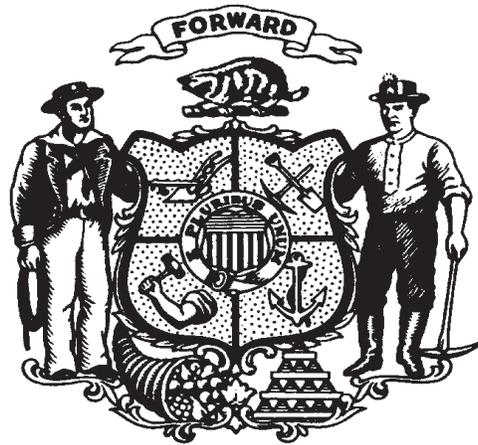


Wisconsin Administrative Register

No. 681



Publication Date: September 30, 2012

Effective Date: October 1, 2012



Legislative Reference Bureau
<http://www.legis.state.wi.us/rsb/code.htm>



WISCONSIN ADMINISTRATIVE REGISTER

The Wisconsin Administrative Register is published twice monthly by the Legislative Reference Bureau.

NOTICE TO READERS: Beginning with the Mid-March Register, No. 675, the Administrative Register will be posted on the Internet upon completion of the pre-printing preparation of the Register, approximately 10 to 12 days prior to the stated publication date. Administrative Code chapters inserted into the Administrative Code in end-of-month registers will be accessible from the Internet Register upon posting from the Administrative Code Chapters Inserted and Removed by this Register link of the first page of the Register. Administrative Code chapters will be inserted into the Administrative Code on, or shortly before, the publication date.

(Print Register only) The Internet address for the Administrative Register is: <http://legis.wisconsin.gov/rsb/regindex.htm>

Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590
email: bruce.hoesly@legis.wisconsin.gov

The Wisconsin Administrative Register and Administrative Code may be obtained from the:

Department of Administration
Office of Document Sales
(608) 266-3358
and may be accessed on the internet at:
<http://www.legis.state.wi.us/rsb/code.htm>

Table of Contents

Emergency Rules Now in Effect.**Pages 4 to 8**

Agriculture, Trade and Consumer Protection:

Revise section ATCP 21.17 (1) (b) and to create section ATCP 21.17 (1) (c), relating to the quarantines of Rock County and Walworth County for emerald ash borer. **EmR1209**

Revise section ATCP 21.17 (1) (b) and to create section ATCP 21.17 (1) (c), relating to the quarantine of Trempealeau County for emerald ash borer. **EmR1211**

Revise Chapter ATCP 55, relating to allowing certain selected Wisconsin state-inspected meat establishments to sell meat and meat products in other states and thereby affecting small business. **EmR1213** *[First Appearance]*

Children and Families:

Safety and Permanence, Chs. DCF 37–59

Create Chapter DCF 55, relating to subsidized guardianship. **EmR1212**

Health Services:

Health, Chs. DHS 110—

Create section DHS 115.05 (3), relating to fees for screening newborns for congenital and metabolic disorders and other services. **EmR1204**

Insurance:

Revise section Ins 17.01 (3) and repeal and recreate section Ins 17.28 (6), relating to the Injured Patients and Families Compensation Fund annual fund fees and mediation panel fees for fiscal year 2013 and affecting small business. **EmR1208**

Justice:

Repeal and re-create Chapter Jus 17 and Chapter Jus 18, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; and the certification of firearms safety and training instructors. **EmR1206**

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Revise Chapter NR 64, relating to the all-terrain vehicle grant programs and trail-route combinations. **EmR1205**

Revise section NR 10.01 (3) (d) 1., relating to the bobcat hunting and trapping season. **EmR1207**

Revise Chapters NR 10, 12, and 19, relating to the wolf hunting and trapping season and regulations and a depredation program. **EmR1210**

Repeal and recreate sections NR 10.01 (1) (b), (g) and (u), 10.06 (9) (a) and 10.32, to amend section NR 10.01 (1) (v), and to create section 10.12 (3) (e), relating to hunting and the 2012 migratory game bird seasons and waterfowl hunting zones. **EmR1214** *[First Appearance]*

Repeal and recreate section NR 10.01 (3) (h) 1., relating to the coyote hunting season. **EmR1215** *[First Appearance]*

Scope Statements.**Pages 9 to 13**

Children and Families:

*Early Care and Education, Chs. DCF 201–252*Revises Chapter DCF 201, relating to Wisconsin Shares provider fingerprint requirement. **SS 067–12**

Insurance:

Revises section Ins 51.01, relating to risk based capital requirements and affecting small business. **SS 069–12**Revises Chapter Ins 57, relating to care management organizations and affecting small business. **SS 070–12**Revises sections Ins 2.80 and 50.79, relating to reserve requirements for life and fraternal insurers and affecting small business. **SS 071–12**

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

Revises Chapters A–E 7, 8, and 10, relating to practice, conduct and continuing education (CE). **SS 068–12****Submittal of Proposed Rules to Legislative Council Clearinghouse.****Page 14**

Agriculture, Trade and Consumer Protection:

Revises Chapter ATCP 55, relating to meat and meat products. **CR 12–040**

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

Revises Chapters A–E 8 and 9, relating to Landscape Architect licensure and practice. **CR 12–039**

Transportation:

Revises Chapter Trans 200, relating to the erection of signs on public highways. **CR 12–041****Rule–Making Notices.****Pages 15 to 31**

Agriculture, Trade and Consumer Protection:

Hearing to consider an emergency rule to amend section ATCP 21.17, Wis. Adm. Code, relating to the quarantine of Trempealeau County for the emerald ash borer. **EmR1211**Hearing to consider amending Chapter ATCP 55, relating to meat and meat products, to meet USDA requirements for participation in the Cooperative Interstate Shipment (CIS) program. **EmR1213, CR 12–040**

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

Hearing to consider an order to amend sections A–E 8.07 (1) and (2), 9.05 (1) (a), and 9.06 (3), and to create section A–E 9.03 (1) (b), relating to Landscape Architect licensure and practice. **CR 12–039**

Transportation:

Hearing to consider the amendment of Chapter Trans 200, Wisconsin Administrative Code, relating to the erection of signs on public highways. **CR 12–041****Submittal of Proposed Rules to Legislature.****Page 32**

Justice:

Create Chapters Jus 17 and 18, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; the recognition by Wisconsin of concealed carry licenses issued by other states; and the certification of firearms safety and training instructors. **CR 12–030**

Rule Orders Filed with the Legislative Reference Bureau.**Page 33**

Safety and Professional Services — Pharmacy Examining Board:

Create Chapter Phar 18, relating to the prescription drug monitoring program and affecting small business. **CR 12-009****Rules Published with this Register and Final Regulatory Flexibility Analyses.****Page 34**

Safety and Professional Services — Massage Therapy and Bodywork Therapy Affiliated Examining Board:

Create sections SPS 91.01 (3) (k) and SPS 93.02 (4), relating to training and proficiency in the use of automated external defibrillators for licensure as a massage therapist or bodywork therapist. (Chapters SPS 91 and 93 were renumbered Chapters MTBT 2 and 4, effective 9-1-12, and the created sections will be renumbered accordingly by the Legislative Reference Bureau.) **CR 08-086****Sections Affected.****Page 35****Executive Orders.****Page 36**

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 (3)

1. EmR1209 — The state of Wisconsin department of agriculture, trade and consumer protection hereby 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 quarantines of Rock County and Walworth County for emerald ash borer.

This rule was approved by the governor on July 12, 2012.

The scope statement for this rule, SS 019-11, was approved by the governor on August 29, 2011, published in Register No. 669, on September 14, 2011, and approved by the Board of Agriculture, Trade and Consumer Protection on December 15, 2011.

Finding of Emergency

(1) On June 11, 2012, APHIS identified EAB in Walworth County, near the village of Walworth. Subsequently, APHIS also positively identified EAB in Rock County in the city of Janesville on June 25, 2012. EAB is an exotic 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 quarantines for Rock County and Walworth County but that it will take six to eight weeks for

APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties 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: July 16, 2012
Publication Date: July 17, 2012
Effective Dates: July 17, 2012 through December 13, 2012
Hearing Date: August 28, 2012

2. EmR1211 — The state of Wisconsin department of agriculture, trade and consumer protection hereby 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 Trempealeau County for emerald ash borer.

This rule was approved by the governor on August 30, 2012.

The scope statement for this rule, SS 042-11, was approved by the governor on November 8, 2011, published in Register No. 671 on November 30, 2011, and approved by the Board of Agriculture, Trade and Consumer Protection on December 15, 2011.

Finding of Emergency

(1) On August 16, 2012, APHIS identified Emerald Ash Borer (EAB) in Trempealeau County, at Perrot State Park. EAB is an exotic 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 quarantines for Trempealeau County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of the 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 6, 2012
Publication Date: September 7, 2012
Effective Dates: September 7, 2012 through February 3, 2013
Hearing Date: October 12, 2012

3. EmR1213 (DATCP Docket # 11-R-11) — The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **sections ATCP 55.04 (title), (2) (title), (a) and (b), and (6), 55.07 (1) (a), (2) (a) and (3) (a);** and to create **sections ATCP 55.02 (4m), 55.03 (2) (f), 55.04 (1m), 55.06 (5) (j), 55.07 (1) (c), (2) (d) and (3) (c)**, relating to allowing certain selected Wisconsin state-inspected meat establishments to sell meat and meat products in other states and thereby affecting small business.

This rule was approved by the governor on September 6, 2012.

The statement of scope for this rule, SS 005–12, was approved by the governor on January 11, 2012, published in Register No. 673, on January 31, 2012, and approved by the Natural Resources Board on February 22, 2012.

Finding of Emergency

The department of agriculture, trade and consumer protection finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of the facts constituting the emergency are:

(1) Wisconsin has more than 270 small state–inspected meat establishments that contribute to the vitality of the state’s rural economy, producing many unique, specialty products. Wisconsin’s state–inspected meat and poultry establishments are inspected by Wisconsin’s Bureau of Meat Safety and Inspection under a cooperative agreement with the United States Department of Agriculture’s (USDA’s) Food Safety and Inspection Service (FSIS) program. Under the cooperative agreement, state meat inspection programs must provide inspection that is “at least equal to” federal inspection under the Federal Meat Inspection Act (FMIA) (21 USC 661) and the Poultry Products Inspection Act (PPIA) (21 USC 454). State–inspected meat and poultry establishments are prohibited from selling their products in other states.

(2) USDA recently established the new Cooperative Interstate Shipment (CIS) program, which will allow state–inspected meat and poultry establishments to sell their products in other states. To qualify for participation in the CIS program, state meat and poultry inspections programs must inspect establishments that volunteer to participate in the program using procedures that are the “same as”, rather than “at least equal to,” USDA’s federal inspections under FMIA and PPIA. This emergency rule incorporates certain federal regulations that Wisconsin’s state meat inspection program must adopt in order to establish a regulatory foundation deemed the “same as” the foundation for the federal program, and thereby allowing Wisconsin to participate in the CIS program.

(3) The department of agriculture, trade and consumer protection (DATCP) is adopting this emergency rule to prevent a potential hardship to Wisconsin’s state–inspected meat establishments selected to participate in the program; adoption of the emergency rule will ensure that these establishments are not prevented from selling their meat and poultry products in other states because the pending “permanent” rules cannot be adopted in time.

Filed with LRB: September 10, 2012
Publication Date: September 13, 2012
Effective Dates: September 13, 2012 through February 9, 2013
Hearing Date: October 15, 18, 19, 2012

Children and Families

Safety and Permanence, Chs. DCF 37–59

EmR1212 — The Wisconsin Department of Children and Families orders the creation of **Chapter DCF 55**, relating to subsidized guardianship.

This emergency rule was approved by the governor on August 28, 2012.

The statement of scope for this rule, SS 040–12, was approved by the governor on June 8, 2012, published in

Register No. 678, on June 30, 2012, and approved by Secretary Eloise Anderson on July 16, 2012.

Finding of Emergency

The Department of Children and Families 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 facts constituting the emergency is:

Guardians who entered into subsidized guardianship agreements with an agency when the statewide subsidized guardianship program was implemented in August 2011 are now eligible for consideration of an amendment to increase the amount of the subsidized guardianship payments. The rule includes the process for determining eligibility for an amendment.

Filed with LRB: August 31, 2012
Publication Date: September 3, 2012
Effective Dates: September 3, 2012 through January 30, 2013

Health Services

Health, Chs. DHS 110—

EmR1204 — The Wisconsin Department of Health Services hereby adopts emergency rules to create **section DHS 115.05 (3)**, relating to fees for screening newborns for congenital and metabolic disorders and other services.

