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Table of Contents

Emergency Rules Now in Effect.**Pages 4 to 7**

Agriculture, Trade and Consumer Protection:

Revise Chapter ATPC 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**

Create section 161.50 (3) (f) and subch VI of ch. ATPC 161, relating to the “grow Wisconsin dairy producer” grant and loan program. **EmR1301**

Children and Families:

Safety and Permanence, Chs. DCF 37–59

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

Early Care and Education, Chs. DCF 201–252

Create section DCF 201.04 (2j), relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses. **EmR1216**

Justice:

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; the recognition by Wisconsin of concealed carry licenses issued by other states; and the certification of firearms safety and training instructors. **EmR1217**

Natural Resources:

Fish, Game, etc., Chs. NR 1–

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

Fish, Game, etc., Chs. NR 1–

Revise Chapters NR 20 and 25, relating to lake trout harvest limits in Lake Superior. **EmR1304**

Public Instruction:

Re–create Chapter PI 47, relating to the equivalency process for approving alternative models to evaluate educator practice. **EmR1303**

Safety and Professional Services:

Professional Services, Chs. 1–299

Amend Chapters SPS 60, 61, 62, and 65 and create Chapter SPS 205, relating to barbers and to barbering and cosmetology schools and instructors. **EmR1302**

Scope Statements.**Pages 8 to 18**

Corrections:

Revises Chapter DOC 302, relating to assessment and evaluation, security classification, and sentence computation. **SS 034–13**

Revises Chapter DOC 373, relating to youth conduct in Type 1 secured correctional facilities. **SS 035–13**

	Revises Chapter DOC 379, relating to living conditions for youth in Type 1 secured correctional facilities. SS 036–13
Corrections — Parole Commission:	Revises Chapter PAC 1, relating to parole procedure. SS 037–13
Natural Resources:	<p><i>Environmental Protection—General, Chs. 100—</i> <i>Environmental Protection—Wis. Pollutant Discharge Elimination System, Chs. 200—</i> <i>Environmental Protection—Water Regulation, Chs. 300—</i> <i>Environmental Protection—Air Pollution Control, Chs. 400—</i> <i>Environmental Protection—Solid Waste Management, Chs. 500—</i> <i>Environmental Protection—Hazardous Waste Management, Chs. 600—</i> <i>Environmental Protection—Water Supply, Chs. 800—</i></p> <p>Revises Chapters NR 130 to 132, 182, 500 to 555, and 660 to 679, as required by Section 103 of 2013 Wisconsin Act 1, and to other chapters that contain exemptions for nonferrous mining and that may require amendment, Chapters NR 103, 123, 135, 140, 150, 213, 214, 216, 350, 406, 812, and 815, Wis. Admin. Code, as required by Section 103 of 2013 Wisconsin Act 1. SS 032–13</p> <p><i>Fish, Game, etc., Chs. 1—</i> Revises Chapter NR 20, relating to fishing regulations in the Ceded Territory. SS 038–13</p>
Safety and Professional Services—Marriage & Family Therapy, Professional Counselors, Social Work Examining Board:	Revises Chapters MPSW 8, 14, 19, relating to continuing education. SS 029–13
Safety and Professional Services—Board of Nursing:	Revises Chapters N 2 and 3, relating to licensure. SS 030–13
Safety and Professional Services:	<p><i>Uniform Dwelling Code, Chs. 320—325</i> Revises Chapters SPS 320 to 325, relating to wall bracing. SS 031–13</p>
Technical College System Board:	Revises Chapter TCS 5, relating to facility development procedures. SS 033–13
Submittal of Proposed Rules to Legislative Council Clearinghouse.	Page 19 to 20
Agriculture, Trade and Consumer Protection:	Revises Chapter ATCP 125, relating to manufactured home communities – fair trade practices. CR 13–027
Health Services:	<p><i>Health, Chs. 110—199</i> Revises Chapter DHS 132, relating to the establishment of rules to guide the actions of the quality assurance and improvement committee to review proposals and award moneys for innovative projects in regards to nursing homes. CR 13–028</p>
Public Instruction:	Creates Chapter PI 47, relating to the equivalency process for educator effectiveness. CR 13–024
Public Service Commission:	Revises Chapters PSC 8, 100, 102, 104, 162 to 169, 171, and 174, dealing with changes resulting from deregulation of the telecommunications industry in 2011 Wisconsin Act 22. CR 13–025

Safety and Professional Services:	<i>Professional Services, Chs. 1—299</i> Revises Chapters Chapters SPS 60, 61, 62, and 65, and creates Chapter SPS 205, relating to barbers and to barbering and cosmetology schools and instructors. CR 13–026
Rule–Making Notices.	Pages 21 to 35
Agriculture, Trade and Consumer Protection:	Hearing to consider rule revising Chapter ATCP 125, relating to manufactured home communities – fair trade practices. CR 13–027
Public Service Commission:	Hearing to consider rule revising Chapters PSC 8, 100, 102, 104, 162 to 169, 171, and 174, dealing with changes resulting from deregulation of the telecommunications industry in 2011 Wisconsin Act 22. CR 13–025
Safety and Professional Services:	<i>Professional Services, Chs. 1—299</i> Hearing to consider rule revising Chapters SPS 60, 61, 62, and 65, and creating Chapter SPS 205, relating to barbers and to barbering and cosmetology schools and instructors. EmR1302, CR 13–026
Submittal of Proposed Rules to the Legislature.	Page 36
Employee Trust Funds:	Revises Chapters EFT 10 and 20, relating to clarifying how ETF complies with applicable provisions of the Internal Revenue Code. CR 13–004
Safety and Professional Services—Hearing and Speech Examining Board:	Revises Chapter HAS 6, relating to deceptive advertising relating to the definitions of patient and prescription legend animal drugs. CR 12–050
Safety and Professional Services—Veterinary Examining Board:	Revises Chapter VE 1, relating to the definitions of patient and prescription legend animal drugs. CR 12–051 Revises Chapters VE 7, 9, and 10, relating to continuing education and training in the use of pesticides by veterinarians and certified veterinary technicians. CR 12–052
Safety and Professional Services—Psychology Examining Board:	Revises Chapter Psy 2, relating to applicant appearances. CR 12–055
Public Notices.	Pages 37 to 38
Children and Families:	<i>Division of Early Care and Education, Chs. 201—</i> Revision of Child Care Co–Payment Schedule for Licensed and Certified Care under s. DCF 201.08 (3) (a) 4., Wisconsin Administrative Code

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. 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
Extension Through:	June 9, 2013
Hearing Date:	October 15, 18, 19, 2012

2. EmR1301 (DATCP Docket # 12–R–10) — The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to create **s. 161.50 (3) (f) and subch. VI of ch. ATCP 161,** relating to the “grow Wisconsin dairy producer” grant and loan program created under ss. 20.115 (4) (d) and 93.40 (1) (g), Stats.

This rule was approved by the governor on January 14, 2013.

The scope statement for this rule, SS 090–12, was approved by the governor on November 8, 2012, published in Register No. 683, on November 30, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection on December 18, 2012.

Finding of Emergency

Enactment of a rule is necessary to establish criteria the department will use to make determinations for grants, loans or other forms of financial assistance to dairy producers to promote and develop the dairy industry. An emergency rule is needed to ensure that funds are used to assist dairy producers during the second year of the annual appropriation as permanent rules cannot be adopted in time to provide the basis for grant determinations for the second year appropriations.

Filed with LRB: January 31, 2013
Publication Date: February 1, 2013
Effective Dates: February 1, 2013 through June 30, 2013

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
Extension Through: May 30, 2013
Hearing Date: November 30, 2012

Children and Families*Early Care and Education, Chs. DCF 201–252*

EmR1216 — The Wisconsin Department of Children and Families orders the creation of **section DCF 201.04 (2j)**, relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses.

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

The statement of scope for this rule, SS 054–12, was approved by the governor on July 30, 2012, published in

Register No. 680 on August 14, 2012, and approved by Secretary Eloise Anderson on August 27, 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:

Section 49.155 (3m) (d), Stats., as affected by 2011 Wisconsin Act 32, provides that no child care subsidy funds may be used for child care services that are provided for a child by a child care provider who is the parent of the child or who resides with the child. In addition, no child care subsidy funds may be used for child care services that are provided by another child care provider if the child's parent is a child care provider. The prohibition on assistance does not apply if the child's parent has applied for, and been granted, a waiver. Implementation of an emergency rule specifying the circumstances under which the department or an agency will grant a waiver is necessary to protect certain vulnerable children.

Filed with LRB: November 13, 2012
Publication Date: November 15, 2012
Effective Dates: November 15, 2012 through April 13, 2013
Extension Through: June 12, 2013
Hearing Date: January 14, 2013

Justice

EmR1217 — The State of Wisconsin Department of Justice (“DOJ”) proposes an order to 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; the recognition by Wisconsin of concealed carry licenses issued by other states; and the certification of firearms safety and training instructors.

The statement of scope for these emergency rules 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.

These emergency rules were approved in writing by the governor on December 4, 2012, pursuant to Wis. Stat. s. 227.24 (1) (e) 1g.

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. In order for DOJ to accomplish that goal and comply with all applicable statutory requirements, it is necessary to continuously have in effect administrative rules establishing the procedures and standards that govern the enforcement and administration of those requirements.

Emergency rules governing the licensing process were first adopted on October 25, 2011, and have been continuously in effect since November 1, 2011. The emergency rules were subsequently repealed and recreated with an effective date of March 21, 2012. Pursuant to s. 227.24 (2) (a), Stats., the Joint Committee for the Review of Administrative Rules has authorized the current emergency rules to remain in effect through December 15, 2012.

DOJ is in the process of promulgating permanent administrative rules which, when completed, will replace the emergency rules. On September 5, 2012, the final draft of the proposed permanent rules and accompanying reports were submitted for legislative review, pursuant to s. 227.19 (2), Stats. The permanent rulemaking process, however, will not be completed prior to the anticipated expiration of the existing emergency rules on December 15, 2012. Upon such expiration, DOJ would no longer have in effect administrative rules establishing the procedures and standards that govern the concealed carry licensing program. Any such lack of continuity in the operation of the licensing program would be confusing and disruptive both for license applicants and for DOJ staff administering the program.

The public welfare thus requires that additional emergency rules be promulgated, in order to ensure that there is no interruption in DOJ's ability to continue to carry out all of its statutory responsibilities in administering and enforcing the concealed carry licensing program. These rules will prevent such a discontinuity and ensure continuous and uniform operation of the concealed carry program through the time of completion of the permanent rulemaking process that is already under way. Only if DOJ utilizes the emergency rulemaking procedures of s. 227.24, Stats., can these 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: December 10, 2012
Publication Date: December 15, 2012
Effective Dates: December 15, 2012 through May 13, 2013

Natural Resources (2)
Fish, Game, etc., Chs. NR 1—

1. EmR1210 (DNR # WM–09–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.001 (25c), 10.02 (1), 10.06 (5) and (8) (intro.), 10.07 (2) (b) 2., 10.07 (2m) (intro.) and (e) (intro.), 10.07 (2m) (f) (intro.), 10.09 (1), 10.13 (1) (b) 9., 10.13 (1) (b) 15., 10.13 (1) (b) 16., 10.145 (intro), 10.145 (3) to (8), 12.10 (intro.), 12.10 (1) (a) 4., 12.10 (1) (b) 2., 12.15 (13) and 19.25** and to create **sections NR 10.001 (22q), 10.001 (23a), 10.001 (23am), 10.001 (23b), 10.001 (26g), 10.001 (33), 10.01 (3) (j), 10.07 (1) (m), 10.07 (2m) (em), 10.07 (2m) (g) 3., NR 10.07 (4), 10.13 (1) (b) 15m., 10.13 (1) (b) 18., 10.145 (1m), (1u) and Note, sections NR 10.16 (5), 10.295, 12.15 (11) (e), 12.60 to 12.63, 12.64 (1) (a) and (b) (intro.) 1., 12.64 (1) (b) 2. and 3., 12.64 (1) (b) 4. and 5., 12.64 (2) (a) to (c), 12.64 (2) (d), 12.64 (3) and 12.65**, relating to the wolf hunting and trapping season and regulations and a depredation program.

This emergency rule was approved by the governor on August 10, 2010.

The statement of scope for this rule, SS 023–12, was approved by the governor on April 12, 2012, published in Register No. 676, on April 30, 2012, and approved by the Natural Resources Board on May 23, 2012.

Finding of Emergency

A non–statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for

implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: August 15, 2012

Publication Date: August 18, 2012

Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

2. EmR1304 (DNR # FH–23–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 20.20 (73) (n) 4., 25.06 (1) (a), and 25.09 (1) (am) 3. e.**, relating to lake trout harvest limits in Lake Superior.

The statement of scope for this rule, SS 097–12, was approved by the Governor on December 14, 2012, published in Register No. 684 on December 31, 2012, and approved by the Natural Resources Board on January 23, 2013.

Finding of Emergency

Pursuant to s. 227.24, Stats., the department finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The welfare of state–licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses is threatened by a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate the current reductions in order to ensure a sustainable lake trout fishery over the long–term. Lake trout harvest limits were negotiated in October 2012 among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes must be ordered through administrative code. This emergency rule is needed to preserve the public welfare.

