term "verify". The second sentence, however, uses a different term, "data verification". The department should replace those words with "verify".

Department Response: The department made the suggested change.

(4) *Substantive provisions should not be incorporated as part of a definition. [s. 1.07(1)(d), Manual.] The following provisions appear to be substantive:*

(a) *In SECTION 6, in the definition of "name" in s. Trans 102.02 (6r): "Generational suffixes are permitted". This sentence could be combined with the previous sentence along the following lines: "'Name' includes generational suffixes, but does not include other name suffixes, nicknames, titles of respect, or additional information of any type.". Alternatively, this sentence could be moved to a substantive provision.*

Department Response: The department made the suggested change using the recommended language.

(b) *In SECTION 9, in the definition of "resident" in s. Trans 102.02 (9): "A child under 18 years of age may qualify as a resident if the child meets the requirements for resident status set forth in s. 343.01 (2) (g), Stats.". This sentence could be rephrased as part of the definition, along the following lines: "'Resident' includes a child under 18 years of age if the child meets the requirements for resident status set forth in s. 343.01 (2) (g), Stats.".*

Department Response: The department made the suggested change using the recommended language.

(c) *In SECTION 9, in the definition of "social security number" in s. Trans 102.02 (10): "The department may not accept a partial social security number for identification purposes under this chapter.". This sentence could be rephrased as part of the definition, along the following lines: "'Social security number' does not include a partial social security number.". Alternatively, this sentence could be moved to a substantive provision.*

Department Response: The department made the suggested change using the recommended language.

2f. *Throughout the proposed rule, the department should address the usage of titles in rule units. If titles are used for any subsection, paragraph, or subdivision, titles should be utilized consistently within the rule unit. [s. 1.10 (2) (a) 2., Manual.] Note the following examples:*

(1) *In SECTION 18, neither subs. (1) nor (2) of s. Trans 102.03 has a title, but the other subsections do.*

(2) *In SECTION 19, some subsections of s. Trans 102.04 have titles but others do not.*

(3) *In SECTION 32, only sub. (1) of s. Trans 102.145 has a title.*

(4) *In SECTION 33, with regard to s. Trans 102.15:*

(a) *Sub. (1) does not have a title.*

(b) *Sub. (2) (a), (c), and (e) do have titles, but other paragraphs do not.*

(c) *Sub. (6) (c) and (d) do have titles, but other paragraphs do not.*

Department Response: The department made the suggested changes.

2g. *The treatment clause for SECTION 7 of the proposed rule should include "and (Note)" following "(7v)". The department should review the proposed rule for other instances when treatment of a note should be identified in a SECTION' s treatment clause. See, for example, SECTION 12 of the proposed rule.*

Department Response: The department made the suggested changes.

2h. *SECTION 9 of the proposed rule repeals two definitions ("reissue" and "special restrictions card"), in s. Trans 102.02 (9) and (10), and recreates them as entirely new words ("resident" and "social security number"). Repealing and recreating provisions should be used only when major changes are made within the context of an existing provision. Changing the subject matter of a provision that is repealed and recreated impairs the ability to trace a provision's history and may result in ambiguity and error. Instead, consider repealing the definitions that are no longer needed and creating new subsections, such as "(9m)" and "(10m)", for the newly created terms.*

Department Response: The department made the suggested changes, creating new subsections (9m) and (10m) for the new definitions.

2i. *In SECTION 12 of the proposed rule, the title for s. Trans 102.025 (lm) is "REALID COMPLIANT ATTESTATION REQUIRED". However, it is not apparent that the text of that subsection is limited to REAL ID compliant products. If the department intends to limit this paragraph to applications for REAL ID compliant products, language so limiting it should be added. The title is not part of the substance of the rule itself and should not be relied upon to limit the application of a rule provision. [s. 1.10 (2) (a) 1., Manual.]*

Department Response: The department made the suggested changes, specifying within the rule text that it applies to REAL ID compliant products.

2j. *In SECTION 13 of the proposed rule, s. Trans 102.025 (2) is expanded to include matters relating to vehicle titles and vehicle registrations. Is it advisable to include those matters in a chapter of the administrative code that is otherwise confined to operator's licenses and identification cards? A user of the administrative code would not expect to find title and registration provisions here.*

Department Response: The department elected to retain the inclusion of the vehicle titles and vehicle registrations in this provision as this remains the best, most logical place to include these items in the context of suspect documents.

2k. *In SECTION 18 of the proposed rule, s. Trans 102.03 (2) (b) is structured as an introduction followed by two subdivisions. This paragraph should be restructured so that each of the three provisions is a subdivision of par. (b). Cross-references to subdivisions*

will need to be updated.