This emergency rule was approved by the governor on April 19, 2012.

The statement of scope for this rule, SS 033–11, was approved by the governor on October 25, 2011, published in Register No. 671, on November 14, 2011, and approved by the Department of Health Services Secretary, Dennis G. Smith, effective November 25, 2011.

Exemption from Finding of Emergency

The legislature by 2011 Wisconsin Act 32, SECTION 9121 (9) provides an exemption from a finding of emergency to adopt these emergency rules. The exemption is as follows:

2011 Wisconsin Act 32, SECTION 9121 (9) CONGENITAL DISORDER TESTING FEES; RULES. Using the procedure under section 227.24 of the statutes, the department of health services shall promulgate rules required under section 253.13 (2) of the statutes, as affected by this act, for the period before the effective date of the permanent rules promulgated under section 253.13 (2) of the statutes, as affected by this act, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health services is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of 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: May 1, 2012
Publication Date: May 4, 2012
Effective Dates: May 4, 2012 through September 30, 2012
Hearing Date: May 25, 2012

Insurance

EmR1208 — The Commissioner of Insurance purposes an order to amend **section Ins 17.01 (3)** and repeal and recreate **section Ins 17.28 (6)**, relating to the Injured Patients and Families Compensation Fund annual fund fees and mediation panel fees for fiscal year 2013 and affecting small business.

This emergency rule was approved by the governor on May 25, 2012.

The statement of scope SS 001–12, was approved by the governor on January 4, 2011, published in Register No. 673, on January 31, 2012, and approved by the Commissioner of Insurance on February 14, 2012.

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 of July 1, 2012 for the new fiscal year assessments in accordance with s. 655.27 (3), Wis. Stats. The permanent rule making process during an even-numbered year cannot complete the rule-making process prior to the effective date of the new fee schedule. The fiscal year fees were established by the Board of Governors at the meeting held on December 14, 2011.

Filed with LRB:	June 12, 2012
Publication Date:	June 14, 2012
Effective Dates:	June 14, 2012 through November 10, 2012
Hearing Date:	June 19, 2012

Justice

EmR1206 — The State of Wisconsin Department of Justice (“DOJ”) proposes an order to repeal and re-create **Chapter Jus 17** and **Chapter Jus 18**, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; and the certification of firearms safety and training instructors.

Governor Walker approved the final draft emergency rules on March 15, 2012. Attorney General Van Hollen signed an order approving the final emergency rules on March 15, 2012, and the emergency rules were published in the Wisconsin State Journal on March 21, 2012.

The statement of scope for these emergency rules, SS 010–12, was approved by Governor Walker on February 15, 2012, published in Administrative Register No. 674, on February 29, 2012, and approved by Attorney General J.B. Van Hollen on March 12, 2012.

Finding of Emergency

Under section 101 of 2011 Wis. Act 35, DOJ has been statutorily required to receive and process concealed carry license applications and to issue or deny licenses since November 1, 2011. The Legislature has thus determined that the public welfare requires the licensing system commenced on that date to remain continuously in effect. Emergency rules governing the licensing process were adopted on October 25, 2011, and have been in effect since November 1, 2011.

On November 7, 2011, JCRAR suspended certain portions of the emergency rules adopted on October 25, 2011. Since

that time, DOJ has implemented concealed carry licensing without enforcing the suspended provisions. DOJ is also in the process of developing proposed permanent rules that do not include the substance of any of the provisions in the emergency rules that were suspended by JCRAR.

Under Wis. Stat. s. 227.26 (2) (i), if a bill supporting JCRAR’s suspension action of November 7, 2011, is not enacted into law by the end of the current legislative session on March 15, 2012, then the suspension would be lifted and the original version of the emergency rules — including the previously suspended portions — would go back into legal effect. At that point, the emergency rules in effect would be inconsistent both with the emergency rules as they have been administered by DOJ since November 7, 2011, and with the proposed permanent rules, the scope of which has already been approved by the Governor and the Attorney General. Any such lack of continuity in the operation of DOJ’s concealed carry rules would be confusing and disruptive both for permit applicants and for DOJ staff administering the concealed carry permit program.

In order to prevent such a discontinuity in the operation of the concealed carry rules, it is necessary to re-promulgate the existing emergency rules in their entirety, with the exception of the portions that were suspended by JCRAR on November 7, 2011. Only if DOJ utilizes the emergency rulemaking procedures of s. 227.24, Stats., can the revised emergency rules be promulgated and in effect in time to prevent discontinuity in the operation of the existing rules. The public welfare thus necessitates that the rules proposed here be promulgated as emergency rules under s. 227.24, Stats.

Filed with LRB:	May 24, 2012
Publication Date:	March 21, 2012
Effective Dates:	March 21, 2012 through August 17, 2012
Hearing Date:	July 16, 24, 25, 2012
Extension Through:	October 16, 2012

Natural Resources (5)

Fish, Game, etc., Chs. NR 1—

1. EmR1205 (DNR # CF–26–11(E)) — The Wisconsin Department of Natural Resources proposes an emergency order to revise **Chapter NR 64**, relating to All-Terrain Vehicles, as follows: to renumber section NR 64.14 (9) (d); to amend section NR 64.12 (7) (a) and section NR 64.14 (9) (a) 1.; and to create sections NR 64.02 (9m), NR 64.02 (15), NR 64.12 (7) (am), NR 64.14 (2r) (a) and (b), and NR 64.14 (9) (d), relating to the all-terrain vehicle grant programs and trail–route combinations.

This emergency rule was approved by the governor on April 26, 2012.

The statement of scope for this rule, SS 046–11, was approved by the governor on December 2, 2011, published in Register No. 672 on December 31, 2011, and approved by the Natural Resources Board on February 22, 2012.

Finding of Emergency

The department is aware that several ATV trails in Wisconsin overlap existing roads. From the onset of the program, these overlapping paths were identified as trails, signed accordingly, and were eligible to receive ATV grant funds. A few years ago, the ORV Advisory Council and WI County Forestry Association proposed that the department revise Ch. NR 64 to accommodate paths used by both ATVs and motor vehicles. These trail–route combinations – also

called hybrid trails but commonly referred to as “troutes” – will be eligible for future maintenance grant funding at the current rate if it can be shown that the hybrid trails (“troute”) existed prior to the effective date of this rule.

This emergency rule will establish a new category of all-terrain trail commonly called a “troute”, or a trail–route combination, that provides a connector between trails and allows grant funding for these unique trails. An emergency rule is needed because we anticipate that the permanent rule revisions to Ch. NR 64 that will include troutes will not be effective until Sept 2012, at the earliest. Without this emergency rule, DNR will not be able to award grants to project sponsors for ATV “troutes” in July 2012, as is our practice. About one–third of the trails in northern Wisconsin are “troutes” and have been funded as trails since the program started. Our partners count upon grant funds for troute maintenance.

Without this Emergency Rule, the integrity and safety of troutes could be severely compromised. Our partners may be forced to close troutes without grant funding to maintain them until the permanent rule is effective. If troutes are closed, riders could be stranded in an unfamiliar location or be forced to turn around and ride back the same way they came instead of continuing onto their destination.

Filed with LRB: May 9, 2012
Publication Date: June 1, 2012
Effective Dates: June 15, 2012 through November 11, 2012
Hearing Date: June 25, 2012

2. EmR1207 — The Wisconsin Natural Resources Board proposes an order to amend **section NR 10.01 (3) (d) 1.**, relating to the bobcat hunting and trapping season.

This emergency rule was approved by the governor on May 4, 2012. This emergency rule, modified to reflect the correct effective date, was approved by the governor on May 25, 2012.

The statement of scope for this rule, SS 009–12, was approved by the governor on February 15, 2012, published in Register No. 674, on February 29, 2012, and approved by the Natural Resources Board on March 28, 2012.

This rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 25, 2012.

Finding of Emergency

Pursuant to s. 227.24, Stats., the Department of Natural Resources finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare.

If emergency rules are not promulgated, the season automatically reverts back to a single permit period beginning on the Saturday nearest October 17 and continuing through December 31 in 2012. Frequent change of season dates and regulations for hunting and trapping can be confusing and disruptive to the public, can result in citations being issued, and is not necessary for protection of the bobcat population in this situation. Some people will view a reversion to the single season framework as a reduction of opportunity that is not socially acceptable. Therefore, this emergency rule is needed to preserve the public welfare.

Filed with LRB: May 30, 2012

Publication Date: June 10, 2012
Effective Dates: October 1, 2012 through February 27, 2013
Hearing Date: August 27, 2012

3. EmR1210 — 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 January 14, 2013

4. EmR1214 (DNR # WM–02–12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate **sections NR 10.01 (1) (b), (g) and (u), 10.06 (9) (a) and 10.32**, to amend **section NR 10.01 (1) (v)**, and to create **section 10.12 (3) (e)**, relating to hunting and the 2012 migratory game bird seasons and waterfowl hunting zones.

This emergency rule was approved by the governor on September 6, 2012.

The statement of scope for this rule, SS 011–12, was approved by the governor on February 15, 2012, published in Register No. 674, on February 29, 2012, and approved by the Natural Resources Board on May 23, 2012.

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 10, 2012
Publication Date: September 12, 2012
Effective Dates: September 13, 2012 through February 9, 2013

5. 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 February 27, 2013

Scope Statements

Children and Families

Early Care and Education, Chs. DCF 201–252

SS 067–12

Rule No.

DCF 201.

Relating to.

Wisconsin Shares Provider Fingerprint Requirement.

Rule Type

Permanent.

Detailed Description of the Objective of the Proposed Rule

The 2011–2013 biennial budget bill contained a requirement that a person seeking a child care license, child care certification, or contract to operate a child care program under s. 120.13 (14), Stats., submit fingerprints for an FBI criminal history check. (2011 Assembly Bill 40, section 1335d) The Governor vetoed this provision and issued the following directive:

I am vetoing this provision because requiring fingerprints of all child care providers creates an unnecessary burden for small child care businesses. If there is reasonable basis for further investigation as a result of required background checks, fingerprints can already be required. However, for child care providers who wish to participate in the Wisconsin Shares program, additional safeguards must be implemented to ensure that taxpayer dollars are spent properly. Reducing fraud and protecting the safety of children in the Wisconsin Shares program are top priorities of my administration. Therefore, I am directing the Department of Children and Families to amend the administrative rules for certified and licensed child care providers to require that any provider who wishes to participate in the Wisconsin Shares program submit fingerprints to the Department of Children and Families, a county department, or agency contracted to administer the Wisconsin Shares program.

(Veto Message for 2011 Wisconsin Act 32, page 7)

The proposed rule will amend ch. DCF 201, relating to the administration of child care funds, to require a child care provider to submit fingerprints and the fee for an FBI criminal history check to the department or certification agency before a child care subsidy administrative agency may authorize payment to the provider for child care services for a child whose care is subsidized under s. 49.155, Stats. The rule will allow for the electronic submission of fingerprints, as allowed by the Department of Justice.

Detailed Explanation of Statutory Authority for the Rule

Section 48.685 (2) (bm), Stats., provides that if the person who is the subject of a background check is not a resident of

this state; has not been a resident at any time within the 3 years preceding the background check; or if the regulating agency determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the regulating agency shall make a good faith effort to obtain from any state or other U.S. jurisdiction the same background information that is required to be gathered from Wisconsin sources under s. 48.685 (2) (am), Stats. The regulating agency may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The Department of Justice may provide for the submission of the fingerprint cards to the Federal Bureau of Investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to 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.

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

80 hours.

List with Description of All Entities that may be Affected by the Proposed Rule

- Current child care providers licensed under s. 48.65, Stats.; certified under s. 48.651, Stats.; or contracted to operate a child care program under s. 120.13 (14), Stats., who care for children whose care is subsidized under s. 49.155, Stats.
- Applicants for a child care license under s. 48.65, Stats.; child care certification under s. 48.651, Stats.; or contract to operate a child care program for under s. 120.13 (14), Stats., who plan to care for children whose care is subsidized under s. 49.155, Stats.
- Child care subsidy administrative agencies
- Child care certification agencies

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.

Anticipated Economic Impact of Implementing the Rule (Note: if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

Minimal economic impact.

Contact Person

Susan Pfeiffer, Division of Early Care and Education
(608) 266–8702

susan.pfeiffer@wisconsin.gov

Insurance

SS 069–12

This statement of scope was approved by the governor on September 13, 2012.

Rule No.

Section Ins 51.01, Wis. Adm. Code.

Relating to

Risk based capital requirements and affecting small business.

Rule Type

Permanent.