Filed with LRB: March 9, 2013

Publication Date: March 27, 2013

Effective Dates: March 27, 2013 through August 23, 2013

Hearing Date: April 11, 2013

Public Instruction

EmR1303 — The state superintendent of public instruction hereby creates **ch. PI 47**, relating to the equivalency process for approving alternative models to evaluate educator practice.

The scope statement for this rule, SS 013–13, was published in Register No. 686, on February 14, 2013, and approved by Superintendent Evers, on February 25, 2013. Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department of Public Instruction is not required to get the Governor's approval for the statement of scope or this rule.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative educator effectiveness systems. The statute also specifies criteria on which the process shall be based, including alignment to the 2011 Interstate Teacher Assessment and

Scope Statements

Corrections

SS 034–13

This statement of scope was approved by the governor on March 27, 2013.

Rule No.

Chapter DOC 302.

Relating to

Repealing and recreating chapter DOC 302, relating to assessment and evaluation, security classification, and sentence computation.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

The objective of the rule is to achieve all of the following:

- Eliminate outdated provisions.
- Clarify language.
- Update citations to statutes for accuracy.
- Amend the rule to reflect changes in the statutes, including 2011 WI Act 38 and bifurcated sentencing guidelines, and case law addressing sentence computation; and changes in the operations and practices of assessing, evaluating and classifying inmates.
- Renumber and reorganize the rule chapter.

Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

The current rule chapter provides in detail the procedures for initial classification and reclassification of inmates. This process identifies facility security classification, inmate custody level, program or treatment assignments, and institution placement. The chapter also sets forth the procedures followed in computing sentencing information which is used in determining eligibility for parole and release dates. The chapter was revised in 2010 in response to the passage of 2009 WI Act 28. However, the chapter has not been revised in response to the passage of 2011 WI Act 38 which repealed most of the sentence modification provisions of Act 28.

There is no alternative means to address the need for revisions as discussed above.

Statutory Authority

Section 227.11 (2) (a) to (c): Rule-making authority is expressly conferred as follows:

- (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by

the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

(b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.

(c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 301.02: The department shall maintain and govern the state correctional institutions.

Section 301.03 (2): Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the prison industries under s. 303.01.

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

The Department estimates that it will take approximately 250 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Description of all of the Entities that Will be Affected by the Rule

This rule will affect all inmates, department staff and the public.

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

There are no specific federal regulations which address the assessment and evaluation, security classification, custody level determination, or sentence computation of persons sentenced to Wisconsin prisons for violations of Wisconsin criminal statutes. However, federal standards addressing the federal Prison Rape Elimination Act (PREA) of 2003 (42 U.S.C. chapter 147 (ss. 15601–09) (2004)) include provisions which address the supervision of inmates who may be vulnerable to sexual abuse or sexual harassment or inmates who may engage in those behaviors. (For example, see 28 CRF s. 115.14, youthful inmates, s. 115.41, Stats., screening for risk of victimization and abusiveness, and s. 115.43, protective custody.) Chapter DOC 302 must be reviewed and amended in order for the department to come into compliance with the federal standards. In addition, under 4 USCA section 112, Congress has authorized the Interstate Corrections Compact (ICC) which Wisconsin adopted and is found in s. 302.25, Stats. The ICC permits participating states to cooperate among themselves in the supervision of inmates and offenders.

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

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

Contact Person

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Corrections

SS 035–13

This statement of scope was approved by the governor on March 27, 2013.

Rule No.

Chapter DOC 373.

Relating to

Repealing and recreating chapter DOC 373, relating to youth conduct in Type 1 secured correctional facilities.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

The objective of the rule is to achieve all of the following:

- Eliminate outdated provisions.
- Clarify language.
- Update citations to statutes for accuracy.
- Amend the rule to reflect changes in the law and correctional practices and operations, relating to

conduct requirements and discipline of youth in secured correctional facilities.

- Amend the rule for consistency, where appropriate, with chapter DOC 303 – Discipline, which closely parallels this chapter and is in the process of being revised.
- Renumber and reorganize the rule chapter.

Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

The department is responsible for the care and custody of youth adjudicated delinquent and committed to a secure juvenile correctional facility. As part of that responsibility, the department enforces conduct requirements for youth and disciplinary processes when conduct rules are violated. Conduct rules relate to bodily security, institutional security, order, property, contraband, movement, safety and health, and other miscellaneous. Disciplinary processes include conduct reports, hearings, recordkeeping, and discipline.

The last significant rule amendment was in 2000. Since that time, there have been changes to the law and correctional practice which need to be addressed. There are distinctions between juvenile and adult operations, the two chapters of code should remain consistent except where there is a specific rationale for the differences.

There is no alternative means to address the need for revisions as discussed above.

Statutory Authority

Section 227.11 (2) (a) to (c): Rule–making authority is expressly conferred as follows:

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

authorize the imposition of a substantive requirement in connection with a form or procedure.

- (c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 301.02: The department shall maintain and govern the state correctional institutions.

Section 301.025: The division of juvenile corrections shall exercise the powers and perform the duties of the department that relate to juvenile correctional services and institutions, juvenile offender review, aftercare, corrective sanctions, the serious juvenile offender program under s. 938.538, and youth aids.

Section 301.03 (2): Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the prison industries under s. 303.01.

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

The Department estimates that it will take approximately 400 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Description of all of the Entities that Will be Affected by the Rule

This rule will affect youth adjudicated delinquent and committed to a secure juvenile correctional institution and department staff.

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

There are no federal regulations which address the issues or activities covered by the proposed rule.

Anticipated Economic Impact of Implementing the Rule (Note if the Rule Is Likely to Have A Significant Economic Impact on Small Businesses)

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

Contact Person

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Corrections

SS 036–13

This statement of scope was approved by the governor on March 27, 2013.

Rule No.

Chapter DOC 379.

Relating to

Repealing and recreating chapter DOC 379, relating to living conditions for youth in Type 1 secured correctional facilities.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Description of the Objective of the Rule

The objective of the rule is to achieve all of the following:

- Eliminate outdated provisions.
- Clarify language.
- Update citations to statutes for accuracy.
- Amend the rule to reflect changes in the law and correctional practices and operations, relating to conditions of confinement for youth in secured correctional facilities.
- Amend the rule for consistency, where appropriate, with chapter DOC 309 – Resources for Inmates, which closely parallels this chapter and is in the process of being revised.
- Renumber and reorganize the rule chapter.

Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

The department is responsible for the care and custody of youth adjudicated delinquent and committed to a secure juvenile correctional facility. As part of that responsibility, the department provides youth with access to a number of resources related to conditions of confinement.

The last significant rule amendment was in 2000. Since that time, there have been changes to the law and correctional practice which need to be addressed. There are distinctions between juvenile and adult operations, the two chapters of code should remain consistent except where there is a specific rationale for the differences.

There is no alternative means to address the need for revisions as discussed above.

STATUTORY AUTHORITY

Section 227.11 (2) (a) to (c): Rule–making authority is expressly conferred as follows:

- (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
1. A statutory or non–statutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.
 2. A statutory provision describing the agency’s general powers or duties does not confer rule–making authority on the agency or augment

the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.
- (b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.
- (c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 301.02: The department shall maintain and govern the state correctional institutions.

Section 301.025: The division of juvenile corrections shall exercise the powers and perform the duties of the department that relate to juvenile correctional services and institutions, juvenile offender review, aftercare, corrective sanctions, the serious juvenile offender program under s. 938.538, and youth aids.

Section 301.03 (2): Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the prison industries under s. 303.01.

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

The Department estimates that it will take approximately 400 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Description of all of the Entities that Will be Affected by the Rule

This rule will affect youth adjudicated delinquent and housed in a juvenile correctional facility, families of youth, visitors, attorneys who represent youth, volunteers, publishers of periodicals, representatives of the media, victims, department staff, and the public.

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

There are no federal regulations which address the issues or activities covered by the proposed rule.

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

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

Contact Person

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Corrections — Parole Commission

SS 037–13

This statement of scope was approved by the governor on March 27, 2013.

Rule No.

Chapter PAC 1.

Relating to

Parole procedure.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A

Detailed Description of the Objective of the Proposed Rule

The objective of the rule is to amend the rule chapter to bring it into compliance with 2011 Wisconsin Act 38.

Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

The parole commission substantially revised chapter PAC 1 in 2010 because the rule chapter had not been reviewed for many years and the legislature enacted 2009 Wisconsin Act 28 which addressed sentence modification. The legislature subsequently repealed most of the provisions of Act 28 by enacting 2011 Wisconsin Act 38. This rule modification is necessary to bring the rule chapter into compliance with Act 38.

Statutory Authority

Section 227.11 (2) (a) to (c): Rule–making authority is expressly conferred as follows:

- (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
 1. A statutory or non–statutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.
 2. A statutory provision describing the agency’s general powers or duties does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

(b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.

(c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 304.06 (1) (e): The parole commission shall permit any office or person under par. (c) 1. to 3. To provide written statements. The parole commission shall give consideration to any written statements provided by any such office or person and received on or before the date specified in the notice. This paragraph does not limit the authority of the parole commission to consider other statements or information that it receives in a timely fashion.

Section 304.06 (1) (em): The parole commission shall promulgate rules that provide a procedure to allow any person who is a victim, or a family member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025, 948.06, or 948.07 to have direct input in the decision-making process for parole.

Estimate of The Amount of Time State Employees Will Spend Developing the Proposed Rule and of Other Resources Necessary to Develop the Rule

The Department estimates that it will take approximately 200 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Description of all of the Entities that Will be Affected by the Rule

This rule will affect inmates, victims, courts, attorneys, the public and department staff.

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

There are no federal regulations which address the issue of parole grants for Wisconsin inmates.

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

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

Contact Person

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Natural Resources

*Environmental Protection—General, Chs. 100—
Environmental Protection—Wis. Pollutant Discharge
Elimination System, Chs. 200—*

*Environmental Protection—Water Regulation,
Chs. 300—*

*Environmental Protection—Air Pollution
Control, Chs. 400—*

*Environmental Protection—Solid Waste
Management, Chs. 500—*

*Environmental Protection—Hazardous Waste
Management, Chs. 600—*

*Environmental Protection—Water Supply, Chs. 800—
SS 032–13*

(DNR # WA–14–13)

This statement of scope was approved by the governor on March 27, 2013.

Rule No.

Chapters NR 130 to 132, 182, 500 to 555, and 660 to 679, and other chapters that may require amendment: chapters NR 103, 123, 135, 140, 150, 213, 214, 216, 350, 406, 812, and 815.

Relating to

Rule Amendments to chs. NR 130 to 132, 182, 500 to 555, and 660 to 679, as required by Section 103 of 2013 Wisconsin Act 1, and to other chapters that contain exemptions for nonferrous mining and that may require amendment, chs. NR 103, 123, 135, 140, 150, 213, 214, 216, 350, 406, 812, and 815, Wis. Admin. Code, as required by Section 103 of 2013 Wisconsin Act 1.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

This is not an emergency rule.

Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rules is to implement the rule making requirements contained in 2013 Wisconsin Act 1. This act generally sets forth the regulatory requirements that apply to ferrous mining. Section 103 of the act requires the department to revise the following rules:

- (a) Chapters NR 130, 131, 132, and 182, Wis. Admin. Code, and other rules promulgated under section 293.13 (1) (a) of the statutes to clarify these chapters do not apply to ferrous metallic mining,
- (b) Chapters NR 500 to 555 and 660 to 679, Wis. Admin. Code, and any other rules promulgated under sections 289.05 and 289.06 (1) of the statutes so these rules are consistent with subchapter III of chapter 295 of the statutes, and
- (c) Any other rules that provide exemptions for nonferrous mining or associated activities to provide the same exemptions for ferrous mining and associated activities. We have already identified several of the chapters which may require revision. These are listed under item 4 below.

In addition, other changes to rule chapters that are not specifically identified may be made if necessary to fulfill the Department’s obligations under Section 103 of 2013 Wisconsin Act 1.

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

These rule revisions are to align the existing rules with the new ferrous mining statutes to provide clarity and consistency on the application of these rules to ferrous mining activities.

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

The legal authority for these rule revisions is Section 103 of 2013 Wisconsin Act 1. The purpose of these rule revisions is to clarify the applicability of metallic mining laws to ferrous mining activities. Section 103 is a non–statutory provision requiring the department to revise certain rules and to clarify the rules’ applicability with the new ferrous mining law. The statutory authorities for the existing rules and the rules in the program are identified in the table.

2013 Wisconsin Act 1, SECTION 103

SECTION 103 (1)	Statute Authority for existing rules	Rules the department is to revise	Rules Title
(a)	s. 293.13 (1) (a), Wis. Statutes	Chs. NR 130, 131, 132, and 182, Wis. Adm. Code	NR 130 – Metallic mineral exploration NR 131 – Metallic mineral prospecting NR 132 – Metallic mineral mining NR 182 – Metallic mining wastes
(b)	s. 289.05 & 289.06 (1), Wis. Statutes	Chs. NR 500 to 555 and Chs. NR 660 to 679, Wis. Adm. Code	NR 500 to 555 cover solid waste management NR 660 to 679 cover hazardous waste management.
(c)	The department is to revise any rules in effect on the effective date of 2013 Wisconsin Act 1 , in addition to the rules under paragraphs (a) and (b), that provide exemptions for nonferrous mining or associated activities to provide the same exemptions for ferrous mining and associated activities.		