Department Response: The department made the suggested change.

2l. *In SECTION 18 of the proposed rule, s. Trans 102.03 (2) (f) contains an introduction and one subdivision. An introduction should generally not be followed by a single subunit. This paragraph should be restructured to either move the sentence about light sensitive glasses into a second subdivision, or the material in the single subdivision should be incorporated into the paragraph. [s. 1.11 (4), Manual.]*

Department Response: The department made the suggested change.

2m. *In SECTION 18 of the proposed rule, s. Trans 102.03 (3) (a) creates an exemption from the requirement of sub. (1) rather than from the requirement of sub. (3) (intro.). It should be moved to sub. (1).*

Department Response: The department made the suggested change.

2n. *In SECTION 18 of the proposed rule, s. Trans 102.03 (3) (b), (c), and (d) each state that a certain person is "exempt from using a photograph taken within 8 years". This phrasing makes it sound as though the person is **not allowed** to use a photograph taken within 8 years, which does not seem to be the department's intent. This phrase could be changed to something like "exempt from the requirement that a product photograph must have been taken within 8 years", for added clarity. Alternatively, sub. (3) could be reorganized as follows, to also include an introductory statement for the exemptions:*

(3) EIGHT YEAR PHOTOGRAPH REQUIREMENTS AND EXCEPTIONS. Product photographs must have been taken within 8 years of the date of product issuance. This requirement does not apply to any of the following:

(a) Duplicate and renewal products. A person who obtains a duplicate or renewal product online, if the department has a photograph of the person on file that is not more than 16- years-old and the department's computer system will accommodate processing the application online.

(c) Online product issuance. A person who obtains an identification card online, if the department has a photograph of the person on file that will not be more than 16-years-old when the product is expected to expire.

(d) Persons in military service. A person in military service or foreign service stationed outside this state who applies to renew a driver license, if the department has a photograph of the person on file that is not more than 16-years-old.

Department Response: The department made the suggested changes, adding clarifying language.

2o. In SECTION 19 of the proposed rule, the phrase "do all of the following" should be inserted in s. Trans 102.04 (1) (intro.).

Department Response: The department made the suggested change.

2p. In SECTION 20 of the proposed rule, the repeal of s. Trans 102.07 (intro.) should be moved to its own SECTION.

Department Response: The department made the suggested change.

2q. In SECTION 21 of the proposed rule, s. Trans 102.07 (3) (intro.) should include language indicating that there are forthcoming exceptions to the otherwise blanket prohibition contained there. For example, it could begin with something like "Except as provided in pars. (a) to (d),...".

Department Response: The department made the suggested change, using the recommended language.

2r. In SECTION 22 of the proposed rule, the treatment clause should indicate that renumbered s. Trans 102.03 (7) has a title, rather than an introduction.

Department Response: The department made the suggested change.

2s. In SECTION 22 of the proposed rule, in s. Trans 102.03 (7) (a), the comma after "incomplete" should not be shown with underscoring because it is in the current administrative code, and the word "or" after "incomplete" in the current administrative code should be shown with a strike-through. Also, the department should not insert the word "or" after "no longer exists,".

Department Response: The department made the suggested change.

2t. In SECTION 22 of the proposed rule, ins. Trans 102.03 (7) (c), change "~~in s.~~ under ss." to "~~in s.~~ under ss.".

Department Response: The department made the suggested change.

2u. In SECTION 27 of the proposed rule, insert "(title)" after "(intro.)" in the treatment clause and do not show the rule text for both introductions that are not being amended. The SECTION appears to be amending only the titles. [s. 1.10 (2) (c) 1. and 3., Manual.]

Department Response: The department made the suggested change.

2v. In SECTION 30 of the proposed rule, the department should consider whether the note following s. Trans 102.11 (3) is necessary. It states that products damaged by abuse are not eligible for issuance without a fee. Although that may be true, does it create the false impression that a product damaged by some other action (e.g., normal wear and tear) is eligible for issuance without a fee? Also, if the note is retained, should "issuance" be changed to "reissuance"?

Department Response: The department made the suggested change.

2w. In SECTION 31 of the proposed rule, is there duplication between s. Trans 102.14 (8) (f) and (g)? In other words, does par. (g) address any situations not also addressed by par. (f) 2.?

Department Response: The department retained the original language in s. Trans 102.14(8)(f) and (g) because (f) refers to a REAL ID compliant product and (g) refers to a REAL ID non-compliant product. This was not specified in the original language of s. Trans 102.14(8)(f), so the department made that clarification.