Detailed Description of the Objective of the Rule

The objective is to change the level at which a life risk–based capital (RBC) trend test would trigger a company action level event, effectively resulting in earlier remedial action for a life insurer or fraternal insurer that is trending badly. In addition, the changes would make Wisconsin’s regulations consistent with the National Association of Insurance Commissioners (“NAIC”) model regulation.

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

The existing regulation establishes RBC requirements for an insurer based on the risks inherent in the insurer’s operations by requiring it to perform a calculation of its authorized control level RBC. Under the current regulation, a company action level event, which requires the company to take certain remedial steps, is triggered if:

- (a) An insurer’s capital is between 1.5 and 2.0 times the authorized control level RBC, or
- (b) The insurer’s capital is at or below 2.5 times the authorized control level RBC and the insurer has a negative trend test result, calculated pursuant to the RBC instructions.

The proposed rule would change the “2.5” in (b) to “3.0”; i.e., a company action level event would occur if the insurer’s capital is at or below 3.0 times the authorized control level RBC and the insurer has a negative trend test result.

Updating this regulation consistent with the NAIC model regulation will also bring Wisconsin’s requirements for life insurers into alignment with the requirements for health insurers and property and casualty insurers.

Detailed Statutory Authority for the Rule (Including the Statutory Citation and Language)

The statutory authority for this rule is ss. 227.11 (2) (a), and s. 623.11, Wis. Stats.

Pursuant to s. 623.11 (1), Wis. Stats., “The commissioner shall, when necessary, determine the amount of compulsory surplus that an insurer is required to have in order not to be financially hazardous under s. 645.41 (4), Wis. Stats., as an amount that will provide reasonable security against contingencies affecting the insurer’s financial position that are not fully covered by reserves or reinsurance.”

Pursuant to s. 623.11 (2), Wis. Stats., “The commissioner may . . . establish by rule minimum ratios for the compulsory surplus in relation to any relevant variables, including the following: (a) amounts at risk; (b) premiums written or

premiums earned; (c) liabilities; (d) equity investments of all or certain kinds in combination with any of the variables under pars. (a) to (c).”

The company action level provision under the regulation provides an early warning that an insurer might be approaching a financially hazardous condition. The proposed change to the regulation would modify a single variable, as authorized by s. 623.11 (2), Wis. Stats., potentially resulting in an earlier warning that a company is approaching financially hazardous condition.

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

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

List with Description of All Entities that may be Impacted by the Rule

The rule will apply to domestic life and health insurers that complete a life annual statement, and domestic fraternal insurers. The impact is expected to be minimal.

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

The Office is unaware of any proposed or existing federal regulations that are intended to address the activities to be regulated by the proposed rule change.

Anticipated Economic Impact of Implementing the Rule (Note: if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

The impact of the proposed rule change is anticipated to be minimal. These changes are intended to provide an early warning that an insurer might be approaching a financially hazardous condition.

A significant economic impact on small businesses?

No

The local/statewide economic impact:

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

Contact Person

Julie E. Walsh, julie.walsh@wisconsin.gov, (608) 264–8101.

Insurance

SS 070–12

This statement of scope was approved by the governor on September 13, 2012.

Rule No.

Chapter Ins 57, Wis. Adm. Code.

Relating to

Care management organizations and affecting small business.

Rule Type

Permanent.

Detailed Description of the Objective of the Rule

The proposed objective of the rule is to:

1. Correct a reference error in s. Ins 57.06, Wis. Adm. Code.

2. Review and revise the working capital and restricted reserve requirement calculations for Care Management Organizations (CMO) with the Wisconsin Department of Health Services (DHS). The proposed rule may modify the basis of the calculation and the minimum requirements for working capital and restricted reserves.

The resulting rule is intended to ensure that CMO requirements are reflective of the cash flows required to meet operational needs, the organizations actual experience, and are based on required expenditures rather than projected budget expenditures.

3. Evaluate and revise the business plan requirements for CMOs who are seeking a renewal of their annual permit. The proposed rule may differentiate the annual business plan submission requirements between initial and renewal permits.

Description of the 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

1. Currently, s. Ins 57.06, Wis. Adm. Code makes reference to s. Ins 9.05 (3), Wis. Adm. Code, which provides requirements for Defined Network Plans. This reference is incorrect, and will be changed to the correct CMO requirement.
2. The existing rule prescribes that working capital shall be maintained of at least 3% of projected annual capitation over the contract period, and restricted reserves shall not be less than the sum of the following:
 - a) 8% of the first \$5 million annual budgeted capitation revenue
 - b) 4% of the next \$5 million annual budgeted capitation revenue
 - c) 3% of the next \$10 million annual budgeted capitation revenue
 - d) 2% of the next \$30 million annual budgeted capitation revenue
 - e) 1% of annual budgeted capitation revenue in excess of \$50 million

The proposed rule would change the following:

- The basis of the calculations from using projected annual capitation and annual budgeted capitation for working capital and restricted reserves, respectively, to using the Family Care service revenues, excluding member obligation and other third party service revenues, earned in any 12-month period.
- Implement a minimum requirement or floor for working capital and restricted reserves.

In addition, the proposed change may result in the reduction of the 3% requirement for working capital.

3. The existing rule prescribes the same business plan requirements for initial and renewal permitting of CMOs. The proposed rule may provide clarification of the requirements for initial permitting of CMOs participating in a Family Care Program region and renewal permitting for those CMOs that have been participating in a Family Care Program region for multiple years.

Detailed Statutory Authority for the Rule (Including the Statutory Citation and Language)

The statutory authority for this rule is ss. 227.11 (2) (a), and 601.41 (3), Wis. Stats., that provides for the commissioner's rule making authority in general. Also, s. 648.10 (1), Wis. Stat., states that the commissioner may "promulgate rules that are necessary to carry out the intent of the chapter, including, after consulting with the department, standard for the financial condition of care management organizations." The changes that will be proposed follow consultation with the Department of Health Services and address standards for the financial condition of CMOs.

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

200 hours and the Department of Health Services contracted professional accounting and actuarial services.

List with Description of All Entities that may be Impacted by the Rule

The proposed rule changes will only affect Care Management Organizations permitted under Ch. 648, Wis. Stat.

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

The Office is unaware of any proposed or existing federal regulations that are intended to address the activities to be regulated by the proposed rule change.

Anticipated Economic Impact of Implementing the Rule (Note: if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

The impact of the proposed rule change is anticipated to be minimal. These changes are intended to lessen the regulatory burden on CMOs by adjusting the basis of the financial requirements to use actual results versus budgeted amounts and by clarifying the filing requirements for initial and renewal permitting.

This rule is not anticipated to have any impact on small businesses other than CMOs.

A significant economic impact on small businesses?

No

The local/statewide economic impact of the rule:

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

Contact Person

Julie E. Walsh, julie.walsh@wisconsin.gov, (608) 264-8101

Insurance

SS 071-12

This statement of scope was approved by the governor on September 13, 2012.

Rule No.

Sections Ins 2.80 and 50.79, Wis. Adm. Code.

Relating to

Reserve requirements for life and fraternal insurers and affecting small business.

Rule Type

Permanent.

Detailed Description of the Objective of the Rule

The objectives of the rule changes are to modify the reserving requirements for life and fraternal insurers and to revise and clarify the reporting requirements related to the life reserves. The rule would repeal a table that is both incorrect and unnecessary thereby minimizing insurer, intermediary and consumer confusion. The changes also promote consistency with the National Association of Insurance Commissioners (NAIC) model regulation already adopted by 18 states.

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

The proposed rule changes would address four items described below. The changes contemplated in items (a) and (b) would bring Wisconsin regulations in line with the respective NAIC model regulations and 18 other states. The consistency would therefore help create a level playing field for our domestic insurers specifically as several of the states that have implemented the model regulation have a significant number of life insurers. The changes contemplated in item (c) would ease the administrative burden on the Office of the Commissioner of Insurance and foreign insurers doing business in Wisconsin by eliminating an unnecessary filing requirement. Finally, the changes contemplated in item (d) would correct an error contained in existing regulation.

- (a) Section Ins 2.80, Wis. Adm. Code, establishes minimum standards for life insurance policy reserves and the method for calculating the reserves. The existing rule includes requirements for a premium deficiency reserve, under which the company can incorporate "X" factors to adjust the mortality factor to a level that is based on the company's own mortality experience. Currently, under s. Ins 2.80 (4), Wis. Adm. Code, the X factors used in the calculation of deficiency reserves are subject to a minimum of 20% and cannot be decreased in any successive policy years. The changes contemplated for a proposed rule would remove these limits on the X factors. When the rule was first enacted, the limits were included to provide additional conservatism. The industry has demonstrated to the NAIC that the limits are arbitrary and are not needed. This change could result in a reduction of reserves for some insurers and would create a more level playing field with the 18 states that have already adopted the NAIC model regulation.
- (b) s. Ins 50.79 (3) (a) and s. Ins 2.80 (4) (b) 3., Wis. Adm. Code, would be better understood with the addition of clarifying language specifying that the Regulatory Asset Adequacy Issues Summary, a confidential document which is filed annually with the Commissioner, shall disclose the impact of cash flow insufficiencies that are projected to occur during the interim periods prior to the end of the test period. The current wording is somewhat ambiguous regarding what should be reported with respect to deficiencies in interim periods. The anticipated changes would improve the rule by eliminating inconsistencies in what insurers are reporting.
- (c) Currently all life and fraternal insurers must submit a confidential Regulatory Asset Adequacy Issues Summary annually to the Commissioner. It would be proposed that

the language of s. Ins 50.79, Wis. Adm. Code, be amended such that the summary would not be required to be submitted by foreign insurers (approximately 450 companies), unless requested by the Commissioner.

- (d) The proposed rule would repeal the table of select mortality factors at the end of ch. Ins 2, Wis. Adm. Code. Since the rule was originally adopted, the correct table from the NAIC model rule has been referenced in two places within s. Ins 2.80 (4), Wis. Adm. Code. At the time our rule was published, an incorrect preliminary version of the table was mistakenly included as an appendix to ch. Ins 2, Wis. Adm. Code. An attempt to repeal the appendix when the rule was amended in 2004 resulted in the removal of the introductory page of the appendix, but most of the table remained. The entire table should be removed as it is unnecessary and incorrect.

Detailed Statutory Authority for the Rule (Including the Statutory Citation and Language)

The statutory authority for this rule is ss. 227.11 (2) (a) and 601.41 (3), Wis. Stats., that provide for the commissioner's rule making authority in general, and specifically, ss. 601.42 (2), and 623.04, Wis. Stats., authorize the commissioner to "promulgate rules specifying the liabilities required to be reported by insurers in the financial statements submitted under s. 601.42 (1g) (a) and the methods shall be consistent with s. 623.06."

The changes described in paragraphs 2 (a) and 2 (d) above are authorized under s. 623.04, Wis. Stats. The changes described in paragraphs 2 (b) and 2 (c) are authorized pursuant to ss. 601.42, Wis. Stats. Under s. 601.42 (1g) (a), Wis. Stats., the commissioner may request "statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable form the commissioner designates, and at such reasonable intervals as the commissioner chooses, or from time to time." Under s. 601.42 (2), Wis. Stats., "the commissioner may prescribe forms for the reports under subs. (1g) and (1r) and specify who shall execute or certify such reports. The forms for the reports required under sub. (1g) shall be consistent, so far as practicable, with those prescribed by other jurisdictions."

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

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

List with Description of All Entities that may be Impacted by the Rule

Life and fraternal insurers licensed in Wisconsin.

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

The Office is unaware of any proposed or existing federal laws or regulations that are intended to address the activities to be regulated by the proposed rule change.

Anticipated Economic Impact of Implementing the Rule (Note: if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

Item 2. (a) above would have the greatest potential economic impact by possibly allowing some insurers to reduce their reserves, thus freeing up capital for other purposes. It is difficult to predict which companies would be able to reduce reserves, and by how much. The change would

probably not be considered material in relation to an insurer's total reserves, however the actual affect is not fully known at this time.

A significant economic impact on small businesses?

No

The local/statewide economic impact:

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

Contact Person

Julie E. Walsh, julie.walsh@wisconsin.gov, (608) 264-8101.

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

SS 068-12

This statement of scope was approved by the governor on September 7, 2012.

Rule No.

Chapters A-E 7, 8, 10.

Relating to

Practice, conduct, continuing education (CE).

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A.

Detailed Description of the Objective of the Proposed Rule

The objective of this proposed rule-making is to clarify various provisions of ch. A-E 7, Wis. Admin. Code, which sets forth minimum standards for land surveyor practice, and to resolve inconsistencies between the rules in that chapter, other governing law, and current practices of the profession. This proposal may include amendments to Code chs. A-E 8 and 10 as necessary based on the changes to ch. A-E 7. In addition, changes to provisions of A-E 10 as it relates to continuing education requirements will also be considered.