Department staff will identify rules that may be subject to amendment under section 103 (1) (c) of 2013 Wisconsin Act 1. Section 103 (1) (c) requires the department promulgate rules revising any rules that provide exemptions for nonferrous mining and associated activities to provide the same exemption for ferrous mining activities. The rules that contain exemptions for nonferrous mining activities that may require revision pursuant section 103 (1) (c) include:

- (1) NR 103 — WATER QUALITY STANDARDS FOR WETLANDS
- (2) NR 123 — WELL COMPENSATION PROGRAM
- (3)NR 135 — NONMETALLIC MINING RECLAMATION
- (4) NR 140 — GROUNDWATER QUALITY
- (5) NR 150 — ENVIRONMENTAL ANALYSIS AND REVIEW PROCEDURES FOR DEPARTMENT ACTIONS
- (6) NR 213 — LINING OF INDUSTRIAL LAGOONS AND DESIGN OF STORAGE STRUCTURES
- (7) NR 214 — LAND TREATMENT OF INDUSTRIAL LIQUID WASTES, BY–PRODUCT SOLIDS AND SLUDGES
- (8)NR 216 — STORM WATER DISCHARGE PERMITS
- (9)NR 350 — WETLAND COMPENSATORY MITIGATION
- (10) NR 406 — CONSTRUCTION PERMITS
- (11) NR 812 — WELL CONSTRUCTION AND PUMP INSTALLATION
- (12) NR 815 — INJECTION WELLS

In addition, there may be other rules subject to amendment to meet the requirements of section 103.

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

We expect the revision to the rules can be conducted in 1000 hours.

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

We expect those entities that will be affected by these changes will primarily be those parties engaged in the exploration, bulk sampling and mining of iron ore deposits in Wisconsin.

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

These rule revisions are to align the existing rules with the new statutes to provide clarity and consistency on the application of these rules to ferrous mining activities and will result in reduced administrative rule requirements applying to ferrous mining activities. Proposed ferrous mining activities will now be covered by the statutory requirements of chapter 295, subchapter III, Ferrous Mining (ch. 295.40 through 295.79) as established by 2013 Wisconsin Act 1. These rule revisions are not being pursued or adopted to be as stringent as any applicable federal laws as there is no analogous federal ferrous mining law.

Anticipated Economic Impact of Implementing the Rule (Note if the Rule Is Likely to Have an Economic Impact on Small Businesses)

This rule drafting effort will follow the direction set forth in section 103 of 2013 Wisconsin Act 1 to clarify the applicability of metallic mining laws to ferrous mining activities and therefore is likely to have no impact in and of

itself as the procedures for mining a ferrous mineral deposit as these are set forth in 2013 Wisconsin Act 1. The department does not believe this will have an economic impact on small businesses.

Contact Person

Ann Coakley, 608/516–2492 or 608/261–8449.

Natural Resources

Fish, Game, etc., Chs. 1—

SS 038–13

(DNR # FH–16–13(E))

This statement of scope was approved by the governor on March 29, 2013.

Rule No.

Chapter NR 20.

Relating to

Fishing regulations in the Ceded Territory.

Rule Type

Emergency.

Finding/Nature of Emergency (Emergency Rule Only)

The Department of Natural Resources (Department) finds that an emergency rule is needed to promote the preservation and protection of public peace, health, safety, and welfare in the Ceded Territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off–reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v Voigt*, 700 F. 2d 341 (7th Cir. 1983), the six Wisconsin bands of Lake Superior Ojibwe (Chippewa Bands) have the right to take walleye from off–reservation waters using efficient methods such as spearing and netting. The Chippewa Bands have made initial 2013 harvest declarations for off–reservation lakes that are sufficiently high to require the department to reduce the daily bag limit to 1 on 197 lakes, consistent with the formula of s. NR 20.36, Wis. Adm. Code. Authority to promulgate emergency rules pursuant to the authority granted by this scope statement will provide the Department with the flexibility necessary to adjust angler regulations to potentially alleviate and minimize regional social and economic disruption known to be associated with reductions in walleye bag limits on off–reservation waters within the Ceded Territory.

Detailed Description of the Objective of the Proposed Rule

The proposed rule would allow emergency rule changes for making adjustments to fishing regulations in the Ceded Territory to allow more flexibility in responding to tribal declarations and harvest levels for the 2013–14 fishing season. Currently these regulations are prescribed in ss. NR 20.18, 20.20, 20.36, and 20.37, Wis. Adm. Code. In particular, the Department would like the authority to readjust bag limits at an earlier date than what is prescribed in s. NR 20.36 (3), though other provisions prescribed in ss. 20.18, 20.20, 20.36, and 20.37, Wis. Adm. Code, may be considered depending on final declared, expected or realized tribal harvest levels.

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

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

Current Administrative Code requires the department to make changes to angler bag limits for walleye in lakes named for harvest by any of the Chippewa Bands. These bag limit adjustments are designed to prevent exceeding 35% exploitation of individual walleye fisheries by joint tribal and angler harvest. Angler bag limit reductions are designed to accommodate the intended amount of tribal harvest. Section NR 20.36 (3), Wis. Adm. Code, contains specific provisions that allow the bag limits to be adjusted in response to changes in expected tribal harvest however adjustments are not allowed until the third Monday in May. Trends in recent years show that tribal harvest is often completed well before that date and that bag limit adjustments could occur at an earlier date. Hearings have been authorized on a permanent rule to remove the date restriction, but an emergency rule would be needed to make these changes earlier in 2013.

Other factors affecting expected tribal harvest in 2013 are currently uncertain and the Department also requests approval to consider emergency rule alternatives to angling regulations prescribed in ss. NR 20.18, 20.20, 20.36, and 20.37, Wis. Adm. Code, relating to tribal harvest which could better accommodate final declared, expected, or realized tribal harvest levels as they become known for the 2013 season.

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

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

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

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

Approximately 120 hours.

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

Licensed sport anglers.

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

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

Anticipated Economic Impact of Implementing the Rule

Historically, the Chippewa Bands have never harvested all declared lakes, ultimately allowing downward adjustments after the third Monday of May, resulting in restrictive limits only applying to a much smaller number of lakes. The authority granted by this scope statement will provide the Department with the flexibility necessary to adjust angler regulations earlier along with other provisions prescribed in

ss. NR 20.18, 20.20, 20.36, and 20.37, Wis. Adm. Code, to potentially alleviate and minimize regional social and economic disruption known to be associated with reductions in walleye bag limits on off–reservation waters within the Ceded Territory.

Contact Person

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

SS 029–13

This statement of scope was approved by the governor on March 26, 2013.

Rule No.

Chapters MPSW 8, 14, 19.

Relating to

Continuing education.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A.

Detailed Description of the Objective of the Proposed Rule

The proposed rule will update the continuing education required to reflect current continuing education programs, including technological methods of delivery. It will also remove obsolete provisions and provide clarification of the required continuing education. In addition, many licensees of this board hold multiple credentials regulated by the board and the objective is to minimize confusion and streamline the continuing education process.

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

Updating the continuing education requirements will create clarity and utilize current technological methods of delivery of the continuing education. In addition, a recent audit of continuing education revealed that there is confusion among those licensees who hold multiple credentials with this board as it relates to continuing education requirements.

The alternative is to not promulgate the rule which would continue the confusion and not allow current technological methods of delivery.

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

Section 15.08 (5) (b) Each examining board shall promulgate rules for its own guidance and for the guidance of

the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

Section 457.22 (1) The examining board may do any of the following:

- (a) Upon the advice of the social worker section, promulgate rules establishing requirements and procedures for social workers, advanced practice social workers, independent social workers, and clinical social workers to complete continuing education programs or courses of study in order to qualify for renewal.
- (b) Upon the advice of the marriage and family therapist section, promulgate rules establishing requirements and procedures for marriage and family therapists to complete continuing education programs or courses of study in order to qualify for renewal.
- (c) Upon the advice of the professional counselor section, promulgate rules establishing requirements and procedures for professional counselors to complete continuing education programs or courses of study in order to qualify for renewal.

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

150 hours.

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

Marriage and family therapists, professional counselors, and social workers.

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)

None.

Contact Person

Sharon Henes (608) 261–2377.

**Safety and Professional Services —
Board of Nursing**

SS 030–13

This statement of scope was approved by the governor on March 26, 2013.

Rule No.

Chapters N 2, 3.

Relating to

Licensure.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A.

Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to update the licensure process by both exam and endorsement. The majority of these two chapters were last updated in 1984.

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

The existing rules has references to a bureau which no longer exists within the Department of Safety and Professional Services; the role of the Examining Councils as outlined in chapter N 2 is obsolete due to modern test taking methodology and the exam currently being used; and the process in the current rule for approval of an application is not consistent with the modern practices and technologies.

The policy proposed would be to update the rule and create clarity regarding the process of obtaining licensure. The Board of Nursing will consider the National Council of State Board of Nursing’s model rules and the licensing process used by our neighboring states.

The alternative to the policy is for the rule to remain outdated with inconsistencies. The rules should reflect clear and precise licensing rules rather than attempting to interpret the rules to fit situations which did not exist in 1984.

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

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

Section 441.01 (3) The board may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of this chapter in accordance with ch. 227.

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

150 hours.

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

Applicants.

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)

None.

Contact Person

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Safety and Professional Services***Uniform Dwelling Code, Chs. 320—325***

SS 031–13

This statement of scope was approved by the governor on March 26, 2013.

Rule No.

Chapters SPS 320 to 325.

Relating to

Wall bracing.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A.

Detailed Description of the Objective of the Proposed Rule

The objective of the rulemaking project is to revise and simplify wall bracing provisions under the Uniform Dwelling Code, chapters SPS 320 to 325.

The objective of the rule is to have a clearly understood rule that enhances compliance with regard to design, construction and inspection.

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

Chapters SPS 320 to 325, the Uniform Dwelling Code, establishes statewide, uniform construction, energy efficiency, and inspection rules for one– and 2–family dwellings. Under the construction standards of chapter SPS 321, dwellings are required to meet structural performance provisions to support the actual dead load, live loads and wind loads acting upon it. The minimum wind load is specified at 20 pounds per square foot acting over the surface area of the dwelling. Code provisions also include various prescriptive specifications and alternative provisions that are recognized to address the wind load requirements.

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

The statutory authority for the Uniform Dwelling Code is under s. 101.63 (intro.) and (1), Stats. Section 101.63, Stats., reads:

“The department shall:

- (1) Adopt rules which establish standards for the construction and inspection of one– and 2–family dwellings and components thereof. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. Rules promulgated under this subsection do not apply to a bed and breakfast establishment, as defined under s. 254.61 (1), except that the rules apply to all of the following:”

In addition, under s. 101.63 (3), Stats., the department may:

“Revise the rules under this subchapter after consultation with the dwelling code council or with the contractor certification council, as appropriate.”

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

The staff time needed to develop the rule is expected to be about 200 hours. This time includes research, drafting rules, consulting and meeting with the UDC Code Council and processing the rules through public hearings, legislative review and adoption. There are no other resources necessary to develop the rules.

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

The rulemaking project will affect any entity that is involved in the construction, remodeling and inspection of one- and 2-family dwellings, including designers, contractors, and inspectors.

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

An Internet-based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to the activities to be regulated for one- and 2-family dwellings. However, CFR Title 24 – Housing and Urban Development, contains regulations in chapter XX relating to the construction and installation of manufactured homes.

Anticipated Economic Impact of Implementing the Rule

It is anticipated that the potential impact implementing these rules may reduce dwelling construction costs.

Contact Person

James Quast, Program Manager, jim.quast@wisconsin.gov, (608) 266-9292.

Technical College System Board

SS 033-13

This statement of scope was approved by the governor on March 27, 2013.

Rule No.

Chapter TCS 5.

Relating to

Facility development procedures.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

N/A.

Detailed Description of the Objective of the Proposed Rule

The Wisconsin Technical College System (WTCS) recently reviewed the Facility Development Procedures

contained in Chapter TCS 5 of the Wis. Admin. Code to ensure that the process is efficient for both the System and its colleges while maintaining a high quality process that supports the statutory responsibilities of the WTCS Board. The proposed modifications to the code eliminates redundancy within the process, steps that are no longer required, information that is already available to the WTCS, and information that is not available at the time of facility approval. In addition, the definitions of both minor remodeling and minor rentals have not been updated since the 1980's and the proposed definitions take into account inflation, more closely aligns rentals to other procurement standards, and allows the WTCS to focus on larger more complicated projects.

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

TCS 5 has been in existence in the 1970's and sets forth procedures for WTCS Board approval and technical college districts' requests for facility development projects, including land acquisition, additional or new facilities, rentals, and remodeling of existing facilities.

The proposed rule changes would delete or amend portions of the following rule sections:

Sections TCS 5.04 (1) (b), (1) (e) 2. and 4., (2) (b), (2) (d) 3. and 5., (j), (k), (3) (b), (d) 2. and 4., (4) (b), (d) 2. and 4., (i), and (j), 5.05 (3) and 5.06.

In addition, the definitions of minor remodeling and minor rentals found in s. TCS 5.09 have not been adjusted since 1986. The proposed rule changes would update the limits to reflect inflationary changes and broaden the definitions to ensure efficient administration of both minor rentals and minor remodeling.

