

Wisconsin Administrative Register

No. 693



Publication Date: September 30, 2013

Effective Date: October 1, 2013



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



WISCONSIN ADMINISTRATIVE REGISTER

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

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Administration

EmR1309 — The Department of Administration hereby adopts an order to create **Chapter Adm 93**, relating to the community development block grant program.

The statement of scope for this rule, SS 041–13, was approved by the Governor on April 15, 2013, and published in Register No. 688 on April 30, 2013, and approved by the Department of Administration Secretary, Mike Huebsch, effective May 13, 2013. This emergency rule was approved by the Governor on June 19, 2013.

Finding of Emergency

Each year the federal government makes funding available to the several states for economic and housing development through a program known as the Community Development Block Grant Program (CDBG). The CDBG is governed under 42 USC 5301 to 5319 and 24 CFR Part 570, and is administered by the US Department of Housing and Urban Development (HUD). Since the dissolution of the Wisconsin Department of Commerce, the Wisconsin Department of Administration (DOA) has received CDBG grants from HUD, and entered into agreements with the Wisconsin Economic Development Corporation (WEDC) for the

administration of those funds. Under this arrangement, state administrative code Chapter Commerce 108 was unneeded, as WEDC operated under substantially similar internal policies. Recently, DOA and WEDC have mutually determined that the expertise of DOA is better suited to administration of CDBG funds, while the expertise of WEDC is best suited to consultation with localities and businesses seeking to access CDBG funds. The parties intend to formalize the transfer of administrative responsibility of CDBG funds to DOA shortly. Consequently, it is imperative for the welfare of the State of Wisconsin that administrative code provisions concerning the CDBG program be made.

Filed with LRB: June 28, 2013

Publication Date: July 1, 2013

Effective Dates: July 1, 2013 through
November 27, 2013

Agriculture, Trade and Consumer Protection (3)

1. EmR1311 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (c)**, relating to the quarantine of Jefferson County for emerald ash borer.

This emergency rule was approved by the Governor on July 15, 2013.

The blanket statement of scope for this rule, SS 0088–12, 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 as required by s. 227.135 (2), Stats., on December 18, 2012.

Finding of Emergency

On June 25, 2013, the Wisconsin Department of Natural Resources positively identified Emerald Ash Borer (EAB) in Walworth County at the University of Wisconsin Whitewater Campus, about 750 meters from the Jefferson County line. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Jefferson County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: July 24, 2013

Publication Date: July 24, 2013

Effective Dates: July 24, 2013 through
December 20, 2013

2. EmR1312 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP**

21.17 (1) (b) and to create **section ATCP 21.17 (1) (d)**, relating to the quarantine of Sauk County for emerald ash borer.

The blanket statement of scope for this rule, SS 08–12, 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 (as required by s. 227.135 (2), Stats.) on December 18, 2012.

This emergency rule was approved by the Governor on August 1, 2013.

Finding of Emergency

On July 11, 2013, the United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Sauk County at Mirror Lake State Park. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Sauk County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: August 13, 2013
Publication Date: August 14, 2013
Effective Dates: August 14, 2013 through January 10, 2014

3. EmR1315 — The state of Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (e)**, relating to the quarantines of Dodge, Douglas, and Winnebago counties for emerald ash borer.

This emergency rule was approved by the Governor on August 29, 2013.

The blanket statement of scope for this rule, SS 0088–12, 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 & Consumer Protection (as required by s. 227.135 (2), Stats.) on December 18, 2012.

Finding of Emergency

The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Watertown, Dodge County on August 1, 2013; in Black Wolf township, Winnebago County on August 6, 2013; and subsequently in Superior, Douglas County on August 13, 2013. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Dodge, Douglas, and Winnebago counties but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Filed with LRB: September 11, 2013
Publication Date: September 11, 2013
Effective Dates: September 11, 2013 through February 7, 2014
Hearing Date: October 11, 2013 (See the Notice in this Register.)

Employment Relations Commission

EmR1310 — The Wisconsin Employment Relations Commission hereby creates **Chapters ERC 70, 71, and 80**, relating to annual certification elections.

This emergency rule was approved by the Governor July 3, 2013.

The statement of scope for this rule, SS 045–13, was approved by the Governor on April 19, 2013, published in Register 689, on May 14, 2013, and approved by the Wisconsin Employment Relations Commission on June 3, 2013.

Finding of Emergency

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules into effect so that the Wisconsin Employment Relations Commission can meet its obligation to conduct annual certification elections as required by ss. 111.70 (4) (d) 3. b. and 111.83 (3) (b), Stats.

Filed with LRB: July 15 2013
Publication Date: July 13, 2013
Effective Dates: July 13, 2013 through December 9, 2013

Insurance (2)

1. EmR1306 — The Commissioner of Insurance adopts an order to amend **sections Ins 17.01 (3) and 17.28 (3) (c)** and to repeal and recreate **section Ins 17.28 (6)**, Wis. Admin. Code, relating to Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013, and affecting small business.

This emergency rule was approved by the Governor on June 4, 2013.

The statement of scope for this rule, SS 042–13, was approved by the Governor on April 16, 2013, published in Register No. 688, on April 30, 2013, and approved by the Commissioner on May 10, 2013.

Finding of Emergency

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

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

meeting held on December 19, 2012, and the mediation panel fees were established by the Board of Governors at the meeting held on March 20, 2013.

Filed with LRB: June 10, 2013
Publication Date: June 12, 2013
Effective Dates: June 12, 2013 through November 8, 2013
Hearing Date: July 23, 2013

2. EmR1314 — The Commissioner of Insurance proposes an order to create **Chapter Ins 6 subch. II, subch. II (title), and sections Ins 6.91 to 6.98**, relating to navigators, nonnavigator assisters, and related entities and affecting small business.

The statement of scope for this rule SS 078–13, was approved by the Governor on July 1, 2013, published in Register No. 691, on July 15, 2013, and approved by the Commissioner on July 26, 2013. This emergency rule was approved by the Governor on August 30, 2013.

Finding of Emergency

In accordance with s. 623.98, Stats., the commissioner may promulgate rules under ss. 227.24 (1) (a) and (3), Stats., without providing evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare and without a finding of emergency. The commissioner intends to publish the proposed rule sufficiently in advance of October 1, 2013 to permit proper licensing, certification, and training of navigators and nonnavigator assisters and to permit proper registration of navigator and nonnavigator assister entities. The commissioner intends to promulgate permanent rules close in time to the emergency rules so not to create a gap in requirements.

Filed with LRB: September 5, 2013
Publication Date: September 10, 2013
Effective Dates: September 10, 2013 through February 6, 2014
Hearing Date: September 27, 2013

Natural Resources (4)

Fish, Game, etc., Chs. NR 1—

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

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

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

Finding of Emergency

A non–statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: August 15, 2012
Publication Date: August 18, 2012
Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

2. EmR1215 (DNR # WM–16–12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate **section NR 10.01 (3) (h) 1.**, relating to the coyote hunting season.

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

The statement of scope for this rule, SS 038–12, was approved by the Governor on May 29, 2012, published in Register No. 678, on June 14, 2012, and approved by the Natural Resources Board on June 27, 2012.

Finding of Emergency

A non–statutory provision, Section 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: September 14, 2012
Publication Date: October 1, 2012
Effective Dates: October 1, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

3. 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
Extension Through: October 22, 2013

4. EmR1313 (DNR # WMH-07-13(E)) — The Wisconsin Natural Resources Board proposes an order to repeal **section NR 10.06 (9) (b)**; to amend **section NR 10.01 (1) (v)**; to repeal and recreate **sections NR 10.01 (1) (b) to (u) and 10.12 (3) (c)**; and to create **section NR 10.12 (3) (e)**, relating to migratory bird hunting regulations.

This emergency rule was approved by the Governor on August 30, 2103.

The statement of scope for this rule, SS 018-13, was approved by the Governor on February 18, 2013, published in Register No. 687, on March 14, 2013, and approved by the Natural Resources Board on April 24, 2013.

Statutory Authority

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to migratory game bird hunting. Additional statutory authority is found in ss. 23.11, 29.192 and 29.041, Stats. The emergency rule making process is established in s. 227.24, Stats.

Filed with LRB: September 4, 2013
Publication Date: September 6, 2013
Effective Dates: September 6, 2013 through February 2, 2014

Safety and Professional Services (3)

Professional Services, Chs. SPS 1—299

1. EmR1302 — The Wisconsin Department of Safety and Professional Services hereby adopts an order to amend **sections SPS 60.01; SPS 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, and affecting small business.

This emergency rule was approved by the Governor on February 5, 2013.

The statement of scope for this rule, SS 063-12, was approved by the Governor on August 10, 2012, published in Register 680, on August 31, 2012, and approved by Secretary Dave Ross on October 15, 2012.

Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

On July 1, 2012, 2011 Wisconsin Act 190 transferred regulatory authority over barbers from the Barbering and Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the educational requirements for initial licensure of barbers, and

the continuing-education requirements for renewal of barber licenses. Due to the transfer of authority and the changes in education requirements, immediate rulemaking by the Department is needed to implement corresponding rule changes prior to April 1, 2013, which is the renewal date mandated by section 440.08 (2) (a) of the Statutes for all barbering licenses.

Filed with LRB: February 14, 2013
Publication Date: February 14, 2013
Effective Dates: February 14, 2013 through July 13, 2013
Hearing Date: April 30, 2013
Extension Through: November 9, 2013

2. EmR1307 — The Wisconsin Department of Safety and Professional Services adopts an order to repeal **section SPS 81.04 (1) (c) 3. and 4.**, and to amend **section SPS 81.04 (2)**, relating to reciprocity.

This emergency rule was approved by the Governor on May 20, 2013.

The statement of scope for this rule, SS 012-13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by the Department of Safety and Professional Services on February 28, 2013.

Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows:

Title XI of the Federal Financial Institutions Reform and Recovery Enforcement Act of 1989, as amended by the Dodd-Frank Act of 2010, dictates reciprocity requirements for real estate appraisers in each state. The federal body that oversees reciprocity requirements is the Appraisal Subcommittee (ASC). Currently, Wis. Admin. Code s. SPS 81.04 is not in compliance with the federal legislation. The Code must be brought into compliance by July 1, 2013. At that time, the ASC will conduct an audit to determine which states are in compliance. If Wisconsin is designated “out of compliance,” then federally regulated financial institutions may not engage a Wisconsin certified or licensed appraiser to perform an appraisal of property for a federally related transaction and other states will not be required to recognize Wisconsin credentialed appraisers seeking reciprocity. In order to implement the federally mandated reciprocity requirements before July 1, 2013, an emergency rule is needed.

Filed with LRB: June 12, 2013
Publication Date: June 18, 2013
Effective Dates: June 18, 2013 through November 14, 2013

3. EmR1308 — The Wisconsin Department of Safety and Professional Services adopts an order to create **section SPS 34.04 (2) (a) 4.**, relating to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators, and affecting small business.

This emergency rule was approved by the Governor on May 29, 2013.

The statement of scope for this rule, SS 080-12, was approved by the Governor on October 2, 2012, published in

Register No. 682 on October 31, 2012, and approved by the Department of Safety and Professional Services on December 4, 2012.

Finding of Emergency

The Department of Safety and Professional Services (DPS) finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows.

Under section SPS 34.02 (1), private security personnel, private detectives, and private investigators or special investigators, who are seeking a firearms permit from the Department must obtain a certificate of firearms proficiency. Section SPS 34.02 (2) mandates that the certification be received from a Department–approved firearms–proficiency certifier pursuant to section SPS 34.04.

Section SPS 34.04 currently accepts only those certifier applicants who have received training as a police or security firearms instructor and who have either (1) current approval as a firearms instructor by the Wisconsin Law Enforcement Standards Board (LESB); (2) current certification as a law enforcement firearms instructor by the National Rifle Association, Inc., (NRA) or; (3) approval on or after January 1, 1995, as a firearms instructor by the LESB or NRA and

have completed a refresher course presented by a regional training school approved by the LESB or the NRA.

Due to enactment of 2011 Wisconsin Act 35 (commonly referred to as the concealed carry law), which became effective on November 1, 2011, there is a greater need for additional entities who can provide training and approve applicants as firearms proficiency certifiers. Section 175.60 (4) of the Statutes currently allows technical colleges, colleges, and universities to provide this training for concealed–carry purposes. No such provision is made as it relates to private security personnel, private detectives, and private investigators or special investigators, for carrying a weapon openly. Moreover, the training needed for DPS firearms certifiers differs significantly from that needed and provided by the LESB curriculum and under 2011 Act 35. To that end, a new standard needs to be developed and implemented, separate and distinct from the LESB standards. Because the need to approve applicants for firearm proficiency certifiers is immediate and pressing, emergency rules are warranted.

Filed with LRB: June 13, 2013
Publication Date: June 13, 2013
Effective Dates: June 13, 2013 through November 9, 2013

Scope Statements

Public Instruction

SS 118–13

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

Rule No.

Revises Chapter PI 13.

Relating to

Limited English proficient pupils.

Rule Type

Permanent.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

1991 Wisconsin Act 269 required the State Superintendent to establish rules that provided criteria for school boards to use when determining whether: to not administer an examination to a limited English–speaking pupil; to permit the pupil to be examined in his or her native language; or to modify the format and administration of an examination for such pupils. Since then, there have been many changes to the underlying statute, s. 118.30 (2) (b) 2., Stats. The proposed rule change will align ch. PI 13 with s. 118.30 (2) (b) 2., Stats. Under s. 118.30 (2) (b) 2., Stats., the governing body of a private school participating in the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the Wisconsin Parental Choice Program, along with a school board or an operator of an independent charter school, may: determine to not administer an examination to a limited English–speaking pupil; permit the pupil to be examined in his or her native language; or modify the format and administration of an examination for such pupils. Chapter PI 13 was last modified on December 1, 2002. Chapter PI 13 will be updated to reflect the current statute.

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

This proposed rule change would modify ch. PI 13 to reflect current statutes and current agency practice.

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

118.30 Pupil assessment.

180.30 (2) (b) 2.

According to criteria established by the state superintendent by rule, the school board, operator of the charter school under s. 118.40 (2r), governing body of the

private school participating in the program under s. 118.60, or governing body of the private school participating in the program under s. 119.23 may determine not to administer an examination under this section to a limited–English speaking pupil, as defined under s. 115.955 (7), may permit the pupil to be examined in his or her native language, or may modify the format and administration of an examination for such pupils.

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

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

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

This rule change will affect school boards, operators of 118.40 (2r) charter schools, and the governing bodies of private schools participating in the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the Wisconsin Parental Choice Program.

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

N/A.

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

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

9. Agency Contact

Policy and Budget Team
Katie Schumacher
(608) 267–9127
katie.schumacher@dpi.wi.gov

Public Instruction

SS 119–13

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

Rule No.

Revises Chapter PI 34.

Relating to

Charter school teaching license.

Rule Type

Permanent.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

2013 Wisconsin Act 20 created s. 115.28 (7) (g), Stats., which requires the Department of Public Instruction (DPI) to grant a charter school teaching license to any person who has a bachelor's degree and demonstrates, based on criteria established by the DPI, that the person is proficient in the subject or subjects he or she intends to teach. Chapter PI 34 will be modified to include the criteria that a person must meet to demonstrate that the person is proficient in the subject or subjects he or she intends to teach.

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

This proposed rule change will include the proficiency criteria established by DPI that a person must meet in order to be granted a charter school teaching license. The Department is required to establish criteria by 2013 Wisconsin Act 20.

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

115.28 General duties. The state superintendent shall:
(7) LICENSING OF TEACHERS.

(a) License all teachers for the public schools of the state; make rules establishing standards of attainment and procedures for the examination and licensing of teachers within the limits prescribed in ss. 118.19 (2) and (3), 118.192, and 118.195; prescribe by rule standards, requirements, and procedures for the approval of teacher preparatory programs leading to licensure, including a requirement that, beginning on July 1, 2012, and annually thereafter, each teacher preparatory program located in this state shall submit to the department a list of individuals who have completed the program and who have been recommended by the program for licensure under this subsection, together with each individual's date of program completion, from each term or semester of the program's most recently completed academic year; file in the state superintendent's office all papers relating to state teachers' licenses; and register each such license.

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

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

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

This rule change could impact public schools, including charter schools and educator preparation programs.

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

N/A.

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

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

9. Agency Contact

Policy and Budget Team
Katie Schumacher
(608) 267-9127
katie.schumacher@dpi.wi.gov

Public Instruction

SS 120-13

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

Rule No.

Revises Chapter PI 34.

Relating to

Technical changes needed as a result of 2013-15 budget.

Rule Type

Permanent.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule change will make any necessary changes to ch. PI 34 as a result of the 2013-15 budget, 2013 Wisconsin Act 20. First, 2013 Wisconsin Act 2013 created s. 115.28 (7) (h), Stats., which provides that the Department of Public Instruction (DPI) must promulgate a rule requiring an applicant for a license to provide his or her home address. Second, 2013 Wisconsin Act 20 created s. 118.19 (16), Stats., which states that the DPI must ensure that teaching experience gained on an emergency permit issued by the DPI counts toward fulfillment of the teaching experience requirement for a license based on experience or for a license in a school administrator category. Third, 2013 Wisconsin Act 20 eliminated the requirement that any person that teaches an online class in a public school, including a charter school, must have completed at least 30 hours of professional development designed to prepare a teacher for online teaching. Chapter PI 34 will be modified to reflect these statutory changes as needed.

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

This proposed rule change is needed to align ch. PI 34 with the statutory changes in the 2013-15 budget.

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

115.28 General duties. The state superintendent shall:
(7) LICENSING OF TEACHERS.

(a) License all teachers for the public schools of the state; make rules establishing standards of attainment and procedures for the examination and licensing of teachers within the limits prescribed in ss. 118.19 (2) and (3), 118.192, and 118.195; prescribe by rule standards, requirements, and procedures for the approval of teacher preparatory programs leading to licensure, including a requirement that, beginning on July 1, 2012, and annually thereafter, each teacher preparatory program located in this state shall submit to the department a list of individuals who have completed the program and who have been recommended by the program for licensure under this subsection, together with each individual's date of program completion, from each term or semester of the program's most recently completed academic year; file in the state superintendent's office all papers relating to state teachers' licenses; and register each such license.

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

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

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

This rule change could impact public schools, including charter schools and educator preparation programs.

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

N/A.

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

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

9. Agency Contact

Policy and Budget Team
Katie Schumacher
(608) 267-9127
katie.schumacher@dpi.wi.gov

Public Instruction

SS 121-13

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

Rule No.

Revises Chapter PI 37.

Relating to

2013-15 budget changes to grants for master educators and nationally board certified educators.

Rule Type

Permanent.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule change will modify ch. PI 37 as a result of the 2013-15 budget, 2013 Wisconsin Act 20. 2013 Wisconsin Act 20 created s. 115.42 (1) (a) 5., Stats., which provides an additional requirement, that an applicant must have a rating of "effective" or "highly effective" in the applicable educator effectiveness system, in order to receive a grant for national teacher certification or master educator licensure. 2013 Wisconsin Act also created s. 115.42 (2) (d), Stats., which states that in any of the 9 years following receipt of a grant, if the grant recipient fails to maintain a rating of "effective" or "highly effective" in the applicable educator effectiveness system, as determined by the department, he or she is not eligible for a grant in that school year.

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

This proposed rule change is needed to align ch. PI 37 with the statutory changes in the 2013-15 budget.

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

115.42 Grants for national teacher certification or master educator licensure.

(4) The department shall promulgate rules to implement and administer this section, including rules relating to all of the following:

(a) The application process, including necessary documentation.

(b) The selection process for grant recipients.

(c) The number of times that a teacher may be exempt from continuing professional education requirements under sub. (3).

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

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

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

This rule change could impact public schools, including charter schools.

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

N/A.

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

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

9. Agency Contact

Policy and Budget Team
 Katie Schumacher
 (608) 267-9127
katie.schumacher@dpi.wi.gov

Revenue

SS 116-13

This scope statement was approved by the governor on August 21, 2013.

Rule No.

Amends section Tax 12.50 and repeals sections Tax 20.01 to 20.03.

Relating to

Property tax administration.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule will amend s. Tax 12.50 to reflect changes made to Wis. Stat. s. 70.111 (18) in 2013 Wisconsin Act 20.

The proposed rule will repeal ss. Tax 20.01 to 20.03 because 2013 Wisconsin Act 20 repealed the department's rule-making authority under Wis. Stat. s. 73.03 (66).

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

Changes to s. Tax 12.50 will reflect the legislature's policy decision to include biogas and synthetic gas energy systems under the renewable energy system property tax exemption.

The alternative is to leave the rule out of sync with the statute.

2013 Wisconsin Act 20 repealed the appropriation found in Wis. Stat. s. 20.835 (3) (qb) and the associated rule-making authority in Wis. Stat. s. 73.03 (66). The legislature has clearly identified a policy that the department should no longer appropriate lottery funds to the school levy tax credit. Repealing the rule associated with this legislative change is the only alternative, particularly in light of the legislature's repeal of the department's rule-making authority in Wis. Stat. s. 73.03 (66).

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

Section 227.11 (2) (a), Stats. reads:

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 . . .

Section 73.03 (1), Stats. reads:

[It shall be the duty of the department of revenue, and it shall have power and authority:] To have and exercise general supervision over the administration of the assessment and tax laws of the state, over

assessors, boards of review, supervisors of equalization, and assessors of incomes, and over the county boards in the performance of their duties in making the taxation district assessment, to the end that all assessments of property be made relatively just and equal at full value and that all assessments of income may be legally and accurately made in substantial compliance with law.