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

Policies relevant to ch. A-E 7, Wis. Admin. Code: All registered land surveyors, like any other professional, should adhere to minimum standards of practice, where such standards have been promulgated by surveyor-practitioners knowledgeable in both the practice and its governing law. Minimum professional standards must be easily understood by practitioners. They must also be consistent with each other, the statutes, and other related law; and should reflect current practices of the profession. These policies remain in effect, and for the basis of the proposed rule amendments. No new alternative policies are involved, making an analysis of policy alternatives unnecessary.

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

Sections 15.08 (5) (b), 227.11 (2) (a), and 443.015 (2), Stats.

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

80 hours.

List with Description of All Entities that may be Affected by the Proposed Rule

Registered land surveyors and individuals and entities using their services.

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

No federal laws regulate the practice of land surveying as it relates to the activities regulated by the rules proposed herein.

Anticipated Economic Impact of Implementing the Rule (Note: if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

None.

Contact Person

Kristine E. Anderson, (608) 261-2385,
Kristine.I.Anderson@Wisconsin.gov.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Agriculture, Trade and Consumer Protection CR 12-040

(DNR # 11-R-10)

The Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on September 18, 2012.

The governor approved the scope statement for this rule on January 11, 2012. The scope statement, SS 005-12, was published in Administrative Register No. 673 on January 31, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection on February 22, 2012.

Analysis

The proposed rule revises Chapter ATCP 55, relating to meat and meat products.

Agency Procedure for Promulgation

The department will hold public hearings on this rule. Public hearings are scheduled for October 15, 18, and 19, 2012 in Madison, Eau Claire, and Green Bay. The department's Division of Food Safety is primarily responsible for this rule.

Contact Information

If you have questions, you may contact Cindy Klug at (608) 224-5026.

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

CR 12-039

On September 18, 2012, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Scope

This rule is not subject to s. 227.135 (2), as affected by 2011 Wis. Act 21. The scope statement for this rule, A-E 8, 9 (Landscape Architect Licensure, Practice), was published in Register No. 664 on April 30, 2011, and approved by the Landscape Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers,

Designers and Land Surveyors on March 28, 2012 prior to the effective date of 2011 Wis. Act 21.

Analysis

Statutory Authority: Sections 227.11 (2 (a), 443.015 (2), Stats.

This proposed rule-making order amends Chapters A-E 8 and 9, relating to Landscape Architect licensure and practice.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 18, 2012 at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Information

Shawn Leatherwood, Paralegal, Department of Safety and Professional Services, (608) 261-4438, Shancethea.Leatherwood@Wisconsin.gov.

Transportation CR 12-041

The Wisconsin Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on September 18, 2012.

The statement of scope, SS 037-12, was approved by the governor on May 25, 2012, published in Administrative Register No. 678 on June 14, 2012, and approved pursuant to s. 227.135 (2) by DOT Secretary Mark Gottlieb on May 16, 2012.

Analysis

The proposed rule revises Chapter Trans 200, relating to the erection of signs on public highways.

Agency Procedure for Promulgation

A public hearing is required and will be held Monday, October 22, 2012 at 9:00 a.m. The organizational unit responsible for promulgation of the proposed rule is the departments Division of Transportation System Development, Bureau of Traffic Operations.

Contact Information

John Noll, SIS/TODS Program Coordinator, Bureau of Traffic Operations, Traffic Engineering Section, Traffic Design Unit, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling (608) 266-0318. You may also contact Mr. Noll via e-mail at: john.noll@dot.wi.gov.

Rule–Making Notices

Notice of Hearing

Agriculture, Trade, and Consumer Protection

EmR1211

Rule Related to Plant Pest Import Controls and Quarantine

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on its emergency rule, revising section ATCP 21.17, Wis. Adm. Code, relating to the quarantine of Trempealeau County for the emerald ash borer.

Hearing Information

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

Date: Friday, October 12, 2012
Time: 1:00 p.m.–3:00p.m.
Location: Department of Agriculture, Trade and Consumer Protection
 Conference Room 172 (1st Floor across from main entrance)
 2811 Agriculture Drive
 Madison, WI 53718

Accessibility

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by **October 9, 2012**, by writing to Barbara Stalker, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4660. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is accessible to disabled users.

Appearances at the Hearing and Submittal of Comments

DATCP invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until Friday, **October 19, 2012**, for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, to Christopher.Deegan@wisconsin.gov or at <http://adminrules.wisconsin.gov>.

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

Copies of the Rule

You may obtain a free copy of this emergency rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–4573 or emailing Christopher.Deegan@wisconsin.gov. Copies will also be

available at the hearing. To view the emergency rule online, please go to: <http://adminrules.wisconsin.gov>.

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

This emergency rule creates a quarantine for Trempealeau County for emerald ash borer (EAB). Under this rule, the Department of Agriculture, Trade and Consumer Protection (DATCP) quarantines Trempealeau County to mitigate the movement of emerald ash borer to other areas of Wisconsin and other states.

DATCP is adopting this temporary emergency rule pending the adoption of a federal regulation to quarantine Trempealeau County. The emergency rule will take effect immediately upon publication in the official state newspaper, and will remain in effect for 150 days. The Legislature's Joint Committee for Review of Administrative Rules may extend the emergency rule for up to 120 additional days.

Statutes interpreted

Sections 93.07 (12) and 94.01, Stats.

Statutory authority

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

Explanation of statutory authority

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

Background

The United States Department of Agriculture–Animal and Plant Health Inspection Services (APHIS) positively identified EAB in Trempealeau County at Perrot State Park on August 16, 2012. This emergency rule creates a DATCP quarantine for Trempealeau County. Federal quarantines will be enacted approximately six to eight weeks after a formal submission by the state plant regulatory official. Emerald ash borer is carried and spread by untreated ash wood products. A six week delay until enactment of the federal quarantine 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.

Emerald ash borer is an injurious exotic pest that now endangers Wisconsin's 750 million ash trees and ash tree resources. This insect has the potential to destroy entire stands of ash, and any incursion of emerald ash borer can result in substantial losses to forest ecosystems and urban trees, as well as the state's thriving tourism and timber industries. The emerald ash borer has killed over fifty million trees in the Midwest and has cost several hundred million dollars annually in losses to the woodlot, nursery and

landscape industries. The United States Department of Agriculture predicts the national urban impact from this pest could exceed \$370 billion.

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

Emergency Rule Content

The emergency rule will do the following:

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

Federal and surrounding state programs

Federal Programs

Under the federal Plant Protection Act, APHIS has responsibility for excluding, eradicating and controlling serious plant pests, including emerald ash borer. APHIS has instituted statewide quarantines on the movement of all ash wood for Illinois, Indiana, Ohio, Pennsylvania, Virginia and West Virginia, in addition to portions of Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri and New York. APHIS has also instituted quarantines for Brown, Rock, Walworth, Kenosha, Racine, Milwaukee, Waukesha, Ozaukee, Washington, Sheboygan, Fond du Lac, La Crosse, Vernon and Crawford Counties in Wisconsin. The quarantines include restrictions on the movement of any hardwood (non-coniferous) firewood.

Surrounding State Programs

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

Fiscal Impact

DATCP will have additional workload related to enforcing the quarantines but it will be able to absorb the projected

workload and costs within DATCP's current budget and with current staff. The presence of emerald ash borer may produce additional workload for local governments in Trempealeau County, but the quarantines will not themselves produce any local fiscal impact.

Business Impact

This emergency rule may have an impact on persons or companies that deal in any hardwood firewood or ash materials in Trempealeau County. The affected businesses are all small businesses. This emergency rule restricts the sale or distribution of ash products plus any hardwood firewood from Trempealeau County to locations outside of the contiguously quarantined counties of La Crosse, Vernon and Crawford.

The business impact of this emergency rule depends on the number of nurseries that sell/distribute ash nursery stock outside the county, firewood producers/dealers that sell/distribute outside the county, saw mills that move untreated ash stock outside the county, and green wood waste that is moved outside the county.

Trempealeau County has a total of eight licensed nursery growers that could possibly be growing ash nursery stock. Those growers will not be able to sell ash nursery stock outside of the contiguous quarantine area of western Wisconsin, though discussions with the Wisconsin Nursery Association indicate that few, if any, nurseries continue to sell ash trees. There are no known firewood dealers in Trempealeau County. Firewood dealers would need to be certified under s. ATCP 21.20 to sell firewood outside of the contiguous quarantine area. To obtain certification a firewood dealer pays a \$50 annual certification fee to DATCP and treats the firewood in a manner that ensures it is free of EAB. There are three sawmills (non-veneer) in Trempealeau County and an unknown number of wood processing facilities that deal with ash. To sell ash wood products outside of the contiguous quarantine area they will need to enter into a compliance agreement with DATCP or APHIS that authorizes movement of ash products outside of the quarantine only when there is assurance that the movement will not spread EAB to other locations.

Environmental Impact

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

DATCP Contact

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

Brian Kuhn or Christopher Deegan
Department of Agriculture, Trade and Consumer
Protection

P.O. Box 8911

Madison, WI 53708-8911

Telephone (608) 224-4590 or (608) 224-4573

E-Mail: brian.kuhn@wisconsin.gov or

christopher.deegan@wisconsin.gov

Notice of Hearing

Agriculture, Trade, and Consumer Protection

EmR1213, CR 12-040

(DATCP Docket # 11-R-11)

Rule Relating to Meat and Meat Products

The Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) announces that it will hold public hearings on both an emergency rule and a proposed rule relating to revising Chapter ATCP 55, Meat and Meat Products. The proposed rule will modify Chapter ATCP 55, relating to meat and meat products, to meet USDA requirements for participation in the Cooperative Interstate Shipment (CIS) program.

Hearing Information

DATCP will hold three public hearings at the times and places shown below.

- Date:** Monday, October 15, 2012
Time: 10:00 a.m.–1:00 p.m.
Location: Wisconsin Department of Agriculture, Trade, and Consumer Protection
 Room 106, Board Room (1st Floor)
 2811 Agriculture Drive
 Madison, WI 53718
- Date:** Thursday, October 18, 2012
Time: 10:00 a.m.–1:00 p.m.
Location: Eau Claire State Office Building
 Room 129
 718 W. Clairemont Ave.
 Eau Claire, WI 54701
- Date:** Friday, October 19, 2012
Time: 10:00 a.m.–1:00 p.m.
Location: Green Bay State Office Building
 Room 152B
 200 N. Jefferson Street
 Green Bay, WI 54301

Accessibility

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by **September 21, 2012**, by writing to Division of Food Safety, P.O. Box 8911, Madison, WI 53708-8911; by emailing Cindy.Klug@Wisconsin.gov; or by telephone at (608) 224-4682. Alternatively, you may contact the DATCP TDD at (608) 224-5058. The hearing facility is handicap accessible.

Appearances at the Hearing and Submittal of Comments

DATCP invites the public to attend the hearings and comment on the emergency rule and proposed rule. Following the public hearings, the hearing record will remain open until **October 29, 2012** for additional written comments. Comments may be sent to the Division of Food Safety at the address below, or to Cindy.Klug@Wisconsin.gov or to <http://adminrules.wisconsin.gov>.

Comments or concerns relating to small business may also be addressed to DATCP's small business regulatory coordinator Keeley Moll at the address above, or by email to

keeley.moll@wisconsin.gov, or by telephone at (608) 224-5039.

Copies of the Rule

You can obtain a free copy of the emergency rule and proposed rule and related documents, including the economic impact analysis, by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4682 or by emailing Cindy.Klug@Wisconsin.gov. Copies will also be available at the hearing. To view the hearing draft rule online, go to: <http://adminrules.wisconsin.gov>.

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

This proposed rule would implement federal regulations required for Wisconsin's state meat and poultry inspection program to meet USDA requirements for participation in the Cooperative Interstate Shipment (CIS) program. The CIS program will allow certain selected Wisconsin state-inspected meat and poultry establishments, which volunteer to participate in the program, to sell meat, poultry, and meat and poultry products in other states.

Statutes interpreted

Section 97.42, Stats.

Statutory authority

Sections 93.07 (1), 97.09 (4), and 97.42 (4) (j), Stats.

Explanation of statutory authority

DATCP has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. DATCP also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods and specific authority under s. 97.42 (4) (j), Stats., to establish rules to regulate the slaughter and processing of animals and poultry for human consumption.

Related statutes and rules

Wisconsin's state meat and poultry inspection program is governed by ch. 97, Stats. (Food Regulation), including s. 97.42, Stats. (Compulsory inspection of animals, poultry and carcasses). Chapter ATCP 55 interprets and implements ch. 97, Stats., as it relates to Meat and Meat Food Products.