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

Section 38.04 (10) Wis. Stats. provides that the WTCS Board shall review and approve Technical College districts' facility development projects

38.04 Technical college system board; powers and duties.

(10) ADDITIONAL FACILITIES.

(a) Except as provided under par. (b), the board shall review and approve any proposals by district boards for land acquisition, additional or new facilities, rentals and remodeling of existing facilities, prior to the letting of contracts to construct, remodel, rent or incur debt for such facilities or acquisition of land. The board shall encourage district boards to finance capital building proposals with long-term benefits through bonding or promissory note obligations.

(b) Proposals by district boards for minor rentals and minor remodeling projects are exempt from board review and approval under par. (a). The board shall promulgate rules defining “minor rental” and “minor remodeling” and establishing criteria and procedures for exempting such proposals under this paragraph.

(c) The board shall review and approve, disapprove or modify any proposal by a district board to lease facilities or property to others under s. 38.14 (2) (d).

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

The amount of time will be minimal.

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

The WTCS Board and the 16 technical college districts within the Wisconsin Technical College System.

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

There are no federal rules regarding Technical College

facility development procedures.

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

The proposed rule will have minimal to no economic impact statewide and locally.

Contact Person

James Zylstra, (608) 266–1739.

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 13–027**

(DATCP Docket # 12–R–06)

On March 29, 2013, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to s. 227.15, Stats.

The statement of scope for this rule, SS 047–12, was approved by the governor on July 6, 2012, published in Administrative Register No. 679 on July 31, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection on August 14, 2012.

Analysis

The proposed rule revises ch. ATCP 125, relating to manufactured home communities — fair trade practices.

Agency Procedure for Promulgation

The department will hold public hearings on this rule beginning April 30, 2013.

Contact Person

The department's Division of Trade and Consumer Protection is primarily responsible for this rule. If you have questions, you may contact Kevin LeRoy at (608) 224–4928.

Health Services *Health, Chs. 110–199* **CR 13–028**

On April 1, 2013, the Wisconsin Department of Health Services submitted a proposed rule to the Legislative Council Rules Clearinghouse for review.

The statement of scope for this rule, SS 065–12, was approved by the governor on July 26, 2012, published in Register 681, on September 14, 2012, and approved by former DHS Secretary Dennis Smith on October 8, 2012.

Analysis

The proposed rule amends s. DHS 132.16 (1), relating to the establishment of rules to guide the actions of the quality assurance and improvement committee to review proposals and award moneys for innovative projects in regards to nursing homes.

Agency Procedure for Promulgation

The Department of Health Services will adopt the proposed rules without public hearing under s. 227.16 (2) (b), Stats.

Contact Person

Pat Benesh, Division of Quality Assurance, (608) 264–9896, patricia.benesh@wi.gov.

Public Instruction **CR 13–024**

On March 19, 2013, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 013–13, was published in Register No. 686, on February 14, 2013, and approved by State Superintendent Tony Evers, on February 25, 2013. Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department of Public Instruction is not required to get the Governor's approval for the statement of scope or this rule.

Analysis

The proposed rule creates chapter PI 47, relating to the equivalency process for educator effectiveness.

Agency Procedure for Promulgation

Public hearings will be scheduled as required under s. 227.16 (1), Stats.

Contact Person

The Division for Academic Excellence within the Department of Public Instruction is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Sheila Briggs, Director, Division for Academic Excellence, at sheila.briggs@dpi.wi.gov or (608) 266–3361.

Public Service Commission **CR 13–025**

Pursuant to s. 227.14 (4m), Stats., on March 22, 2013, the Wisconsin Public Service Commission submitted a proposed rule to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

The scope statement for this rule, SS 013–12, was approved by the governor on February 15, 2012, published in Wisconsin Administrative Register No. 675 on March 15, 2012, and approved by the Commission on April 4, 2012.

Analysis

The proposed rule repeals s. PSC 8.07 (7) and (11), chs. PSC 162 to 164, ss. PSC 165.02 (2) to (5), (11), (13) to (16), and (18) to (20), 165.031, 165.034 to 165.065, and 165.07 to 165.10, chs. PSC 166, 167, ss. PSC 168.10 (1) (b) to (d) and (2), and 168.11, 168.12 (1) (f), ch. PSC 169, ss. PSC 171.06 (2) and (3), 171.07 (4) and (5), 171.08, 171.10 (3), and ch. PSC 174; renumbers and amends s. PSC 168.10 (1) (intro.) and (a); amends ss. PSC 100.01, 102.01, 104.02 (3), 165.01 (2), 165.032 (intro.), (6), (7), and (9), 165.033, 168.05 (1) (d) and (3), 168.09 (4), 168.12 (1) (intro.), 168.13 (1) (a), 171.02 (5), 171.06 (1) and 171.10 (1); and repeals and recreates s. PSC 171.09. The proposed rule, Commission docket

1–AC–237, deals with changes resulting from deregulation of the telecommunications industry in 2011 Wisconsin Act 22.

Agency Procedure for Promulgation

A public hearing will be held on Friday, April 26, 2013, at 10:00 a.m. at the Public Service Commission building, 610 North Whitney Way, Madison, Wisconsin.

Contact Person

The Telecommunications Division of the Commission is the organizational unit responsible for the promulgation of the rule. The contact person is Michael Varda, Docket Coordinator, (608) 267–3591.

Safety and Professional Services

Professional Services, Chs. 1–299

CR 13–026

On March 28, 2013, the Department of Safety and Professional Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 063–12, was approved by the Governor on August 10, 2012, published in

Register No. 680 on August 31, 2012, and approved by the Department of Safety and Professional Services on October 15, 2012.

Analysis

This proposed rule–making order revises chapters SPS 60, 61, 62, and 65, and creates chapter SPS 205, and relates to barbers and to barbering and cosmetology schools and instructors.

Agency Procedure for Promulgation

A public hearing is required and will be held on April 30, 2013, at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

Executive Order 50, Paragraph III.2. Statement

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

Contact Person

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

Rule–Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

CR 13–027

(DATCP Docket # 12–R–06)

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed rule revising Chapter ATCP 125, relating to manufactured home communities – fair trade practices.

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

Hearing Information

Date: Friday, Tuesday, April 30, 2013
Time: 2:00 p.m.
Location: First Floor Meeting Room
 Marathon County Public Library
 300 N 1st Street
 Wausau, WI 54403

Date: Wednesday, May 1, 2013
Time: 9:30 a.m.
Location: Conference Room 172
 Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive
 Madison, WI 53718–6777

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by April 23, 2013, by writing to Kevin LeRoy, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708–8911; or by emailing kevin.leroy@wisconsin.gov; or by telephone at (608) 224–4928. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is handicap accessible.

DATCP invites the public to attend the hearing and comment on the proposed rule. Following the public hearings, the hearing record will remain open until May 15, 2013, for additional written comments. Comments may be sent to the Division of Trade and Consumer Protection at the address below, or to kevin.leroy@wisconsin.gov, or to <http://adminrules.wisconsin.gov>.

You can obtain a free copy of this hearing draft rule and related documents including the economic impact analysis by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–4928 or by emailing kevin.leroy@wisconsin.gov. Copies will also be available at the hearing. To view the hearing draft rule online, go 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.

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

Statutes interpreted

Section 100.20 (1), Stats.

Statutory Authority

Sections 93.07 (1) and 100.20 (2), Stats.

Explanation of statutory authority

DATCP has broad general authority to interpret statutes under its jurisdiction (see s. 93.07 (1), Stats.)

DATCP has authority under s. 100.20 (2) (a), Stats., to promulgate rules forbidding methods of competition or trade practices which the department determines to be unfair, and to prescribe fair methods of competition and trade practices. Section 100.20 (2) (b), Stats., prohibits DATCP from promulgating any rules that regulates the provision of water or sewer service by a manufactured home community operator.

Related statutes and rules

Subchapter V of Ch. 101, Stats., regulates manufactured homes and mobile homes and establishes licensing programs within the Wisconsin Department of Safety and Professional Services (DPS) for manufactured home community operators, dealers, installers, salespersons, and manufacturers. This subchapter also establishes the state system for certifying titles of ownership on mobile homes and manufactured homes; and contains a number of requirements and standards related to the homes themselves, water and sewer connections, and standards for manufactured home communities.

Chapter 704, Stats., regulates transactions between landlords and both residential and non–residential tenants. The department does not administer ch. 704, Stats.

Section 710.15, Stats., contains several provisions related to manufactured and mobile home community regulations, including a prohibition against operators considering the age of a mobile home or manufactured home as a determining factor in leasing a lot to that resident.

Chapter ATCP 134, Wis. Admin. Code, regulates relationships between landlords and tenants in residential rental transactions, including prohibiting a landlord from renting condemned premises and prescribing procedures for handling security deposits.

Chapter SPS 326, Wis. Admin. Code, regulates standards for manufactured home communities, including the regulation of park operators’ delivery and billing of water and sewer services. Chapter SPS 326 specifies the minimum width of streets and the provision of fire hydrants, and all plans for new manufactured home communities or the expansion of existing manufactured home communities, must be approved by DPS.

Plain language analysis

Background

Chapter ATCP 125 was first promulgated as ch. Ag 125 in 1972. At the time, zoning restrictions led to a shortage of mobile home sites in many areas of the state, which inhibited competition and market choice. The rule was promulgated to address unfair trade practices and methods of competition that emerged in the industry. The rule prohibited mobile home park operators from using unfair or deceptive trade practices. It also required that rental contracts be in writing and contain specific disclosures. The rule was revised in 1976 and again in 1987.

Rule content

This rule does all of the following:

- Updates the existing rule by incorporating and defining “manufactured home” and “manufactured home community.” Current definitions applies only to “mobile homes” and “mobile home parks.”
- Repeals the definition “television service” and creates the definition “electronic communication service” which will specify the mechanisms operators are allowed to use, or are prohibited from using, when billing tenants for these services.
- Amends the definition “utility service” to exclude water and sewer services. Section 100.20 (2) (b), Stats., was created after the promulgation of the current rule, which prohibits DATCP from regulating water and sewer services provided by manufactured home community operators.
- Updates the phrase “mobile home parking fee assessed by local units of government” with the term “municipal permit fee,” as specified under ch. 66, Stats.
- Repeals outdated and obsolete provisions in the current rule.

Under the current rule, rent and other charges may not be increased during the term of the rental agreement. However, this provision does not apply to “mobile home parking fees” and charges for utility services not included in rent. This rule expands the exceptions to include waste hauling or recycling fees that are assessed by local units of government.

Under the current rule, rental agreements are required to express the amount of rent due in each rent paying period in dollars. Under the proposed rule, if the tenant requests a rental agreement that is three years or greater, the amount of rent due in each rent paying period may be expressed in either a dollar amount or a defined formula based on the consumer price index.

Under the current rule, a rental agreement may not include a security deposit greater than either \$350 or three months’ rent, whichever is less. This rule updates the maximum security deposit to \$750, or two months’ rent, whichever is less.

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

The federal government does not generally regulate manufactured home sales or rental practices. However, Congress did pass the National Manufactured Housing Construction and Safety Standards Act of 1974, which direct the Department of Housing and Urban Development (HUD) to develop regulations; which are now known as the Federal Manufactured Housing Construction and Safety Standards.

Comparison with rules in adjacent states

Illinois statutes contain the Mobile Home Landlord and Tenant Rights Act. Among other things, this act restricts park owners from prohibiting television antennas, requires written leases, allows for temporary occupancy in certain situations, requires park owners to disclose information about rent charged during the last five years and projections for the next three, and restricts park owners’ ability to control the sale of mobile homes within the park.

Minnesota administrative code regulates mobile home parks and the methods park owners can use to bill residents for utility costs incurred by the community. For example, rental agreements must be in writing and specify certain terms and conditions related to the location of the lot, amount of rent, services or facilities that the park owner agrees to provide, and the name of any person holding a security interest in the resident’s home. Minnesota law prohibits park owners from requiring residents to use the services of a particular dealer or broker when selling their home, or buy goods or services from a particular vendor.

Iowa does not have any laws in place related to mobile or manufactured homes or parks. Iowa legislation was introduced in 2011 to grant mobile home residents rights similar to tenants and proposed to place restrictions on park operators operating as real estate agents. This legislation did not pass.

Michigan has law in place related to mobile home park owners and specifies the rights of a tenant. Park owners are prohibited from charging entrance and exit fees, charging more than 1.5 times the amount of monthly rent as a security deposit and cannot require a person to buy a mobile home from another person as a condition of renting space in that park. Park owners must offer tenants a written lease for one year or more, and provide a copy of rules that govern maintenance, pets, fees, and charges that may be incurred by the tenant. Park owners must keep specific written records for each tenant.

Summary of factual data and analytical methodologies

According to the Department of Safety and Professional Services web page (www.dsps.wisconsin.gov), there are approximately 1,074 licensed manufactured home communities in Wisconsin, with a total of 52,316 home sites (these statistics are from an on–line listing of licensed manufactured home parks by DSPPS (March, 2011)).

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

DATCP anticipates that the economic impact of this rule will be minimal. This rule makes some changes and updates to existing ch. ATCP 125; but the policy changes from existing rule are generally minor and are not expected to have a significant effect on small business or economic impact.