Section 70.111 (18), Stats., as amended by 2013 Wisconsin Act 20, reads:

ENERGY SYSTEMS. Biogas or synthetic gas energy systems, solar energy systems, and wind energy systems. In this subsection, "biogas or synthetic gas energy system" means equipment which directly converts biomass, as defined under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal Revenue Service, into biogas or synthetic gas, equipment which generates electricity, heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment which is used exclusively for the direct transfer or storage of biomass, biogas, or synthetic gas, and any structure used exclusively to shelter or operate such equipment, or the portion of any structure used in part to shelter or operate such equipment that is allocable to such use, if all such equipment, and any such structure, is located at the same site, and includes manure, substrate, and other feedstock collection and delivery systems, pumping and processing equipment, gasifiers and digester tanks, biogas and synthetic gas cleaning and compression equipment, fiber separation and drying equipment, and heat recovery equipment, but does not include equipment or components that are present as part of a conventional energy system. In this subsection, "synthetic gas" is a gas that qualifies as a renewable resource under s. 196.378 (1) (h) 1. h. In this subsection, "solar energy system" means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy, but does not include equipment or components that would be present as part of a conventional energy system or a system that operates without mechanical means. In this subsection, "wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy, but does not include equipment or components that would be present as part of a conventional energy system.

The department is clearly tasked with administering the tax laws of the state, including personal property tax exemptions in Wis. Stat. s. 70.111 (18). The department finds that chapter Tax 12.50 is necessary to effectuate the purpose of Wis. Stat. s. 70.111 (18).

Section 73.03 (66), Stats. read:

[It shall be the duty of the department of revenue, and it shall have power and authority:] To promulgate rules to ensure that the payments under s. 79.10 (4) made from the appropriation account under s. 20.835 (3) (qb) are used exclusively for school levy tax credits granted to state residents.

2013 Wisconsin Act 20 repealed s. 73.03 (66), Stats. Therefore, the department no longer has the statutory authority for ss. Tax 20.01 to 20.03.

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

The department estimates it will take approximately 50 hours to develop the rule.

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

Property owners, owners of biogas or synthetic gas energy systems.

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

Wis. Stat. s. 70.111 (18), as amended by 2013 Wisconsin Act 20, relies on the federal definition of biomass found in section 45K (c) (3) of the Internal Revenue Code, which reads:

The term “biomass” means any organic material other than—

- (A) oil and natural gas (or any product thereof), and
- (B) coal (including lignite) or any product thereof.

26 USC § 45K provides a federal income tax credit for producing fuel from a nonconventional source, including gas produced from biomass. Additionally, H.R. 860, Biogas Investment Tax Credit Act of 2013, was introduced by U.S. Rep. Kind this year. This bill would include biogas property for an energy credit towards federal taxes for any taxable year equal to ten percent of the amount of investment in each energy property placed in service during such taxable year.

Biogas and synthetic gas digesters are also regulated by federal air, solid waste, and water regulations, but these federal regulations have little impact on the department’s application of state tax laws.

There are no federal regulations addressing the school levy tax credit or the activities for which the credit is available.

8. 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 or no economic impact.

The rule will have no economic impact on small business.

9. Contact Person

Nate Ristow, (608) 266–6466 or Dale Kleven, (608) 266–8253.

Revenue

SS 117–13

This statement of scope was approved by the governor on August 21, 2013.

Rule No.

Amends sections Tax 61.02 (10) and 61.04 (1) (e) and creates section Tax 62.30.

Relating to

Lottery provisions.

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

N/A.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rule will amend ss. Tax 61.02 (10) and 61.04 (1) (e) to reflect changes made to Wis. Stat. s. 15.05 (3) (a) in 2013 Wisconsin Act 20.

The proposed rule will create s. Tax 62.30 to establish procedures under Wis. Stat. s. 565.30 (1) (d), as created by 2013 Wisconsin Act 20.

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

Currently, ss. Tax 61.02 (10) and 61.04 (1) (e) refer to the “Executive Assistant” of the Department of Revenue. These references were made obsolete by 2013 Wisconsin Act 20 and will be replaced with the appropriate title pursuant to Wis. Stat. s. 15.05 (3) (a), as recreated by 2013 Wisconsin Act 20. The proposed rule will simply reflect legislative policy decisions.

The alternative is to leave the rules with an outdated reference.

2013 Wisconsin Act 20 amended Wis. Stat. s. 565.30 (1), creating the option for a deceased prize winner’s estate to receive a lump sum payment of the prize winnings in lieu of continuing annuity payments. The statute directs the lottery administrator to establish procedures for persons to submit petitions to receive the lump sum payment. The proposed rule will create s. Tax 62.30 to establish clear procedures for estate representatives and beneficiaries seeking to convert lottery prize annuity payments to a lump sum. The proposed rule will not establish new policy, but merely facilitate the legislative policy decision to allow a prize winner’s estate the option of converting annuity payments to a lump sum payment.

The policy alternatives are to provide a detailed explanation of the petition procedure, to provide a simple directive to a form provided by the administrator, or not to promulgate a rule, which is an alternative that may not adhere to Wis. Stat. s. 227.10 (1).

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

Section 565.02 (4), Stats. reads:

The department may promulgate all of the following rules:

- (a) Implementing the provisions of this chapter.

Section 565.05 (1), Stats., as revised by 2013 Wisconsin Act 20, reads:

No employee in the lottery division of the department or the secretary, deputy secretary, or assistant deputy secretary of revenue may do any of the following:

- (a) Have a direct or indirect interest in, or be employed by, any vendor while serving as an employee in the lottery division of the department or as secretary, deputy secretary, or assistant deputy secretary of revenue or for 2 years following the person’s termination of service.
- (b) Have a direct or indirect interest in or be employed by a business which has entered into a retailer contract under s. 565.10.
- (d) Accept or agree to accept money or any other thing of value from any vendor, retailer or person who

has submitted a bid, proposal or application to be a vendor or retailer.

Section 15.05 (3) (a), Stats., as revised by 2013 Wisconsin Act 20, reads:

Each secretary may appoint an assistant deputy secretary to serve at his or her pleasure outside the classified service. The assistant deputy secretary shall perform duties as the secretary prescribes.

Tax 61.02 (10) and 61.04 (1) (e) implement the provisions of ch. 565, Stats. 2013 Wisconsin Act 20 changes to the titles in Wis. Stat. ss. 565.05 (1) and 15.05 (3) (a) need to be reflected in the department's rules.

Section 565.30 (1) (d), as created by 2013 Wisconsin Act 20, reads:

The administrator shall establish a procedure for submitting petitions under pars. (b) and (c).

Section 227.10 (1) reads:

Each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute.

The procedures to be established in s. Tax 62.30, pursuant to 565.30 (1) (d), Stats., will be generally applicable and are, therefore, properly promulgated as a rule under 227.10 (1), Stats. Additional statutory authority may be found in Wis. Stat. s. 565.02 (4), as the procedures will implement provisions of ch. 565, Stats.

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

The department estimates it will take approximately 50 hours to develop the rule.

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

Personal representatives and beneficiaries of prize winners' estates.

7. Summary and Preliminary Comparison of 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 federal statutes or regulations that address the activities regulated by these rules.

8. 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 or no economic impact.

The rule will have no economic impact on small business.

9. Contact Person

Nate Ristow, (608) 266-6466 or Dale Kleven, (608) 266-8253.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Public Service Commission CR 13-068

(PSC Docket # 1-AC-236)

Pursuant to s. 227.14 (4m), Stats., on September 16, 2013, the Public Service Commission of Wisconsin submitted a proposed rule to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

This rule is not subject to s. 227.135 (2), Stats., as affected by 2011 Wisconsin Act 21. The scope statement for this rule, published in Wisconsin Administrative Register No. 665 on June 1, 2011, was sent to the Legislative Reference Bureau prior to June 8, 2011.

Analysis

The proposed rule revises Chapter PSC 160, relating to

universal service support funding and programs.

This rulemaking is authorized under ss. 196.02 (1) and (3), 196.218 (5) (b) and (5m), and 227.11(2), Stats.

Agency Procedure for Promulgation

A public hearing will be held on Tuesday, October 22, 2013, at 10:00 a.m., at the Public Service Commission building at 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 Jeff Richter, USF Director, (608) 267-9624 or jeff.richter@wisconsin.gov.

Rule–Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection EmR1315

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

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

Hearing Information

Date: Friday, October 11, 2013
Time: 1:00 p.m.
Location: Department of Agriculture, Trade and Consumer Protection
Conference Room 266 (2nd Floor)
2811 Agriculture Drive
Madison, WI 53718

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by October 7, 2013, by writing to Barbara Stalker, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4660. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is accessible to disabled users.

Appearances at the Hearing, Copies of Proposed Rule, and Submittal of Written Comments

DATCP invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until Friday, October 18, 2013, for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below to christopher.deegan@wisconsin.gov or at <http://adminrules.wisconsin.gov>.

You may obtain a free copy of this emergency rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–4573 or emailing christopher.deegan@wisconsin.gov. Copies will also be available at the hearing. To view the emergency rule online, please go to: <http://adminrules.wisconsin.gov>

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

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

This emergency rule creates quarantines for Dodge, Douglas, and Winnebago counties for the emerald ash borer (“EAB”). Under this rule, the Department of Agriculture, Trade and Consumer Protection (“DATCP”) quarantines Dodge, Douglas, and Winnebago counties to mitigate the movement of emerald ash borer to other areas of Wisconsin and other states.

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

Statutes interpreted

Sections 93.07 (12) and 94.01, Stats.

Statutory authority

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

Explanation of statutory authority

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

Background

The United States Department of Agriculture – Animal and Plant Health Inspection Service (“APHIS”) positively identified EAB in Dodge County at Riverside Park in Watertown on August 1, 2013, and from an ash tree at a private residence in Black Wolf township in Winnebago County on August 6, 2013. On August 13, 2013, APHIS confirmed the presence of EAB in a street tree from the City of Superior in Douglas County. This emergency rule creates a DATCP quarantine for Dodge, Douglas, and Winnebago counties. A Federal quarantine will be enacted approximately six to eight weeks after a formal submission by the state plant regulatory official. EAB is carried and spread by untreated ash wood products. A six week delay until enactment of the federal quarantine leaves too much time for businesses or individuals to move potentially EAB infested material out of the county to areas of Wisconsin or other states that are not infested with EAB.

EAB is an injurious exotic pest that now endangers Wisconsin’s 750 million ash trees and ash resources. This insect has the potential to destroy entire stands of ash, and any

incursion of EAB can result in substantial losses both to forest ecosystems and to urban trees, as well as the state's vital tourism and timber industries. The emerald ash borer has killed over fifty million trees in the Midwest and has cost several hundred million dollars in losses to the woodlot, nursery, landscape industries and municipalities. APHIS predicts the national urban impact alone from this pest may exceed \$370 billion.

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

Emergency rule content

Under this emergency rule, movement of all hardwood (non-coniferous) firewood of any type, plus movement of any ash wood out of Dodge, Douglas, and Winnebago counties, is prohibited with certain exceptions. The emergency rule will do the following:

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

Summary of factual data and analytical methodologies

Data for this analysis was obtained from DATCP nursery license records, local business directories and field surveys of the wood products industry (e.g. timber, lumber, firewood) in the area. This analysis was based on the regulatory language of s. ATCP 21.17 and 7 CFR 301.53, on the observations of DATCP nursery inspectors, and on conversations with stakeholders in the nursery and other timber-related industries.

Analysis and supporting documents used to determine effect on small business

DATCP searched its nursery license database to obtain current records for licensed nursery growers operating in Dodge, Douglas, and Winnebago counties. Based on previous and ongoing work with Wisconsin's Gypsy Moth and firewood certification programs, DATCP staff also identified known saw mills, wood products companies and firewood industry concerns. Finally, online Yellow Pages business listings were also searched to find related tree nursery, timber, firewood and tree service companies.

Business Impact

This emergency rule may have an impact on persons or companies that deal in any hardwood firewood or ash materials in Dodge, Douglas, and Winnebago counties. The affected businesses are all small businesses. This emergency rule restricts the sale or distribution of ash trees, ash wood products, and any hardwood firewood from Dodge, Douglas, and Winnebago counties to locations outside of these counties or any contiguously quarantined counties, and to neighboring states.

The business impact of this emergency rule depends on the number of 1) nurseries that sell or distribute ash nursery stock outside these counties, 2) firewood producers/dealers that sell or distribute outside these counties, 3) sawmills that move untreated ash stock (green lumber) outside these counties, and 4) untreated wood waste (e.g. ash brush, chips, or mulch) that is moved outside these counties.

Dodge, Douglas and Winnebago counties have a total of 22 licensed nursery growers that could possibly be growing ash nursery stock. Those growers will not be able to move or sell ash nursery stock outside of the quarantine area, though discussions with the Wisconsin Nursery Association indicate that few, if any, nurseries continue to sell ash trees. There are also 31 known firewood producers or dealers in Dodge, Douglas, and Winnebago counties. Firewood dealers would need to be certified under s. ATCP 21.20 to sell or move firewood outside of the quarantine area. To obtain certification a firewood dealer pays a \$50 annual certification fee to DATCP and treats the firewood in a manner that ensures it is free of EAB. There are seven lumber mills in Dodge, Douglas, and Winnebago counties and an estimated 20 other tree service/wood processing facilities that may also deal with ash. To transport ash wood products outside of the quarantine area they will have to enter into a compliance agreement with DATCP or APHIS that authorizes movement of ash products outside of the quarantine only when there is assurance that the movement will not spread EAB to non-quarantined locations. Certification and compliance agreements will require some additional recordkeeping on the part of those businesses.

Environmental Impact

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

Federal and Surrounding State Programs

Federal programs

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

Surrounding state programs

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

DATCP Contact

Questions and comments (including hearing comments)

related to this rule may be directed to:

Brian Kuhn or Christopher Deegan
 Department of Agriculture, Trade and Consumer Protection
 P.O. Box 8911
 Madison, WI 53708-8911
 Telephone (608) 224-4590 or (608) 224-4573
 E-Mail: brian.kuhn@wisconsin.gov or christopher.deegan@wisconsin.gov

FISCAL ESTIMATE DOA-2048 (R 10/94) <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL		LRB or Bill No. / Adm. Rule No. Ch. ATCP 21 Amendment No. (If Applicable)
Subject: Emergency Rule for Quarantine of Dodge, Douglas and Winnebago counties for Emerald Ash Borer		
Fiscal Effect State: <input checked="" type="checkbox"/> No State Fiscal Effect Check below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input type="checkbox"/> Increase Costs – May be possible to absorb within agency’s budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local: <input checked="" type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		5. Types of Local Gov. Unit Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Counties <input type="checkbox"/> Cities <input type="checkbox"/> Other: <u>County Drainage Boards</u> <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Source Affected: <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations:

Assumptions Used in Arriving at Fiscal Estimate

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The proposed rule will do the following:

- Create quarantines for EAB for Dodge, Douglas and Winnebago counties that prohibit the movement of all hardwood species of firewood, nursery stock, green lumber, and other material living, dead, cut or fallen, including logs, stumps, roots, branches and composted and uncomposted chips of the genus *Fraxinus* (Ash wood), out of these counties or any contiguous EAB quarantined counties.
- Provide an exemption for items that have been inspected and certified by a pest control official and are accompanied by a written certificate issued by the pest control official.
- Provide an exemption for businesses that enter into a state or federal compliance agreement. The compliance agreement describes in detail what a company can and cannot do with regulated articles.

This rule will be administered by DATCP. DATCP will have additional workload related to enforcing the quarantine but it will be able to absorb the projected workload and costs within DATCP’s current budget and with current staff. The presence of EAB may produce additional workload for local governments in Dodge, Douglas and Winnebago counties, but the quarantine itself will not produce any local fiscal impact.

Long – Range Fiscal Implications

If multiple infestations are found in this state, DATCP may experience substantial costs and personnel demands for providing regulatory oversight and working with affected industries. Costs may vary, depending on the nature and scope of the infestations, and cannot be accurately predicted at this time.

Agency Prepared by (Name & Phone No.): DATCP / Christopher Deegan (608–224–4573)	Authorized Signature:	Date: August 19, 2013
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Notice of Hearing

Natural Resources

Fish, Game, etc., Chs. NR 1—

There is no clearinghouse or emergency rule number for this rule as neither the emergency rule nor the permanent rule have been filed.

(DNR # WM–11–13 and WM–24–13(E))

NOTICE IS HEREBY GIVEN that pursuant to sections 29.014, 29.041, and 227.11 (2) (a), Stats., interpreting

sections 29.014, 29.041, and 29.192, Stats., the Department of Natural Resources will hold public meetings on revisions to Chapters NR 1, 10, 13, and 45, Wis. Adm. Code, relating to deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee Report.

The hearings will be held October 22 through October 31 at each of the following locations at the following times:

October 22

Eagle River	Northland Pines HS Auditorium	1800 Pleasure Island Rd.	6 to 8 p.m.
Eau Claire	DNR Service Center Conf. Rm	1300 W. Clairemont Ave.	7 to 9 p.m.
Park Falls	Park Falls High School Auditorium	400 9th Street North	6 to 8 p.m.
Prairie du Chien	Prairie du Chien City Hall	214 East Blackhawk Ave.	7 to 9 p.m.
Richland Center	Richland County Courthouse Board Room	181 West Seminary St.	6 to 8 p.m.
Schofield	D.C. Everest Middle School Auditorium	9302 Schofield Ave.	7 to 9 p.m.
Superior	Superior Public Library	1530 Tower Ave.	6 to 8 p.m.

October 23

Black River Falls	BRF Middle School/Lunda Auditorium	1202 Pierce St.	7 to 9 p.m.
Burlington	Veterans Terrace — Stars and Stripes Room	589 Milwaukee Ave.	6 to 8 p.m.
Horicon	Horicon Marsh Education and Visitor Center	N7725 Hwy 28	6 to 8 p.m.
Plymouth	Plymouth High School	125 Highland Ave.	7 to 9 p.m.
Rhinelanders	James Williams Middle School, Auditorium	915 Acacia Lane	6 to 8 p.m.

October 24

Green Bay	NWTC Room SC 132	2740 W. Mason St.	7 to 9 p.m.
Wautoma	Wautoma High School Cafeteria	514 S. Cambridge St.	7 to 9 p.m.
Hayward	Hayward High School, Auditorium	10320 Greenwood Ln.	6 to 8 p.m.
Portage	Law Enforcement Center	711 East Cook St.	6 to 8 p.m.
La Crosse	DNR Service Center Room B-19	3550 Mormon Coulee Rd.	7 to 9 p.m.
Mauston	Mauston High School Auditorium	800 Grayside Ave.	7 to 9 p.m.

October 29

Ashland	Northern Great Lakes Visitor Center	29270 County Hwy G	6 to 8 p.m.
Baldwin	DNR Service Center, Conference Room	890 Spruce St.	7 to 9 p.m.
Clintonville	Clintonville High School	64 West Green Tree Rd.	7 to 9 p.m.
Fitchburg	DNR Service Center – Gathering Waters CR	3911 Fish Hatchery Rd.	6 to 8 p.m.
Florence	Natural Resources Center Conference Room	55631 Forestry Dr.	7 to 9 p.m.
Grantsburg	Crex Meadows Wildlife Education & Visitors Center	102 E. Crex Avenue	7 to 9 p.m.
Janesville	DNR Service Center — Janesville	2514 Morse St.	6 to 8 p.m.
Medford	Medford High School Red – White Theater	1015 W. Broadway Ave.	6 to 8 p.m.
Pewaukee	Wildwood Lodge — Hudson Bay Room	N14 W24121 Tower Place	6 to 8 p.m.

October 30

Antigo	Antigo High School Auditorium	1900 10th Ave.	7 to 9 p.m.
Barron	Barron Cnty Government Cntr, Room 110	355 East Monroe Ave.	7 to 9 p.m.
Crivitz	Crivitz High School	400 South Ave.	7 to 9 p.m.
Dodgeville	DNR Service Center	1500 N. Johns St.	6 to 8 p.m.
Fountain City	Cochrane/Fountain City HS Auditorium	S2770 STH 35	7 to 9 p.m.
Oshkosh	Webster Stanley Middle School	915 Hazel St.	7 to 9 p.m.

October 31

Ladysmith	Ladysmith High School Auditorium	1700 E. Edgewood Ave.	6 to 8 p.m.
Darlington	Darlington Elementary School Auditorium	11630 Center Hill Rd.	6 to 8 p.m.

Appearances at Hearing

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Rule and Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov> or by searching the keywords “administrative rules” on the department’s website. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to scott.loomans@wisconsin.gov. Comments may be submitted until October 31. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

Analysis Prepared by the Department of Natural Resources**Plain language analysis**

There has been dissatisfaction with various issues related to white-tailed deer management and hunting in Wisconsin. Gubernatorial candidate Scott Walker made a promise to appoint a “Deer Trustee” to review programs. In October of 2011 Dr. James C. Kroll, officially known as Wisconsin’s white-tailed deer trustee, entered into a contract with the State of Wisconsin to conduct an independent, objective and

scientifically-based review of Wisconsin’s deer management practices. The White-tailed Deer Trustee’s report was released to the public in July, 2012.

The objective of these proposed rules is to work with sportsmen and sportswomen and other stakeholders in order to implement ideas and solutions from the Deer Trustee’s report to forge a new age for deer management.

Sections 1 to 6 update Natural Resources Board policy so that the term “population objective” and “goal” are used consistently and for concise wording.

Section 7 creates introductory material that organizes the current ch. NR 10 as Subchapter 1 and prepares for the creation of another subchapter.

Sections 8, 28, and 29 establish that CWD management zones will be identified as CWD-affected areas and are based on counties and not the previous configuration of deer management units and portions of units. These sections also establish that the population density objective in CWD-affected areas or portions of counties in CWD-affected areas is to decrease the deer herd.