State meat and poultry inspection programs operate under a cooperative agreement with the United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) to provide inspection services to small and very small meat establishments. State meat and poultry inspection programs were established by the Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968, which amended the Federal Meat Inspection Act (FMIA) to create 21 USC 661 and the Poultry Products Inspection Act (PPIA) to create 21 USC. 454. Section 11015 of Title XI of the Food, Conservation, and Energy Act of 2008 (the 2008 "Farm Bill"), enacted on June 18, 2008, amended FMIA and PPIA to establish a new voluntary program that will allow certain selected state-inspected meat establishments to sell their products in interstate commerce.

Title 9, Animal and Animal Products, of the Code of Federal Regulations (CFR) interprets and implements the federal FMIA and PPIA. Section 97.42 (4m), Stats., and ss. ATCP 55.06 (2), (3), (4), and (5) (d), and 55.07 (1), (2), and

(3), adopt certain relevant sections of 9 CFR 309, 311, 313 to 315, 318, and 319, which relate specifically to inspection of meat and meat food products, 9 CFR 307, 308, 310, 317, 416, and 417 which relate to meat and poultry and food products and 9 CFR 381, Subparts G, I, J, K, L, O, and P which relate specifically to poultry and poultry products inspection.

Plain language analysis

Background

Wisconsin operates the nation's largest state meat and poultry inspection program, with more than 270 official licensed establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA) and fill an important niche in the state's economy. According to USDA, state meat and poultry inspection programs provide unique services to these small plants by "providing more personalized guidance to establishments in developing their food safety oriented operations." USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Under this agreement, states must provide inspection services "at least equal to" federal meat inspection. Each program conducts a self-assessment annually and USDA FSIS conducts an on-site audit every three years to determine whether the program meets federal "at least equal to" requirements. Wisconsin's program currently meets these "at least equal to" standards and has met them since the program's inception.

State-inspected meat and poultry establishments may currently sell their products only within the state where the plant is located. However, in May, 2011, USDA finalized rules that allow some selected state-inspected meat and poultry establishments to sell their meat and poultry products in other states. To qualify for this program, known as the Cooperative Interstate Shipment (CIS) program, states must provide inspection that is the "same as" (identical to) federal inspection. USDA will fund 60 percent of the state's costs for inspecting meat and poultry plants selected to participate in the CIS program.

This proposed rule will revise ch. ATCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations creating the CIS program and specify practices that ensure the state program operates the "same as" the federal program for plants selected for the CIS program. DATCP also has adopted an emergency rule to revise Ch. ATCP 55 and allow Wisconsin to participate in the CIS program immediately.

Federal and surrounding state programs

Federal Programs

The Federal Meat Inspection Act and the Poultry Products Inspection Act gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS inspects more than 6,200 establishments, conducting ante and post mortem slaughter inspection, inspection of meat and poultry food products and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses follow labeling requirements and humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (HACCP) systems. HACCP is a system employed by each

establishment for preventing contamination and ensuring the safety of meat and poultry products.

Wisconsin's state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are "at least equal to" federal meat inspection standards. FSIS provides 50 percent of Wisconsin's program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the CIS program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary program in May 2011 and will provide oversight for the program to ensure that state meat inspection programs deliver inspection services that are the "same as" federal meat inspection. FSIS will provide states with 60 percent of the cost for inspecting those plants that participate in the program.

Surrounding State Programs

Michigan currently does not operate a state meat and poultry inspection program and is not eligible to participate in the CIS program. Minnesota, Iowa and Illinois do operate state meat inspection programs, but these states do not plan to participate in the CIS program at this time. Illinois' state meat inspection program includes USDA's Federal-State Cooperative program (formerly known as the "Talmadge-Aiken" program). Under this program, state inspectors conduct federal inspections, and the inspected plants are thereby allowed to sell their products in interstate commerce. Unlike the CIS program where meat establishments will continue to be operated under the state meat inspection program, meat establishments in the Federal-State Cooperative program are considered to be federally-inspected.

Data and analytical methodologies

The Bureau of Meat Safety and Inspection surveyed Wisconsin state-inspected meat and poultry establishments that previously expressed interest in participating in the CIS program, to gauge their level of interest and the range of products the plants hope to produce in the CIS program. The Bureau reviewed information about state meat inspection programs and contacted surrounding states to determine the extent to which each state plans to participate in the CIS program.

Fiscal Impact

This rule is not anticipated to have a significant fiscal impact on state operations and will have no fiscal impact on local governments. The Bureau of Meat Safety and Inspection expects that it will incur minimal costs to implement the CIS program since the Bureau already inspects meat and poultry establishments selected into the program using procedures deemed "at least equal to" the federal standards. In its analysis of the final federal rule, USDA noted that states may incur some costs associated with processing and evaluating applications submitted by establishments requesting selection into the CIS program. Wisconsin may make some changes in procedures to meet "same as" federal inspection requirements, but the costs associated with these changes are minimal.

Business Impact

This rule will have a positive impact on very small state-inspected meat and poultry establishments that choose to participate and are selected for the program. The department estimates 17 plants will participate in the program in the first year of its operation. Participation in the CIS program will allow these state-inspected meat and poultry plants to expand their markets from selling only in Wisconsin to all fifty states. USDA expects establishments to incur a one-time start-up cost associated with filing an application, training employees, meeting regulatory performance standards, obtaining label approval, and implementing a food safety program and some state-inspected establishments may need to make structural modifications to their facilities to comply with all federal requirements. The department anticipates costs associated with these activities to be minimal and will be offset by increased sales in a larger market area.

Wisconsin will not be able to provide flexibility to small businesses in complying with federal regulations. By complying with state regulations under a program deemed to

be “at least equal to” the federal program, these businesses are essentially meeting most of the federal regulations the state program will adopt in administering a program deemed to be the “same as” the federal program. Small and very small meat and poultry plants (as defined by USDA) in Wisconsin that choose to operate under federal inspection are already complying with the federal regulations. In addition, the CIS program is voluntary and no state-inspected meat or poultry business will be required to participate.

DATCP Contact

Questions and comments related to this rule may be directed to:

Cindy Klug, Director
 Bureau of Meat Safety and Inspection
 Department of Agriculture, Trade and Consumer Protection
 P.O. Box 8911
 Madison, WI 53708-8911
 Telephone: (608) 224-4729
 E-Mail: Cindy.Klug@Wisconsin.gov

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

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

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

1. Type of Estimate and Analysis
 Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

ATCP 55, Meat and Meat Products

3. Subject

Revision of ATCP 55, Meat and Meat Products, to meet federal requirements allowing the interstate sales of state-inspected meat and poultry products

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

<input checked="" type="checkbox"/> No Fiscal Effect	Increase Existing Revenues	Increase Costs
<input type="checkbox"/> 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

Wisconsin operates the nation’s largest state meat and poultry inspection program, with more than 270 official licensed establishments. Twenty-seven states currently operate state meat and poultry inspection programs. All state-inspected Wisconsin meat and poultry establishments are very small (as defined by USDA) and fill an important niche in the state’s economy. According to USDA, state meat and poultry inspection programs provide unique services to these small plants by “providing more personalized guidance to establishments in developing their food safety oriented operations.” USDA provides half of the funding for state meat and poultry inspection programs.

State meat and poultry inspection programs operate under a cooperative agreement with USDA FSIS. Although state meat inspection procedures may vary from federal inspection, states must provide inspection services “at least equal to” federal meat inspection. Each program conducts a self–assessment annually and USDA FSIS conducts an on–site audit every three years to determine whether the program meets federal “at least equal to” requirements. Wisconsin’s program currently meets these “at least equal to” standards and has met them since the program’s inception.

Currently state–inspected meat and poultry establishments may only sell their products within the state where the plant is located. However, in May, 2011, USDA finalized rules that will allow some selected state–inspected meat and poultry establishments to sell their meat and poultry products in other states. To qualify for this program, known as the Cooperative Interstate Shipment (CIS) program, states must provide inspection that is the “same as” (identical to) federal inspection. USDA will fund 60 percent of the state’s costs for inspecting meat and poultry plants selected to participate in the CIS program.

This proposed rule will revise ch. ATCP 55, Meat and Meat Food Products, to incorporate by reference federal regulations creating the CIS program and specifying practices that ensure the state program operates the “same as” the federal program in plants selected for the CIS program. DATCP plans to adopt an emergency rule to revise ch. ATCP 55 and allow Wisconsin to participate in the CIS program immediately.

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

This rule primarily impacts those very small state–inspected establishments that choose to participate and meet the requirements of the voluntary CIS program. This rule will have a minimal impact on very small state–inspected establishments that choose not to participate in the CIS program, by updating section headings and adopting appropriate sections of federal regulations that are followed in operating the existing state inspection program. All state–inspected meat establishments in Wisconsin, along with members of the Wisconsin Association of Meat Processors (WAMP), were contacted and asked to comment on the economic impact of the rule.

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

None. Local governmental units are not impacted by this rule.

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)

Businesses and Business Sectors

This rule will have a positive impact on very small (as defined by USDA) state–inspected meat and poultry establishments in Wisconsin that choose to participate and are selected for the program. The department estimates that 17 plants will participate in the program in the first year of its operation and that the number of plants participating in the program may grow in the future. Participation in the CIS program will allow these state–inspected meat and poultry plants to expand their markets from selling only in Wisconsin to all fifty states. USDA expects establishments to incur one–time start–up costs associated with filing an application, training employees, meeting regulatory performance standards, obtaining label approval and implementing a food safety program that complies with all federal requirements. USDA also expects some state–inspected establishments may need to make structural modifications to their facilities to meet federal requirements. Since state–inspected meat and poultry establishments are already meeting requirements that are “at least equal to” federal requirements, the department anticipates these costs will be minimal and will be offset by increased sales in a larger market area. There will be no additional licensing fees to participate in the CIS program beyond the cost of a license currently required to operate a meat or poultry business. Changes to the rule designed to ensure the program meets “same as” requirements will not impact the way state–inspected meat establishments not participating in the program are inspected.

State’s Economy

The rule will benefit the state’s economy by allowing very small state–inspected meat and poultry establishments to increase sales. These increased sales will benefit the local economy of state–inspected meat and poultry establishments, many of which are located in Wisconsin’s rural communities. The rule will also benefit farmers by providing access to new markets for their meat and poultry products, while allowing the farmers to transport their animals to local slaughter and processing establishments.

Local Governmental Units and Public Utility Rate Payers

The rule will have no impact on local governmental units or public utility rate payers.

Economic Impact Analysis Comments

DATCP posted the proposed rule online as required under Wis. Stat. s. 227.137 and solicited comments from all state-inspected meat establishments and the Wisconsin Association of Meat Processors (WAMP). The department received three comments, all supportive of the rule changes needed to ensure participation in the CIS program. Two comments described the positive impact the CIS program would have on their businesses. One business noted that they have had to turn down orders from stores and restaurants from across the U.S. almost weekly because they cannot currently sell their products in interstate commerce. They state that, "going forward with the regulation changes will allow my company alone to create several full time positions, several part time positions, and put tens of thousands of dollars into the state's small-scale farming economy every month, and a sizable amount of investment into our facility, which is in an economically disadvantaged area in the city of Milwaukee." Another business owner described how this will have a very positive impact on her business, allowing her to deliver her product throughout the midwest. A third business owner described how he had considered pursuing federal inspection for his product, but felt that state inspection personnel have been more helpful and preferred to pursue participation in the CIS program.

Fiscal Impact

This rule is not anticipated to have a fiscal impact on state operations and will have no impact on local governments. The Bureau of Meat Safety and Inspection expects that it will incur minimal costs to implement the CIS program since the Bureau already inspects meat and poultry establishments selected into the program using procedures deemed "at least equal to" the federal standards. In analyzing the final federal rule, USDA noted that states may incur some costs associated with processing and evaluating applications submitted by establishments requesting selection into the CIS program. Wisconsin may make some changes in procedures to meet "same as" federal inspection requirements, but the costs associated with these changes are minimal. The state program gained additional inspector positions in the current biennium to deal with the "same as" requirement. Program and workload analysis will continue to be provided to assess future needs.

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

Implementing this rule will be beneficial to Wisconsin's small state-inspected meat and poultry businesses. These rule changes are required for Wisconsin to participate in USDA's CIS program, which will allow certain selected state-inspected meat and poultry plants to sell their products in interstate commerce. Since state-inspected meat plants are already meeting requirements that are "at least equal to" federal requirements, these rule changes will not impose any new regulatory burden on state-inspected meat establishments in Wisconsin.

Alternative to Implementing the Rule

If these rules are not adopted, USDA may determine that Wisconsin cannot participate in the CIS program, thereby preventing Wisconsin's state-inspected meat and poultry plants from selling their products in interstate commerce.