Effect on small business

The rule impacts manufactured home park operators. Many manufactured home park operators are small businesses. This rule does make minor changes to park operators’ duties and responsibilities, but will only have a very minor monetary impact. For more detail on the effect of the proposed rule on small business, see the attached *Initial Regulatory Flexibility Analysis*.

DATCP Contact

Kevin LeRoy, Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708–8911, Telephone (608) 224–4928, E–Mail: kevin.leroy@wisconsin.gov.

Initial Regulatory Flexibility Analysis**Rule summary**

This rule does all of the following:

- Updates the existing rule by incorporating and defining “manufactured home” and “manufactured home community.” Current definitions applies only to “mobile homes” and “mobile home parks.”
- Repeals the definition “television service” and creates the definition “electronic communication service” which will specify the mechanisms operators are allowed to use, or are prohibited from using, when billing tenants for these services.
- Amends the definition “utility service” to exclude water and sewer services. Section 100.20 (2) (b), Stats., was created after the promulgation of the current rule, which prohibits DATCP from regulating water and sewer services provided by manufactured home community operators.
- Updates the phrase “mobile home parking fee assessed by local units of government” with the term “municipal permit fee,” as specified under ch. 66, Stats.
- Repeals outdated and obsolete provisions in the current rule.

Under the current rule, rent and other charges may not be increased during the term of the rental agreement. However, this provision does not apply to “mobile home parking fees” and charges for utility services not included in rent. This rule expands the exceptions to include waste hauling or recycling fees that are assessed by local units of government.

Under the current rule, rental agreements are required to express the amount of rent due in each rent paying period in dollars. Under the proposed rule, if the tenant requests a rental agreement that is three years or greater, the amount of rent due in each rent paying period may be expressed in either a dollar amount or a defined formula based on the consumer price index.

Under the current rule, a rental agreement may not include a security deposit greater than either \$350 or three months’ rent, whichever is less. This rule updates the maximum security deposit to \$750, or two months’ rent, whichever is less.

Small business affected

This rule will have some limited effect on manufactured home community operators. Many operators are small businesses. According to the Department of Safety and Professional Services (DSPS) web page (www.dsps.wisconsin.gov), there are approximately 1,074 licensed manufactured home communities in Wisconsin, with a total of 52,316 home sites (these statistics are from an on–line listing of licensed manufactured home parks by DSPS (March, 2011)).

Many of the differences between this rule and the current rule are technical in nature (such as updating terms to conform to other rules and statutes, etc.) and have no impact.

One change that has an impact on small business involves the definition of “utility” in the rule. The current rule includes “television services” in the definition of “utility”. The proposed rule repeals “television services” and replaces it with “electronic communication services” which includes such services as cable service, video service, and internet access service as well as television service. These are services that in recent times are commonly bundled under one fee. Under the proposed rule, the manufactured home community operator must follow the current rules for charging for television services for these additional types of electronic communication services. This change may require the operator to incur the cost of sending an invoice to the tenant whenever charging the tenant for any of the services added to the definition of “utility.”

Other changes that might have some limited impact are listed below.

- *Municipal waste hauling or recycling fees.* Current rule prohibits manufactured home community operators from increasing rent and other charges during the term of the rental agreement. There are exceptions to this prohibition for utility services (that are not included in rent) and municipal permit fees. This rule also allows an exception for waste hauling fees charged by a municipal government.

This change may benefit manufactured home community operators because it allows them to pass municipal fee increases to tenants at the time they are incurred, rather than waiting until the next rental agreement renewal date.

- *Inflation indexing on rental agreements of three years or longer.* Current rule requires rental agreements to include the amount of the rent due in each rent–paying period. Under this proposed rule, rental agreements that are three years or longer may include a formula for adjusting future rental amounts based on the Consumer Price Index.

Manufactured homes can be financed using home mortgages. However, many lenders are hesitant to offer a mortgage if the term of the mortgage is longer than the term of the rental agreement. But, community operators are generally unwilling to commit to long–term leases under current rules because they are unwilling to specify a dollar amount that will be in place far into the future. This proposed rule should benefit manufactured home owners by making it more likely that they will be able to finance the purchase of their home as a mortgage (rather than personal property).

- *Maximum security deposits.* Current rule limits the amount of security deposit that an operator can collect to three months’ rent or \$350, whichever is less. This rule provision dates back to 1987. \$350 in 1987 is roughly equivalent to \$715 in 2012. This proposed rule revises the maximum security deposit to either two months’ rent or \$750, whichever is less.

Raising the dollar amount to \$750 may benefit some manufactured home community operators because it allows them to collect security deposits that are more realistic with current economics. Limiting the security deposit to two months rather than three will benefit tenants whose monthly rents are relatively low.

Reporting, bookkeeping and other procedures

This proposed rule does not make any changes from current rule relating to reporting, bookkeeping and other procedures.

Professional skills required

The proposed rule does not make any changes from current rule relating to professional skills required.

Accommodation for small business

Many of the businesses affected by this rule are “small businesses.” For the most part, this rule does not make special exceptions for “small businesses.” The nature of the subject matter does not lend itself to differentiating between business

sizes.

Conclusion

This rule will generally benefit affected businesses, including “small businesses.” Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22 (2) (e), Stats.

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Ch. ATCP 125, Mobile Home Parks		
Subject		
Manufactured Home Communities – Fair Trade Practices		
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Section 20.115 (1) (a)
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency’s Budget
<input type="checkbox"/> Decrease Costs		
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State’s Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors	
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
<p>This rule updates the existing rule by incorporating and defining “manufactured home” and “manufactured home community.” The current definition applies only to “mobile homes” and “mobile home parks.”</p> <p>The current rule regulates how mobile home park operators can charge tenants for utility services, including “television service.” This rule repeals the definition “television service” and creates the definition “electronic communication service” which will specify the mechanisms operators are allowed to use, or are prohibited from using, when billing tenants for these services.</p> <p>In current rules, the definition of “utility service” includes water and sewer services. This rule amends the definition “utility service” to exclude water and sewer services. Section 100.20 (2) (b), Stats., was created after the promulgation of the current rule, which prohibits DATCP from regulating water and sewer services provided by manufactured home community operators.</p> <p>This rule updates the phrase “mobile home parking fee assessed by local units of government” with the term “municipal permit fee,” as specified under ch. 66, Stats.</p> <p>Under the current rule, rent and other charges may not be increased during the term of the rental agreement. However, this provision does not apply to “mobile home parking fees” and charges for utility services not included in rent. This rule expands the exceptions to include waste hauling or recycling fees that are assessed by local units of government.</p> <p>Under the current rule, rental agreements are required to express the amount of rent due in each rent paying period in dollars. Under the proposed rule, if the tenant requests a rental agreement that is three years or greater, the amount of rent due in each rent paying period may be expressed in either a dollar amount or a defined formula based on the consumer price index.</p> <p>Under the current rule, a rental agreement may not include a security deposit greater than either \$350 or three months’ rent, whichever is less. This rule updates the maximum security deposit to \$750, or two months’ rent, whichever is less.</p>		

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

This rule makes minor updates and revisions to the existing rule and does not represent any significant shift in policy. Therefore, the economic and fiscal impacts are expected to be minimal.

This rule does make some minor changes to park operators' duties and responsibilities, but these changes are not expected to have an economic impact.

Under the current rule, the maximum amount of security deposit that a park operator can collect is three month's rent or \$350, whichever is less. Under this rule, the maximum security deposit is two month's rent or \$750, whichever is less. This means that, in many cases but not all, park operators will be able to ask prospective tenants for higher security deposits.

Under current rules, rental agreements are required to express the amount of rent due in each rent paying period in dollars. Under the proposed rule, if the tenant requests a rental agreement that is greater than three years, the amount of rent due in each rent paying period may be expressed in either a dollar amount or a defined formula based on the consumer price index. This provision should benefit some tenants by removing an impediment to obtaining home mortgage loans. Generally, banks are unwilling to finance the purchase of a manufactured home if that home is sitting on a rented lot and the term of the rental agreement will expire before the term of the mortgage. However, because current rules require park operators to state rent payments in dollar amounts; park operators are generally unwilling to agree to long-term rental agreements. This rule removes this disincentive, and therefore, may benefit residents.

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

Benefits

This rule will benefit mobile home owners and park operators. Generally, it continues policies that have been in place for a number of years.

Alternatives

The alternative to updating this rule is to do nothing. However, certain portions of the rule are now obsolete (such as the regulation of water and sewer services) and other portions are dated (such as the use of the term "mobile home" as opposed to "manufactured home").

Long Range Implications of Implementing the Rule

There are no long term implications of implementing this rule.

Compare With Approaches Being Used by Federal Government

The federal government does not generally regulate manufactured home sales or rental practices. However, Congress did pass the National Manufactured Housing Construction and Safety Standards Act of 1974, which direct the Department of Housing and Urban Development (HUD) to develop regulations; which are now known as the Federal Manufactured Housing Construction and Safety Standards.

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

Illinois statutes contain the Mobile Home Landlord and Tenant Rights Act. Among other things, this act restricts park owners from prohibiting television antennas, requires written leases, allows for temporary occupancy in certain situations, requires park owners to disclose information about rent charged during the last five years and projections for the next three, and restricts park owners' ability to control the sale of mobile homes within the park.

Minnesota administrative code regulates mobile home parks and the methods park owners can use to bill residents for utility costs incurred by the community. For example, rental agreements must be in writing and specify certain terms and conditions related to the location of the lot, amount of rent, services or facilities that the park owner agrees to provide, and the name of any person holding a security interest in the resident's home. Minnesota law prohibits park owners from requiring residents to use the services of a particular dealer or broker when selling their home, or buy goods or services from a particular vendor.

Iowa does not have any laws in place related to mobile or manufactured homes or parks. Iowa legislation was introduced in 2011 to grant mobile home residents rights similar to tenants and proposed to place restrictions on park operators operating as real estate agents. This legislation did not pass.

Michigan has law in place related to mobile home park owners and specifies the rights of a tenant. Park owners are prohibited from charging entrance and exit fees, charging more than 1.5 times the amount of monthly rent as a security deposit and cannot require a person to buy a mobile home from another person as a condition of renting space in that park. Park owners must offer tenants a written lease for one year or more, and provide a copy of rules that govern maintenance, pets, fees, and charges that may be incurred by the tenant. Park owners must keep specific written records for each tenant.

Comments Received in Response to Web Posting and DATCP Response

No comments were received in response to either to the posting on the DATCP external website or the statewide administrative rules website.

Notice of Hearing

Public Service Commission

CR 13–025

(PSC # 1–AC–237)

NOTICE IS GIVEN that pursuant to s. 227.14 (4m), Stats., the Public Service Commission of Wisconsin proposes an order to repeal s. PSC 8.07 (7) and (11), chs. PSC 162 to 164, ss. PSC 165.02 (2) to (5), (11), (13) to (16), and (18) to (20), 165.031, 165.034 to 165.065, and 165.07 to 165.10, chs. PSC 166 and 167, ss. PSC 168.10 (1) (b) to (d) and (2), 168.11, and 168.12 (1) (f), ch. PSC 169, ss. PSC 171.06 (2) and (3), 171.07 (4) and (5), 171.08, and 171.10 (3), and ch. PSC 174; to renumber and amend s. PSC 168.10 (1) (intro.) and (a); to amend ss. PSC 100.01, 102.01, 104.02 (3), 165.01 (2), 165.032 (intro.), (6), (7), and (9), 165.033, 168.05 (1) (d) and (3), 168.09 (4), 168.12 (1) (intro.), 168.13 (1) (a), 171.02 (5), 171.06 (1), and 171.10 (1); and to repeal and recreate s. PSC 171.09.

Hearing Information

Date: Friday, April 26, 2013
Time: 10:00 a.m.
Location: Amnicon Falls Hearing Room – 1st Floor
 Public Service Commission of Wisconsin
 610 North Whitney Way
 Madison, Wisconsin

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this docket or who needs to obtain this document in a different format should contact the docket coordinator, as indicated in the previous paragraph, as soon as possible. Any hearing location is accessible to people in wheelchairs. The Public Service Commission Building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building.

Written Comments

Any person may submit written comments on these proposed rules. The record will be open for written comments from the public, effective immediately and until May 6, 2013, at noon. All written comments must include a reference on the filing to docket 1–AC–237. File by one mode only.

Industry: File comments using the commission’s Electronic Regulatory Filing (ERF) system. This may be accessed from the commission’s web site (<http://psc.wi.gov>).