2x. In SECTION 33 of the proposed rule, in s. Trans 102.15 (2) (b) 4., the department must cancel and remove an "H" endorsement if a federal agency notifies the department that a person "does not meet the standards for a security threat assessment under 49 CFR 1572.5". Is that phrase correct? It suggests that the federal agency determined that the person was **not** a threat. Would it be more accurate to remove the word "not" from that phrase? Alternatively, would it be preferable to state that the federal agency determined that the person "poses a security threat under 49 CFR 1572.5"? [See 49 C.F.R. s. 1572.5 (a) (intro).]

Department Response: The department made the suggested change by using the proposed language.

2y. In SECTION 33 of the proposed rule, in s. Trans 102.15 (6) (b), change "except for commercial driver license" to "except an applicant for a commercial driver license".

Department Response: The department made the suggested change.

2z. In SECTION 33 of the proposed rule, s. Trans 102.15 (6) (c) should be reorganized. The requirement for a Social Security number is commingled with exceptions. It would be clearer if the requirement alone was in par. (c) (intro.) and then both exceptions were in subdivisions below par. (c).

Department Response: The department made the suggested change.

2aa. *In SECTION 33 of the proposed rule, consider the following two issues regarding s. Trans 102.15 (6) (e):*

- (1) *This paragraph allows the issuance of an instruction permit to a person who does not have a Social Security number, but then requires the person to provide a Social Security number in a subsequent application. How will a person without a Social Security number do that?*
- (2) *The paragraph requires a person to provide a Social Security number on any subsequent application following the original issuance of the instruction permit. How does this requirement interact with par. (c), which authorizes the issuance of certain documents without requiring an applicant to provide a Social Security number?*

Department Response: (1) This provision allows the department to issue as an exception to people who are eligible for a Social Security Number but do not know the number or do not have the card and who need a state-issued identification card in order to get the Social Security Number from the Social Security Administration. They are then required to provide the department with the Social Security Number, and the department will not issue another product until the person provides the number. (2) If the person was not issued a Social Security Number but is eligible, the person needs to apply for one with the Social Security Administration and provide it at the next application. If the person was not issued a Social Security Number because they are not eligible, the person can use the statement of non-eligibility, which is addressed elsewhere in the statutes. This is also referenced in s. Trans 102.15(6)(c)2.

2bb. *In SECTION 33 of the proposed rule, the title of s. Trans 102.15 (7) indicates that it applies to REAL ID non-compliant products, but the text is ambiguous in that regard. A title is not part of the substance of the rule itself. [s. 1.10 (2) (a), Manual.] As such, the department should clarify within the text whether this subsection is limited to an applicant for a REAL ID non-compliant product.*

Department Response: The department made the suggested changes adding clarifying language within the rule text.

2cc. *In SECTION 33 of the proposed rule, s. Trans 102.15 (10) appears to duplicate s. Trans 102.14 (1) (b) and (g), as recreated by SECTION 31 of the proposed rule. Is there a difference between these provisions?*

Department Response: In s. Trans 102.14, the rule states that, in general, the department may determine not to issue a product in the circumstances listed; whereas, in s. Trans 102.15 (10), the rule states that, if the department does issue a product, it may verify any information provided.

2dd. In SECTION 34 of the proposed rule, in s. Trans 102.16 (4), the subsection title should be shown before the designation for par. (a). The same issue occurs in SECTION 37 of the proposed rule, for s. Trans 102.19 (3).

Department Response: The department made the suggested change.

2ee. In SECTION 34 of the proposed rule, in s. Trans 102.16 (6), do not underscore any text.

Department Response: The department made the suggested change.

2ff. In SECTION 45 of the proposed rule, the treatment clause should indicate that the title of s. Trans 104.06 (3) (a) (intro.) is being amended.

Department Response: The department made the suggested change.

4a. In SECTION 30 of the proposed rule, s. Trans 102.11 (5) requires a fee to issue a new license to remove an endorsement. It cites s. 343.21 (1) (L) and (m), Stats. However, s. 343.21 (1)(m) requires a fee for the reinstatement of an endorsement, not the removal of an endorsement. Should the reference to s. 343.21 (1) (m) be changed to s. 343.21 (1) (n)? That provision requires, among other things, a fee whenever any license is issued. Presumably, that would include issuing a license in order to remove an endorsement.

Department Response: The department made the suggested change.

4b. In SECTION 30 of the proposed rule, in the note following s. Trans 102.11 (6), add ", Stats.," after "343.21".

Department Response: The department made the suggested change.