14. Long Range Implications of Implementing the Rule

There are no long range fiscal implications of implementing the rule. In the long run, the rule changes will benefit very small state-inspected meat and poultry businesses in Wisconsin by allowing them to expand their market into other states.

15. Compare With Approaches Being Used by Federal Government

The Federal Meat Inspection Act and the Poultry Products Inspection Act gave USDA FSIS the responsibility for ensuring the safety and wholesomeness of meat and poultry distributed in commerce for use as human food. FSIS inspects more than 6,200 establishments, conducting ante and post mortem slaughter inspection, inspection of meat and poultry food products and inspection of basic sanitation practices. FSIS also ensures that meat and poultry businesses follow labeling and humane handling procedures during slaughter, as required by federal law. The agency also reviews Hazard Analysis and Critical Control Point (HACCP) systems. HACCP is a preventive system employed by each establishment for preventing contamination and ensuring the safety of meat and poultry products.

Wisconsin's state meat and poultry inspection program operates under a cooperative agreement with FSIS. The Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968 created state meat inspection programs under the authority of FSIS. FSIS ensures that state programs meet inspection standards that are "at least equal to" federal meat inspection standards. FSIS provides 50 percent of Wisconsin's program funding.

Until 2008, only meat and poultry establishments inspected by FSIS were allowed to sell products in interstate commerce. The 2008 Farm Bill authorized FSIS to create the CIS program, allowing selected state-inspected meat and poultry establishments to sell their products in interstate commerce. FSIS published final rules for the voluntary program in May 2011 and will provide oversight for the program to ensure that state meat inspection programs deliver inspection services to CIS participants that are the “same as” (identical to) federal meat inspection. FSIS will provide states with 60 percent of the cost for inspecting those plants that participate in the program.

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

Any state that operates a state meat inspection program must meet federal requirements to provide services that are “at least equal to” federal inspection, including an expectation that states have regulations in place that are “at least equal to” federal meat and poultry inspection regulations. Participation in the CIS program requires that states have a regulatory foundation that is the “same as”, rather than “at least equal to”, federal meat and poultry inspection regulations. The following describes state meat inspection regulations in neighboring states:

Illinois – Illinois statutes mandate the adoption by reference of federal regulations; some provisions from federal regulations (Sanitation Standard Operating Procedures, Biotype I E. coli testing) are reproduced in whole and without citation in the statute. In the Illinois rules, federal regulations are adopted by reference, with an additional limitation of scope and definitions to intrastate commerce in Illinois.

Iowa – Iowa has adopted applicable sections of the federal meat and poultry inspection regulations by reference into their administration rules, but, is statutorily limited to applying them within the scope of intra-state commerce. Iowa statute states that goal of the regulations is to ensure that the Iowa program requirements are at least equal to those of the federal program. Iowa regulations contain several definitions which are altered from the federal regulations so that they only apply within the state of Iowa.

Michigan – Michigan does not operate a state meat inspection program and is not qualified to participate in the CIS program.

Minnesota – Minnesota statutes require rules development such that its program requirements are “at least equal to” federal meat and poultry inspection program requirements. Minnesota rules do not adopt federal requirements by reference.

17. Contact Name
Cindy Klug, Director
Bureau of Meat Safety and Inspection
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

18. Contact Phone Number
(608) 224-4729

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)

These rule changes adopt federal regulations that establish the Cooperative Interstate Shipment (CIS) program and formally adopts current practice into rule to provide the regulatory foundation required under federal law to allow certain small state meat inspected businesses to participate in the CIS program and sell their products in interstate commerce. The rule will have a positive economic impact on small meat establishments that meet requirements and choose to participate in the CIS program. This rule will not have a fiscal impact on other state-inspected meat establishments because they already meet requirements that are “at least equal to” federal regulations and these rule changes will not impact inspection practices for these plants.

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

The department reviewed data USDA collected and analyzed as part of their rulemaking process regarding the potential impact of the federal rule authorizing the CIS program on small businesses. In addition, the department sent a questionnaire to state inspected meat establishments in Wisconsin that expressed interest in the CIS program to provide these businesses with information about program requirements and determine the extent to which these businesses were still interested in applying for the program.

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:

All of the above steps have been considered, but cannot be taken, as the rule incorporates federal regulatory requirements that must be met to participate in the CIS program. However, this program is completely voluntary on the part of the small business and so no undue economic impact will be imposed on those plants that choose to participate. Inspection practices will not change for those establishments that do not choose to participate in the program.

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

Small businesses that participate in this program must meet federal requirements and Wisconsin cannot modify those requirements. However, the CIS program is voluntary and meat establishments will be able to make their own assessment as to whether it is profitable for their business to participate.

5. Describe the Rule's Enforcement Provisions

This rule does not change enforcement provisions for state-inspected meat establishments. They will be the same as what already exists for the small meat businesses currently holding our license.

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

Yes No

Notice of Hearing

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

CR 12-039

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors (Jt. Board) by sections 227.11 (2) (a) and 443.015 (2), Wis. Stats., and interpreting sections 443.01 (3r), 443.02 (2) and (3), 443.035, 443.09 (4m) and (5), 443.10 (2) (c), Wis. Stats., the Landscape Architecture Section of the Joint Board will hold a public hearing at the time and place indicated below to consider an order to amend sections A-E 8.07 (1) and (2), 9.05 (1) (a), and 9.06 (3), and to create section A-E 9.03 (1) (b), relating to Landscape Architect licensure and practice.

Hearing Information

Date: Thursday, October 18, 2012

Time: 9:30 a.m.

Location: Room 121
1400 East Washington Avenue
Madison, WI 53703

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.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 117, P.O. Box 8935, Madison, WI 53708-8935, or by email to Kristine.L.Anderson@Wisconsin.gov. Comments must be received on or before **October 18, 2012, at 9:30 a.m.**, to be included in the record of rule-making proceedings.

Copies of the Rule

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Rm. 117, P.O. Box 8935, Madison, Wisconsin 53708, or by email at: Kristine.L.Anderson@Wisconsin.gov.

Analysis Prepared by the Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors Examining Board

Statutes interpreted

Sections 443.01 (3r), 443.02 (2) and (3), 443.035, 443.09 (4m) and (5), 443.10 (2) (c), Stats.

Statutory authority

Sections 227.11 (2) (a), 443.015 (2), Stats.

Explanation of statutory authority

Section 227.11 (2) (a), Stats., authorizes state agencies to promulgate rules interpreting the statutes they enforce or administer, when deemed necessary to effectuate the purpose of those statutes. Section 443.015 (2), Stats., authorizes the Landscape Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers,

Designers and Land Surveyors (Joint Board) to promulgate rules governing the practice of landscape architecture.

Related statute or rule

No statutes or administrative rules beyond those referenced above are related to this proposed rule-making.

Plain language analysis

The rule amendments in this proposal are based primarily on statutory changes made in 2009 Wisconsin Act 123, but include changes effected by 2009 Wisconsin Act 350 and 2011 Wisconsin Act 146 as well. The proposal also makes a clarification in and removes obsolete date references from the rules regarding the registration requirements for landscape architects.

Before the effective date of Act 123, no Wisconsin statute prohibited a person not licensed as a landscape architect from offering to, or engaging in, the practice of landscape architecture. Former s. 443.02 (5), Stats., only prohibited a person not so licensed or registered from using the title “landscape architect” or any other such reference in representing his or her professional capacity. Act 123, which took effect February 26, 2010, repealed s. 443.02 (5), Stats., and amended subs. (2) and (3) of the same statute to include, respectively, a prohibition against the practice of, or offer to, practice landscape architecture without a license or registration in that profession. The proposed updates to A–E 8.07, addressing unauthorized professional practice, are based on these statutory amendments.

2009 Wisconsin Act 350 became effective on May 28, 2010. Act 350 repealed s. 443.09 (6), Stats., which had allowed applicants for registration as an architect, landscape architect, or professional engineer who failed the relevant examination to request review thereof within one year of the date it was taken. Act 350 thus requires the repeal of A–E rules provisions related to examination review for all such applicants, including those provisions regarding registration as a landscape architect found in A–E 9.05 (6).

2011 Wisconsin Act 146, effective May 4, 2012, transferred full authority for the content of the landscape architect licensure examination from the Joint Board to the Landscape Architect Section in s. 443.09 (4m), Stats. The transfer of statutory authority prompts the proposed substitution of “landscape architecture section” for “examining board” in A–E 9.05 (1) (a). The same statutory change obviated the need for a separate examination on barrier design, militating the repeal of A–E 9.05 (1) (b).

Aside from updates based on statutory changes, the Section seeks to clarify A–E 9.03 (1), regarding the types of work that will satisfy the landscape architect experience requirements set forth in s. 443.035 (1), Stats. The proposed renumbering of A–E 9.03 (1) to 9.03 (1) (a) and the creation of A–E 9.03 (1) (b) makes clear that for landscape architect licensure applicants who follow the registration path described in s. 443.035 (1) (a), Stats., work experience acquired before completion of the educational programs specified therein will not count toward the licensure experience requirement. Lastly, this proposal removes the references to December 31, 1995 in A–E 9.05 (1) (a) and (b), as they are no longer necessary.

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

None.

Comparison with rules in adjacent states

Illinois:

The Illinois Landscape Architecture Act of 1989, incorporated into the Illinois Compiled Statutes (ILCS) at 225 ILCS 315, prohibits any person from representing him or herself as a landscape architect, or from using “landscape architect” or “landscape architecture” in a title associated with his or her name unless licensed by the Department of Financial and Professional Regulation (DFPR). 225 ILCS 315/4. However, any person may engage in the practice of landscape architecture so long as he or she complies with the title prohibition. 225 ILCS 315/5.

DFPR is required to consult the Illinois Landscape Architect Registration Board when promulgating rules regarding the licensure and practice of landscape architects. 225 ILCS 315/8 (c). Although the DFPR may seek the expert knowledge of the Board on any matter related to the administration of the 1989 Act, it retains final authority over all such matters, which includes content of examination for initial licensure. 225 ILCS 315/8 (b) and (d), 315/11 (a). The statutes do not address examination review for applicants who fail the required examination.

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1342&ChapterID=24>

DFPR’s administrative rules provide that applicants for licensure as a landscape architect must pass the Landscape Architect Registration Examination of the Council of Landscape Architectural Registration Boards (CLARB). 68 Ill. Reg. 1275.50 (a). The Illinois rules also do not address examination review for applicants who fail the required examination.

<http://www.ilga.gov/commission/jcar/admincode/068/06801275sections.html>

Iowa:

The Iowa statutes, referred to as the Iowa Code, prohibit any person from engaging in the practice of landscape architecture, or using a title containing those words or any variation thereof to represent him or herself, without a license issued by the Iowa Landscape Architectural Examining Board. XIII Iowa Code 544B.2. The Board, which is part of the Iowa Department of Commerce, has rule-making authority for all matters related to landscape architect licensure, including examination content and administration. XIII Iowa Code 544B.5., B.8. An applicant who fails the required examination may submit a written request for information concerning his or her grade or questions answered incorrectly, unless a uniform, standardized examination is used. In that event, the Board is only required to provide the examination grade and such other information as is made available to the Board. XIII Iowa Code 544B.8.

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

The rules of the Iowa Landscape Architectural Examining Board provide that, within 30 days of notification of a failing grade, the landscape architect examinant may submit a written request to the Board to review his or her own graded examination. 193D—2.5(3)a., Iowa Admin. Code.

<http://www.legis.state.ia.us/asp/ACODocs/DOCS/08-08-2012.193D.pdf>

Michigan:

Under Michigan’s statutes, known as the Michigan Compiled Laws (MCL), no person may engage in the practice of landscape architecture unless duly licensed in that

profession. See MCL ss. 339.2201 (a) and (b), and 339.2202 (3). Additionally, no person may use the title “landscape architect” or use the phrase “landscape architecture” in representing him or herself unless that person is so licensed. MCL s. 339.2211.

The Department of Licensing and Regulatory Affairs (LARA) has authority for the examination content and licensure of landscape architects. MCL s. 339.2204. The Michigan statutes do not address examination review for applicants who fail the required examination.

<http://legislature.mi.gov/doc.aspx?mcl-299-1980-22>

LARA requires an applicant for landscape architect licensure to pass either the uniform national examination of CLARB or a state licensing examination deemed by LARA to be equivalent thereto. R 339.19025 (1), Mich. Admin. Code.¹ The Michigan rules also do not address examination review for applicants who fail the required examination.

http://www7.dleg.state.mi.us/ort/Files/AdminCode/105_23_AdminCode.pdf

Minnesota:

In Minnesota, no person may practice, offer to practice, or use a title representing the professional capacity to practice, landscape architecture unless licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design. Sections 326.02 (1), (4a), 326.06, Minn. Stats. The Board has rule-making authority for all aspects of the regulation of its associated professions, including licensure examination content. Section 326.06, Minn. Stats. The Minnesota statutes do not address examination review or re-examination for applicants who fail the required examination.