Section 9 creates a definition of “afield” for the purpose of establishing that a deer cannot be accompanied by someone other than the person who tagged it if the person who tagged the deer is not also present while afield, similar to current rules.

Section 10 updates cross references and makes a cross-reference to the law which establishes the archer license more general so that it will continue to be accurate if new statutes related to hunting with crossbows are enacted.

Sections 11 to 17 of this proposal establish the deer hunting season dates for gun, archery, muzzleloader, and deer hunting by youth hunters. The standard deer hunting season framework established in these sections is:

Bow & Arrow/Archery	Saturday nearest September 15 and continuing through the Sunday nearest January 6.
Youth	Two consecutive days beginning on the Saturday nearest October 8
October antlerless-only firearm (<i>occurs only in those units where CWD or other disease has been found, and only after promulgation of emergency rules pursuant to s. 29.016(2), Stats.</i>)	Four consecutive days beginning on a Thursday and ending on the Saturday nearest, but not later than October 15 th .
Traditional firearm deer season	Saturday before Thanksgiving Day Holiday and continuing for 9 days.
Muzzleloader only	Beginning on the day after the traditional November firearm deer season and continuing for 14 days.
Holiday firearm deer season (South of State HWY 64)	Beginning on December 24 and continuing through the Sunday nearest January 6.

Noteworthy changes to current rule are that there is no longer a 4-day December antlerless-only, any-firearm-type deer season. These 4 days are instead added to the muzzleloader only season, extending that season from 10 to 14 days. This section establishes that a season commonly referred to as the December holiday hunt, beginning on December 24 and continuing through the Sunday nearest

January 6, is an either sex season south of State Highway 64 rather than open only in the CWD management zone. For consistency with statewide firearm hunting regulations, these sections repeal the extended firearm deer season that had been established for Metropolitan deer hunting units. Metropolitan units would continue to have a longer archer season which continues through the end of January. This section eliminates

references to state park hunting seasons which are no longer needed because state statute has established that deer hunting is generally allowed in state parks. This section retains language which establishes the seasons for certain state parks when it is still needed because the existing seasons are different than the general statewide seasons. Finally, this section eliminates state park deer management unit designations and limited entry state park deer hunts.

These sections establish a bag limit of one buck during firearm deer seasons and one buck during bow & arrow seasons, plus additional antlerless deer where permits are available.

Finally, these sections make a number of remedial changes for consistency with state statute related to the elimination of earn-a-buck regulations for the first buck harvested.

Sections 18, 19, and 22 update cross references related to sharp-tailed grouse, fisher, and bear management zones or subzones so that the deer management unit map in effect in 2013 continues to be the one cross referenced.

Section 20 restores the protected status of white deer in a CWD management area.

Section 21 repeals a cross-reference related to blaze orange requirements during deer seasons in CWD zones which is not necessary because blaze orange requirements are already established in statute.

Section 23 revises population goals so that they will be expressed as management objectives to increase, maintain, or decrease the deer population density in a management unit. This section also establishes antlerless permits and their allowable uses and methods of distribution. This section establishes a \$12.00 fee for bonus permits which are issued for a CWD-affected area and a \$6.00 fee for bonus permits issued under the Deer Management Assistance Program. Finally, this section establishes that one bonus buck may be harvested in units with an objective to decrease the deer population instead of just in a CWD management zone. The harvest of two antlerless deer is required first and there is a limit of one bonus buck per year.

Section 24 modifies the tagging procedures so that a deer possessed in the field must be accompanied by the person who tagged it, even if the deer has already been registered. Deer which have been registered may be transported on roadways or possessed at home by someone other than the person who tagged it, consistent with current rules.

Section 25 establishes that a harvest registration number must be printed on the carcass tag to show proof that a deer has been registered with the department.

Section 26 modifies deer registration procedures to allow telephone or electronic recording of harvest. The ability to require in person registration in a CWD area is retained if the department determines that is necessary at times. Deer and bear harvest must be registered with the department by 5:00 p.m. of the day after the deer is taken into possession. Registration requirements will be the same statewide for both firearm and archer harvested deer.

Section 27 establishes deer management units, including metropolitan units. The note in this Section also maintains the deer management unit map that was in effect in 2013 because those boundaries continue to be used for other purposes such as the basis for the fisher management zone map. [For purposes of rules hearings in October 2013, the department will be evaluating a map based on the consolidation of

existing deer management units and an alternative proposal to use counties as deer management units]

Section 30 establishes the Deer Management Assistance Program to assist with specialized management of deer in localized areas and for specific purposes. This section establishes fees and other conditions for participation in the program.

Section 31 updates a cross-reference related to establishing the harvest quota for tribal members in the ceded territories.

Section 32 repeals the requirement to obtain a special permit before hunting deer in a state park in the CWD management zone.

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

These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies

Comparison with rules in adjacent states

All of Wisconsin's surrounding states use hunting seasons to provide hunting opportunities and to manage white-tailed deer herds. All of the surrounding states utilize a range of hunting seasons and allow the use of archery equipment, firearms and muzzleloading firearms at certain times. The seasons proposed in this rule order do not vary significantly from the hunting opportunities that are available in other states.

Illinois: The Illinois archery season runs from October 1, 2013 – January 19, 2014 except that it is closed during the firearm deer season in those portions of the state that hold a firearm deer season. Illinois has two periods for firearm deer hunting, a muzzleloader season, and special CWD and antlerless-only seasons. The first firearm season in 2013 is November 22 – 24 and the second season is December 5 to 8. The muzzleloader season is Dec. 13 – 15. The special CWD and antlerless-only seasons occur on December 26 – 29 and January 17 – 19, 2014. A youth firearm deer hunt is open on October 12 – 14. All firearm hunting permits are distributed first through a tiered drawing system where residents have a higher chance of being selected for a permit than non-residents, then through a random daily drawing, and finally they are offered over-the-counter on a first-come first-served basis until the unit's quota is reached. Hunters who are eligible to purchase a hunting permit receive an either-sex permit and one bonus antlerless-only permit. There is no limit on the number of resident archery licenses that will be issued, and each resident archery license includes an antlerless-only and an either sex permit. Non-resident archery licenses also include an either sex permit and an antlerless-only permit, but are allocated through a lottery system.

Iowa: In Iowa, there are two archery seasons, two muzzleloader season, and two shotgun seasons. There is also an antlerless-only season, a youth hunt for residents, and a holiday season for nonresidents. The archery season runs from October 1 – December 6 and December 23 – January 10, 2014. The muzzleloader seasons run from October 12 – 20 (residents only) and December 23 – January 10, 2014. The shotgun seasons run from December 7 – 11 and December 14 – 22. The antlerless-only season runs from January 11 – 19, 2014, the youth hunt runs from September 21– October 6, and

the holiday season runs from December 24 – January 2, 2014. When a hunter purchases an ‘Any Deer License’, they are entitled to harvesting either a buck or an antlerless deer statewide. Hunters also have the option to purchase an ‘Antlerless-only License’ which is valid for a specific zone in the state. The number of antlerless licenses available in any particular zone is determined by a quota system, and hunters are able to purchase these licenses on a first-come first-served basis until the quota is reached.

Michigan: Michigan has one firearm season, two archery seasons, and one muzzleloader season, as well as two antlerless-only seasons and a youth hunt. The firearm season runs November 15 – 30. The archery seasons runs October 1 – November 14 and December 1 – January 1, 2014. Michigan’s muzzleloader-only season is split into three zones with each zone’s season occurring in December and lasting for either 10 or 17 days. The antlerless-only seasons run from September 21–22 and December 23 – January 1, 2014 and the youth hunt occurs on Sept 21–22. Hunters interested in harvesting an antlerless deer must purchase an antlerless license that is valid within a specific DMU for use on either public land or private land. In some DMUs, these licenses may only be purchased over the counter, whereas in others there is an application process and drawing.

Minnesota: Minnesota has one archery season, one firearm season that is divided into four separate zones, and one muzzleloader season. There is also a special archery season on Camp Ripley (a military base) and a youth season. The archery season runs from September 14 – December 31. The firearm season runs November 9 – 17, November 9 – 24, or November 23 – December 1 depending on the zone. The muzzleloader season runs November 30 – December 15. The special archery hunt on Camp Ripley occurs on October 26 – 27 and November 2–3. The youth hunt runs from October 17 – 20. Antlerless permits are distributed through a license lottery in “lottery” areas of the state. In “Hunter Choice”, “Managed”, or “Intensive” areas licenses are either-sex. Bonus permits for antlerless deer are available over the counter for use in managed and intensive areas.

Summary of factual data and analytical methodologies

Implementation of the Deer Trustee’s report will result in establishing a number of new policies for deer management and hunting management compared to current rules. The primary policy alternatives evaluated in development of these rules are ones recommended in the report. Throughout this rulemaking process, the department and its partners did evaluate other policy alternatives as they were identified.

The full report is located on the Wisconsin Department of Administration’s website at: <http://www.doa.state.wi.us/section.asp?linkid=239&locid=0>

Revisions to Ch. NR 1 are minor and consist of an update to Natural Resources Board policy so that the term “population objective” and “goal” are used consistently throughout the board order and for concise wording. This rule order favors the term “objective” to describe the deer population level that management activities are designed to achieve. The terms “objective” and “goal” are very similar and “objective” is favored in this rulemaking because it was a recommendation of the trustee’s report.

Chapter NR 10 establishes most of the deer population management policy and practices and hunting regulations that are in place today. Currently, Ch. NR 10 establishes the Sex-Age-Kill model for estimating deer populations, deer

population goals, and deer management units. These rules repeal that specific population model from the chapter. However, these rules do not prohibit the department from continuing to analyze deer populations using the Sex-Age-Kill model or others as methods of developing population information. These rules will replace the current population goals by eliminating numeric goals and replacing them with a simplified statement of objectives to “increase, stabilize, or decrease the deer population.” These rules establish a set of metrics to monitor progress towards the objective. These rules significantly reduce the number of deer management units. These rules do not change the department’s current requirement to evaluate deer management unit boundaries and population goals or objectives on a recurring three year basis.

Under these rules, the department will be able to modify antlerless harvest quotas, and permit levels on an annual basis. These rules recommend that the department consult with groups or representatives for certain deer related interests in establishing quotas each year. Historical demand for antlerless permits has not been a factor that the department was required to consider in quota setting in the past but would be a mandatory consideration under these rules. Under this proposal, hunters in most of the state will continue to receive an antlerless deer tag with the purchase of a firearm or archery license. This tag will be comparable to the current “herd control unit” tag which is issued in units that are 20% or more over the established population goal. Under the proposal, these tags will be valid in any farmland unit. The department currently issues additional herd control tags for the cost of a \$2.00 issuance fee but those tags will be discontinued by this rule. Under this proposal, the standard fee of \$12.00, also the current fee for a bonus permit, will apply for all antlerless permits which are in addition to the one that was issued with hunting licenses. These rules also establish a \$12.00 fee for additional antlerless tags which allow harvest of deer in the CWD-affected area. Under statute, \$5.00 of the fee for these permits will be credited to an account for management and testing of chronic wasting disease. Finally, through the Deer Management Assistance Program, these rules allow establishing unique antlerless deer permits that are specific for use on properties enrolled in the Deer Management Assistance Program. A recommendation resulting from the public involvement process that preceded development of these rules was that the fee for bonus permits should be \$10.00. That is not proposed in these rules because the bonus permit fee is already established by statute and the department does not have rulemaking authority to change it. Other permits, the fee for which the department does have rulemaking authority, are generally also \$12.00 for consistency with bonus permits.

A variety of related hunting regulations changes are proposed in these rules. Many of them are simplifications to current rules. Changes include the names for permits and the allowable use of various deer permits. Deer carcass tags, tagging, and transportation requirements are modified where possible in order to simplify regulations or as opportunities will arise during development of new automated licensing systems. The current requirement to register deer is replaced in these rules with a more customer-friendly harvest reporting procedure using telephone or internet. Black bear are another species for which in-person registration of harvested animals is required. These rules will modify bear harvest recording requirements because deer and bear

registration occur at the same locations and through the same process under current rules. These rules will eliminate deadlines to register deer and bear that currently vary by season, harvest method, and location. Instead, a simple statewide requirement to register deer and bear harvest before midnight of the date of harvest is established. This allows fewer hours to register an animal than under current law but electronic registration will be significantly more convenient. Faster registration of deer will provide the department and others who are interested with very timely harvest information. The shorter deadline may also help with enforcing bag limit restrictions. The option to require in-person registration of deer carcasses is preserved in areas that are part of a CWD affected area or where necessary for deer population and herd health monitoring purposes. The department could take advantage of this authority in order to collect tissue specimens for sampling for a wide variety of diseases or biometrics associated with deer populations. Finally, in order to assure hunter accountability and compliance with group bagging restrictions, these rules establish that a deer carcass possessed in the field must be accompanied by the person who tagged it. For practical purposes, this requirement is the same as current rules because in-the-field registration of harvested deer was not possible previously. However, now that deer could be registered while in the field, rules will continue to require that the person who tagged the carcass accompany it during dragging or other field transport. Deer that have been registered could be transported by other people on public roads or possessed at home.

Season date modifications will have the impact of opening a number of refuges, which are established in Chs. NR 11 and 15, to additional deer hunting during the late firearm season that begins on December 24. These refuges are located primarily on department managed lands and most of them were established to provide undisturbed resting areas for migrating waterfowl. This deer hunt will occur very late in fall migration and will normally be after all waterfowl seasons are closed.

The department is recommending deer hunting season date modifications as a result of this rulemaking. While the report generally recommended that, "keeping seasons and bag limits consistent for longer periods of time would allow better assessment of management progress", it is challenging to discuss management system changes of this scale without considering season dates. These rules will maintain the current season for hunting deer by archery methods. This proposal maintains the traditional Wisconsin firearm deer season opener on the Saturday before Thanksgiving and 9 day structure. The current 10 day muzzleloader season is extended by four days under this proposal and this extended muzzleloader-only season will replace what had previously been a statewide four day any-firearm season for antlerless deer only. This proposal establishes an additional firearm deer hunting opportunity in the portion of the state South of HWY 64 beginning on December 24 and continuing to the Sunday nearest January 6. This holiday deer hunt occurs under current rules in the CWD management zone. It has been a low-pressure event but, for some, a greatly appreciated opportunity for additional deer hunting at a time when families are together and around which some new deer hunting traditions are developing. The late firearm season, or holiday hunt, is similar to seasons offered in other adjacent states and will occur during a time of the year when more residents are traditionally taking vacation or home for the

holidays as in the case of veterans. Finally, only in areas that are part of the CWD season under current rules, archery deer hunting has been allowed on the day before the traditional 9-day firearm season opens. Under this proposal, the archery deer season will be open statewide on the day before the traditional 9-day firearm season for consistency with the rest of the state.

Under current rule, numerous state parks are listed in the table that establishes deer seasons because the DNR was required to establish hunting seasons in state parks by administrative rule. Under 2011 ACT 168, hunting is allowed at state parks except where, or at times when, the Natural Resources Board has prohibited the activity in order to protect public safety or a unique plant or animal community. Because the old presumption that state parks are closed unless opened by rule has been replaced by a presumption that state parks are open unless board action has been taken to close them, most state park names have been removed from the table. Those parks will be open to deer hunting under normal statewide regulations at times when hunting has not been prohibited for safety related purposes. A number of parks, which had deer hunting seasons or regulations which are not the same as the ones that apply statewide are still found in the season table in order to preserve those unique seasons or regulations. All state park deer management unit number designations have been repealed and state parks are simply referred to by their name. Finally, current rules require that deer hunters in state parks in the CWD management zone obtain a free access permit to a park. The number of access permits is not restricted. This rule repeals that requirement because it is no longer needed considering that access to other parks will not be monitored to this extent.

The trustee's report generally recommends a more passive approach than current department policy to the management of Chronic Wasting Disease. This approach is reflected by the establishment of deer seasons in CWD affected areas that are the same as in other areas of the state. Management of CWD in the state's deer herd is still important under these rules. These rules retain the firearm deer season occurring over the Christmas holiday, the option to issue landowner permits for sampling or for additional harvest opportunities, and provide advice on when an October firearm season will be held if necessary in a CWD areas. While the promulgation of emergency rules is required under s. 29.016, Stats., before an October firearm season can be held, establishing by permanent rule when that season would occur is intended to simplify development of an emergency rule if that authority is utilized. These rules modify the current CWD zone management system by designating it as the CWD-affected area using county boundaries to describe the zone instead of the previous DMU configuration based on roads and natural features such as rivers. A process for efficiently adding new counties as CWD-affected areas when the disease is discovered in new areas is created. The department currently establishes numeric population goals for deer units that are in a CWD zone. Those goals are modified by these rules so that they are consistent with the objectives for other units to increase, maintain, or decrease the density of the deer herd.

This rulemaking establishes a Deer Management Assistance Program that will allow landowners and hunters to work together with the department to manage deer on a site-specific basis. The program will actively involve members of the public in the collection, analysis, and reporting of deer harvest information and improve

management of the deer herd at the local level. The rule establishes enrollment fees for participation in the program and statute has established that revenue will be credited back to implementation of the program. This proposal establishes a separate half-price fee of \$6.00 for antlerless deer hunting permits obtained through participation in the program. The lower fee is intended to be an incentive for participation. The program is a central recommendation of the report which recommended that the department establish: a) applicability to private and public lands, b) initial areas eligible to participate, c) administration of DMAP, d) funding, e) personnel and training, f) minimum property size to participate, g) fees, h) participation requirements, i) data collection requirements, j) registration of deer harvested on DMAP properties, k) data analysis and reporting, and l) assessment of DMAP effectiveness.

Chapter NR 13 is intended to regulate off-reservation treaty rights of treaty rights participants recognized by *Lac Courte Oreilles Band v. Voigt*, [700 F.2d 341](#) (7th Cir. 1983). Modifications to ch. NR 13 updates a cross reference with ch. NR 10. Other out-of-date cross-references exist in this chapter but are not revised here as that might be more appropriate as a stand-alone, more thorough review. The report did not recommend changes to this chapter of administrative code.

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

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. Additionally, no significant costs are associated with compliance to these rules.

Effects on Small Businesses

The department estimates that the economic impact of these rules will be none or minimal and, pursuant to 2011 Executive Order 50, will facilitate a 14 day period for comment on a draft economic impact analysis. The comment period will begin in September, 2013.

This proposal modifies rules that establish the department's habitat and deer harvest management strategies. Examples of the new management efforts include: increased emphasis of habitat management on private land through the Deer Management Assistance Program, eliminating the requirement to use a specific method of measuring and estimating deer populations even though that model may still be used and considered, and new ways to describe desired deer population levels. These rules will result in moderate revisions to regulations that apply to individual deer hunters. Examples of the types of changes proposed include adjustments to deer management unit boundaries, simplified harvest registration procedures, different deer hunting regulations on private versus public lands, and different uses and changes in the availability of antlerless deer harvest permits.

Deer population, harvest, and habitat management affect many entities in this state. A broad description of affected industries includes agriculture, forestry, tourism, and retail. Governments may be impacted by these rules because many do have programs to manage nuisance deer locally. Many non-profit groups are focused on natural resource conservation, wildlife resources, or deer in particular, and may be affected by these rules.

The department anticipates there may be none or a minimal effect on the financial health of industries, governments, and groups. The department anticipates there will be no economic effects of these regulations for individual hunters and landowners.

Affected entities are likely to base their evaluations of economic impact on their opinions of whether-or-not the rules will result in deer population increases, stabilization, or decreases. For instance, agriculture and forest-products interests may benefit from low deer populations and resulting low levels of crop and tree damage. The tourism and retail industries may benefit from high deer populations that result in greater enthusiasm and participation in deer hunting. This rule package will be designed to balance competing interests with a different approach than current rules.

It may be important to note that the department is statutorily prohibited from managing deer populations with regulations that require a hunter to first harvest an antlerless deer before harvesting a buck. The department also lacks rulemaking authority for certain deer hunting season frameworks. These changes to the department's regulatory authority result from recently enacted statutes and they will not be considered as part of an economic analysis prepared for these rules. While deer may have significant positive or negative impacts to different entities, removal of these harvest regulations likely moderates the economic impact of this rule package.

The department anticipates that there will be no or very few implementation and compliance costs for the affected entities. These rules will not establish reporting or compliance requirements or other regulations for small business. A possible outcome of these rules is the elimination of deer registration stations at local businesses throughout the state. The department has summarized the value of registration fees paid by the department to businesses, and related impacts of this voluntary program, in the economic impact analysis.

This is not a complete estimate of economic impacts but, rather, a summary which indicates that these rules could have none or minimal economic effects. The final economic analysis for these rules includes a description of the specific impacts of deer and deer hunting in this state based on surveys and research done by the department and other state and federal agencies. However, even though significant research exists, the impact of wild deer on the environment and to people under various conditions cannot be anticipated with exact precision. The final analysis includes significant narrative descriptions of anticipated economic impacts.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with rulemaking. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Agency Contact

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

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Ch. NR 1 Natural Resources Board Policies, NR 8 License and Permit Procedures, NR 10 Game and Hunting, NR 11 Closed Areas, NR 15 Game Refuges, NR 12 Wildlife Damage and Nuisance Control, NR 13 Chippewa Treaty Rights Participants, NR 19 Miscellaneous Fur, Fish, Game and Outdoor Recreation, and NR 45 Use of Department Properties.

3. Subject

Deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee's Report, Board Orders WM-11-13 and WM-24-13 (E).