Members of the Public: Please submit your comments in only one of the following ways:

- **Electronic Comment.** Go to the commission’s web site at <http://psc.wi.gov>, and click on the “ERF – Electronic Regulatory Filing” graphic on the side menu bar. On the next page, click on “Need Help?” in the side menu bar for instructions on how to upload a document.
- **Web Comment.** Go to the commission’s web site at <http://psc.wi.gov>, click on the “Public Comments” button on the side menu bar. On the next page select the “File a comment” link that appears for docket number 1–AC–237. Web comments shall be received no later than noon, Monday, May 6, 2013.
- **Mail Comment.** All comments submitted by U.S. Mail shall be received no later than Monday, May 6, 2013. A mail comment shall include the phrase “Docket 1–AC–237 Comments” in the heading, and shall be addressed to:

Gary A. Evenson
 Docket 1–AC–237 Comments
 Public Service Commission
 P.O. Box 7854
 Madison, WI 53707–7854

The commission does not accept comments submitted via e–mail or facsimile (fax). Any material submitted to the commission is a public record and may appear on the commission’s website. Only one comment may be submitted per person during a comment period. The commission may reject a comment that does not comply with the requirements described in this notice.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority and explanation of authority

This rulemaking is conducted by the commission under ss. 196.02 (1) (“do all things necessary and convenient to its jurisdiction”); 196.02 (3) (“The commission may adopt reasonable rules to . . . regulate the mode and manner of all . . . investigations and hearings.”); and 196.44, Stats. (“The commission . . . shall enforce all laws relating to public utilities . . .”). In addition, the commission has the general power granted to all state agencies under s. 227.11 (2) (a), Stats. (“Each agency may promulgate rules interpreting the

provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, . . .”).

Statutes interpreted

The primary purpose of this rulemaking is the removal of all those regulations no longer consistent with the regulatory scheme for telecommunications services in Wisconsin enacted and framed by 2011 Wis. Act 22 (Act 22), effective June 9, 2011. Updating changes in the regulations are also included where appropriate to conform to existing law apart from Act 22.

Specifically, telecommunications utility regulatory and reporting requirements removed by Act 22 warrant the amendment and repeal of various provisions, as detailed in Attachment B, in chs. PSC 8, 100, 104, 162, and 168. Act 22’s repeal of commission regulation of retail services offered by telecommunications utilities to the consuming public warrant the repeal of most of ch. PSC 165 (retaining minor clarifications of the remaining tariff and map rules), the repeal (with other minor conforming changes) of any retail rate regulation of resellers in ch. PSC 168, and the repeal of all retail ratemaking and service–related regulations in chs. PSC 163, 164, 166, 167, and 174. Reflecting existing federal preemption of most state regulation of payphone providers by the Telecommunications Act of 1996, Pub. L. 104–104, 110 Stat. 56 (1996) (1996 TA), payphone regulation in ch. PSC 169 is proposed for repeal. Finally, ch. PSC 171 governing cable television telecommunications providers is amended to reflect the reduction in data reporting to the commission and the removal of limitations on alternative telecommunications providers included in Act 22’s changes to s. 196.203, Stats.

Related statutes or rules

The above–referenced rules are uniquely limited to the commission’s jurisdiction. No other related state or federal statutes or rules are affected, whether adversely or positively, by the changes and repeals generally outlined in B. above.

Brief summary of rules

The description in B. above describes the general purpose of this rulemaking which is to remove or clarify the application of existing commission regulations that primarily impose reporting requirements, retail service offering constraints, or other regulatory oversight. Almost all of the changes are non–controversial.

The proposed changes include repeal of certain regulations that arguably reflect state–imposed service quality standards that also intertwine with promoting wholesale competition: (1) Sections PSC 165.064, 165.085, 165.086 and 165.087, involving trunking duties and transmission service quality between at least two telecommunications providers’ networks, and (2) Section PSC 165.055, regarding the distribution and contents of alphabetical local exchange directories (“white pages”). This notice does not retain the foregoing regulations in the draft proposed rules, but this should not be treated as a final commission view of whether the regulations should be retained. An argument may be advanced that retention of one or more of the regulations is compatible with the commission’s remaining telecommunications regulatory authority. The commission encourages comments by interested persons as to policy and legal arguments for or against retention of the identified regulations or any part thereof.

Comparison with existing or proposed federal regulations

Most retail regulation of telecommunications services, apart from long distance and payphone services, and reporting by state–certificated providers to the commission, have been the historical regulatory domain of state commissions. Act 22 has essentially removed these state obligations, leaving to the commission, with some exceptions in s. 196.219, Stats., only those regulatory duties affecting wholesale relations among telecommunications services providers. Section 196.016, Stats., grants the commission the authority to exercise duties within the 1996 TA that have been granted by that law or the FCC to the state commissions to administer if they so elect. The commission retains authority over areas such as telephone numbering, universal service (including designation of eligible telecommunications carriers), and determinations under 47 USC 251 (f) (1) and (2) to terminate or maintain a rural or small incumbent local exchange carrier’s claim to an exemption from interconnection. The proposed changes based on concerns identified in D. above arguably can be addressed and resolved through carrier–to–carrier proceedings under the 1996 TA administered by the commission, specifically the negotiation and arbitration of interconnection agreements under 47 USC 251 and 252 and the provisions preserving state service quality standards cognizable under 47 USC 252 (e) (3), 253 (b), 254 (f), and 261.

Comparison with similar rules in adjacent states

To conduct this comparison, inquiries were made to the state commissions of Iowa, Illinois, Michigan and Minnesota about the current telecommunications regulatory framework (statutes and rules) prevailing in each state. The inquiry asked questions regarding (1) the extent of reduction of carrier reporting requirements; (2) whether retail rate regulation remained; (3) what provider of last resort (POLR) duty existed, if any; (4) whether the state was seeking parity of regulation among the incumbents and competitors; and (5) whether wholesale jurisdiction as allowed to the states by the 1996 TA was in place. The responses for the four states indicated variations as to (1) through (4), noted in the next paragraphs, but a uniform retention of state wholesale jurisdiction, as allowed by the 1996 TA in response to (5).

Illinois still imposes significant financial and service quality reporting duties on incumbent carriers under rate of return regulation. However, many large carriers have elected market regulation of their rates, a scheme which deregulates most pricing except for certain “safe harbor” basic service type packages for consumers. A POLR duty of the incumbent may not be abandoned as to classes of service except upon approval by the Illinois Commerce Commission (ICC). Small carriers having fewer than 35,000 lines are not rate–of–return regulated, but may be subjected to a rate–of–return rate case before the ICC upon complaint by a substantial number of the customers (10%). On the wholesale side, it is sufficient for one carrier to complain about a small carrier’s access rates and thereby trigger an ICC rate case on those rates. Illinois did undertake some legislation to equalize the reporting among incumbent and new carriers, in Pub. Act 96–0927, effective June 15, 2010.

Iowa had previously reduced reporting requirements and in 2005 deregulated all rates except for retention of complaint jurisdiction over intrastate switched access rates. Tariffing was removed in favor of mandatory price catalogues of services. Iowa has never had an explicit POLR duty for

incumbents, but frames a duty for both incumbents and new competitors to serve “all eligible customers.” Incumbent local exchange providers are required to file maps and competitors are obliged to indicate the extent they concur in those maps as to their service territories.

Michigan currently requires reporting to assist the Michigan Public Service Commission prepare an annual “Status of Competition” report. However, that duty expires with the last report due in 2013 and will effectively end the current reporting obligations. Access charge tariffs are still required. In June, 2011, Michigan totally ended retail rate regulation, paralleling the effect of Act 22. However, there is still a provider of last resort duty, relief from which is permitted, but only under the state commission’s supervision and control. Michigan much earlier equalized level of regulation by unifying its certification process under one certification category for local exchange service, but with defined territories.

Minnesota more than two years ago substantially reduced its reporting requirements to a one–page inquiry. Minnesota has an alternative form of regulation statute enacted before 2010 that has been elected by most incumbents and new competitors. Almost all rates are deregulated except for single–line residential and business customer services that are subject to a \$1/year price increase cap. The state still retains a POLR duty and has not to this point engaged in legislative attempts to create more parity of regulation among providers.

Effect on small business

The removal of the proposed regulations should have a positive effect on small business by removing obsolete regulations, thereby simplifying and reducing the costs incurred by small businesses.

Comments

Comments on this rulemaking may be submitted as outlined in the Notice of Hearing.

Accommodation

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to receive this document in a different format should contact the Docket Coordinator, as indicated in the following paragraph, as soon as possible.

Agency Contacts

Questions regarding this matter, including small business questions, should be directed to Docket Coordinator Gary A. Evenson, Telecommunications Division, at (608) 266–6744 or gary.evenson@wisconsin.gov. Media questions should be directed to Kristin Ruesch, Communications Director, at (608) 266–9600. Hearing– or speech–impaired individuals may also use the commission’s TTY number. If calling from within Wisconsin, use (800) 251–8345; if calling from outside Wisconsin, use (608) 267–1479.

Initial Regulatory Flexibility Analysis

The intention of this rulemaking is to clarify those activities removed from state regulation, thereby affording a benefit to providers that might otherwise believe they have to observe both federal and state requirements with respect to those activities. Confusion that could be caused by retention of obsolete provisions in the Wisconsin Administrative Code should be largely, if not completely, avoided. The reduction

in compliance costs is a positive financial benefit for both small and large telecommunications providers, effecting an across–the–board reduction of regulatory compliance obligations and associated costs. Those limited duties preserved for the commission largely relate to wholesale interactions among providers. Other duties (chiefly regarding access rates, numbers and service maps) are clarified and updated consistent with Act 22’s provisions that involve federal law.

Fiscal Estimate

The proposed rule changes and repeals will likely result in a small, positive fiscal impact in that compliance costs will be reduced through the removal of non–applicable regulations or textual clarification that a retained rule does not apply to a particular type of telecommunications service provider. This rulemaking seeks to update and clarify the scope of the commission’s remaining telecommunications jurisdiction in the wholesale, carrier–to–carrier sector of the telecommunications industry.

The Economic Impact Analysis for this rulemaking is attached.

Text of Proposed Rule Changes

SECTION 1. PSC 8.07 (7) and (11) are repealed.

SECTION 2. PSC 100.01 is amended to read:

PSC 100.01 **Person defined.** Under s. 196.52 (1), Stats., ~~the term~~ “person” includes trustees, lessees, holders of beneficial equitable interest, voluntary associations, receivers and partnerships. “Person” does not include a telecommunications provider, as defined in s. 196.01 (8p), Stats. This definition should be observed in filing information in response to this order.

SECTION 3. PSC 102.01 is amended to read:

PSC 102.01 **Record of disbursements.** Each public utility for which a system of accounts is prescribed by this commission shall so maintain its records as to disclose full particulars concerning any disbursement, including the name of the payee and the purpose of the payment. The records shall likewise disclose the name of the person intended to be paid and the purpose of such disbursement, regardless of whether payment is made by check, cash, cashier’s check, bank draft, postal money order, property or other means, whether paid directly to the ultimate recipient, or indirectly through an affiliated company, officer, employee, attorney, or other intermediary. The purpose of any disbursement, regardless of size, shall be shown by the records and the provisions of this order shall apply in their entirety to each disbursement in excess of \$10. This chapter does not apply to a telecommunications provider, as defined in s. 196.01 (8p), Stats.

SECTION 4. PSC 104.02 (3) is amended to read:

PSC 104.02 (3) The term “public utility” or “utility” is defined by s. 196.01 (5), Stats., but does not include an alternative telecommunication utility certified by the commission under s. 196.203, Stats.

SECTION 5. Chapter PSC 162 is repealed.

SECTION 6. Chapter PSC 163 is repealed.

SECTION 7. Chapter PSC 164 is repealed.

SECTION 8. PSC 165.01 (2) is amended to read:

PSC 165.01 (2) The rules making up ch. PSC 165 are designed to effectuate and implement, in part, commission responsibilities and jurisdiction in ss. ~~196.02, 196.016,~~

196.03, 196.04, 196.191, 196.199, ~~196.10~~, ~~196.12~~, ~~196.15~~, ~~196.16~~, ~~196.17~~, ~~196.19~~, ~~196.21~~, ~~196.22~~, ~~196.60~~, ~~196.625~~, ~~196.72~~, and 196.50 (2) (g), Stats., and parts of other sections of Wisconsin statutes.

SECTION 9. PSC 165.02 (2) to (5), (11), (13) to (16), and (18) to (20) are repealed.

SECTION 10. PSC 165.031 is repealed.

SECTION 11. PSC 165.032 (intro.), (6), (7), and (9) are amended to read:

PSC 165.032 **Schedules to be filed with the commission.** (intro.) The provisions of the schedules of rates and rules filed with the commission and comprising the filed tariff of the utility shall be definite and so worded as to minimize ambiguity or the possibility of misinterpretation, and shall may include, together with such other information as may be deemed pertinent, any of the following subjects:

(6) Rules governing the establishment or re-establishment of service including credit requirements. (~~See s. PSC 165.052.~~)

(7) Rules governing the procedure followed in disconnecting and reconnecting service. (~~See s. PSC 165.051.~~)

(9) Rules governing the billing procedures and payment requirements. (~~A sample bill form should be submitted.~~)

SECTION 12. PSC 165.033 is amended to read:

PSC 165.033 **Exchange area boundaries.** (1) Each telecommunications utility shall file accurate exchange area boundary maps ~~in compliance with ch. PSC 166 depicting each specific geographical area in which it furnishes a local exchange service, as defined in s. 196.219 (1) (b), Stats., under its statewide telecommunications utility certification under s. 196.50 (2) (g) 1., Stats.~~ Except as provided in sub. (2), the commission shall use the exchange area boundaries designated by the maps on file with it on June 9, 2011, to assist in the following activities:

(a) Administration of numbering resources and federal local number portability requirements by determining rate center boundaries.

(b) Designation of eligible telecommunications carriers by determining wire center boundaries to the extent feasible.

(2) Where multiple rate centers or wire centers existed within an exchange on June 9, 2011, the commission shall use the rate centers or wire centers existing on that date to assist its activities identified in subs. (1) (a) and (b).