<https://www.revisor.mn.gov/statutes/?id=326>

By administrative rule, the Minnesota Board requires applicants for licensure as a landscape architect to pass the Landscape Architect Registration Examination administered by CLARB. Sections 1800.0800 E.; 1800.1500, Subp. 1.; 1800.1700, Subp. 1.; Minn. Admin. Code. While the Minnesota rules allow an applicant who fails the required licensing examination to retake it for another fee, s. 1800.0900, Subp. 4., they do not address review of failed examinations.

<https://www.revisor.mn.gov/rules/?id=1800>

Summary of factual data and analytical methodologies

No factual data was required for the rule-making in this proposal, as the changes were necessitated by statute. For that reason, no analysis was involved in the preparation of these proposed rules.

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

Pursuant to s. IV, 3. a., of EO # 50, the changes proposed herein were posted on both the state’s and the department’s administrative rules websites for 14 days to solicit comments regarding their potential economic impact on businesses, business sectors, professional associations, local government units, or potentially interested parties. In addition, e-mail solicitations were sent to several potentially interested parties. No responses to any of the solicitations were received.

¹ It should be noted here that, information received through e-mail contact on August 7, 2012 with LARA’s Bureau of Commercial Services at bcslc@michigan.gov indicates that the Michigan Board of Landscape Architects, referred to both in the Michigan statutes and on LARA’s website, was “dissolved several years ago.” That information was confirmed through a follow-up telephone call on August 8, 2012 to the author of the e-mail, a Licensing Analyst with the telephone number (517) 241-8720.

The Landscape Architect Section of the Joint Board concludes that the proposed rules will have no economic impact on small businesses. This proposal tracks statutory changes made in 2009 Wisconsin Acts 123 and 350, which became effective on February 26, 2010 and May 28, 2010, respectively, both over two years ago. Both Acts have been in place long enough to produce the resulting economic or fiscal impact experienced by private businesses or public entities, if any, and for such impact to have been fully absorbed by those entities as a part of routine operations. The transfer of authority for licensure examination content from the Joint Board to the Landscape Architect Section effected by 2011 Wis. Act 146 will have no economic impact on any individual or entity. The final two amendments of this proposal are matters of clarifying an existing rule and removing obsolete date references, neither of which carry an economic impact.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on Small Business

Because the statutory changes that prompted this proposal took effect over two years ago, these proposed rules will not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats., beyond that which such businesses have already experienced and absorbed. The Department’s Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Agency Contact Person

Kris Anderson, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 117, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-2385; email at Kristine.I.Anderson@Wisconsin.gov.

Text of Rule

SECTION 1. A-E 8.07 is amended to read:

A-E 8.07 Unauthorized practice. An architect, landscape architect, professional engineer, designer, or land surveyor:

(1) Shall assist in enforcing laws which prohibit the unlicensed practice of architecture, landscape architecture, professional engineering, designing, and land surveying by reporting violations to the board.

(2) May not delegate professional responsibility to unlicensed persons and may not otherwise aid or abet the unlicensed practice of architecture, landscape architecture, professional engineering, designing, or land surveying.

SECTION 2. A-E 9.03 (1) is renumbered to A-E 9.03 (1) (a).

SECTION 3. A-E 9.03 (1) (b) is created to read:

A-E 9.03 (1) (b) To qualify as satisfactory experience in landscape architecture for the purposes of s. 443.035 (1) (a), Stats., an applicant’s experience must be obtained subsequent to completion of the education requirements.

SECTION 4. A-E 9.05 (1) (a) is amended to read:

A-E 9.05 Examinations. (1) SCOPE OF WRITTEN EXAMINATIONS. (a) ~~After December 31, 1995, a~~An applicant

for initial registration as a landscape architect shall pass an examination determined by the ~~examining board~~landscape architecture section to assess knowledges required for the professional practice of landscape architecture.

SECTION 5. A-E 9.05 (1) (b) is repealed

SECTION 6. A-E 9.05 (6) is repealed.

SECTION 7. A-E 9.06 (3) is amended to read:

A-E 9.06 (3) References from at least 5 individuals, 3 of whom have personal knowledge of the applicant’s experience

in landscape architecture and are engaged in the practice of landscape architecture. If 3 references from individuals who are engaged in the practice of landscape architecture are not available, the section may accept references from individuals actively engaged in the practice of an allied profession. ~~After December 31, 1995, o~~One of the 3 references having personal knowledge of the applicant’s experience in landscape architecture shall be licensed or registered as a landscape architect by the licensing authority of some licensing jurisdiction in the United States or Canada.

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

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
 Original Updated Corrected

2. Administrative Rule Chapter, Title and Number
A-E 8, 9

3. Subject
Landscape Architect Licensure and Practice

4. Fund Sources Affected GPR FED <input checked="" type="checkbox"/> PRO PRS SEG SEG-S	5. Chapter 20, Stats. Appropriations Affected
---	---

6. Fiscal Effect of Implementing the Rule No Fiscal Effect Indeterminate	Increase Existing Revenues Decrease Existing Revenues	<input checked="" type="checkbox"/> Increase Costs <input checked="" type="checkbox"/> 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
All but two of the proposed rule amendments are based on statutory changes already in effect. Of the two exceptions, one clarifies an existing rule, and one removes obsolete date references, neither of which will make any substantive changes. Two of the statutory amendments from which this proposal arises have been in effect for more than two years, and thus, the proposed rule amendments prompted thereby involved no policy changes or discussions.
Neither the Legislative Council’s original Act Memo for 2011 Wis. Act 146, nor the one created following the adoption of Senate Amendment 1, provide any information bearing on the impetus for granting full credentialing authority, including determining the content of the profession’s licensure examination, to the Landscape Architecture Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors (Joint Board). However, that authority grant would seem to reflect an acknowledgement that the Section, whose members are specifically devoted to the landscape architecture profession, are best equipped to perform that function, as opposed to the Joint Board as a whole.

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 amendments that are based on 2009 Wis. Acts 123 and 350, both of which have been in effect for more than two years, will have no current impact on any interested parties. 2011 Wis. Act 146’s grant of full credentialing authority for landscape architects to the Landscape Architecture Section, which became effective on May 4, 2012, will have affected only those entities immediately involved, i.e., the Section and its licensees, the Joint Board, and DSPS credentialing and legal services staff.

11. Identify the local governmental units that participated in the development of this EIA.
None.

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)
None.

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

Promulgating the proposed amendments to the landscape architecture rules will implement the statutory changes made by 2009 Wis. Acts 123 and 350, and by 2011 Wis. Act 146, thus bringing the rules into conformance with the statutes. Because they are mandated by statute, there are no alternatives to promulgating these rules.

14. Long Range Implications of Implementing the Rule

The only potential long-range implication of this proposal is that current and future landscape architects will be better prepared to practice their profession, as their credentialing is now performed by the Landscape Architecture Section, whose members are specifically devoted to the landscape architecture profession, as opposed to the entire Joint Board, which governs several other professions as well.

15. Compare With Approaches Being Used by Federal Government

The federal government does not regulate professionals such as landscape architects.

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

Illinois:

The Illinois Landscape Architecture Act of 1989, incorporated into the Illinois Compiled Statutes (ILCS) at 225 ILCS 315, prohibits any person from representing him or herself as a landscape architect, or from using “landscape architect” or “landscape architecture” in a title associated with his or her name unless licensed by the Department of Financial and Professional Regulation (DFPR). 225 ILCS 315/4. However, any person may engage in the practice of landscape architecture so long as he or she complies with the title prohibition. 225 ILCS 315/5.

DFPR is required to consult the Illinois Landscape Architect Registration Board when promulgating rules regarding the licensure and practice of landscape architects. 225 ILCS 315/8 (c). Although the DFPR may seek the expert knowledge of the Board on any matter related to the administration of the 1989 Act, it retains final authority over all such matters, which includes content of examination for initial licensure. 225 ILCS 315/8 (b) and (d), 315/11 (a). The statutes do not address examination review for applicants who fail the required examination.

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1342&ChapterID=24>

DFPR’s administrative rules provide that applicants for licensure as a landscape architect must pass the Landscape Architect Registration Examination of the Council of Landscape Architectural Registration Boards (CLARB). 68 Ill. Reg. 1275.50 (a). The Illinois rules also do not address examination review for applicants who fail the required examination.

<http://www.ilga.gov/commission/jcar/admincode/068/06801275sections.html>

Iowa:

The Iowa statutes, referred to as the Iowa Code, prohibit any person from engaging in the practice of landscape architecture, or using a title containing those words or any variation thereof to represent him or herself, without a license issued by the Iowa Landscape Architectural Examining Board. XIII Iowa Code 544B.2. The Board, which is part of the Iowa Department of Commerce, has rule-making authority for all matters related to landscape architect licensure, including examination content and administration. XIII Iowa Code 544B.5., B.8. An applicant who fails the required examination may submit a written request for information concerning his or her grade or questions answered incorrectly, unless a uniform, standardized examination is used. In that event, the Board is only required to provide the examination grade and such other information as is made available to the Board. XIII Iowa Code 544B.8.

<http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm>

The rules of the Iowa Landscape Architectural Examining Board provide that, within 30 days of notification of a failing grade, the landscape architect examinant may submit a written request to the Board to review his or her own graded examination.

193D—2.5(3)a., Iowa Admin. Code.

<http://www.legis.state.ia.us/asp/ACODocs/DOCS/08-08-2012.193D.pdf>

Michigan:

Under Michigan’s statutes, known as the Michigan Compiled Laws (MCL), no person may engage in the practice of landscape architecture unless duly licensed in that profession. See MCL ss. 339.2201 (a) and (b), and 339.2202 (3). Additionally, no person may use the title “landscape architect” or use the phrase “landscape architecture” in representing him or herself unless that person is so licensed. MCL s. 339.2211.

The Department of Licensing and Regulatory Affairs (LARA) has authority for the examination content and licensure of landscape architects. MCL s. 339.2204. The Michigan statutes do not address examination review for applicants who fail the required examination.

<http://legislature.mi.gov/doc.aspx?mcl-299-1980-22>

LARA requires an applicant for landscape architect licensure to pass either the uniform national examination of CLARB or a state licensing examination deemed by LARA to be equivalent thereto. R 339.19025 (1), Mich. Admin. Code. The Michigan rules also do not address examination review for applicants who fail the required examination.

http://www7.dleg.state.mi.us/orr/Files/AdminCode/105_23_AdminCode.pdf

Minnesota:

In Minnesota, no person may practice, offer to practice, or use a title representing the professional capacity to practice, landscape architecture unless licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design. Sections 326.02 (1), (4a), 326.06, Minn. Stats. The Board has rule-making authority for all aspects of the regulation of its associated professions, including licensure examination content. Section 326.06, Minn. Stats. The Minnesota statutes do not address examination review or re-examination for applicants who fail the required examination.

<https://www.revisor.mn.gov/statutes/?id=326>

By administrative rule, the Minnesota Board requires applicants for licensure as a landscape architect to pass the Landscape Architect Registration Examination administered by CLARB. Sections 1800.0800 E.; 1800.1500, Subp. 1.; 1800.1700, Subp. 1.; Minn. Admin. Code. While the Minnesota rules allow an applicant who fails the required licensing examination to retake it for another fee, s. 1800.0900, Subp. 4., they do not address review of failed examinations.

<https://www.revisor.mn.gov/rules/?id=1800>

17. Contact Name

Kristine E. Anderson, DBS Paralegal

18. Contact Phone Number

(608) 261-2385

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

Notice of Hearing Transportation CR 12-041

NOTICE IS HEREBY GIVEN that pursuant to ss. 86.195 and 86.195(2)(a) Stats., interpreting sections 86.195 and 86.196 Stats., the Wisconsin Department of Transportation proposes an order to consider the amendment of Chapter Trans 200, Wisconsin Administrative Code, relating to the erection of signs on public highways.

Hearing Information

Date: Monday, October 22, 2012
Time: 9:00 a.m.
Location: Hill Farms State Transportation Building
 Room 515 – The Eau Claire Room
 4802 Sheboygan Avenue
 Madison, WI 53705

Accessibility

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call John Noll at (608) 266-0318 with specific information on your request at least 10 days before the date of the scheduled hearing. Accommodations such as interpreters, English translators, or materials in alternative format will, to the fullest extent possible, be made available upon a request from a person with a disability to accommodate your needs.