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

There was dissatisfaction with various aspects of white-tailed deer management and hunting in Wisconsin following the 2009 season. Gubernatorial candidate Scott Walker made a promise to appoint a "Deer Trustee" to review programs. In October of 2011 Dr. James C. Kroll entered into a contract with the State of Wisconsin to conduct an independent, objective and scientifically-based review of Wisconsin's deer management practices. The White-tailed Deer Trustee's report was released to the public in July, 2012.

The objective of the process that resulted in these rules is to integrate the work of the Deer Trustees and the publicly driven action teams into the policies and procedures to enhance deer research, management and hunting in Wisconsin.

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.

Deer population, harvest, and habitat management affect many entities in this state. A broad description of affected industries includes agriculture, forestry, tourism, and retail. Governments may be impacted by these rules because many have programs to manage nuisance deer locally. Many non-profit groups are focused on natural resource conservation, wildlife resources, or deer in particular, and may be affected by these rules. During a comment period beginning in September, the department will contact representatives of all of these groups.

Affected entities are likely to base their evaluations of economic impact on their opinions of whether-or-not the rules will result in deer population increases, stabilization, or decreases. For instance, agriculture and forest-products interests may benefit from low deer populations and resulting low levels of crop and tree damage. The tourism and retail industries may benefit from high deer populations that result in greater enthusiasm and participation in deer hunting. This rule package is designed to balance competing interests with a different approach than current rules.

It is important to note that the department is statutorily prohibited from utilizing management tools or regulations that had previously been implemented at times when deer populations were 20% or more above established overwinter population goals and not likely to be reduced to goal under standard season frameworks and regulations. Notably, this includes regulations that require a hunter to first harvest an antlerless deer before harvesting a buck. The department also lacks rulemaking authority for certain deer hunting early season frameworks except when a finding of emergency is made under s. 227.24 Stats. These changes to the department's regulatory authority are a result of 2011 ACT 50 and they are not considered as part of an economic analysis prepared for these rules. While deer may have significant positive or negative impacts to different entities, removal of these harvest regulations likely changes the department's ability to manage deer populations in farmland regions. A result is that any economic impact of rule changes the department currently has statutory authority to establish is minimized in farmland regions.

Prior to drafting rule language the department anticipated, in its scope statements for permanent and emergency rules, that the proposal could have a moderate level of economic impact, as described in 2011 Executive Order 50. Upon completion of the public involvement and rule drafting process, the department has revised its estimate and anticipates that these rules will have none or a minimal economic impact locally or statewide.

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

During a comment period beginning in September the department will solicit comments from local governments using an email distribution list, posting on a website, and by contacting groups who represent associations of local governments.

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)

– Economic Impacts –

The department anticipates that there will be no implementation and compliance costs for the affected entities. These rules will not establish reporting or compliance requirements or other regulations for small business.

The state's economy as a whole will continue to benefit from the presence of a well managed deer herd. The management tools established in these rules will ensure that continued opportunities for good hunting and wildlife-based recreation are available well into the future. Like previous rules, a significant purpose for establishing deer population management objectives, managing antlerless deer harvest levels, and focus hunting activities through programs such as the Deer Management Assistance Program, landowner permits in CWD zones, and the Agricultural Damage Abatement and Assistance program is to maintain a deer herd that is in balance with the needs of industries such as agriculture, forestry, and others. In certain urban and agricultural regions the department estimates that deer herds are already increasing under current rules. While increasing deer herds may have negative impacts on industries such as agriculture, the impacts are currently occurring and are in part a result of a lack of hunting access in certain areas and less authority under statutes to implement certain harvest regulations. Increasing deer herds in certain areas following implementation of these rules should not be attributed to these rules.

CWD was first detected in Wisconsin on February 28, 2002. The department's goal has been to minimize the negative impact of CWD on deer and elk populations and the state's economy, hunters, landowners and others. The available evidence indicates that CWD has the potential for significant, negative impacts on the future of deer hunting and the related economic benefits of white-tailed deer in Wisconsin. The proposals contained in these rules are not likely to result in a reduction in the rate of infection in deer or geographic location of infected animals. However, the department continues to have the ability to implement strategies recommended in its CWD management plan which could result in reduced deer numbers in affected areas and could help control disease spread. Those include additional firearm hunting opportunities following the traditional 9-day firearm season, landowner permits allowing deer harvest by landowners and their agents following the end of regular seasons, and population objectives to decrease the density of the deer herd. Under the proposal, the department will continue to provide a free antlerless deer permit which can be used in a CWD-affected area. While additional harvest permits will need to be purchased for a fee, part of that fee is earmarked for CWD testing of hunter harvested deer. Continuing to provide low cost CWD testing for hunters may be an important feature to keep hunters interested in harvesting and utilizing their deer. With the implementation of 2011 ACT 51 some people would say that Wisconsin has taken a more passive approach to managing CWD – a recommendation of the Deer Trustee's Report – but that approach is not a result of these rules. Considering these factors, the department estimates that these rules are unlikely to have a significant impact on the management of CWD. These rules are also unlikely to have an economic impact that would result from CWD management efforts.

Conflict has occurred between farmers (traditional crop farmers, Christmas tree farmers, orchard growers, cranberry growers, and many other agriculturalists) who are trying to protect their crops and a public who wants abundant deer for viewing and hunting. With the population above state management objectives in certain areas under current rules, deer will likely continue to create agricultural problems. Deer damage complaints outnumber the other three program eligible species combined. Corn, soybeans, sweet corn and hay account for the majority of acreage damaged by deer. The creation of a Deer Management Assistance Program provides another opportunity for management of deer in specific areas which may assist in reducing agricultural damage. Overall, however, the department does not anticipate significant impacts to agriculture specifically from these rule proposals. Additional analysis of the Agricultural Damage and Nuisance Abatement program is found below under the section on fiscal impacts to the department.

White-tailed deer range throughout the state, adapting to every habitat type in Wisconsin. Their ability to live in close proximity to people has allowed deer to flourish in environments with significant human development, thus the agriculture damage they cause is no longer restricted to traditional rural areas. Additionally, damage is not restricted to agricultural products. Again, the department does not anticipate significant impacts from these proposals. Where hunting access is available in proximity to urban areas, the Deer Management Assistance Program may provide additional opportunities for hunters to act as deer managers.

Forest landowners may be economically impacted by white-tailed deer, depending upon their goals and objectives for the land. Economic impacts of deer on forest vegetation focus primarily on the foraging of plants, although antler rubbing on high value forest crops such as Christmas trees can have significant economic impacts as well. There is evidence found in research documenting site specific examples of deer impacts on forest vegetation. The effects of deer on desirable forest vegetation for a specific site can be detrimental and can create economic losses. However, a cumulative approach to assessing the impact of deer on forest landowners and desirable vegetation has not been done. Research to increase our understanding of forest habitat and white-tailed deer, in response to a recommendation of the Deer Trustee's report, is ongoing. The department's estimate that these rules will have none or a minimal effect on the forest products industry is based on estimates that these rules will not result in significant increases of deer population density. These rules maintain existing methods of controlling deer populations including a flexible system for the issuance of antlerless deer harvest permits and an Agricultural Damage Claims and Abatement Program for which certain forest products producers are eligible. Additionally, owners of industrial forest may benefit from the services that will be available through the Deer Management Assistance Program.

Vehicle deer collisions are a factor in determining how many deer the public will accept and are a cause of millions of dollars of property damage and personal injury in this state. The total number of deer salvaged after traffic accidents or removed from roadways by contractors was 26,114 in 2011. The actual number of collisions is estimated to be greater. Significant increases in deer numbers may be expected to result in higher numbers of vehicle deer collisions, particularly considering that traffic volume is not likely to decline. A goal of these rule proposals, however, is to continue managing deer herds to be in balance with ecological and social tolerances. The department's estimate that these rules will have none or a minimal effect on the economy as a result of vehicle deer collisions is based on estimates that these rules will not result in a significant increase in deer population density.

Deer impacts on the ecological composition and function of Wisconsin's ecosystems may be occurring and may have resulting impacts on tourism, gathering wild plants, species other than deer which have economic significance, and other effects. Land use by agriculture, development, silviculture, cessation of fire, and invasive species may be having more wide-sweeping impacts compared to deer.

An outcome of these rules would be the elimination of 626 deer registration stations, most at local businesses such as convenience and sporting goods stores throughout the state. These rules will relieve businesses of implementation costs they may have voluntarily incurred as registration stations. While these rules will not have any implementation or compliance costs for former registration stations, there may be an economic impact to the businesses whose customers may not come to stores to register deer and spend money on other transactions which are incidental to registering deer.

Department payments and distribution of materials to registration stations totalled approximately \$182,000 in 2012, a value of approximately \$290 on average to an individual registration station. Many stations employ extra help to register deer meaning that direct payments for services may cover costs to register deer but may not have a direct financial benefit. The value of incidental purchases made by deer hunters are likely the primary reason stations volunteer to register deer. Even without registration stations, the economic benefits of deer hunting for convenience stores and other businesses will continue to be significant. This can be seen by the heavy traffic at convenience stores as early as 4:30 a.m., before the season has opened, and the need some stores have to employ extra staff. A likely benefit to convenience stores in general is that spending activity may be distributed more equally between stores, as certain ones will not have the unique selling point of being a registration station. Department staff have heard both positive and negative comments from registration stations about an electronic registration system. At this time, we anticipate the impacts will be minimal under the criteria established in 2011 Executive Order 50.

– Fiscal Impacts on the Department –

Mandatory, in-person registration for deer began in Wisconsin in 1953. A subset of the 626 stations (~110) collect age- and sex-structure data from 20–30,000 deer annually during the traditional 9-day gun season. In-person registration provides accurate counts of annual harvest, recruitment, adult buck mortality rates and sex ratios, deer health assessments, buck antler characteristics, and allows for the collection of biological samples that are used to determine the age structure of the population and for CWD monitoring.

Eliminating or reducing in-person registration of deer will result in savings of approximately \$180,000 in supplies and services for maintaining registration stations each year for the department. The department's expenditure authority will not change, allowing a shift of financial resources and staff time to other purposes such as implementation of the Deer Trustee Report recommendation to establish a Deer Management Assistance Program. Based upon a budget analysis for FY13 (through 6/11/13) on all expenditures department wide for the activity codes WMAP (Registration of Deer, Bear, and Turkey) and WMUB (Deer Registration/CWD Sampling), in-person registration costs totalled \$674,042.30. Electronic registration costs may be half the amount of in-person during the initial year, and less than \$50,000 in future years. This total includes the following expenditures (estimates of potential savings do not include CWD zone expenditures because the department will continue to place an emphasis on contacting hunters and collecting samples in CWD areas):

- Permanent labor & fringe – (\$125,158)
- Permanent labor allocables – (\$21,353)
- LTE labor & fringe – (\$22,767)
- LTE labor allocables – (\$327)
- Total supplies & services – Mileage, Station Materials, Station Payments, Aging Materials, and stipends (\$182,056)
- CWD registration and sampling expense – (\$322,381)
- CWD permanent labor & fringe*
- CWD LTE labor & fringe*
- Total supplies & services* – CWD carcass tags, bonus buck tags, rent, mileage, electric bills, cell phone bills, CWD samples, and stipends

The department evaluated the following benefits and drawbacks to eliminating in person registration of deer. The benefit of increased convenience to deer hunters was seen as a significant improvement.

Pros:

- Significant reduction in staff time and costs
- Increase in customer convenience
- Immediate collection and tabulation of harvest data

Cons:

- Alternative methods (potentially less accurate) of collecting age data would have to be considered
 - CWD samples would become difficult to collect
 - Economic impact to registration stations (loss of revenue from payments and business)
 - The face-to-face interaction between DNR staff and hunters and the social aspect of hunting would be lost
 - Potential enforcement issues
 - Potential loss in public trust of population estimates
-

The department currently administers an Agricultural Damage and Nuisance Abatement program which reimburses participating farmers for damage caused by certain wildlife species, including deer. These rules do not impact the organization of the program or rules for participation. The program is currently funded in part from the sales of bonus antlerless deer permits. It is likely that bonus antlerless deer permit sales will increase under this proposal, resulting in an increase in available funding to reimburse farmers for damage and for the costs of abatement measures. Under the proposal, the department will charge a fee of \$12.00 for antlerless permits issued in a CWD management zone which are free under current rule. While \$5.00 of the cost of those permits is now statutorily earmarked for CWD management, the remaining \$7.00 is earmarked for the damage program. Another possible opportunity for increased funding exists in units which are designated herd control under current rules, antlerless deer permits are free except for a \$2.00 issuance fee. Under the proposal, one free antlerless deer permit for farmland units would still be included with the purchase of a deer hunting license, but additional permits would cost \$12.00 and the revenue is earmarked for the damage and abatement program. Charging a fee for additional antlerless permits may result in hunters obtaining fewer antlerless permits and harvesting fewer deer overall, potentially offsetting economic benefits to farmers of increased damage program funding. However, decreased antlerless harvest is not an assured outcome. Hunters may be more motivated to utilize permits they have spent money on versus free permits. When statutes were changed to allow the sales of additional turkey hunting permits for \$10.00 each to residents, versus issuing them for free, demand for extra turkey hunting permits remained very high. Under these proposed rules, the department anticipates continuing to generate enough revenue to reimburse farmers for the full amount of damage allowed under the program. The department anticipates that it will not need to prorate the amount paid for claims at current or a slightly increased level of agricultural damage claims.

In the past, changes in the issuance of hunting licenses and permits have resulted in fiscal impacts from the expenses of revising automated license system programming. However, the department's current contract already contains many options for the issuance of \$12.00 bonus permits and free permits with the issuance of archery and firearm deer licenses. Implementation of these rules will require name changes and updates to descriptions of the allowable use of tags, but may not require extensive or expensive programming to create new license types. Additionally, these rule revisions may occur concurrently with a new contract for administration of an automated licensing system and can be included in the initial construction of a new system without additional expense.

The fiscal impact to the department of these proposed rules is expected to be an effect that can be absorbed under the department's current budget. These rules will result in savings of staff time with reduced duties to set up registration stations, keep them supplied through the season, collect registration stubs, and enter data. These savings in staff time will be offset by new emphasis on consulting with owners of private and public land through the newly established Deer Management Assistance Program. The level of offset will be a result of the level of landowner and manager interest and will vary as the program becomes established and cannot be anticipated at this time. The department's Bureau of Law Enforcement has established a flexible system of conservation and environmental law enforcement and already places a significant emphasis on the most popular activities like deer hunting. Deer hunting and deer herd management has historically been a significant source of segregated funds for department management, licensing, and enforcement activities and will continue to be a significant expenditure under these proposed rules.

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

These proposed rules establish additional methods of managing deer harvest at the statewide and local level. Under s. 29.016 Stats., the department is prohibited from requiring hunters to harvest an antlerless deer before harvesting their first buck and the ability to establish firearm seasons early in the fall season is reduced. The department is proposing more consistent seasons frameworks in these rules that are more likely to be accepted by hunters but which will still result in increases in deer hunting opportunities and provide deer herd management opportunities.

Not implementing these rules will result in maintaining the current deer season frameworks. Maintaining the current deer season framework will not address dissatisfaction that some members of the public have expressed to the department, legislators, and governor. The establishment of a Deer Management Assistance Program is statutorily required.

14. Long Range Implications of Implementing the Rule

White-tailed deer will still be a prominent feature of Wisconsin's landscape whose presence generates economic activity from the related activities of hunters and other wildlife enthusiasts. Deer have historically impacted small and large businesses, and will continue to do so. However, the negative economic impacts of deer abundance on agriculture, forestry, and other industries is not expected to increase as a result of these rules.

15. Compare With Approaches Being Used by Federal Government

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations and the federal government is not involved in any large scale way with deer herd management in Wisconsin.

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

All of Wisconsin's surrounding states use hunting seasons to provide hunting opportunities and allow or encourage antlerless deer harvest and other strategies to manage white-tailed deer herds. All of the surrounding states utilize a range of hunting seasons and allow the use of archery equipment, firearms and muzzleloading firearms at certain times. The seasons proposed in this rule order do not vary in any significant way from the hunting opportunities that are available in other states.

Illinois

The Illinois archery season runs from October 1, 2013 – January 19, 2014 except that it is closed during the firearm deer season in those portions of the state that hold a firearm deer season. Illinois has two periods for firearm deer hunting, a muzzleloader season, and special CWD and antlerless-only seasons. The first firearm season in 2013 is November 22 – 24 and the second season is December 5 – 8. The muzzleloader season is Dec. 13 – 15. The special CWD and antlerless-only seasons occur on December 26 – 29 and January 17 – 19, 2014. A youth firearm deer hunt is open on October 12 – 14. All firearm hunting permits are distributed first through a tiered drawing system where residents have a higher chance of being selected for a permit than non-residents, then through a random daily drawing, and finally they are offered over-the-counter on a first-come first-served basis until the unit's quota is reached. Hunters who are eligible to purchase a hunting permit receive an either-sex permit and one bonus antlerless-only permit. There is no limit on the number of resident archery licenses that will be issued, and each resident archery license includes an antlerless-only and an either sex permit. Non-resident archery licenses also include an either sex permit and an antlerless-only permit, but are allocated through a lottery system.

Iowa

In Iowa, there are two archery seasons, two muzzleloader season, and two shotgun seasons. There is also an antlerless-only season, a youth hunt for residents, and a holiday season for non-residents. The archery season runs from October 1 – December 6 and December 23 – January 10, 2014. The muzzleloader seasons run from October 12 – 20 (residents only) and December 23 – January 10, 2014. The shotgun seasons run from December 7 – 11 and December 14 – 22. The antlerless-only season runs from January 11 – 19, 2014, the youth hunt runs from September 21 – October 6, and the holiday season runs from December 24 – January 2, 2014. When a hunter purchases an 'Any Deer License', they are entitled to harvesting either a buck or an antlerless deer statewide. Hunters also have the option to purchase an 'Antlerless-only License' which is valid for a specific zone in the state. The number of antlerless licenses available in any particular zone is determined by a quota system, and hunters are able to purchase these licenses on a first-come first-served basis until the quota is reached.

Michigan

Michigan has one firearm season, two archery seasons, and one muzzleloader season, as well as two antlerless-only seasons and a youth hunt. The firearm season runs November 15 – 30. The archery seasons run October 1 – November 14 and December 1 – January 1, 2014. Michigan's muzzleloader-only season is split into three zones with each zone's season occurring in December and lasting for either 10 or 17 days. The antlerless-only seasons run from September 21–22 and December 23 – January 1, 2014 and the youth hunt occurs on Sept 21–22. Hunters interested in harvesting an antlerless deer must purchase an antlerless license that is valid within a specific DMU for use on either public land or private land. In some DMUs, these licenses may only be purchased over the counter, whereas in other DMU's there is an application process and drawing.

Minnesota

Minnesota has one archery season, one firearm season that is divided into four separate zones, and one muzzleloader season. There is also a special archery season on Camp Ripley (a military base) and a youth season. The archery season runs from September 14 – December 31. The firearm season runs November 9 – 17, November 9 – 24, or November 23 – December 1 depending on the zone. The muzzleloader season runs November 30 – December 15. The special archery hunt on Camp Ripley occurs on October 26 – 27 and November 2–3. The youth hunt runs from October 17 – 20. Antlerless permits are distributed through a license lottery in "lottery" areas of the state. In "Hunter Choice", "Managed", or "Intensive" areas licenses are either-sex. Bonus permits for antlerless deer are available over the counter for use in managed and intensive areas.

17. Contact Name Scott Loomans	18. Contact Phone Number (608) 267-2452
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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)

Wisconsin's deer hunting opportunities are enthusiastically enjoyed by more than 600,000 participants each year, resulting in significant economic and fiscal benefits for small business. Additionally, high deer populations impact the agriculture, forestry, and other industries in ways that may not be positive. The department anticipates that this will continue to be true after implementation of these rules. The department will continue to manage the deer herd with a goal to obtain a balance between the positive and negative impacts of white-tailed deer. Some management strategies which may have been viewed as aggressive are no longer available to the department. New management strategies proposed in this rule will be viewed by some as a more cooperative effort to manage deer herds and may improve management success over current rules. Improved cooperation between hunters, landowners, other stakeholders, and the department will have a beneficial impact for everyone who is affected by white-tailed deer, although the specific economic impact cannot be measured. Over all, the department anticipates none or a minimal impact on small businesses.

A minimal impact to certain small businesses could be a loss of incidental sales at convenience stores or sporting good shops who currently volunteer to register deer for the department. A corresponding increase in sales for other area stores as that type of shopping effort is dispersed among stores that do not register deer, will negate any overall impact to small businesses.

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

Deer Population Goals and Harvest Management Environmental Assessment, 1995.

Information related to registration of deer at private businesses such as convenience and sporting goods stores is from an analysis of department's own budget information for FY 2013.

Wisconsin's Chronic Wasting Disease Management Plan: 2010 – 2025

The 2011 Wisconsin Deer Hunting Summary records that firearm deer hunter numbers exceeded 600,000 for the first time in 1977 and have remained above that number since then. This information provides a basis for the estimate that deer hunting and related economic and fiscal benefits for small business will continue to exist after implementation of these rules.

USDA-APHIS-Wildlife Services Wisconsin Wildlife Damage Abatement and Claims Program – 2012 Summary Report.

Project Summary – Evaluating the interdependency between white-tailed deer and northern hardwood habitat; increasing our understanding of forest management and white-tailed deer health.

Reported Vehicle Killed Deer Removed from Wisconsin Roadways – FY 2011

DNR Spring Turkey Harvest Report – 2011. This document contains information on sales of leftover turkey permits.

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:

These rules are applicable to individual deer hunters and impose no compliance or reporting requirements for small businesses.

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

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under 227.114(6) or 227.14(2g).