4c. In SECTION 31 of the proposed rule, in the note following s. Trans 102.14 (7) (a) 3., add "s." before "343.14".

Department Response: The department made the suggested change.

4d. In SECTION 32 of the proposed rule, the second sentence of the note following s. Trans 102.145 (1) is not clear. It refers to a 60-day rule under sub. (2), but sub. (2) does not mention

such a rule.

Department Response: The department made the suggested change, citing s. Trans 102.145(1) rather than (2).

4e. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (2) (h) (intro.), the reference to "sub. (2) (a) 1. to 6. or (c) 1. to 6." can be changed to "par. (a) 1. to 6. or (c) 1. to 6." because this reference is within sub. (2).*

Department Response: The department made the suggested change.

4f. *In SECTION 34 of the proposed rule, in s. Trans 102.16 (1), change "sub. (2) to (8)" to "subs. (2) to (8)".*

Department Response: The department made the suggested change.

5a. *In the rule summary's plain language analysis, in the second paragraph describing SECTION 12, a word is missing between "subject" and "prosecution".*

Department Response: The department made the suggested change.

5b. *In the rule summary's plain language analysis, in the second paragraph describing SECTION 13, change "compliment" to "complement".*

Department Response: The department made the suggested change.

5c. *In the rule summary's plain language analysis, in the first paragraph describing SECTION 21, in the first bullet, change ", under" to ", or under" and insert "if" after "jurisdiction,".*

Department Response: The department made the suggested change.

5d. *In the rule summary's plain language analysis, in the first paragraph describing SECTION 31, change "overtime" to "over time", and in the second paragraph describing that section, fix the typographical error "modern licensing systems requires".*

Department Response: The department made the suggested change.

5e. *In the rule summary's plain language analysis, in the description of SECTION 38, correct the name of the Department of Agriculture, Trade and Consumer Protection.*

Department Response: The department made the suggested change.

5f. *In SECTION 4 of the proposed rule, do not capitalize the word "change" in the defined*

term "Material Change".

Department Response: The department made the suggested change.

5g. *In SECTION 13 of the proposed rule, a portion of s. Trans 102.025 (2) (intro.), as renumbered, that is not amended by the proposed rule contains a phrase that could be clarified. The existing code allows the department to decline to accept a document if the department has reason to "suspect the authenticity" of the document. This means that the department suspects that the document is authentic, which is probably not the intent of the rule. It might be clearer if that phrase was changed to "suspect the inauthenticity" or "doubt the authenticity", or a similar formulation.*

Department Response: The department made the suggested change by using the recommended language.

5h. *In SECTION 18 of the proposed rule, the department should examine the first sentence of s. Trans 102.03 (6) for clarity. Would the following capture the department's intent: "Subsection (2) shall be interpreted and applied in a manner consistent with federal requirements for the issuance of federal REAL ID compliant documents even if an applicant applies for a REAL ID non-compliant product."?*

Department Response: The department made the suggested change using the recommended language.

5i. *In SECTION 19 of the proposed rule, in s. Trans 102.04 (5), there may be a word missing between "opposite" and "photograph".*

Department Response: The department made the suggested change.

5j. *In SECTION 19 of the proposed rule, in s. Trans 102.04 (8), replace "Real" with "REAL".*

Department Response: The department made the suggested change.

5k. *In SECTION 19 of the proposed rule, s. Trans 102.04 (9) uses the term "apparent products". This term is not used in ch. 343, Stats., or defined in ch. Trans 102. Its meaning is not clear. Should it be defined?*

Department Response: The department asserts that the term is unambiguous and therefore does not need to be defined in the rule.

5l. *In SECTION 19 of the proposed rule, s. Trans 102.04 (10) allows a judge to list a courthouse address upon request. Language should be added to clarify that the courthouse address may be used "in lieu of" (as opposed to "in addition to") the judge's*

physical mailing address. See the language in s. Trans 102.04 (11) for a possible model.

Department Response: The department made the suggested change.

5m. In SECTION 19 of the proposed rule, the department should consider whether the title of s. Trans 102.04 (11) – VICTIMS OF DOMESTIC VIOLENCE – is misleading. The safe at home program under s. 165.68, Stats., is not limited to victims of domestic violence. For instance, it may be utilized by a victim of stalking. As such, the title does not fully capture the content of this subsection. Consider a more accurate title, such as "Safe at Home Participants".

Department Response: The department made the suggested change.

5n. In SECTION 31 of the proposed rule, the second sentence of s. Trans 102.14 (3) reads as follows: "The product shall be a temporary product until the product is delivered by mail or the person is determined to be ineligible for the product". This sentence is confusing. Does the department mean that a temporary product is valid only until either a regular product is delivered by mail to replace it or until the holder is no longer eligible for the temporary product?