Note: Identification of the use of exchange boundary maps is not intended to delimit the entire scope of commission activities in its administration of numbering resources and federal local number portability requirements or in its designation of eligible telecommunications carriers.

SECTION 13. PSC 165.034 to 165.065 and 165.07 to 165.10 are repealed.

SECTION 14. Chapter PSC 166 is repealed.

SECTION 15. Chapter PSC 167 is repealed.

SECTION 16. PSC 168.05 (1) (d) is amended to read:

PSC 168.05 (1) (d) Own, operate, manage or control, in Wisconsin, transmission facilities, including wire, cable, fiber optics or radio, and associated electronics, whose cost basis, including capital leases as defined by generally accepted accounting principles, does not exceed \$400,000. The requirements of this paragraph shall be determined for the reseller as of the date of its application for certification and as of December 31 of each calendar year, based upon responses

to annual reports commission questionnaires filed pursuant to under s. PSC 168.12.

SECTION 17. PSC 168.05 (3) is amended to read:

PSC 168.05 (3) Nothing in this section authorizes a telecommunications reseller to provide facilities-based local exchange services, as defined in s. 196.50 (1) (b) 1., 2009 Stats., in municipalities served by small telecommunications utilities having 150,000 or fewer access lines in service in this state and for which certification in compliance with s. 196.50 (1) (b), Stats., is required.

SECTION 18. PSC 168.09 (4) is amended to read:

PSC 168.09 (4) ~~Pursuant to Under~~ s. PSC 168.12, alternative telecommunications utility resellers shall file with the commission responses to annual ~~reports for~~ questionnaires regarding Wisconsin operations.

SECTION 19. PSC 168.10 (1) (intro.) and (a) are renumbered PSC 168.10 and amended to read:

PSC 168.10 General notification requirement. An alternative telecommunications utility reseller certified under this chapter shall ~~do the following:~~ (a) within 20 days of the occurrence, notify the commission in writing of any change to information supplied in response to s. PSC 168.06 (2) (a), (b), (c) or (g).

SECTION 20. PSC 168.10 (1) (b) to (d), and (2) are repealed.

SECTION 21. PSC 168.11 is repealed.

SECTION 22. PSC 168.12 (1) (intro.) is amended to read:

PSC 168.12 (1) (intro.) Each reseller shall file with the commission by April 1 of each year responses to an annual report ~~providing commission questionnaire that provide~~ details concerning the following:

SECTION 23. PSC 168.12 (1) (f) is repealed.

SECTION 24. PSC 168.13 (1) (a) is amended to read:

PSC 168.13 (1) (a) Failure to file a substantially complete responses to the commission's annual report questionnaire required by s. PSC 168.12.

SECTION 25. Chapter PSC 169 is repealed.

SECTION 26. PSC 171.02 (5) is amended to read:

PSC 171.02 (5) “Telecommunications service” has the meaning prescribed given in s. 196.01 (9m), Stats., ~~and includes but is not limited to, point-to-point service for the transport of electronic signals.~~

SECTION 27. PSC 171.06 (1) is amended to read:

PSC 171.06 (1) All qualified cable television telecommunications service providers shall be subject to the following sections of ch. 196, Stats.: ss. 196.02, ~~196.08~~, ~~196.12~~, 196.025 (6), 196.203, 196.25, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, ~~and 196.66~~, 196.85, 196.858, and 196.859, Stats.

SECTION 28. PSC 171.06 (2) and (3) are repealed.

SECTION 29. PSC 171.07 (4) and (5) are repealed.

SECTION 30. PSC 171.08 is repealed.

SECTION 31. PSC 171.09 is repealed and recreated to read:

PSC 171.09 **New franchise areas.** A qualified cable television telecommunications service provider may offer telecommunications services in a franchise area other than the one specified in a qualified petition by notifying the commission in a transmittal updating the information supplied under s. PSC 171.03. The transmittal shall be filed no later than 20 days after the initial offering of the telecommunications services in the additional franchise area.

SECTION 32. PSC 171.10 (1) is amended to read:

PSC 171.10 (1) File with the commission responses to an annual report questionnaire providing details as to its identity, franchise service areas, and revenues and number of

customers.

SECTION 33. PSC 171.10 (3) is repealed.

SECTION 34. Chapter PSC 174 is repealed.

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

Wis. Admin. Code Chapters PSC 8, 100, 104, 102, 162 to 171, 174.

3. Subject

Repeal and amendment of PSC telecommunications rules to conform with 2011 Wis. Act 22, with miscellaneous updates and clarifications.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

None.

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

Clarifies law by removing regulations no longer needed due to statutory change.

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 rulemaking removes regulations no longer needed as a result of statutory change. Since these regulations will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one. Telecommunications providers, trade associations for wireline providers, wireless providers, and cable providers. Public interest group (CUB) also contacted.

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

Not Applicable.

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)

Expected reduction in costs as entities previously subject to rules can substantially simplify compliance with state telecommunications requirements. The issues raised by commenting parties were substantive rather than economic.

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

Expected reduction in costs as entities previously subject to rules can substantially simplify compliance with state telecommunications requirements.

14. Long Range Implications of Implementing the Rule

See No. 12 above. Also reduced regulation will lead to more entrants, more vigorous competition, and a greater variety of price and service options.

15. Compare With Approaches Being Used by Federal Government

There is no strict comparability with federal government regulations in this area because Communications Act of 1934, as amended by the Telecommunications Act of 1996, leaves retail telecommunications regulation to the states.

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

Not applicable as level of deregulation in WI matches or exceeds levels of adjacent states.

17. Contact Name

Sarah Klein

18. Contact Phone Number

(608) 266–3587

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)

Implements Act 22 by removing or amending rules rendered obsolete or inapplicable, and makes miscellaneous language updates. Since these rules will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

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

Not deemed necessary.

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:

Almost all substantive repeals and amendments are required by Act 22. However, in the process minor technical changes will be made to improve rule organization, clarify rule application, modernize rule language, and remove obsolete requirements. Since certain rules will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

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

As Act 22 already created the effect on small businesses, this proceeding simply advances the clarity of the rules remaining, simplifying management of compliance obligations that remain. This rulemaking removes regulations no longer needed as a result of statutory change. Since these regulations will no longer exist, any costs of complying with them will disappear. As a result, any economic impact will be a positive one.

5. Describe the Rule's Enforcement Provisions

Not applicable.

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

Yes No

Notice of Hearing

Safety and Professional Services

Professional Services, Chs. 1—299

EmR1302, CR 13–026

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in ss. 227.11 (2) (a); 440.03 (1); 440.08 (3) (b); 440.62 (5) (b)

2.; 440.64 (1) (b); 454.23 (6) (b); 454.25 (1) (a), (2) and (3); 454.26 (3) (b); and 454.265 (1), Wis. Stats., and interpreting ss. 440.03 (1), 440.08 (3) (b), 440.62 (5) (b) 2., 440.64 (1) (b), and 454.20 to 454.295., Wis. Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider emergency rules and an order for permanent rules to amend ss. SPS 60.01, 61.02 (1) (a), (2) (a), (3) (a) and (4) (a), 62.10 (title) and 62.10, 65.01, 65.02 (1), 65.07, and 65.12 (1) (h) and (i) 6., and to

create chapter SPS 205, relating to barbers and to barbering and cosmetology schools and instructors.

As provided in s.227.24 (4), Wis. Stats., this hearing will also be for emergency rules currently in effect that have identically amended these SPS sections and nearly identically created chapter SPS 205.

Hearing Information

Date: Tuesday, April 30, 2013
Time: 10:00 a.m.
Location: 1400 East Washington Ave.
 Room 121A
 Madison, Wisconsin

Appearances at the Hearing

The public hearing site is accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact sam.rockweiler@wisconsin.gov.

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Place where Comments Are to be Submitted and Deadline for Submission

Comments may be submitted to Sam Rockweiler, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, WI, 53708–0427; telephone (608) 266–0797 or at Contact Through Relay; e-mail sam.rockweiler@wi.gov. Comments must be received on or before April 30, 2013, to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed permanent rule and the corresponding emergency rules are available upon request to Sam Rockweiler, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708; by email at sam.rockweiler@wi.gov; or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Sections 440.03 (1), 440.08 (3) (b), 440.62 (5) (b) 2., 440.64 (1) (b), and 454.20 to 454.295.

Statutory authority

Sections 227.11 (2) (a), 440.03 (1), 440.08 (3) (b), 440.62 (5) (b) 2., 440.64 (1) (b), 454.23 (6) (b), 454.25 (1) (a), (2) and (3); 454.26 (3) (b), and 454.265 (1).

Explanation of agency authority

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that

is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Section 440.03 (1) of the Statutes authorizes the Department to promulgate rules defining uniform procedures for investigating complaints, commencing disciplinary proceedings, and conducting hearings. Section 440.08 (3) (b) authorizes the Department to promulgate rules requiring holders of licenses that have expired for five years or more to comply with requirements which are beyond the renewal requirements for within those five years. Section 440.62 (5) (b) 2. obligates the Department to establish the minimum curriculum for barbering schools and the minimum standards for instruction, materials, and equipment at barbering schools. Section 440.64 (1) (b) requires the Department to promulgate marketing, educational and fiscally-related rules for barbering schools.

Section 454.23 (6) (b) of the Statutes obligates the Department to establish, by rule, the limits of minimal barbering work, for inactive licensees. Section 454.25 (1) (a) authorizes the Department to promulgate rules for providing barbering services outside of a licensed barbering establishment. Sections 454.25 (2) and (3) allow the Department to establish, by rule, requirements for licensing barbering establishments; and require the Department to establish, by rule, minimum health and safety standards for such establishments, respectively. Section 454.26 (3) (b) obligates the Department to prescribe, by rule, the practical training and schooling that a barbering apprentice must receive. Section 454.265 (1) obligates the Department to promulgate rules establishing limited continuing-education requirements for licensed barbers.

Related statute or rule

Sections 454.01 to 454.16 of the Statutes address the practice and licensure of cosmetology, as overseen by the Cosmetology Examining Board. Chapters BC 1 to 11, as promulgated by the Board, interpret and implement those statutory provisions. Under those statutory provisions and the rules in chs. BC 1 to 11, licensed cosmetologists can perform barbering, in licensed cosmetology establishments.

Plain language analysis

These rules address the elements needed to implement the barbering components of 2011 Wisconsin Act 190. This Act primarily separated the previously combined barbering and cosmetology professions, through comprehensive changes to chapter 454 of the Statutes, and transferred the authority for regulation of the barbering profession from the Barbering and Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the education requirements for initial licensure of barbers, and the continuing-education (CE) requirements for renewal of barber licenses — and these rules are consistent with those changes. The rules also contain the changes that are needed in chapters SPS 60 to 65 for separating the curriculum requirements and licensure for schools of barbering, from the curriculum requirements and licensure for schools of cosmetology.

The rules also contain several new criteria that may be of interest to some stakeholders. These criteria include the following: (1) the barber-license syllabus is revised to require substantially fewer hours of instruction; (2) managers are allowed to delegate their supervision of an apprentice to a licensed barber who has at least 2,000 hours of licensed practice; (3) cosmetology apprentices are allowed to transfer

their apprenticeship hours to a barbering apprenticeship, on a one–to–one basis; (4) inactive licensees are prohibited from receiving compensation and from practicing in a licensed establishment; (5) licensed cosmetologists and cosmetology establishments are allowed, until March 31, 2015, to convert to a barbering license; (6) reinstatement of a license that is expired for 5 years or more is clarified as always including reexamination, but not including compliance with CE requirements; (7) an 8–year length of licensed practice allows a licensee to stop acquiring CE credits; (8) a CE test–out exam is allowed in lieu of obtaining CE credits; (8) a cosmetologist who has been licensed for less than 8 years and who elects at the time of renewal in 2013 to be issued a barber license is required to complete 4 CE hours for the 2015 renewal; (9) a cosmetologist who has been licensed for less than 8 years and who elects at the time of renewal in 2015 to be issued a barber license is required to complete 4 CE hours for the 2017 renewal; (10) licensees are no longer limited to obtaining a maximum of 3 credit hours for teaching CE, and the prohibition against full–time faculty claiming CE credits for teaching is deleted; (11) instruction in a CE program must include amplification, evaluation, examples, and explanation of the course subject matter to the licensee; and (12) a request for a hearing on a citation must include reasons why the assessment of a forfeiture should be reviewed.

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

The federal government does not regulate barbering professions in the states. However, it does have regulations applicable to apprenticeships in all trades and professions registered with the United States Department of Labor. Such regulations are generally administered under state laws governing apprenticeship programs in a particular state. In Wisconsin, the Department of Workforce Development is charged with that responsibility.

Comparison with rules in adjacent states

An Internet–based search found the following requirements for barbering in the four adjacent states:

a. The Michigan Board of Barber Examiners regulates and licenses barbers, barber students, barber colleges, barber instructors, student instructors, and barbershops. Licensure of barbers and barber instructors is based on examination. Licenses typically are renewed every 2 years, apparently without any CE credits. Barber services must be provided only in a licensed establishment. To become licensed, a barbershop must submit an application, a fee and a self–inspection report attesting to meeting sanitation and establishment standards prescribed in the corresponding rules. A barbershop must be completely partitioned from any dwelling and must not be occupied for lodging or residential purposes. If the ownership or location of a shop changes, a new application and inspection is required. The licenses of the barbershop and all barbers working in the barbershop must be displayed in a prominent place visible to the public at all times.

b. The Illinois Department of Financial and Professional Regulation licenses barbers, barber teachers and barber schools – and registers barbershops – in cooperation with the Barber, Cosmetology, Esthetics and Nail Technology Board.