5. Describe the Rule's Enforcement Provisions

These rules do not establish any new enforcement provisions. The department has determined that existing enforcement efforts and penalties will continue to be effective at assuring a level of compliance with hunting regulations which results in a fair distribution of resources among hunters and other deer enthusiasts, safe hunting seasons, and effective deer herd management.

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

Yes No

Notice of Hearing

Public Service Commission

CR 13-068

(PSC Docket # 1-AC-236)

The Public Service Commission of Wisconsin proposes an order to repeal sections PSC 160.02 (4g) and (4m), 160.031, 160.035, 160.04 (5), 160.05 (1) (h) to (j) and (L), 160.05 (1) (o) and (r) and (4), 160.062 (1), (2), (5) and (6), 160.071 (1) (d), (2) and (3), 160.073, 160.09 (3) (intro.), (a) and (b) and (8), 160.091, 160.092 (4), 160.10, 160.11, 160.14, 160.15, and 161.05 (4); to renumber sections PSC 160.02 (1g), (1m), (3), (5) and (9) to (12), 160.05 (1) (s), 160.071 (1) (b) 2., 3., 4. to 6. and (c), and 160.115 (6) (c); to renumber and amend sections PSC 160.01 (5), 160.02 (2), (6) to (8), (12) and (13), 160.03 (1), 160.04 (1), 160.06 (1) (intro.), (a) to (c), (4) (a) and (5), 160.062 (3), 160.07 (title), (1) and (2), 160.071 (1) (title), (a), (b) 1., 4. to 6., (c), (e) to (n), (6) (a) and (b), 160.09 (1) and (3) (c), Figure 160.09 (3) (c), 160.092 (1), 160.125 (2) (c) 1., and 160.18 (9) (b); to amend 160.01 (1), (2) (b) and (4), 160.04 (2) to (4), 160.05 (intro.), (1) (a), (c), (d), (n), (p), (2) and (3), 160.06 (2) and (3), 160.062 (4) and (7), 160.063 (1) to (4), 160.071 (title), (4) and (5), 160.08, 160.09 (2), (3) (a) and (b), (4) (intro.), (b) to (g), (5) to (7) and (9), 160.092 (2) and (3), 160.115 (1) (a), (b) 1. and 2., (2) (intro.), (b), (c), (3), (4) (a), (5) (intro.), (b), (c) and (g), (6) (a) (intro.), 4., (b) and (6), 160.125 (1) (title), (a), (b), (e), (2) (a) and (b), (c) 1. to 3., 5. and (d) to (f), 160.16 (1) and (2), 160.17 (1) (c), (2) and (4), 160.18 (4), (6), (9) (a) and (b) 2. and 3., 160.181, 160.19 (1), (2) and (4) (b), and 171.06 (1); to repeal and recreate sections PSC 160.03 (2), 160.04 (title), 160.061, 160.13, and 160.18 (10); and to create ss. PSC 160.01 (5) (a) to (c), 160.02 (2) to (6), (9), (11) to (16), (18), (22), (25), (26), (28), and (31), 160.03 (1), 160.04 (1) (a) 1. to 5. and (b), 160.05 (1) (s) and (6) to (9), 160.06 (1) (b), (c), (4) (a) and (5), 160.062 (1) to (2r), (3) (title) and (b), (4m), (5), (6), (7) (title) and (8), 160.063 (3m), 160.071 (1m), 2. and 3., (6m) (b) and (c) and (7), 160.09 (1), (1r), (2) (c), and (3) (a) and (b), 160.092 (1) (b) and (c), 160.115 (6) (c) and 160.125 (2) (c) 1., regarding the provisions and administration of the universal service fund.

Pursuant to s. 227.16 (2) (b), Stats., DATCP will hold a public hearing at the time and place shown below:

Hearing Information

Date: Tuesday, October 22, 2013
Time: 10:00 a.m.
Location: Amnicon Falls Hearing Room — 1st Floor
 Public Service Commission
 610 North Whitney Way
 Madison, Wisconsin

This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

Appearances at the Hearings

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 get this document in a different format, should contact Jeff Richter, USF Director, at (608) 267-9624 or jeff.richter@wisconsin.gov as soon as possible.

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 **Tuesday, November 19, 2013, at noon**. All written comments must include a reference on the filing to docket 1-AC-236. File by one mode only.

Industry:

File comments using the Electronic Regulatory Filing system. This may be accessed from the commission's web site (psc.wi.gov).

Members of the Public:

Please submit your comments in 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-236.
- **Mail Comment.** All comments submitted by U.S. mail must include the phrase "Docket 1-AC-236 Comments" in the heading, and shall be addressed to:
 Sandra J. Paske, Secretary to the Commission
 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 web site. 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 authorized under ss. 196.02 (1) and (3), 196.218 (5) (b) and (5m), and 227.11(2), Stats.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the commission specific authority to promulgate rules. Sections 196.218 (5) (b) and (5m) authorize the commission's creation and revision of these specific rules.

Statute interpreted

This rule interprets s. 196.218, Stats.

Related statutes or rules

None.

Brief summary of rule

The objective of this rulemaking is to revise the existing ch. PSC 160, Universal Service Support Funding and Programs. These rules were originally created in 1996, and then revised in 2000. Minor changes are also made to chs. PSC 161 and 171. In the proposed rule, the commission revises existing Universal Service programs that provide access to telecommunications service to all Wisconsin customers regardless of geographic location, income or disability. In this same chapter are revisions to the mechanism for funding those programs and for administering the Universal Service Fund (USF).

Any changes made as a result of this rulemaking are intended to continue and enhance support for these general purposes stated in the statutes.

A prior USF rulemaking was withdrawn by act of law on December 31, 2010. That draft of the rules included several issues that were contentious, and time for promulgation ran out. This rulemaking is primarily intended to promulgate those portions of the previously proposed rule that are less contentious, such as program-specific updates. While these proposed rules were being drafted, changes occurred on both the state and federal levels that required additional revisions to these rules. For example, 2011 Wisconsin Act 22 changed the statutory definition of "essential telecommunications services." Additionally, the federal Lifeline and Link-up programs were changed dramatically. As a result, these proposed rules were also crafted to make changes necessitated by state and federal law changes.

PSC 160.02 (2), (3) and (4)

These are definitions of call blocking, call control and call limitation. The changes provide consistency with applicable federal language and usage.

PSC 160.02 (9), (12), (14) and (22)

The commission now recognizes three different types of eligible telecommunications carrier (ETC). A definition of each type has been added.

PSC 160.03

This section on essential telecommunications services has been extensively rewritten to reflect changes made by 2011 Wisconsin Act 22. The prior requirements for and definition of essential services have been replaced with those that federal law had in place as of January 2010, as required by 2011 Wisconsin Act 22.

PSC 160.031

Pursuant to 2011 Wisconsin Act 22, references to data transmission have been deleted.

PSC 160.035

Pursuant to 2011 Wisconsin Act 22, references to advanced service capability have been deleted.

PSC 160.04

The section on call limitation (formerly toll blocking) has been rewritten to bring it more into line with current federal rules and definitions.

PSC 160.05

This section lists programs that can be funded through the Universal Service Fund (USF). The programs themselves are described elsewhere in the rules. Likewise, a description and explanation of changes appear in the program-specific parts of this analysis.

PSC 160.06

This section addresses eligibility requirements for low-income USF programs. Language is added throughout s. PSC 160.06 to address the different types of Eligible Telecommunications Carriers (ETCs) now recognized by the commission. Subsection (1) requires all subject providers to use the state verification databases, as required under federal rules. Subsection (1) (c) addresses situations in which the state databases cannot be used for verification. Subsection PSC 160.06 (2) requires providers to re-verify the eligibility of all lifeline recipients annually. This requirement has existed in state rules for years and has now been adopted by the Federal Communications Commission (FCC) as well.

PSC 160.061

The FCC has eliminated the federal link-up program (that waives certain service connection charges for low-income customers) for all but tribal lands. This rule change eliminates the existing statewide link-up program. More limited programs targeted at specific customer groups, including those on tribal lands, who show a clear need for support may be authorized under s. PSC 160.125

PSC 160.062 (1)

Customers are eligible for only one lifeline credit at a time under federal law. The commission and FCC have both needed to take action to prevent lifeline fraud in this area. The draft rule specifically states that a customer may not request more than one lifeline credit, and requires the providers to take steps to prevent customers from receiving multiple lifeline credits.

PSC 160.062 (1r)

ETCs apply the lifeline adjustment to an eligible customer's bill, regardless of whether that customer is purchasing service on a standalone basis or as part of a bundle. The adjustment is made to whatever service or bundle the customer purchases.

PSC 160.062 (2), (2g) and (2r)

The lifeline base rate is defined as the rate for essential services, when offered on a standalone basis, or a fixed \$25, when essential service is only offered as part of a service bundle. The lifeline discount is tied to these rates, and is either \$10 or an amount necessary to reduce the lifeline base rate to \$15 (subject to a maximum contribution from the state of \$9.25). Another provision allows for automatic adjustment of lifeline benefits, provided they do not put the state universal service fund at risk. Where federal changes could require additional state payments, the commission would have to

consider the impact of those changes before authorizing the resultant state USF expenditures. The draft rules also include a section addressing prepaid wireless service, which offers free minutes of use in lieu of a discount to monthly rates, since prepaid service has no monthly rates. Subsection (2r) contains language for lifeline on tribal lands to keep that portion consistent with the federal program.

PSC 160.062 (4m)

This lifeline provision clarifies the process for a provider to follow if it determines that an existing customer is no longer eligible for lifeline discounts.

PSC 160.062 (5m)

This section requires providers to file requests for compensation for lifeline credits in a timely manner. The provision strikes a balance: allowing providers sufficient time to file requests for compensation while not requiring the USF to budget for potential reimbursement claims filed years after occurrence.

PSC 160.063

The changes to this section clarify application procedures and provide flexibility for low-income outreach programs.

PSC 160.07

The provisions on special needs certification are moved into s. PSC 160.071.

PSC 160.071

This section addresses service and equipment for individuals with special needs and includes the Telecommunications Equipment Purchase Program (TEPP). Changes in the amount of reimbursement reflect changes to the costs and technologies used to provide the equipment necessary to allow customers with disabilities to use telecommunications services. Subsection (1m) (c) clarifies coverage of TEPP co-payments for low-income customers. Subsection (1m) (j) allows the commission to suspend vendors for cause and stops payments to suspended vendors. Subsection (1m) (L) 2. allows the program to cover the cost of computing equipment, if that is both required and the most cost-effective means of providing the assistance necessary for the customer to utilize telecommunications services. Sections (4), (5) and (6) continue to require providers to waive fees for operator service, directory assistance and custom calling services, when required by an individual with special needs. Providers may receive payment for such waivers. The section which provided for discounted long distance service is obsolete and has been removed. The draft also creates a filing deadline in sub. (7) to prevent providers from claiming reimbursement years after the fact.

PSC 160.073

The commission has ceased funding this public interest payphone program, so the language is being removed.

PSC 160.09

This section addresses high rate assistance credits, a program that reduces what customers are charged for essential services, when those charges exceed a threshold tied to median household income. The majority of the changes to this section clarify the sources of data used to calculate the credits, the various changes to what is considered part of essential service, and program procedures. Subsection 160.09 (1r) states when providers must recalculate those credits, and allows providers to avoid the expenses involved in such changes when those changes would be insignificant. The changes also set forth the procedure for providers to show

what portion of a bundled rate covers essential service. The draft also creates a filing deadline in sub. (5) to prevent providers from claiming reimbursement years after the fact.

PSC 160.091

This section on qualifications for high rate assistance credits is eliminated and those requirements have been incorporated into ss. PSC 160.09 and PSC 160.13.

PSC 160.092

This section allows the commission to create alternative universal service protection plans on an experimental, temporary basis. The changes clarify the procedure to create such plans and specify what such plans could address. Subsection (4) is eliminated, as the program to which it refers is also being eliminated.

PSC 160.10

Rate Shock Mitigation applied only in cases where commission-ordered retail rate increases would negatively impact customers. Since the commission no longer has authority to order rate changes, the rate shock mitigation program is being eliminated.

PSC 160.11

The TEACH Program made this program for institutional assistance obsolete, so the language is being deleted.

PSC 160.125

The changes in this section promoting access to telecommunications services provide clarity, codify the procedures the commission is currently following and remove advanced services from the list of supportable services as required by 2011 Wisconsin Act 22.

PSC 160.13

This section on ETCs has been extensively revised to codify current practice and to incorporate changes in both federal rules and state statutes. Changes in this section also reflect the fact that the commission authorizes three different types of ETCs. Full ETCs are eligible for all state and federal funds, including high cost funding. Low-income-only ETCs are only eligible for lifeline support. Federal-only ETCs are wireless ETCs authorized under s. 196.218(4) (b), Stats. A provider may be both low-income and federal only, in which case the provider would only be eligible for federal lifeline support.

PSC 160.13(3)

This subsection lists the information and certifications providers must file as part of their initial applications for ETC status. The section incorporates federal filing requirements. The section requires a list of wire centers in which the provider seeks designation, a showing that the provider is certified to do business in Wisconsin, and the provision of contact information and so forth.

PSC 160.13(5)

This subsection covers periodic reporting requirements for ETCs. The state requirements generally mirror federal requirements and allow ETCs to meet most state requirements by filing copies of their federal filings with the commission.

PSC 160.13(9)

Both federal rules and statutes define the smallest area for which a provider can request ETC designation, but the FCC has granted waivers and forbearance of these requirement in certain situations. The general rule states that the smallest allowable area for areas served by rural incumbent local exchange companies (ILECs) is, with certain exceptions, the entire ILEC service territory. The smallest allowable area for non-rural areas is the wire center.

PSC 160.13(10)

This subsection has been modified to conform with FCC directives that call for states to make a public interest finding in designating ETCs in both rural and non-rural areas, although the finding for non-rural areas requires a less detailed analysis.

PSC 160.13 (12)

This provision covers the procedures for ETCs to relinquish ETC status. The changes to this section are primarily grammatical, and to address the existence of low-income ETCs. Paragraph (c) incorporates the processes that were referred to in another section which is being eliminated in this rewrite, so that those references appear here. Paragraph (e) addresses the situation of a federal-only ETC which wishes to remain an ETC, but, because of technological change or for other reasons, no longer meets the requirements for federal-only status.

PSC 160.14

This section, which ensured customers had access to at least one long distance provider, is being repealed. With the market moving to all-distance pricing, specific protections targeted exclusively at long distance service are no longer necessary.

PSC 160.18 (9) (b)

This section clarifies timelines and procedures for providers that wish to object to universal service fund assessments.

PSC 160.18 (10)

This section prevents providers from making adjustments to current rates for over or under USF collections from periods long past.

PSC 160.19 (2)

The modifications to the composition of the universal service fund council reflect the changes to the industry which have occurred since this provision was last drafted. Long distance is no longer a separate nor an affected market segment, while wireless has clearly become significant.

Comparison with existing or proposed federal legislation

There is both a state USF and a federal USF. The state and federal funds and programs are complementary rather than duplicative.

“Eligible Telecommunications Carriers” (ETCs) are designated by the commission and are, thereafter, eligible for funding from the federal USF and for certain funding from the state USF. ETC status was created by the FCC, and codified in 47 U.S.C. § 214(e)(2). Under FCC rules, state commissions are responsible for designating eligible providers as ETCs. 47 U.S.C. §. 214(e)(2), 47 C.F.R. § 54.201(b).

Designation as an ETC is required if a provider is to receive federal USF funding. ETC designation is also required to receive funding from some, but not all, state universal service programs. The FCC established a set of minimum criteria that all ETCs must meet. These are codified in the federal rules. (47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101(a).) The 1996 Telecommunications Act states that, “A State may adopt regulations not inconsistent with the commission’s rules to preserve and advance universal service.” 47 U.S.C. § 254(f). A court upheld the states’ right to impose additional conditions on ETCs in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999). Therefore, while states must examine the federal requirements, they are

allowed to create additional requirements. Wisconsin has done so.

The federal USF provides funding to ETCs that are found to serve high-cost areas. That funding is to be used to help cover the costs of expanding infrastructure into those areas. Doing so should help ensure that rates in those areas stay lower since rates need not provide the funds for that expansion. The Wisconsin USF provides reimbursement to providers that offer credits to customers when rates are higher than as designated in s. PSC 160.09.

The federal USF also includes lifeline and link-up programs (on tribal lands only) to assist low-income customers. The Wisconsin lifeline program is structured to complement the federal program and to take advantage of the available federal lifeline funds.

The FCC is currently conducting trials around the country where the lifeline credit may apply to Internet access service. In these rules the Wisconsin lifeline program is adapted to address the needs of disabled individuals whose principal means of communication is not adequately supported by traditional voice telephony. It allows the lifeline credit to apply to Internet access where a certified disabled customer requires it as a substitute for regular essential telecommunications service.

The federal USF assessment applies to all carriers, including wireless carriers, and is assessed based on interstate revenues. The state USF assessment applies to all providers, including wireless providers, and is assessed based on intrastate revenues. Wisconsin exempts certain providers from assessment, such as those with under \$200,000 in intrastate revenues.

There are parts of the federal USF (e.g., the E-Rate program for schools) that do not have a counterpart in the state USF rules. Likewise, some of the state USF rules (e.g., the program to assist persons with disabilities — s. PSC 160.071) address matters not included in the federal USF law or rules.

Comparison with similar rules in surrounding states

The following discussion focuses on areas where significant changes are being made to the USF rules.

Many state USF programs, both in Wisconsin and in other states, are intertwined with federal universal service programs. As a result, there is a certain amount of similarity among state programs. For example, each of the surrounding states has lifeline type programs. (Lifeline helps pay the monthly cost of telephone service. Link-up helps pay the cost of service installation.) As required under federal law, each has income-based eligibility criteria although the specifics vary somewhat. The level of credits to customers and the resulting reimbursements to providers are similar, due in part to the federal matching dollars attached to credit/reimbursement levels. A difference in lifeline programs is that the four other states only have a set figure for the lifeline credit/reimbursement amount (although in Michigan that amount may vary depending on which company is involved). Wisconsin has a standard lifeline credit if the base rate is \$25 or below, although, it has a variable component. (The “base rate” is the monthly residential rate including applicable in-state fees, touch-tone service, 911 charges on the telephone bill, the federal subscriber line charge, access recovery charge and 120 local calls.) If the base rate is \$25 or above, the reimbursement/credit is the lesser of:

1. Whatever is necessary to bring that rate down to \$15.

2. The amount available under the federal USF plus \$9.25.

In this way, low-income customers in higher cost (generally rural) areas receive a credit sufficient to bring the base rate to a reasonably affordable level and providers are on a fairly “level playing field.”

The provision in these rules that allows the lifeline credit to apply to Internet access where a certified disabled customer requires it as a substitute for regular essential telecommunications service is unique within the region.

Wisconsin also has a program (TEPP) that helps provide access to telecommunications service for persons with hearing, speech and/or mobility disabilities. TEPP provides vouchers to help persons with disabilities that impair their ability to use standard telecommunications equipment for accessing telecommunications service to obtain equipment that will assist them in doing so. Iowa, Illinois, and Minnesota each have similar programs although the specifics vary. For example, Illinois’ program is limited to those with hearing or speech disabilities, and in Minnesota the equipment belongs to the state and must be returned if the customer leaves the state or loses his/her telephone line.

Wisconsin also has a program to help lower the monthly cost of telephone service in areas of the state where rates are high. In determining whether assistance under this “high rate assistance” program is required, the program looks both at the rate for basic service and what percentage of a county’s median household income that rate entails. Although its commission must vote to activate it, Michigan statutes provide for a similar program that would provide a subsidy to customers of the difference between an affordable rate and the company’s forward looking economic cost of providing service (should the latter be higher than the former). Illinois has a high-cost program that provides support to small telecommunications providers if the economic costs of providing certain services exceed the affordable rate set for those services.

Surrounding states have taken a variety of approaches to certification and reporting requirements for ETCs including: adoption of formal rules, orders applicable to either new or all ETCs, and case-by-case determinations.

The Minnesota Public Utilities Commission (docket P999/M-05-741) adopted the FCC’s exact language for annual certification requirements, with a couple of modifications. The two main modifications are (1) filing 2-year service quality improvement plans instead of the federal five year requirement, and (2) filing information on a service-area basis instead of a wire-center basis. The new requirements are applied to both new and existing ETCs, and to both landline and wireless providers.

The Michigan Public Service Commission basically adopted the exact language of the FCC’s rules unchanged, including the 5-year quality improvement plans. Michigan has service quality and financial reporting rules for wireline companies that do not apply to wireless ETCs, but all ETCs, both existing and new, are required to meet all of the standards and obligations contained in the FCC’s ETC rules, FCC 05-46 and 47 U.S.C. § 214. The one exception to this is ETCs receiving only low-income support; they have lesser reporting requirements. There are no standards for what types of reporting on quality of service issues meet the adopted FCC requirements.

The Illinois Commerce Commission has not officially adopted the FCC rules, but uses them as a base for its ETC decisions, which so far have been on a case-by-case basis. The requirements are not applied to existing ETCs. There have been requests for ETC status where the Illinois Commerce Commission has required wireless ETCs to do more than is spelled out by the FCC, holding that the FCC’s requirements are “the minimum requirements.” The primary areas where wireless ETCs have been subjected to more scrutiny involve consumer protection, service quality standards, and the public interest analysis. As to telephone directories, wireless providers have been required to provide written disclosure to customers that directories will not be provided and numbers will not be published. The FCC’s 5-year plan is retained.