Department Response: The department added clarifying language to this section in order to address this question.

5o. In SECTION 31 of the proposed rule, par. (a) (intro.) of s. Trans 102.14 (6) refers to a person "under the age of 18" and par. (b) of that subsection refers to a person "under 18-years-old". These should be standardized. Also, review other places in the proposed rule for consistency, such as s. Trans 102.19 (2) and (3) (a), as recreated by SECTION 37.

Department Response: The department made the suggested changes.

5p. In SECTION 33 of the proposed rule, in s. Trans 102.15 (2) (e) and (f) 2., should "reissue" be changed to either "reissuance" or "reissued" in each instance? The verb "reissue" does not fit grammatically.

Department Response: The department made the suggested change.

5q. In SECTION 33 of the proposed rule, in s. Trans 102.15 (3) (a) 3., add a closing period after "service" and remove the stray letter "e" between "service" and "4."

Department Response: The department made the suggested change.

5r. In SECTION 33 of the proposed rule, in s. Trans 102.15 (4) (c) 1., do not capitalize "Passport".

Department Response: The department made the suggested change.

5s. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (5) (a) 3., 4., and 5., what is meant by "printed electronic copies"? Does this refer to a situation where a document was sent to the person only in electronic form and the person brings to the DMV a printed copy of the electronic document? If so, perhaps it would be clearer to use a formulation like "The department may accept a printed copy of an electronic [utility bill/paycheck/stub/statement]".*

Department Response: The department made the suggested changes.

5t. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (5) (a) 8., should "village" and "town" be added to the list of governmental bodies?*

Department Response: The department made the suggested change, using the term "municipality".

5u. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (5) (a) 9., remove the comma after "license" to clarify both that the concealed carry permit must be a Wisconsin concealed carry permit and that the hunting or fishing license must be one that was issued to the applicant. Also, specify whether such a license or permit must be current.*

Department Response: The department made the suggested changes.

5v. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (5) (b), insert "product" after "non-compliant".*

Department Response: The department made the suggested change.

5w. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (5), "Postal Service" is capitalized in par. (d) (intro.) but not in par. (c) or par. (d) 1. Usage should be standardized.*

Department Response: The department made the suggested change.

5x. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (5) (d) 2., what length of time is meant by "a period of time"?*

Department Response: The department made the suggested change, defining the period of time as 30 days.

5y. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (6) (c) 1., change "persons"*

to "person's".

Department Response: The department made the suggested change.

5z. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (6) (d) 2., "Social Security Administration" is capitalized. It is not capitalized elsewhere in the proposed rule and should not be capitalized in this instance. [s. 1.06 (2), Manual.]*

Department Response: The department made the suggested change.

5aa. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (6) (d) 5. d., fix the following typographical errors:*

- (1) *"by the by a".*
- (2) *"to has been used".*
- (3) *"to has been assigned".*

Department Response: The department made the suggested changes.

5bb. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (7), punctuation is missing at the end of subs. 1. and 2.*

Department Response: The department made the suggested change.

5cc. *In SECTION 33 of the proposed rule, the title of s. Trans 102.15 (10) is "VERIFICATION OF DOCUMENTS AND DATE OF BIRTH". Is "date of birth" necessary? That subsection is about verification of information in general, which could include date of birth, but also many other matters.*

Department Response: The department made the suggested change.

5dd. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (11), par. (a) refers to Class D or M with quotation marks, but par. (b) omits the quotation marks. Usage here and elsewhere in the proposed rule should be standardized.*

Department Response: The department made the suggested changes taking out the quotation marks throughout, except for the changes made to Trans 104.06 (3), which are consistent within that chapter.

5ee. *In SECTION 33 of the proposed rule, in s. Trans 102.15 (11) (b), delete "of" after "for whom the department has records".*

Department Response: The department made the suggested change.

5ff. *In SECTION 34 of the proposed rule, in s. Trans 102.16 (3), punctuation is missing at the end of pars. (a) and (b).*

Department Response: The department made the suggested change.

5gg. *In SECTION 34 of the proposed rule, in s. Trans 102.16 (6), what does it mean for a license to be "withdrawn"? Is this the same as a revocation? If so, use the established term, or identify the circumstances of a withdrawn license.*

Department Response: The department made the suggested changes, replacing "withdrawn" with more specific established terms.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

The Department did not receive any statement, suggested changes, or other material from the Small Business Regulatory Review Board.

(END)