Copies of the Rule

A copy of the rule may be obtained upon request from John Noll, SIS/TODS Program Coordinator, Bureau of Traffic Operations, Traffic Engineering Section, Traffic Design Unit, Room 501, P. O. Box 7986, Madison, WI 53707-7986. You may also contact Mr. Noll by phone at (608) 266-0318, or via e-mail: john.noll@dot.wi.gov. Copies will also be available at the hearing.

Submitting Comments on the Rule

The public record on this proposed rule making will be held open for 14 days from the date of this order to permit the submission of comments. Any such comments should be submitted to John Noll, SIS/TODS Program Coordinator,

Bureau of Traffic Operations, Traffic Engineering Section, Traffic Design Unit, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling (608) 266-0318. You may also contact Mr. Noll via e-mail at: john.noll@dot.wi.gov.

To view the proposed amendment to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Analysis Prepared by the Department of Transportation

Statutes interpreted

Section 86.195, Stats.

Statutory authority

Section 86.195, Stats.

Explanation of statutory authority

The Department of Transportation may authorize the erection and maintenance of a specific information sign upon the request of any person within the right-of-way of a federal-aid primary highway or within the right-of-way of a federal-aid secondary highway under the jurisdiction of the department in accordance with s. 86.195, Stats.

Related statute or rule

Sections 86.195 and Trans 200.06

Plain language analysis

This proposed rule-making would re-word Trans 200.06 (7) (b) 3. a., relating to the number of business logo panels allowed on specific information signs at interchanges when fewer than 6 qualified facilities are available in one or more of the categories of GAS, FOOD, LODGING, CAMPING and ATTRACTIONS. Business logo panels for 2 categories of motorist services may be displayed on the same information sign with certain limitations. This proposed rule increases flexibility, allowing more businesses to participate while making optimal use of existing structures.

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

By allowing more flexibility, more businesses could participate in the Specific Information Sign program. This rule change is consistent with the 2009 Federal Manual on Uniform Traffic Control Devices (MUTCD) adopted by WisDOT.

Comparison with rules in the following states

Michigan: The categories allowed in Michigan are Gas/Diesel, Food, Lodging Camping and 24-hour Pharmacy's. When displaying logo panels for multiple categories, Michigan complies with the 2009 MUTCD: When 2 types of services are displayed on one sign, the logo sign panels shall be limited to either 3 for each motorist service type (for a total of 6 sign panels), or 4 of 1 motorist service type and 2 of the other motorist service type (for a total of 6 sign panels).

Minnesota: Logo signs can be installed on Interstate highways and certain freeways in the Minneapolis/Saint Paul area. Other highways are ineligible. The signs are located at interchanges, not intersections.

GAS, FOOD, LODGING and CAMPING businesses may advertise on logo signs. These businesses provide essential motorist services, according to the Federal Highway Administration (FHA). When displaying logo panels on Interstate highways and certain freeways, Minnesota's logo program complies with the 2009 MUTCD, which allows 4 of 1 motorist service type and 2 of the other motorist service type (for a total of 6 sign panels).

Illinois: The Illinois Department of Transportation (IDOT) administers a Business Logo Signing Program along various Interstate highways and other freeways. This program involves mounting gas, food, lodging, camping business, and 24-hour pharmacy signs, referred to as logos, on large blue-background panels in advance of interchange exits and along exit ramps to alert motorists to available motorist services.

The program includes all sections of Interstate highways and other freeways except those passing through densely populated urbanized areas where logo signing would overload motorists with information that is not essential to their safe travel. It does not apply to highways under the jurisdiction of the Illinois State Toll Highway Authority.

Logo panels may be displayed to allow 3 business categories with 2 business logo panels from each category (for a total of 6 sign panels) on a single business sign structure. When 2 business categories are displayed on a single sign structure, 3 logo panels from each of the 2 business categories may be displayed, or 4 logo panels from 1 business category and 2 logo panels from another business category (for a total of 6 sign panels).

TOURIST ATTRACTION signs may be combined with business logo signs (Gas, Food, Camping and 24-Hour Pharmacy) on the same structure, with no more than 6 business logo panels displayed on any one structure. Tourist Attraction panels will not be combined with existing business service signs displaying more than 3 business logo panels. When tourist attraction signs are combined with business logo signs, one space will remain available for each business logo service type displayed on the structure.

This combination is different from what is suggested in the 2009 MUTCD.

Iowa: Iowa DOT requirements for mainline specific service signs erected in advance of an interchange, in a single direction of travel, and limitations regarding the numbers and types of business signs attached to these motorist service signs

are as follows: Each mainline specific service sign is limited to 6 business logo panels. This restriction applies regardless of whether the specific service sign displays a single type of motorist service or a combination of motorist service types.

In general, only one type of motorist service should be displayed on each mainline specific service sign. However, the department may combine motorist service types on one sign for a reason such as, but not limited to, the following:

(1) Each combination sign is limited to 6 business logo panels.

(2) No more than 3 motorist service types shall be represented on any combination sign.

(3) For a combination sign displaying 3 types of motorist services, the number of business logo panels for each motorist service type is limited to 2.

(4) For a combination sign that will accommodate at least 4 business logo panels, each type of motorist service displayed on the sign must have at least 2 positions designated for that service type. This complies with the 2009 MUTCD.

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

The proposed rule change complies with the Federal Highway Administration Manual on Uniform Traffic Control Devices. When 2 types of motorist services are displayed on one sign, the logo sign panels shall be limited to either 3 for each motorist service type (for a total of 6 sign panels), or 4 of one motorist service type and 2 for the other motorist service type (for a total of 6 sign panels).

Analysis and supporting documents used to determine effect on small businesses

By allowing a split of categories, with up to 4 business logo panels for one motorist service type and 2 business logo panels of another motorist service type, more businesses could simultaneously take advantage of using motorist service business logo panels. Subsequently, this would reduce the number of businesses on the waiting list for motorist services business logo panels at those particular interchanges or intersections. If more businesses are able to take advantage of this program, the department anticipates this regulatory change will have a minor positive fiscal effect on small business.

Agency Contact Person and Place Where Comments are to be Submitted and Deadline for Submission

The public record on this proposed rule making will be held open for 14 days from the date of this order to permit the submission of comments. Any such comments should be submitted to John Noll, SIS/TODS Program Coordinator, Bureau of Traffic Operations, Traffic Engineering Section, Traffic Design Unit, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling (608) 266-0318. You may also contact Mr. Noll via e-mail at: john.noll@dot.wi.gov.

To view the proposed amendment to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website:

<http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected					
2. Administrative Rule Chapter, Title and Number Trans 200 / Specific Information and Business Signs / 200.06 (7) (b) 3.					
3. Subject Administrative rule language change.					
4. Fund Sources Affected GPR FED PRO PRS <input checked="" type="checkbox"/> SEG SEG-S				5. Chapter 20, Stats. Appropriations Affected 20.395 (3) (eq)	
6. Fiscal Effect of Implementing the Rule					
No Fiscal Effect		<input checked="" type="checkbox"/> 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)					
<input checked="" type="checkbox"/> State's Economy		Specific Businesses/Sectors			
Local Government Units		Public Utility Rate Payers			
		<input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
8. Would Implementation and Compliance Costs Be Greater Than \$20 million?					
Yes		<input checked="" type="checkbox"/> No			
9. Policy Problem Addressed by the Rule The current rule language allows two (2) categories of motorist services on the same sign, with a maximum of three (3) business panels for each motorist service category, not to exceed a total of six (6) business panels. The new rule language would allow a combination of two (2) categories of motorist services on the same sign, with a maximum of four (4) business panels from one motorist service category and two (2) business panels from a second motorist service category, not to exceed a total of six (6) business panels.					
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. Motorist services businesses, such as GAS, FOOD, LODGING, CAMPING and ATTRACTIONS that may participate in the Specific Information Signs (SIS) program may be affected by the proposed rule.					
11. Identify the local governmental units that participated in the development of this EIA. WisDOT					
12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The businesses that this rule language change will affect may increase the number of motorists that take advantage of the services they provide, resulting in a positive economic impact. Statewide economic and fiscal impacts are expected to be minimal, due to the small number of business entities that would likely be affected.					
13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule At certain interchanges throughout the state, more businesses that fall under the categories of GAS, FOOD, LODGING, CAMPING and ATTRACTIONS could be listed on Specific Information Signs (SIS), thereby reducing the number of businesses on the "Waiting List" at those intersections.					
14. Long Range Implications of Implementing the Rule A long-range implication of changing the rule language is the generation of more revenue from the collection of additional permit fees payable to WisDOT					
15. Compare With Approaches Being Used by Federal Government The Manual on Uniform Traffic Control Devices (MUTCD) 2009 edition adopted by Wisconsin, allows the combination described in #9 above.					

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

Iowa, Michigan and Minnesota comply with the 2009 MUTCD by allowing three (3) business logo panels for two (2) motorist service types (for a total of six (6) business logo panels), or four (4) of one motorist service type and two (2) of the other motorist service type (for a total of six panels), which conforms to the intended rule language change in Wisconsin. In Illinois, the approach is different when the "ATTRACTION" category is included on a sign with multiple categories. When the "ATTRACTION" category is included on a sign with multiple categories, one logo panel space must always be available to add another business logo panel from one of the other motorist service types, which include: GAS, FOOD, and LODGING, CAMPING or 24-HOUR PHARMACY. This approach differs from the rule language changes Wisconsin wishes to enact.

17. Contact Name

John Noll

18. Contact Phone Number

608-266-0318

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

ATTACHMENT A1. 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)

The businesses that this rule language change will affect may increase the number of motorists that take advantage of the services they provide, resulting in a positive economic impact. Statewide economic and fiscal impacts are expected to be minimal, due to the small number of business entities that would likely be affected.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses3. 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:

N/A

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

The impact will be positive on all businesses, so small businesses will be fully eligible to participate.

5. Describe the Rule's Enforcement Provisions

There are no rule enforcement provisions aside from eligibility.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)Yes No

Submittal of Proposed Rules to Legislature

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

Justice
CR 12-030

Creates Chapters Jus 17 and 18, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; the recognition by Wisconsin of

concealed carry licenses issued by other states; and the certification of firearms safety and training instructors.

This proposed rule was reviewed and approved by the governor on August 30, 2012, pursuant to Wis. Stat. s. 227.185.

Rule Orders Filed with the Legislative Reference Bureau

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

**Safety and Professional Services —
Pharmacy Examining Board
CR 12-009**

An order of the Pharmacy Examining Board to create Chapter Phar 18, relating to the prescription drug monitoring program and affecting small business.
Effective 1-1-13.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in this edition of the Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266-3358.

**Safety and Professional Services —
Massage Therapy and Bodywork Therapy
Affiliated Credentialing Board
CR 08-086**

An order to create sections SPS 91.01 (3) (k) and SPS 93.02 (4), relating to training and proficiency in the use of automated external defibrillators for licensure as a massage therapist or bodywork therapist.

(Chapters SPS 91 and 93 were renumbered chapters MTBT

2 and 4, effective 9-1-12, and the created sections will be renumbered accordingly by the Legislative Reference Bureau.)

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **August 2012**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

Revisions

Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

Ch. MTBT 2

MTBT 2.01 (3) (k)

Ch. MTBT 4

MTBT 4.02 (4)

Editorial Corrections

Corrections to code sections under the authority of s. 13.92 (4) (b), Stats., are indicated in the following listing.

Employment Relations Division of Merit Recruitment & Selection

Ch. ER-MRS 8

ER-MRS 8.01

ER-MRS 8.02

ER-MRS 8.06

Government Accountability Board

Ch. GAB 20

Ch. 20 (note)

Massage Therapy and Bodywork Therapy Affiliated Credentialing Board

Ch. MTBT 2

MTBT 2.01 (3) (k)

Ch. MTBT 4

MTBT 4.02 (4)

Podiatry Affiliated Credentialing Board

Ch. Pod 1

Pod 1.01

Pod 1.02 (1)

Ch. Pod 2

Entire Chapter

Ch. Pod 3

Entire Chapter

Ch. Pod 4

Entire Chapter

Ch. Pod 5

Entire Chapter

Ch. Pod 6

Entire Chapter

Public Instruction

Ch. PI 36

PI 36.09 (intro.)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 82. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff to Honor the Victims of the September 11, 2001 Terrorist Attacks and the Members of the Armed Forces Who Answered the Subsequent Call to Defend Our Freedoms Overseas. **(September 10, 2012)**

Executive Order 83. Relating to a Special Election for the Thirty-Third Senate District. **(September 18, 2012)**

The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
4622 University Avenue
Madison, Wisconsin 53705-2156



First Class Mail

Dated Material. Please Do Not Delay!