The Iowa Utility Board’s (IUB) ETC rules incorporate the FCC rules with some modifications. Similar to these proposed rules, IUB requires maps of signal coverage depicting signal strength (although IUB ILECs may refer to maps already on file with the commission.) IUB adopted service quality standards for ETCs although, again like these proposed rules, they differ for landline and wireless. Rolling one year network improvement and maintenance plans are required. The rules are applied to both new and existing ETCs.

The Indiana Regulatory Commission (case 41052-ETC-47) adopted the FCC’s exact language in a proceeding involving an individual ETC applicant, but made that decision applicable to all ETCs, both landline and wireless.

Effect on Small Business

Existing USF rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. These small telecommunications utilities, like other telecommunications providers (both large and small), may have obligations under the USF, including an obligation for payments to the USF, which is required under statute. Other requirements in the rule only apply to wireless providers who voluntarily choose to become designated as eligible telecommunications carriers. Since the Commission does not regulate wireless providers, it does not have records indicating how many of them are small businesses.

These proposed rules should have no particular impact on small businesses. The commission already has established, in s. PSC 160.18 (1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. In s. PSC 160.01 (2) (b), the existing rules allow the commission to give individual consideration to unusual situations and to adopt different requirements for particular telecommunications providers. Small businesses can request that the commission provide an exception to a rule requirement. There are no new reporting or bookkeeping requirements created under these proposed rules. Also, most of the requirements in the proposed rules only apply to providers who voluntarily choose to be designated as ETCs.

The agency has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small businesses. Accordingly, the agency has included provisions for exemption from assessments for small providers, and allowing requests for consideration of unusual circumstances,

as noted above. Further application of these methods is not consistent with statutory objectives.

Initial Regulatory Flexibility Analysis

Existing Universal Service Fund (USF) rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. These small telecommunications utilities, like other telecommunications providers (both large and small), may have obligations under the USF, including an obligation for payments to the USF.

These rules should have no significant impact on small businesses. The commission already has established, in s. PSC 160.18(1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. In s. PSC 160.01 (2) (b), the existing rules allow the commission to give individual consideration to unusual situations and to adopt different requirements for particular telecommunications providers. Small businesses can request that the commission provide an exception to a rule requirement. Finally, Eligible Telecommunications Carrier status, which is the trigger for most USF obligations, is voluntary.

Fiscal Estimate

These rule changes have no fiscal impact. An Economic Impact Analysis is attached.

Contact Person

Questions regarding this matter should be directed to Jeff Richter, USF Director, at (608) 267-9624 or Jeff.Richter@wisconsin.gov. Small business questions may be directed to Gary Evenson at (608) 266-6744 or gary.evanson@wisconsin.gov. Media questions should be directed to Nathan Conrad, Communications Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number: if calling from Wisconsin, (800) 251-8345; if calling from outside Wisconsin, (608) 267-1479.

Text Of The Rules

SECTION 1. PSC 160.01 (1), (2) (b) and (4) are amended to read:

PSC 160.01 Scope and purpose. (1) PURPOSE. Chapter PSC 160 is designed to effectuate and implement s. 196.218, Stats., 47 USC 254, 47 CFR 54 and parts of other sections of the Wisconsin and federal statutes, authorizing the commission to establish and operate a universal service fund and programs to further the goal of providing a basic set of essential telecommunications services and access to advanced service capabilities to all customers of in the state.

(2) (b) Nothing in this chapter shall preclude the commission from giving special and individual consideration being given to exceptional or unusual situations and, upon due investigation of the facts and circumstances involved, the adoption of from adopting requirements as to individual providers or services programs that may be lesser, greater, other or different than those provided in this chapter.

(4) ENFORCEMENT. The manner of enforcing ch. PSC 160 is prescribed in ss. 196.218, 196.499 (17) and 196.66, Stats., and includes such any other means as provided in statutory sections administered by the commission.

SECTION 2. PSC 160.01 (5) is renumbered 160.01 (5) (intro.), and amended to read:

PSC 160.01 (5) (intro.) ORDERS. The commission may issue orders it ~~deems~~ considers necessary to assist in the implementation or interpretation of this chapter. ~~Except for declaratory rulings under s. 227.41, Stats., which require the opportunity for a hearing, and commission determinations not subject to judicial review under ss. 227.52 and 227.53, Stats., orders shall be issued~~ The commission shall issue orders only after notice and an opportunity for comment by interested parties including the universal service fund council, except in the following circumstances:

SECTION 3. PSC 160.01 (5) (a) to (c) are created to read:

PSC 160.01 (5) (a) The commission issues a determination not subject to judicial review under ss. 227.52 and 227.53, Stats.

(b) The commission receives a request for a declaratory ruling under s. 227.41, Stats., which requires the opportunity for a hearing.

(c) As otherwise provided in this chapter.

SECTION 4. PSC 160.02 (1g) and (1m) are renumbered 160.02 (1) and (7).

SECTION 5. PSC 160.02 (2) is renumbered 160.02 (8), and amended to read:

PSC 160.02 (8) "Disability" means a physical, cognitive, or sensory impairment that limits or curtails an individual's access to or usage of ability to use telecommunications services or equipment, or both. "Disability" includes a ~~speech, vision, or hearing impairment and motion impairments that limit an individual's ability to handle telecommunications equipment.~~

SECTION 6. PSC 160.02 (2) is created to read:

PSC 160.02 (2) "Call blocking" means a service that lets customers elect not to allow the completion of any of the calls specified under s. PSC 160.04 (1) on the customer's account.

SECTION 7. PSC 160.02 (3) is renumbered 160.02 (10).

SECTION 8. PSC 160.02 (3) and (4) are created to read:

PSC 160.02 (3) "Call control" means a service that lets a customer specify a certain amount of the calls specified under s. PSC 160.04 (1) that may be completed per month on the customer's account.

(4) "Call limitation" means either call blocking or call control for providers that are incapable of providing both services and, for providers that are capable of providing both services, it means both call blocking and call control.

SECTION 9. PSC 160.02 (4g) and (4m) are repealed.

SECTION 10. PSC 160.02 (5) is renumbered 160.02 (17).

SECTION 11. PSC 160.02 (5) is created to read:

PSC 160.02 (5) "Cognitive impairment" means a condition that limits every day practical skills and involves significant difficulty with memory, information processing and executive functions.

SECTION 12. PSC 160.02 (6) is renumbered 160.02 (19), and amended to read:

PSC 160.02 (19) "Link-up" means the a program that waives some or all service connection charges for low-income customers.

SECTION 13. PSC 160.02 (6) is created to read:

PSC 160.02 (6) "Commission" means the public service commission.

SECTION 14. PSC 160.02 (7) is renumbered 160.02 (20), and amended to read:

PSC 160.02 (20) “Local exchange service provider” means any ~~commercial mobile radio service wireless~~ provider that has been designated as an eligible telecommunications carrier under s. PSC 160.13, or a telecommunications utility or any other provider of basic local exchange service or standard business lines and usage.

SECTION 15. PSC 160.02 (8) is renumbered 160.02 (21), and amended to read:

PSC 160.02 (21) “Low-income” means a household that receives benefits from one or more of the following programs:

(a) Wisconsin works under ss. 49.141 to 49.161 ~~49.162~~, Stats.

Note: This includes all programs, including financial and employment assistance, child care subsidy, etc.

(b) Medical assistance under 42 USC 1395 ~~1396 et seq.~~

(c) Supplemental security income under 42 USC 1381 to 1385e ~~1383~~.

(d) Food stamps under 7 USC 2011 to 2029.

(e) The low income household energy assistance program under s. 16.27, Stats.

(f) The Wisconsin homestead tax credit under ss. 71.51 to 71.55, Stats.

(g) ~~Badger care~~ BadgerCare Plus programs under s. 49.665 ~~49.471~~, Stats., consistent with the income limits in par. (h).

(gm) SeniorCare 1 and 2a under s. 49.688, Stats.

(h) As approved by the commission, other state or federally administered programs for households with income levels ~~equal to or less than~~ less than or equal to 200% of the poverty line as defined in 42 USC 9902 (2).

Note: See subs. 160.06 (1) (c) concerning other households that may be considered low-income.

SECTION 16. PSC 160.02 (9) is renumbered 160.02 (23).

SECTION 17. PSC 160.02 (9) is created to read:

PSC 160.02 (9) “Eligible telecommunications carrier” or “ETC” means a telecommunications provider that the commission has so designated and includes federal-only ETCs, full ETCs and low-income ETCs.

SECTION 18. PSC 160.02 (10) and (11) are renumbered 160.02 (24) and (27).

SECTION 19. PSC 160.02 (11) is created to read:

PSC 160.02(11) “Extended community calling” means a telecommunications service by which a customer in one exchange may call a customer in another exchange or combination of exchanges under an expanded local calling plan based on usage.

SECTION 20. PSC 160.02 (12) is renumbered 160.02 (29), and amended to read:

PSC 160.02 (29) “Two line voice carryover” means the technique of using 3-way calling and 2 telephone lines, one for voice and one for ~~TTY or similar equipment text~~, to connect a caller who is deaf or hard of hearing but can speak, with another caller via the telecommunications relay service.

SECTION 21. PSC 160.02 (12) is created to read:

PSC 160.02 (12) “Federal – only eligible telecommunications carrier” or “federal-only ETC” means a telecommunications provider that the commission has so designated under s. 196.218 (4) (b), Stats., or so designated before June 9, 2011.

SECTION 22. PSC 160.02 (13) is renumbered 160.02 (30), and amended to read:

PSC 160.02 (30) “Universal service” means a statewide rapid, efficient, communications network with adequate, economically placed facilities to ~~assure~~ ensure that a basic set of essential telecommunications services is available to all persons in this state within a reasonable time and at affordable prices ~~and that the advanced service capabilities of a modern telecommunications infrastructure are affordable and accessible to all areas of the state within a reasonable time.~~

SECTION 23. PSC 160.02 (13) to (16) are created to read:

PSC 160.02 (13) “Federal subscriber line charge” means a monthly per line federal charge that is assessed directly on a local exchange telephone service customer as allowed by the federal communications commission.

Note: This is also known federally as the end-user common line charge. See 47 CFR 69.104.

(14) “Full eligible telecommunications carrier” or “full ETC” means a telecommunications provider that the commission has so designated under s. PSC 160.13 for participation in all universal service programs.

(15) “Household” has the meaning given in 47 CFR 54.400 (h).

Note: As of April 2013, 47 CFR 54.400 (h) read as follows: A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person 18 years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(16) “Incumbent local exchange carrier” means a telecommunications provider, and its successors and assigns, authorized under law or by the commission before September 1, 1994, to place facilities and provide basic local service in a particular geographic area.

SECTION 24. PSC 160.02 (18) is created to read:

PSC 160.02 (18) “Line” means an access line or service to an activated wireless handset.

SECTION 25. PSC 160.02 (22) is created to read:

PSC 160.02 (22) “Low-income eligible telecommunications carrier” or “low-income ETC” means a telecommunications provider that the commission has so designated under s. PSC 160.13 for participation only in the lifeline or link-up program, or both.

SECTION 26. PSC 160.02 (25) and (26) are created to read:

PSC 160.02 (25) “Pay-per-call service” has the meaning given in s. 196.208 (1) (a), Stats.

(26) “Provider” or “telecommunications provider” has the meaning given in s. 196.01 (8p), Stats.

SECTION 27. PSC 160.02 (28) is created to read:

PSC 160.02 (28) “Two line hearing carryover” means the technique of using 3-way calling and 2 telephone lines, one for hearing and one for text, to connect a hearing caller who is speech impaired with another caller via the telecommunications relay service.

SECTION 28. PSC 160.02 (31) is created to read:

PSC 160.02 (31) “Wireless provider” means a commercial mobile radio service provider as defined in s. 196.01 (2g).

SECTION 29. PSC 160.03 (1) is renumbered 160.03 (1m), and amended to read:

PSC 160.03 (1m) Each ~~local exchange service provider eligible telecommunications carrier~~ shall make all essential telecommunications services available to all of its customers at affordable prices.

SECTION 30. PSC 160.03 (1) is created to read:

PSC 160.03 **Essential telecommunications services.** (1) For purposes of this subsection:

(a) “911” means a service that permits a telecommunications user to use the three-digit code ‘911,’ to access emergency services through a public safety answering point operated by a local government.

(b) “Directory assistance” means a service that includes making available to customers, upon request, information contained in directory listings, such as customer address and telephone number.

(c) “Dual tone multi-frequency” means a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time.

Note: This is commonly known as touch tone.

(d) “Emergency services” includes services, such as 911 and enhanced 911, provided by local governments or other public safety organizations.

(e) “Enhanced 911” means 911 service that includes the ability to provide automatic numbering information, which enables the public safety answering point to call back if the call is disconnected, and automatic location information, which permits emergency service providers to identify the geographic location of the calling party.

(f) “Interexchange service” means the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless provider, necessary to access an interexchange provider’s network.

(g) “Local usage” means an amount of exchange service, prescribed by the commission, provided free of charge to end users.

(h) “Operator services” means any automatic or live assistance to a customer to arrange for billing or completion, or both, of a telephone call.

(i) “Single-party service” means telecommunications service that permits users to have exclusive use of a landline subscriber loop or access line for each call placed, or, in the case of wireless providers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user’s particular transmission.

(j) “Voice grade access” means a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

SECTION 31. PSC 160.03 (1) is renumbered 160.03 (1m), and amended to read:

PSC 160.03 (1m) Each ~~local exchange service provider eligible telecommunications carrier~~ shall make all essential telecommunications services available to all of its customers at affordable prices ~~all essential telecommunications services~~.

SECTION 32. PSC 160.03 (1) is created to read:

PSC 160.03 (1) For purposes of this subsection:

(a) “911” means a service that permits a telecommunications user to use the three-digit code ‘911,’ to

access emergency services through a public safety answering point operated by a local government.

(b) “Directory assistance” means a service that includes making available to customers, upon request, information contained in directory listings, such as customer address and telephone number.

(c) “Dual tone multi-frequency” means a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time.

Note: This is commonly known as touch tone.

(d) “Emergency services” includes services, such as 911 and enhanced 911, provided by local governments or other public safety organizations.

(e) “Enhanced 911” means 911 service that includes the ability to provide automatic numbering information, which enables the public safety answering point to call back if the call is disconnected, and automatic location information, which permits emergency service providers to identify the geographic location of the calling party.

(f) “Interexchange service” means the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless provider, necessary to access an interexchange provider’s network.

(g) “Local usage” means an amount of exchange service, prescribed by the commission, provided free of charge to end users.

(h) “Operator services” means any automatic or live assistance to a customer to arrange for billing or completion, or both, of a telephone call.

(i) “Single-party service” means telecommunications service that permits users to have exclusive use of a landline subscriber loop or access line for each call placed, or, in the case of wireless providers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user’s particular transmission.

(j) “Voice grade access” means a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

SECTION 33. PSC 160.03 (2) is repealed and re-created to read:

PSC 160.03 (2) “Essential telecommunications services” means all of the following:

(a) Voice grade access to the public switched network with a minimum bandwidth of 300 to 3,000 hertz.

(b) Single-party service or its functional equivalent.

(c) Local usage.

(d) Dual tone multi-frequency signaling or its functional equivalent.

(e) Access to emergency services.

(f) Access to operator services.

(g) Access to interexchange service.

(h) Access to directory assistance.

(i) Call limitation for low-income customers.

SECTION 34. PSC 160.031 and 160.035 are repealed.

SECTION 35. PSC 160.04 (title) is repealed and re-created to read:

PSC 160.04 (title) Call limitation.

SECTION 36. PSC 160.04 (1) is renumbered 160.04 (1) (a) (intro.), and amended to read:

PSC 160.04 (1) (a) (intro.) ~~BLOCKING-CALL LIMITATION OBLIGATIONS. Every local exchange service provider eligible telecommunications carrier in the state shall offer the call limitation capability to block all long distance calls and, separately, the capability to block 900 and 976 number calls and the capability to block extended community calling unless a timely waiver has been granted to the local exchange service provider by the commission, for each of the following:~~

SECTION 37. PSC 160.04 (1) (a) 1. to 5. and (b) are created to read:

PSC 160-04 (1) (a) 1. Long distance toll calls.

2. Pay-per-call service.

3. Collect toll calls.

4. Toll calls charged to a telephone credit card associated with the telephone number for which call limitation has been requested.

5. Toll calls charged to a third telephone number for which call limitation has been requested.

(b) Notwithstanding par. (a) and s. 160.03 (1m), federal-only eligible telecommunications carriers are not required to offer call limitation capabilities to customers who are not low income.

SECTION 38. PSC 160 04 (2) to (4) are amended to read:

PSC 160.04 (2) CHARGES. ~~Blocking shall be without An eligible telecommunications carrier may not impose a monthly or nonrecurring charge to on a low-income customers customer for call limitation, and at no charge other than An ETC, other than a federal-only ETC, may only impose a nonrecurring charge, and not a monthly charge, for a second and or subsequent service activation orders order for other residential and standard business line customers.~~

(3) EMERGENCY SERVICE. ~~Blocking shall A local exchange service provider may not prevent the impose a call limitation that prevents a customer from reaching the emergency service numbers appropriate for the customer's location.~~

(4) PUBLIC NOTIFICATION AND EDUCATION. ~~A local exchange service provider An eligible telecommunications carrier shall make all reasonable efforts to inform its customers within its service areas of the availability of, and where charge-free, eligibility requirements for, east-free toll blocking call limitation services, 900 and 976 number blocking services and extended community calling blocking services. The local exchange service provider An eligible telecommunications carrier shall also make reasonable efforts to instruct eligible customers requesting the service in the use of the equipment or service.~~

SECTION 39. PSC 160.04 (5) is repealed.

SECTION 40. PSC 160.05 (intro.) is amended to read:

PSC 160.05 (intro.) **Universal service fund programs.** Universal service fund monies may be used for fund administration; for the purpose of informing the public regarding of the universal service fund, its existence, purpose, intent and areas of use uses of the universal service fund; and for the following purposes:

SECTION 41. PSC 160.05 (1) (a), (c) and (d) are amended to read:

PSC 160.05 (1) (a) Link-up America assistance, as specified in s. PSC 160.061.

(c) ~~Voice mail Telephone access~~ service for the homeless, as specified in s. PSC 160.125 (1).

(d) Telecommunications equipment purchase program (TEPP) vouchers, as specified in s. PSC 160.071 (4) (1m).

SECTION 42. PSC 160.05 (1) (h) to (j) and (L) are repealed.

SECTION 43. PSC 160.05 (1) (n) is amended to read:

PSC 160.05 (1) (n) Eligible telecommunications carriers designated by a process under s. PSC 160.13 (5) (8) (c).

SECTION 44. PSC 160.05 (1) (o) is repealed.

SECTION 45. PSC 160.05 (1) (p) is amended to read:

PSC 160.05 (1) (p) Second line for 2 line voice or hearing carryover, as specified in s. PSC 160.071 (6) (b) (6m).

SECTION 46. PSC 160.05 (1) (r) is repealed.

SECTION 47. PSC 160.05 (1) (s) is renumbered 160.05 (1) (t).

SECTION 48. PSC 160.05 (1) (s) is created to read:

PSC 160.05 (1) (s) Directory assistance, operator assistance and custom calling service payments under s. PSC 160.071 (4) to (6).

SECTION 49. PSC 160.05 (2) and (3) are amended to read:

PSC 160.05 (2) For payments by the technology for educational achievement in Wisconsin board department of administration for educational telecommunications access support, as specified in s. 196.218 (5) (a) 5., Stats., under the appropriation in s. 20.505(4) (s), (t), (tm), and (tu) and (tw), Stats., and for payments under the appropriation in s. 20.865 (4) (u), Stats.

(3) For payments to the department of administration for telecommunications services provided to the campuses of the university of Wisconsin system at River Falls, Stout, Superior and Whitewater, as specified in s. 196.218 (5) (a) 6., Stats., under the appropriation in s. 20.285 (1) (q), Stats.

SECTION 50. PSC 160.05 (4) is repealed.

SECTION 51. PSC 160.05 (6) to (9) are created to read:

PSC 160.05 (6) For payments by the department of public instruction for newslines for the blind, under the appropriation in s. 20.255 (3) (q), Stats.

(7) For payments by the department of public instruction for supplemental aid to public library systems as specified in s. 43.24, Stats., under the appropriation in s. 20.255 (3) (qm), Stats.

(8) For payments by the department of public instruction for library service contracts as specified in s. 43.03 (6) and (7), Stats., under the appropriation in s. 20.255 (3) (r), Stats.

(9) For other payments authorized by statute.

SECTION 52. PSC 160.06 (1) (intro.) is renumbered 160.06 (1) (a) (intro.), and amended to read:

PSC 160.06 **Eligibility for low-income programs.** (1) LOW-INCOME ASSISTANCE ELIGIBILITY. (a) (intro.) ~~Local exchange service providers All ETCs shall verify an applicant's eligibility for low-income assistance programs by making timely queries of the applicable databases of the Wisconsin department of workforce development health services, the Wisconsin department of revenue, or other state government agencies designated by the commission. Applicant An ETC shall verify an applicant's eligibility shall be verified by finding the applicant to be any of the following:~~

SECTION 53. PSC 160.06 (1) (a) to (c) are renumbered 160.06 (1) (a) 1. to 3., and amended to read:

PSC 160.06 (1) (a) 1. An active client of at least one of the programs listed in s. PSC 160.02 (8) (21).

2. A member of the active client's household whose low income qualifies the client for benefits under at least one of the programs listed in s. PSC 160.02 (8) (21).