Licensees are required to follow prescribed sanitation standards. Licensure of barbers and barber teachers is based on examination, and is subject to renewal every two years. Barber schools must comply with curriculum and recordkeeping requirements. No CE requirements were found.

c. The Iowa Department of Public Health, through its Board of Barbering, administers licensure of barbers, barber schools, barber instructors and barbershops – and inspects barbershops. Licensure of barbers is based on examination, and licensed cosmetologists are allowed to supervise licensed barbers. Barbers must complete 8 hours of CE credits every 2 years for license renewal, and on–line or independent study does not count toward those credits.

d. The Minnesota Board of Barber Examiners registers apprentices and barbers – and licenses instructors, barber schools and barbershops. Examinations are required for apprentices, barbers and instructors. Operation and sanitation standards are prescribed for barbershops, and shops are subject to inspection by the Board’s inspectors. Barbers and barber instructors and schools must renew their credentials.

Summary of factual data and analytical methodologies

The methodology for developing these rules consisted primarily of (1) reviewing 2011 Wisconsin Act 190, including the non–statutory provisions; (2) incorporating the elements from chapters BC 1 to 11 that previously pertained to barbering; (3) incorporating best practices that have evolved since chapters BC 1 to 11 were last updated; and (4) incorporating input from the Department’s barbering advisory committee. The members of that committee represent various aspects of the barbering industry.

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

The Department used its advisory committee as a primary source for determining the potential impacts of both the technical and administrative elements of these rules. A responsibility of committee members is to bring forth any concerns they may be aware of or have with the current requirements and with these rule changes, and any concerns for any potential economic impacts from the changes.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on small businesses, as defined in section 227.114 (1) of the Statutes.

The Department’s Regulatory Review Coordinator may be contacted by email at greg.gasper@wi.gov or by calling (608) 266–8608.

Agency Contact Person

Sam Rockweiler, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, WI, 53708–0427; telephone (608) 266–0797 or at Contact Through Relay; e–mail sam.rockweiler@wi.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

Chapters SPS 60/Authority, Scope, Purpose and Definitions; 61/Licensing of Schools and Specialty Schools; 62/Regulation of Schools and Specialty Schools; 65/Persons Providing Practical Instruction In Schools; and 205/Barbers.

3. Subject

Barbers, and Barbering and Cosmetology Schools and Instructors.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

None.

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The rule implements the barbering components of 2011 Wisconsin Act 190.

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

The Department used its advisory committee as the primary source for determining the potential impacts of both the technical and administrative elements of these rules. A responsibility of committee members is to bring forth any concerns they may be aware of or have with the current requirements and with these rule changes, and any concerns for any potential economic impacts from the changes. The Committee includes two barber members, one barber/cosmetology member, one barber/cosmetology instructor, one educator member, and one apprentice representative from the Department of Workforce Development.

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)

The Department estimates that these rules will have a slight fiscal impact. They will require staff time in the Division of Policy Development and Division of Management Services. The total one-time salary and fringe costs are estimated to be approximately \$5,071. There are no additional on-going salary and fringe costs estimated at this time. These rules are not expected to impose significant additional costs or other impacts on other entities because the primary effect of the rules is to no longer require barbering to comply with the more intensive requirements that are applied to cosmetology.

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

The rules essentially provide the framework for licensing barbers, barbering managers, and barbering establishments. No alternate framework would be available if the rules are not implemented.

14. Long Range Implications of Implementing the Rule

None known or anticipated.

15. Compare With Approaches Being Used by Federal Government

The federal government does not regulate barbering professions in the states.

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

See the detailed comparison in the rule analysis that precedes the rules.

17. Contact Name

Sam Rockweiler

18. Contact Phone Number

608-266-0797

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

Submittal of Proposed Rules to Legislature

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

Employee Trust Funds CR 13–004

On April 1, 2013, the Department of Employee Trust Funds submitted a rule–making order to the presiding officers of the Senate and Assembly for review by the Legislative Standing Committees. The proposed rule amends ss. ETF 10.01 (3i) and 10.65; and create s. ETF 10.65 (Note), and ss. ETF 10.86, 20.0251, and 20.1251 (Note), relating to clarifying how ETF complies with applicable provisions of the Internal Revenue Code.

This rule was approved by the Governor on March 25, 2013.

Safety and Professional Services — Hearing & Speech Examining Board CR 12–050

On March 27, 2013, the Wisconsin Hearing & Speech Examining Board submitted a rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed rule amends s. HAS 6.18 (1) (d) and creates s. HAS 6.175 (1m), relating to deceptive advertising relating to the definitions of patient and prescription legend animal drugs.

The Governor approved the rule under s. 227.185, Stats., on March 26, 2013.

Safety and Professional Services — Veterinary Examining Board CR 12–051

On March 27, 2013, the Wisconsin Veterinary Examining Board submitted a rule to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees

for review under sec. 227.19, Stats. The proposed order repeals s. VE 1.02 (8) and amends s. VE 1.02 (7), relating to the definitions of patient and prescription legend animal drugs.

The Governor approved the rule under s. 227.185, Stats., on March 26, 2013.

Safety and Professional Services — Veterinary Examining Board CR 12–052

On March 27, 2013, the Wisconsin Veterinary Examining Board submitted a rule to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under sec. 227.19, Stats. The proposed rule repeals ss. VE 7.06 (22) (c), (d), (e), and (Note), 9.05 (12) (c), (d), (e), and (Note), 10.02 (1) (a) 1. and 2., 10.02 (2) (a) 1. and 2., and 10.04, and amends ss. 7.06 (22) (intro.), 9.05 (12) (intro.), 10.02 (1) (a), and 10.02 (2) (a), relating to continuing education and training in the use of pesticides by veterinarians and certified veterinary technicians.

The Governor approved the rule under sec. 227.185, Stats on March 26, 2013.

Safety and Professional Services — Psychology Examining Board CR 12–055

On March 22, 2013, the Wisconsin Psychology Examining Board submitted a rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under sec. 227.19, Stats. The proposed rule repeals s. Psy 2.12 (2) and amends s. Psy 2.09 (4), relating to applicant appearances.

The Governor approved the rule under sec. 227.185, Stats on March 13, 2013.

Public Notices

Children and Families Division of Early Care and Education, Chs. 201—

Revision of Child Care Co–Payment Schedule for Licensed and Certified Care under s. DCF 201.08 (3) (a) 4., Wisconsin Administrative Code

Chapter DCF 201

Table DCF 201.08

Effective March 31, 2013

Section DCF 201.08 (1) provides that the Department of Children and Families shall set a schedule for parent copayment responsibility for all parents who receive child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1g), Stats. Copayment amounts will be based on family size, family gross income, and the number of children in a given family in child care. The copayment schedule is provided in Table DCF 201.08.

Section DCF 201.08 (3) provides that the department may adjust the amounts in the schedule to reflect a change in the federal poverty level. The department shall publish adjustments to the copayment schedule in the Wisconsin Administrative Register.

The department is adjusting the copayment schedule in Table DCF 201.08 for the 2013 federal poverty level effective March 31, 2013.

Child Care Co–Payment Schedule for Licensed and Certified Care

Use the family’s monthly income and family size to determine the FPL percentage. If the family’s income is between the two lines use the higher amount. Look to the right to find the co–payment by number of children in subsidized care.

	[-----Gross Monthly Family Income -----]										WEEKLY CO–PAY AMOUNT				
	FAMILY SIZE										CHILDREN IN SUBSIDIZED CARE:				
	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more	
70% FPL	\$905	\$1,139	\$1,374	\$1,608	\$1,843	\$2,077	\$2,312	\$2,546	\$2,781		6	10	16	21	27
75% FPL	\$969	\$1,221	\$1,472	\$1,723	\$1,974	\$2,226	\$2,477	\$2,728	\$2,979		6	13	19	25	31
80% FPL	\$1,034	\$1,302	\$1,570	\$1,838	\$2,106	\$2,374	\$2,642	\$2,910	\$3,178		9	15	21	28	34
85% FPL	\$1,099	\$1,383	\$1,668	\$1,953	\$2,238	\$2,522	\$2,807	\$3,092	\$3,377		13	19	25	31	40
90% FPL	\$1,163	\$1,465	\$1,766	\$2,068	\$2,369	\$2,671	\$2,972	\$3,274	\$3,575		15	24	31	39	46
95% FPL	\$1,228	\$1,546	\$1,864	\$2,183	\$2,501	\$2,819	\$3,137	\$3,456	\$3,774		19	28	37	46	53
100% FPL	\$1,293	\$1,628	\$1,963	\$2,298	\$2,633	\$2,968	\$3,303	\$3,638	\$3,973		21	31	40	51	59
105% FPL	\$1,357	\$1,709	\$2,061	\$2,412	\$2,764	\$3,116	\$3,468	\$3,819	\$4,171		25	34	45	53	63
110% FPL	\$1,422	\$1,790	\$2,159	\$2,527	\$2,896	\$3,264	\$3,633	\$4,001	\$4,370		28	38	46	57	66
115% FPL	\$1,486	\$1,872	\$2,257	\$2,642	\$3,027	\$3,413	\$3,798	\$4,183	\$4,568		31	40	51	60	69
120% FPL	\$1,551	\$1,953	\$2,355	\$2,757	\$3,159	\$3,561	\$3,963	\$4,365	\$4,767		34	45	53	62	73
125% FPL	\$1,616	\$2,034	\$2,453	\$2,872	\$3,291	\$3,709	\$4,128	\$4,547	\$4,966		38	48	57	67	78
130% FPL	\$1,680	\$2,116	\$2,551	\$2,987	\$3,422	\$3,858	\$4,293	\$4,729	\$5,164		40	52	63	74	85
135% FPL	\$1,745	\$2,197	\$2,649	\$3,102	\$3,554	\$4,006	\$4,458	\$4,911	\$5,363		44	56	68	81	93
140% FPL	\$1,810	\$2,279	\$2,748	\$3,217	\$3,686	\$4,155	\$4,624	\$5,093	\$5,562		46	59	73	85	99
145% FPL	\$1,874	\$2,360	\$2,846	\$3,331	\$3,817	\$4,303	\$4,789	\$5,274	\$5,760		50	62	74	88	101
150% FPL	\$1,939	\$2,441	\$2,944	\$3,446	\$3,949	\$4,451	\$4,954	\$5,456	\$5,959		53	65	79	91	105
155% FPL	\$2,003	\$2,523	\$3,042	\$3,561	\$4,080	\$4,600	\$5,119	\$5,638	\$6,157		56	68	81	94	107
160% FPL	\$2,068	\$2,604	\$3,140	\$3,676	\$4,212	\$4,748	\$5,284	\$5,820	\$6,356		59	73	85	98	111
165% FPL	\$2,133	\$2,685	\$3,238	\$3,791	\$4,344	\$4,896	\$5,449	\$6,002	\$6,555		60	74	87	100	113
170% FPL	\$2,197	\$2,767	\$3,336	\$3,906	\$4,475	\$5,045	\$5,614	\$6,184	\$6,753		62	79	91	105	117
175% FPL	\$2,262	\$2,848	\$3,434	\$4,021	\$4,607	\$5,193	\$5,779	\$6,366	\$6,952		64	80	94	108	119
180% FPL	\$2,327	\$2,930	\$3,533	\$4,136	\$4,739	\$5,342	\$5,945	\$6,548	\$7,151		66	83	98	111	122
185% FPL	\$2,391	\$3,011	\$3,631	\$4,250	\$4,870	\$5,490	\$6,110	\$6,729	\$7,349		68	86	101	113	126
<<<-----185% of the Federal Poverty Level----->>>															
190% FPL	\$2,456	\$3,092	\$3,729	\$4,365	\$5,002	\$5,638	\$6,275	\$6,911	\$7,548		69	87	104	116	128
195% FPL	\$2,520	\$3,174	\$3,827	\$4,480	\$5,133	\$5,787	\$6,440	\$7,093	\$7,746		72	90	107	119	133
200% FPL	\$2,585	\$3,255	\$3,925	\$4,595	\$5,265	\$5,935	\$6,605	\$7,275	\$7,945		74	92	110	122	135
<<<-----+200% of the Federal Poverty Level----->>>															

Co–payment types: REG is based on family size, FPL and number of children in care; this code is used for working parents, W–2, and FSET participants. KIN is \$0 and is used for families with court ordered kinship or guardianship care. NCK is based

on 70% FPL and is used for families that have no court order but are caring for a relative child. FOS is \$0 and is used for foster families. PSP is ½ of regular copayment and is used for Milwaukee Public Schools before and after school care when the authorization is for more than 20 hours per week. WWE is based on 70% FPL and is used for W–2 participants in their first month of unsubsidized employment. THS is based on 70% FPL and is used for teen parents that are attending high school. When any authorization is for less than 35 hours of care per week, the copayment is pro-rated based upon the hours of authorized care.

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