3. ~~Unless the provider is a federal-only ETC, a recipient of the Wisconsin homestead tax credit for the most recently completed tax year. If the applicant's tax filing for the most recently completed tax year has not been posted to the records of the Wisconsin department of revenue and if application for low-income assistance is made on or before June 30th, then the tax year prior to the most recently completed tax year may be used to determine eligibility.~~

SECTION 54. PSC 160.06 (1) (b) and (c) are created to read:

PSC 160.06 (1) (b) Notwithstanding par. (a), an eligible telecommunications carrier shall verify an applicant as eligible for low-income assistance programs if the applicant qualifies for federal universal service fund support for eligible residents of tribal lands under 47 CFR 54.400 *et seq.*

(c) If an eligible telecommunications carrier cannot verify an applicant's eligibility under par. (a) or (b), and the eligible telecommunications carrier files with the commission proof that it has filed with the federal communications commission an acceptable plan for eligibility verification and annual reverification, in addition to the households considered low-income under the definition in s. PSC 160.02 (21), the ETC shall consider a household that meets one of the following criteria to be low-income:

1. Receives benefits from federal public housing assistance (section 8).

2. Receives benefits from the national school lunch program's free lunch program.

3. Customer's income, as defined in 47 CFR 54.400 (f), is at or below 135% of the federal poverty guidelines.

4. Temporary assistance for needy families, other than Wisconsin works under ss. 49.141 to 49.161, Stats.

5. Any other federal low-income eligibility criteria.

SECTION 55. PSC 160.06 (2) and (3) are amended to read:

PSC 160.06 (2) ~~ELIGIBILITY RECONFIRMATION REVERIFICATION. Eligibility shall be reconfirmed. An eligible telecommunications carrier shall reverify eligibility on at least an annual basis for all customers receiving lifeline assistance. The eligible telecommunications carrier shall first attempt to reverify eligibility by making timely queries of the applicable databases of the Wisconsin department of health services, the Wisconsin department of revenue, or other government agencies designated by the commission.~~

(3) ~~ELIGIBILITY INQUIRY. Local exchange service providers Eligible telecommunications carriers other than federal-only ETCs shall inquire of the each customer regarding eligibility of that customer for low-income programs on each order for initial or moved residential service and, orally or in writing, in the first contact with a customer during a year concerning disconnection or payment arrangements.~~

SECTION 56. PSC 160.06 (4) (a) is renumbered 160.06 (4) (b), and amended to read:

PSC 160.06 (4) (b) ~~Local exchange service providers Eligible telecommunications carriers shall obtain whatever comply with client/customer authorization requirements of is required by the Wisconsin department of workforce~~

~~development health services, the Wisconsin department of revenue, or other state government agencies for the database queries necessary for eligibility verification. Customers shall complete and remit any reasonably required query authorization forms or forfeit eligibility. The commission may revoke the eligible telecommunications carrier designation and order the forfeiture of reimbursements if it accesses a customer's database information without that customer's authorization. The commission may also refer the eligible telecommunications carrier to the Wisconsin department of justice or other state agency for appropriate action.~~

SECTION 57. PSC 160.06 (4) (a) is created to read:

PSC 160.06 (4) (a) Customers shall complete and remit any reasonably required query authorization forms or forfeit eligibility.

SECTION 58. PSC 160.06 (5) is renumbered 160.06 (6), and amended to read:

PSC 160.06 (6) ~~EXCEPTIONS. Lifeline and Link-Up programs are~~ The lifeline program is not available to customers who are dependents for federal income tax purposes as defined in 26 USC 152 (1986), unless the customer is more than 60 years of age.

SECTION 59. PSC 160.06 (5) is created to read:

PSC 160.06 (5) ~~APPLICANT REQUIREMENTS. Notwithstanding any other provision of this section, an applicant is only eligible for low-income assistance programs under this chapter if the applicant provides all of the information required under state and federal law.~~

SECTION 60. PSC 160.061 is repealed and recreated to read:

PSC 160.061 ~~Link-up program. The commission may fund programs to identify and provide monetary assistance to low-income persons who are unlikely to be able to obtain telecommunications service without such assistance. Such programs may include customers who qualify for federal universal service fund support for eligible residents of tribal lands under 47 CFR 54.400 et seq.~~

SECTION 61. PSC 160.062 (1) and (2) are repealed.

SECTION 62. PSC 160.062 (1) to (2r) are created to read:

PSC 160.062 **Lifeline program.** (1) ~~APPLICABILITY. For purposes of subs. (2) to (7), "eligible telecommunications carrier" or "ETC" means only full and low - income ETCs, and does not include federal-only ETCs.~~

(1g) ~~LIFELINE MONTHLY RATE. For purposes of this section, "lifeline monthly rate" means the lifeline base rate under sub. (2) minus the lifeline adjustment under sub. (2g) or (2r).~~

(1r) ~~ELIGIBILITY. (a) All eligible telecommunications carriers shall offer to all qualified low-income customers a lifeline-adjustment to the customer's rate for either of the following:~~

1. Essential telecommunications service whether stand-alone or as part of a service package.

2. Internet access, if the customer demonstrates that, because of his or her disability certified under s. PSC 160.071 (1), the customer requires internet access that is adequate to support service that is substitutable for and comparable to essential telecommunications service.

Note: An example under subd. 2. is video relay service.

Note: Subd. 2. does not require a provider to offer internet access service. If provider offers a service needed under subd. 2, the provider applies the lifeline adjustment to the price of that service.

(b) An ETC taking an application for the lifeline program shall do the following:

1. Ask the applicant if he or she is currently receiving a lifeline adjustment on any other line.

2. Require the applicant to certify that he or she is not currently receiving a lifeline adjustment on any other line or from any other provider.

3. Only offer and apply the lifeline adjustment on one line.

4. Ensure that any federal requirements about lifeline are met.

Note: For example, see 47 CFR 54.410 regarding use of state databases for eligibility verification.

(c) A customer may not request a lifeline adjustment on more than one line. An ETC shall not apply the lifeline adjustment unless the customer has certified under par. (b) that the customer is not receiving a lifeline adjustment on another line or from any other provider.

(d) If an ETC becomes aware that a customer is receiving a lifeline adjustment on more than one line or from more than one provider, the ETC shall provide notice and take action under sub. (4m) to ensure that the customer receives a lifeline adjustment on only one line.

(2) Lifeline Base Rate. The lifeline base rate is one of the following:

(a) For an eligible telecommunications carrier offering local service on a stand-alone basis, the sum of:

1. The in-state charges and fees for stand-alone single-party residential service with touch-tone, including, as applicable, all of the following:

- a. Police and fire protection fee.
 - b. State universal service fund assessment.
 - c. Remainder assessment.
 - d. Telecommunications utility trade practices assessment.
2. Any 911 charges billed on the telephone bill.
 3. The federal subscriber line charge.
 4. The access recovery charge.
 5. The charge for 120 local calls, excluding extended community calling calls.
 6. Other charges as approved by the commission.

(b) \$25, if the eligible telecommunications carrier does not offer local service on a stand-alone basis, and only offers it as part of a service package.

(c) The commission may authorize a different lifeline base rate based on the particular facts and circumstances concerning an eligible telecommunications carrier's local service or internet access charges.

(2g) LIFELINE ADJUSTMENT. (a) Except as provided in par. (b) and sub. (2r):

1. If the lifeline base rate is \$25 or less, the lifeline adjustment shall be \$10.

2. If the lifeline base rate is greater than \$25, the lifeline adjustment shall be the lesser of the following:

- a. The amount necessary to reduce the lifeline monthly rate to \$15.
- b. The maximum reimbursement available under 47 CFR 54.403, plus \$9.25.

Note: Subsection (2g)(a)2.b. caps the adjustment at, essentially, double the maximum amount available from the federal USF at the time the rules went into effect. In the future, the amount available from the federal USF may increase, but the state portion is frozen at

\$9.25 so that if, for example, the federal subscriber line charge is raised and paid for through the federal USF, the state does not automatically increase its reimbursement portion. This step was taken to protect the state fund by blocking any automatic increase in state reimbursement due to federal action.

(b) If the ETC offers prepaid wireless service, the lifeline adjustment for that service shall be the greater of the following:

1. The number of minutes that, when calculated using the lowest per minute rate the ETC offers to its prepaid wireless customers, equals or exceeds the value of the adjustment under par. (a) that would otherwise apply.

2. The number of minutes recognized by the federal communications commission as an acceptable compliance plan provision for that provider.

(c) The adjustment under par. (a) 1. shall be increased automatically if both of the following occur:

1. A federal communications commission order or a change in federal law causes an increase in a customer's lifeline base rate.

2. The state reimbursement amount after the increased lifeline adjustment is not greater than it was before the federal communications commission order or change in federal law.

Note: A provider may petition the commission under s. PSC 160.01(2)(b) for an increased lifeline adjustment if the increased adjustment would increase the state reimbursement amount.

(d) Notwithstanding subs. (2g) and (2r), the lifeline adjustment for partial months of service shall follow the policy set by the federal universal service administration corporation or its successors.

(2r) ADJUSTMENTS FOR RESIDENTS OF TRIBAL LANDS. (a) When a customer qualifies for federal universal service fund support for eligible residents of tribal lands under 47 CFR 54.400 *et seq.*:

1. If the lifeline base rate under sub. (2) is \$25 or less, the lifeline adjustment shall be \$10, plus whatever federal universal service fund support the customer qualifies for as an eligible resident of tribal lands.

2. If the lifeline base rate under sub. (2) is greater than \$25, the lifeline adjustment shall be the amount necessary to reduce the lifeline monthly rate to the level at which the adjustment results in a state reimbursement amount that is equal to what it would be under sub. (2g) (a) 2., plus whatever federal universal service fund support the customer qualifies for as an eligible resident of tribal lands.

(b) The adjustment under par. (a)1. shall be increased automatically if both of the following occur:

1. A federal communications commission order or a change in federal law causes an increase in a customer's lifeline base rate.

2. The state reimbursement amount after the increased adjustment is not greater than it was before the federal communications commission order or change in federal law.

Note: A provider may petition the commission under s. PSC 160.01(2) (b) for an increased lifeline adjustment if the increased adjustment would increase the state reimbursement amount.

SECTION 63. PSC 160.062 (3) (title) is created to read:

PSC 160.062(3) (title) SHOWING THE ADJUSTMENT.

SECTION 64. PSC 160.062 (3) is renumbered 160.062 (3) (a), and amended to read:

PSC 160.062 (3) (a) The Except as provided in par. (b), the eligible telecommunications carrier shall show the lifeline monthly rate may appear adjustment as a credit against either

an adjustment to the full standard tariffed or standard rate on a customer's bill or as a special rate designation. Whenever possible, the eligible telecommunications carrier shall begin showing the lifeline adjustment or rate ~~shall begin to appear~~ on an eligible customer's bill on the next bill date following the date of application for lifeline assistance. If the ETC does not apply the lifeline adjustment or rate ~~does not begin to appear~~ on the next bill date, when it the ETC does appear back apply the credit will it shall be given applied back to the date of application. ~~In cases where a customer's eligibility date as found in the records of the Wisconsin department of workforce development, the Wisconsin department of revenue, or other state agencies precedes the last bill date prior to application, credit shall also be given for one month's prior bill.~~

SECTION 65. PSC 160.062 (3) (b) is created to read:

PSC 160.062 (3) (b) If an eligible telecommunications carrier offers prepaid service and does not render a bill for that service, as long as it maintains a statement of account for a customer the provisions of par. (a) apply to the statement of account.

SECTION 66. PSC 160.062 (4) is amended to read:

PSC 160.062 (4) PERIOD OF ELIGIBILITY. (a) ~~Eligibility~~ Except as provided in pars. (b) and (c) and sub. (4m), eligibility for lifeline assistance continues until the next bill date following a failure to meet eligibility requirements.

(b) When the low income household energy assistance program is one of the customer's qualifying income assistance programs, the eligibility for lifeline assistance shall continue until the bill date in the next December following the close of the heating season. ~~At that time, the customer's lack of eligibility shall be verified by the local exchange service provider before removing the lifeline assistance from the customer's bill.~~

(c) When the homestead tax credit is one of the customer's qualifying income assistance programs, the eligibility for lifeline assistance continues until the bill date in the next June following the end of the tax year. ~~At that time, lack of eligibility shall be reverified by the local exchange service provider before removing the lifeline assistance from the customer's bill.~~

Note: See sub. (4m) for notice requirements when removing a customer from the lifeline program.

SECTION 67. PSC 160.062 (4m) is created to read:

PSC 160.062 (4m) NOTICE OF IMPENDING TERMINATION. (a) If an eligible telecommunications carrier has a reasonable basis to believe that a customer no longer meets the lifeline eligibility requirements, it shall query the state database used to verify the customer's eligibility in order to obtain information about whether the customer is still eligible according to that database. If that database indicates that the customer is no longer eligible, the ETC shall furnish the customer a written notice of impending termination of lifeline assistance at least 30 days before the termination date. The ETC shall send the notice separately from the customer's regular monthly bill, shall state the termination date on the notice, and shall provide information on the notice about how to demonstrate continued eligibility.

(b) The ETC shall terminate lifeline assistance on the termination date unless the customer demonstrates continued eligibility.

(c) Notwithstanding par. (b), an ETC may postpone termination of lifeline assistance without issuance of

additional notice if additional time is required to review customer claims of continued eligibility, or due to special circumstances.

SECTION 68. PSC 160.062 (5) and (6) are repealed.

SECTION 69. PSC 160.062 (5) to (6) are created to read:

PSC 160.062 (5) PROVIDER REIMBURSEMENT. (a) Only low-income and full eligible telecommunications carriers may receive reimbursement from the state universal service fund.

(b) An ETC may only receive reimbursement if it complies with all federal lifeline requirements, including the requirement to stop requesting federal universal service fund reimbursement for a prepaid wireless telephone that has not been used in 60 days and the requirement to use the appropriate state database where possible to verify lifeline eligibility.

(c) The commission may withhold or suspend reimbursement while investigating compliance with state or federal lifeline requirements.

(d) If an ETC is eligible to receive lifeline reimbursement under the federal lifeline program, it may receive reimbursement from the state universal service fund for the difference between what it is eligible to receive in federal reimbursement and what its reimbursement would otherwise be under sub. (2g).

(e) Notwithstanding par. (c), the provider reimbursement for partial months of service shall follow the policy set by the federal universal service administration corporation or its successors.

(5m) DEADLINE FOR FILING. An eligible telecommunications carrier shall file its reimbursement request with the fund administrator before April 1 of the year following the year during which the customer was charged the lifeline monthly rate for which reimbursement is sought. A provider may obtain an extension from commission staff for good cause, if the extension request is received before the April 1 deadline.

(6) LIMITATIONS ON CHARGES. (a) An eligible telecommunications carrier may not do any of the following to a lifeline customer:

1. Charge a deposit for service if the customer voluntarily accepts call limitation.

2. Request that the customer pay in advance for more than one month's local service bill.

3. Disconnect the customer from local service for nonpayment of toll charges.

(b) An ETC may counsel a customer that otherwise would be subject to disconnection to accept call limitation.

SECTION 70. PSC 160.062 (7) (title) is created to read:

PSC 160.062 (7) CALL LIMITATION UNDER SPECIAL PROGRAMS.

SECTION 71. PSC 160.062 (7) is amended to read:

PSC 160.062 (7) ~~A local exchange service provider~~ An eligible telecommunications carrier acting under the limited conditions specified in its commission approved telecommunications customer assistance program under s. PSC 160.08 may impose ~~toll blocking or restriction~~ call limitation on lifeline customers.

SECTION 72. PSC 160.062 (8) is created to read:

PSC 160.062 (8) FEDERAL-ONLY ETCs. Federal-only eligible telecommunications carriers shall comply with all federal lifeline requirements, including the requirement to

stop requesting federal universal service fund reimbursement for a prepaid wireless telephone that has not been used in 60 days and the requirement to use the appropriate state database where possible to verify lifeline eligibility.

SECTION 73. PSC 160.063 (1) to (3) are amended to read:

PSC 160.063 Outreach for low-income assistance programs. (1) Funding shall may be available to fund ~~collaborative partnerships between community-based organizations and telecommunications providers~~ projects to increase participation of the eligible populations in the universal service fund low-income support programs.

(2) Funding from the universal service fund for ~~these collaborative efforts~~ projects under sub. (1) shall may not exceed \$250,000 in one year. Funding shall be limited to not more than 6 projects with at least one project focused statewide and one project focused on the Milwaukee area, if feasible.

(3) The commission shall ~~annually~~ may periodically review applications and grant funding, when funding is available, based on complete responses to a request for proposals applications. Funding shall be limited to ~~not more than 6 projects with at least one project focused statewide and one project focused on the Milwaukee area, if feasible.~~ An application may involve disbursement of support during multiple state fiscal years. All applications become public documents upon filing.

SECTION 74. PSC 160.063 (3m) is created to read:

PSC 160.063 (3m) An application for funding under sub. (1) shall include all of the following:

(a) A description of the proposed project.

(b) The name and a description of any project partners and the role of each partner.

(c) A description of the proposed activities and an explanation of how those activities may increase participation of eligible populations in the universal service fund low-income support programs.

(d) A budget showing a breakdown of costs and how a grant under this section would be used.

(e) Any other information that the commission considers necessary.

SECTION 75. PSC 160.063 (4) is amended to read:

PSC 160.063 (4) The commission shall may authorize funding to conduct or contract for an evaluation of the effectiveness of this program in promoting enrollment in low-income programs and subscribership to telephone telecommunications service to. This evaluation shall be completed within 2 years of May 1, 2000 the date on which the commission grants the project funding. The cost of this evaluation shall not exceed \$25,000. This \$25,000 shall be included as part of the \$250,000 maximum total funding available under this section during the year in which the evaluation occurs.

SECTION 76. PSC 160.07 (title), (1) and (2) are renumbered 160.071 (1) (title), (a) and (b), and amended to read:

PSC 160.071 (1) SPECIAL TELECOMMUNICATIONS NEEDS CERTIFICATION. (a) A person with a disability may determine whether that disability presents a barrier to use of telecommunications services, or equipment, or both. That person shall determine what accommodations are needed to ensure effective telecommunications access.

(b) When a ~~local exchange service provider or~~ the fund administrator, a vendor, or the commission has sound reason to question the self-certification of a customer under ~~sub. (1) par. (a),~~ additional verification of disability, such as an ~~appropriate doctor's written~~ medical professional's written diagnosis and description of physical limitations and special needs resulting from that diagnosis, may be required for certification of special telecommunications needs.

SECTION 77. PSC 160.071 (title) is amended to read:

PSC 160.071 **Service and equipment pricing for individuals with special telecommunications needs.**

SECTION 78. PSC 160.071 (1) (title) and (a) are renumbered 160.071 (1m) (title) and (a), and amended to read:

PSC 160.071 (1m) **TELECOMMUNICATIONS EQUIPMENT PURCHASE PROGRAM. (TEPP)**

(a) ~~Vouchers shall be~~ The universal service fund administrator shall make vouchers available to assist customers with a disability who have special telecommunications needs certification under s. PSC 160.071 (1) in the purchase of equipment needed to personally access and use essential services of the telecommunications network. ~~Vouchers may not be used~~ A customer may not use a voucher to purchase equipment which will be used exclusively for commercial purposes.

SECTION 79. PSC 160.071 (1) (b) is renumbered PSC 160.071 (1m) (b).

SECTION 80. PSC 160.071 (1) (b) 1. is renumbered PSC 160.071 (1m) (b) 1., and amended to read:

PSC 160.071 (1m) (b) 1. \$200 100 for hard of hearing.

SECTION 81. PSC 160.071(1) (b) 2. and 3. are renumbered PSC 160.071 (1m) (b) 2. and 3.

SECTION 82. PSC 160.071 (1) (b) 4. to 6. and (c) are renumbered PSC 160.071 (1m) (b) 4. to 6. and (c), and amended to read:

PSC 160.071 (1) (b) 4. \$1,600 for mobility or motion impaired.

5. \$2,500 for severely hard of hearing – low vision or deaf – low vision.

6. \$7,200 for severely hard of hearing – blind or deaf – blind.

(c) A voucher recipient under par. (b) 1. is not required to make a co-payment. All other voucher recipients are required to make a co-payment of \$100 at the time when the equipment is purchased. ~~Pursuant to~~ Under par. (f), for certain low income customers the co-payment may be supplied by funding through the telecommunications assistance program (TAP) administered by the Wisconsin department of health services under s. 46.297, Stats., and ch. DHS 78. For certain low-income customers in the categories under pars. (b) 3. and 4. the co-payment may be supplied by the universal service fund if the customer provides a medical professional's statement confirming the need for telecommunications equipment available under this section and if the customer certifies that he or she would meet the income requirements of the telecommunications assistance program.

SECTION 83. PSC 160.071 (1) (d) is repealed.

SECTION 84. PSC 160.071 (1) (e) to (k) are renumbered PSC 160.071 (1m) (e) to (k), and amended to read:

PSC 160.071 (1) (e) ~~Customers with disabilities may obtain voucher application forms from the fund administrator, their local exchange service provider, or other sources.~~

~~Completed~~ An applicant shall submit a completed, commission-approved voucher application forms shall be submitted form to the universal service fund administrator.

Note: Customers with disabilities may obtain commission-approved voucher application forms from the fund administrator, the commission, or other sources, including the commission's website psc.wi.gov.

(f) Applicants for vouchers under this section shall be Wisconsin residents. An applicant may not receive a voucher for equipment for the same disability more than once every 3 years. An applicant may receive a voucher for equipment even if another person in the same household has also received a voucher. Applications The fund administrator shall refer applications filed by low-income deaf and hard-of-hearing individuals in the categories under par. (b) 2., 5., and 6., shall be referred to the Wisconsin department of health services for telecommunications assistance program (TAP) funding to provide any customer co-payment required under par. (c). If the applicant is found eligible, the fund administrator may issue an alternative voucher may be issued to include that program's funding. If found ineligible, the fund administrator shall process a voucher application shall be processed in priority according to its original date of receipt by the fund administrator.

(g) Applications shall be granted The fund administrator shall grant applications on a first-come, first-served basis; except, no single disability classification described in par. (b) may be issued vouchers totalling totaling more than 75% of the total annual budget within the first 3 quarters of the budget year.

(h) ~~A The fund administrator shall establish a waiting list shall be established~~ for applications held pending available funding or ~~pursuant to~~ under par. (g).

(i) The commission may establish new disability categories and voucher maximums if it identifies a need is identified.

(j) Vendors may redeem vouchers, submitted with an invoice, from the universal service fund administrator. Reimbursement A vendor may not exceed receive reimbursement that exceeds the total purchase price of the equipment with tax less, where applicable, a customer co-payment of \$100. The commission may, for good cause, suspend a vendor's eligibility to redeem vouchers under this program. Suspended vendors may not receive reimbursement for vouchers submitted for purchases or customer orders made after the date of suspension.

(k) ~~The commission~~ Commission staff may impose reasonable limits on the types and quantities of devices that may be purchased with one voucher.

SECTION 85. PSC 160.071 (1) (L) is renumbered 160.071 (1m) (L) 1., and amended to read:

PSC 160.071 (1) (L) 1. The fund administrator shall ~~maintain lists, and make accessible, a list~~ of the types and quantities of equipment eligible for purchase with a single voucher in each category under par. (b). Revisions to the list shall be done periodically by the fund administrator in consultation with the commission staff and representatives selected by the universal service fund council. ~~Input~~ The fund administrator and commission may solicit input regarding revisions ~~may be solicited~~ from vendors, representatives of interested groups serving the disabled and others, as appropriate.

Note: The equipment list will be posted on the commission's website (psc.wi.gov). A vendor may submit an e-mail address to the commission and request e-mail notification of whenever a revised list is posted.

SECTION 86. PSC 160.071 (1m) 2. and 3. are created to read:

PSC 160.071 (1m) 2. The commission staff and fund administrator may include equipment that can be used to access the internet for telecommunications service on the list of equipment available to individuals in the categories under pars. (b) 3.to 6. Internet access equipment includes a personal computing device and necessary software, but does not include customer premises wiring, telephone or cable access lines, or telecommunications services.

3. Individuals requesting equipment under subd. 2. shall provide a medical professional's statement to the fund administrator stating that the equipment is necessary to meet the telecommunications needs of that individual.

SECTION 87. PSC 160.071 (1) (m) and (n) are renumbered 160.071 (1m) (m) and (n), and amended to read:

PSC 160.071 (1) (m) Equipment purchases involving individual exceptions to the eligible equipment lists under par. (L) may be granted by the fund administrator only following consultation with commission staff. Commission staff, the fund administrator, or both, may solicit input regarding such exceptions from vendors, representatives of interested groups serving the disabled and others, as appropriate.

(n) Objections to items included on or excluded from the eligible equipment lists and determinations regarding individual exceptions shall be ~~handled as informal complaints submitted to the commission in writing.~~ The commission staff shall review the objection and issue a letter addressing it. Such Commission staff decisions may be appealed to the commission.

SECTION 88. PSC 160.071 (2) and (3) are repealed.

SECTION 89. PSC 160.071 (4) and (5) are amended to read:

PSC 160.071 (4) **DIRECTORY ASSISTANCE CHARGES.** Customers An eligible telecommunications carrier other than a federal-only ETC may not charge customers with certified disabilities certified under s. PSC 160.071 (1) that prevent them from using the telephone directory shall not be charged for a reasonable number of directory assistance calls in a month. The ETC may receive payment from the universal service fund for these calls.

(5) **OPERATOR ASSISTANCE CHARGES.** Customers An eligible telecommunications carrier other than a federal-only ETC may not charge customers with certified disabilities certified under s. PSC 160.071 (1) that prevent them from directly dialing or keying calls shall not be charged for operator assistance to place calls. The ETC may receive payment from the universal service fund for these calls.

SECTION 90. PSC 160.071 (6) (a) and (b) are renumbered 160.071 (6) and (6m) (a), and amended to read:

PSC 160.071 (6) **CUSTOM CALLING SERVICE CHARGES.** Customers An eligible telecommunications carrier other than a federal-only ETC may not charge customers with certified disabilities who deem certified under s. PSC 160.071 (1) one or more for custom calling services that the customer believes are essential in order to receive service that is useful and comparable to the essential service provided to other customers shall receive those services

~~without charge. The ETC may receive payment from the universal service fund for these services.~~

(6m) SECOND LINE CHARGES. (a) Hearing An eligible telecommunications carrier other than a federal-only ETC may not charge hearing impaired customers who are able and choose to use 2 line voice carryover and speech impaired customers who are able and choose to use 2 line hearing carryover, shall not be charged any intrastate nonrecurring charge or monthly rate for the second line.

SECTION 91. PSC 160.071 (6m) (b) and (c), and (7) are created to read:

PSC 160.071 (6m) (b) If a customer requests a service that is equivalent to those listed in par. (a), the ETC shall waive the same amount it would waive under par. (a).

(c) The ETC may receive reimbursement from the universal service fund for the amount waived.

(7) **FILING DEADLINE.** A provider may not receive reimbursement under sub. (4) to (6m) unless it files its reimbursement request with the fund administrator no later than April 1 of the year following the year during which the provider would have billed the charge. The provider may obtain an extension from commission staff for good cause.

SECTION 92. PSC 160.073 is repealed.

SECTION 93. PSC 160.08 is amended to read:

PSC 160.08 **Telecommunications customer assistance program.** The commission may authorize individual telecommunications providers to establish telecommunications customer assistance programs that meet authorized goals and objectives for increasing or stabilizing subscription levels for non-optional, essential telephone telecommunications service within its service territory or to address avoidance of disconnection or limitation of service to low-income households with payment problems. Such The customer assistance programs may allow a provider to not make available certain essential services, as defined in s. PSC 160.03 (2), in order to ~~preserve~~ keep at least minimal telephone telecommunications service to certain low-income households with payment problems. The commission shall determine on a case-by-case basis whether or not a telecommunications customer assistance program may receive universal service fund monies.

SECTION 94. PSC 160.09 (1) is renumbered 160.09 (1g), and amended to read:

PSC 160.09 (1g) ~~A local exchange service provider that is an eligible telecommunications carrier under s. PSC 160.13~~ full ETC shall provide high rate assistance credits to residential customers when the price of service exceeds levels set in this section.

SECTION 95. PSC 160.09 (1) is created to read:

PSC 160.09 **High rate assistance credits.** (1) In this section, "median household income" means the estimated median household income per county published annually by the U.S. census bureau's small area income and poverty estimate program.

Note: This may be found at www.census.gov/did/ww/saie/data/statecounty/data

SECTION 96. PSC 160.09 (1r) is created to read:

PSC 160.09 (1r) A full ETC shall recalculate credits under this section whenever the fixed monthly charge for essential telecommunications service, as defined in s. PSC 160.03(2),

is changed, or when ordered to do so by the commission. If the recalculation results in a de minimis change, the ETC may request that the administrator of the telecommunications division stay the requirement to increase or decrease the credit.

SECTION 97. PSC 160.09 (2) is amended to read:

~~PSC 160.09 one Credits shall be applied to the price of service Full eligible telecommunications carriers shall calculate credits as specified in sub. (34), except that if a local exchange service provider charges a single rate covering basic local exchange service and other telecommunications or related services, the commission may determine, by order and after opportunity for hearing, the portion of such bundled rates to which rate assistance credits apply. For purposes of calculating credits:~~

SECTION 98. PSC 160.09 (2) (c) is created to read:

PSC 160.09 (2) (c) For purposes of Figure 160.09 (2) (b) 8., the commission shall periodically calculate the average price for one minute of intrastate toll service. As an alternative, the commission may approve a full eligible telecommunications carrier's request to use an average price for one minute of intrastate toll service that it has calculated using data specific to that full ETC.

Note: As of February 2013, the commission calculated average price of intrastate toll service is 10 cents per minute.

SECTION 99. PSC 160.09 (3) (intro.), (a) and (b) are repealed.

SECTION 100. PSC 160.09 (3) (a) and (b) are created to read:

PSC 160.09 (3) (a) For full ETCs that only offer essential services bundled with other services, the price of service shall be established, after opportunity for comment or hearing, using one or more methods approved by the commission for determining the portion of a bundled rate that shall be considered the price of service.

(b) For full ETCs that offer essential services individually, the price of service shall include all of the following

1. The in-state charges and fees for stand-alone single-party residential service with touch-tone, including, as applicable, all of the following:

- a. Police and fire protection fee.
- b. State universal service fund assessment.
- c. Remainder assessment.
- d. Telecommunications utility trade practices assessment.

2. Any 911 charges billed on the telephone bill.

3. The federal subscriber line charge.

4. The access recovery charge.

5. The charge for 120 local calls, excluding extended community calling calls.

6. The federal communications commission authorized charge for implementation of local number portability.

7. Other charges as approved by the commission.

SECTION 101. PSC 160.09 (3) (c) and Figure 160.09 (3) (c) are renumbered 160.09 (2) (b) 8. and Figure 160.09 (2) (b) 8., and amended to read:

PSC 160.09 (2) (b) 8. Usage charges, if any, based on the size of the local calling area ~~excluding extended community calling territory~~, as follows: [See Figure 160.09 (3)(e) (2) (b) 8. following]

Figure 160.09 (3)-(e) (2) (b) 8.:		
Exchange's local calling area size, excluding extended community calling territory, as measured by number of access lines	Exchange's combined local calling and extended community calling area size as measured by number of access lines	Usage charges includable in the s. PSC 160.09 (3)-(e) (2) calculation of the price of service
At least 50,000	(Not applicable)	Per minute or calculated charges for 480 minutes of local calling.
Less than 50,000 but at least 5,000	At least 50,000	Per minute or calculated charges for 360 minutes of local calling, plus Price of 1 <u>one</u> minute of extended community calling times 120 minutes.
Less than 50,000 but at least 5,000	Less than 50,000	Per minute or calculated charges for 360 minutes of local calling, plus Price of 1 <u>one</u> minute of extended community calling times 90 minutes, plus The average price of 1 <u>one</u> minute of intrastate toll service, as periodically calculated by the commission , times 30 minutes. If a provider does not have extended community calling in the exchange, the above 360 minutes of local calling should <u>shall</u> be changed to 450 minutes.
Less than 5,000	At least 50,000	Per minute or calculated charges for 240 minutes of local calling, plus Price of 1 <u>one</u> minute of extended community calling times 240 minutes.
Less than 5,000	Less than 50,000	Per minute or calculated charges for 240 minutes of local calling, plus Price of 1 <u>one</u> minute of extended community calling times 120 minutes, plus The average price of 1 <u>one</u> minute of intrastate toll service, as periodically calculated by the commission , times 120 minutes. If a provider does not have extended community calling in the exchange, the above 240 minutes of local calling should <u>shall</u> be changed to 360 minutes.

SECTION 102. PSC 160.09 (4) (intro.), (b) to (g), and (5) to (7) are amended to read:

PSC 160.09 (4) (intro.) ~~Local exchange service providers~~ Full eligible telecommunications carriers shall issue high rate assistance credits according to the following criteria:

(b) For the portion of the price of service equal to or above 1.5% but below 2.0% of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue a credit equal to 50% of that amount.~~

(c) For the portion of the price of service equal to or above 2.0% but below 2.5% of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue a credit equal to 75% of that amount.~~

(d) For the portion of the price of service equal to or above 2.5% but below 3.0% of median household income, per month, for the area in which the rate applies, ~~the local~~

~~exchange service provider shall issue a credit equal to 85% of that amount.~~

(e) For the portion of the price of service equal to or above 3% of median household income, per month, for the area in which the rate applies, ~~the local exchange service provider shall issue a credit equal to 95% of that amount.~~

(f) When a rate applies in only one county, the median household income, as published by the Wisconsin department of workforce development, used to calculate the credit shall be that of that county in which the rate applies. When a rate applies in more than one county, the median household income used to compute the credit shall be the average of the median household incomes in each county in which the rate applies, weighted by the number of customers paying that rate in each county.

(g) If the amount of money required to reimburse ~~local exchange service providers full ETCs~~ for credits under this section exceeds the amount budgeted for this program under

s. PSC 160.17, the commission may modify the formula for high rate assistance credits. ~~Such modification may be done by commission order, after notice and an opportunity for hearing.~~

(5) Except as provided in sub. (9), each ~~local exchange service provider shall~~ full ETC may be reimbursed by the universal service fund for the value of the credits it issues, ~~provided that it qualifies under s. PSC 160.091 if it files its reimbursement claims with the fund administrator by April 1 of the year following the year during which it issued the credit. The full ETC may obtain an extension of the filing deadline from commission staff for good cause.~~

(6) When a ~~local exchange service provide~~ full ETC charges a pro-rated portion of the normal monthly charge for service because the customer has had service for only a portion of the month, the rate assistance credit for that customer shall be pro-rated by the same percentage.

(7) ~~High A full ETC shall show and identify the high rate assistance credits shall be shown and identified on bills issued to customers.~~

SECTION 103. PSC 160.09 (8) is repealed.

SECTION 104. PSC 160.09 (9) is amended to read:

PSC 160.09 (9) ~~Local exchange service providers shall Full ETCs may not~~ be reimbursed by the universal service fund for the value of credits issued to customers receiving essential telecommunications service under a contract if the contract has a duration of greater than one year. The commission may grant waivers of this subsection by order. This subsection does not apply to rural line extension contracts entered into before January 1, 1996.

SECTION 105. PSC 160.091 is repealed.

SECTION 106. PSC 160.092 (1) is renumbered 160.092 (1) (a), and amended to read:

PSC 160.092 (a) ~~As an An~~ alternative to the high rate assistance credit mechanism in s. PSC 160.09, ~~the commission may, by order, after notice and an opportunity for hearing, implement other plans under this section.~~

SECTION 107. PSC 160.092 (1) is created to read:

PSC 160.092 **Alternative universal service protection plans.** (1) After notice and opportunity for hearing the commission may, by order, implement one or more of the following plans:

SECTION 108. PSC 160.092 (1) (b) and (c) are created to read:

PSC 160.092 (1) (b) A measure to ensure provision of intralata and interlata essential services.

(c) A measure approved by the commission as necessary to protect universal service and ensure provision of services.

SECTION 109. PSC 160.092 (2) and (3) are amended to read:

PSC 160.092 (2) Alternative plans under ~~sub. (4) this section shall~~ be implemented on an experimental basis. These ~~experiments plans~~ shall be reviewed within 3 years of inception and shall terminate within 5 years of inception, unless made permanent by commission order after notice and an opportunity for hearing.

(3) Alternative ~~high cost support~~ plans under this section may make use of cost studies, bidding, auctions, defined service territories or other mechanisms to protect universal service. The commission may, by order, authorize payment of universal service fund monies as part of an alternative plan.

SECTION 110. PSC 160.092 (4), 160.10 and 160.11 are repealed.

SECTION 111. PSC 160.115 (1) (a) and (b) 1. and 2. are amended to read:

PSC 160.115 (1) (a) “Initial application” means ~~an the first~~ application for universal service fund support under this section that ~~is the first such application filed by the an~~ applicant during files in a state fiscal year.

(b) “Non-profit medical clinic” includes any clinic or hospital that meets all of the following:

1. Is a non-profit organization governed by a board of directors,

2. Serves federally designated health professional shortage areas as defined in 42 USC 254e (a) (1), medically underserved areas, or medically underserved populations, and.

SECTION 112. PSC 160.115 (2) (intro.), (b), (c), (3),(4) (a), (5) (intro.), (b), (c) and (g), (6) (a) (intro.) and 4. and (b), and (6) are amended to read:

PSC 160.115 (2) (intro.) ~~Funding may be available The~~ commission may grant funding to non-profit medical clinics and public health agencies for the purchase of telecommunications equipment for any of the following purposes:

(b) To directly or indirectly enhance access to medical care in rural or underserved areas of the state, or both.

(c) To directly or indirectly enhance access to medical care by underserved populations or persons with disabilities in the state, or both.

(3) ~~A The commission may grant a maximum of \$500,000 in universal service fund support may be dispersed granted under this section per state fiscal year, or \$1,000,000 per state biennium.~~

(4) (a) ~~An application applicant~~ for universal service fund support under this section may not, in its application, involve disbursement request disbursement of support during multiple state fiscal years for a time period longer than that specified in the solicitation for grant applications.

(5) ~~Applications An applicant for funding shall~~ include all of the following in its application:

(b) An explanation of how the applicant’s purchase of ~~such the~~ telecommunications equipment will support the purposes identified in sub. (2).

(c) Identification of the vendor that ~~will~~ may supply the telecommunications equipment.

(g) Any other information that the commission ~~deems~~ considers necessary.

(6) (a) The commission shall evaluate all applications submitted under this section. ~~Provided that funds remain for this purpose, the The~~ commission may approve all or part of an application if it includes the information required under sub. (5) and if the commission determines the following:

1. The applicant is a non-profit medical clinic or public health agency located in Wisconsin.

2. The applicant’s purchase of telecommunications equipment will support the purposes identified in sub. (2).

3. The applicant will be able to pay for the portion of the cost of the equipment not funded under this section.

4. ~~The medical clinic or public health agency applicant~~ has taken steps to secure the equipment at reasonable prices.

(b) Public health agencies and non-profit organizations that operate more than one location may receive universal

service fund support for telecommunications equipment at more than one location, but before approving an application involving an additional location, the commission shall consider how much total universal service fund support has been received by such the agency or organization during the state fiscal year time period specified in the solicitation for grant applications and the total amount remaining available to be dispersed granted under this section during the fiscal year that time period. Preference may be given to initial applications filed by a public health agency or non-profit medical clinic.

SECTION 113. PSC 160.115 (6) (c) is renumbered 160.115 (6) (d).

SECTION 114. PSC 160.115 (6) (c) is created to read:

PSC 160.115 (6) (c) The commission may give preference to initial applications filed by a public health agency or non-profit medical clinic.

SECTION 115. PSC 160.125 (1) (title), (a) and (b) are amended to read:

PSC 160.125 (1) (title) ~~VOICE-MAIL~~ TELEPHONE ACCESS SERVICE FOR THE HOMELESS.

(a) ~~Any~~ The commission may compensate any voice mail provider ~~may be compensated~~ for providing, on request, to a social services agency, a job service agency or other homeless shelter authority, voice-mail service without charge to be used by that agency or authority for the benefit of its homeless clients or residents.

(b) A voice-mail provider that is providing voice-mail boxes to a qualifying agency or authority at no charge may request and receive reimbursement only for its incremental usage and administrative costs of providing this service using available capacity. As an alternative, a provider may request and receive reimbursement ~~may be requested and received~~ from the fund at a standard rate set by the commission to cover expected incremental costs of providing this service using available capacity.

SECTION 116. PSC 160.125 (1) (e) and (2) (a) and (b) are amended to read:

PSC 160.125 (1) (e) A social services agency, job service agency and homeless shelter authority participating in this program shall maintain a list of all individuals receiving voice mail under this section ~~shall be maintained by the social services agencies, job service agencies or homeless shelter authorities participating in this program.~~

(2) ACCESS PROGRAMS OR PROJECTS BY NON-PROFIT GROUPS.

(a) ~~Partial~~ The commission shall grant partial funding ~~may be available to non-profit groups for the facilitation of affordable access to telecommunications and information services through programs or projects, or both, not supported elsewhere in this chapter, but that are consistent with the purposes identified in s. 196.218 (5) (a) 1. and 2., Stats.~~

Note: As of ~~November 1999~~ February 2013, s. 196.218 (5) (a) 1. and 2., Stats., reads in pertinent part:

(5) *USES OF THE FUND.* (a) *The commission shall use the moneys in the universal service fund only for any of the following purposes:*

1. *To assist customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers and disabled customers in obtaining affordable access to a basic set of essential telecommunications services.*

2. *To assist in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout this state.*

(b) Any non-profit group may apply for universal service funding to fund any portion of a program or project or both. Funding shall be ~~provided~~ granted on a state fiscal year basis, but funding for more than one fiscal year may be approved at one time. Applications for funding in the following fiscal year shall be submitted by November 15th. The commission shall issue a list of approved programs or projects, or both, by April 15th, with funding for those programs or projects, or both, to begin that July 1st when grants are awarded. All applications shall become public documents upon filing.

SECTION 117. PSC 160.125 (2) (c) 1. is renumbered 160.125(2) (c) 1m., and amended to read:

PSC 160.125 (2) (c) 1m. A description of a public need which is not being met at present;

SECTION 118. PSC 160.125 (2) (c) 1. is created to read:

PSC 160.125 (2) (c) 1. A statement that the applicant is a non-profit group, as defined in s. PSC 160.02 and (23).

SECTION 119. PSC 160.125 (2) (c) 2. 3., 5., and (d) to (f) are amended to read:

PSC 160.125 (2) (c) 2. A description of how the program or project is consistent with the ~~purposes~~ purpose identified in s. 196.218 (5) (a) 1. ~~and 2., Stats.~~

3. A description of the program or project proposed, including a description of how the public need described in subd. ~~4~~ 1m. may be met through affordable access to telecommunications ~~or information services;~~

5. Identification of the providers of each portion of the telecommunications services or equipment and a specific description of the ~~following~~ components of the program or project including all of the following:

a. The costs of telecommunications services and telecommunications equipment used by the program or project;

b. The cost of training for those who are served by the program or project so that they can ~~utilize~~ use the services;

c. The administrative costs directly attributable to the program or project;

d. The cost of technical expertise required to complete the program or project; ~~and;~~

e. Revenue from services or training described in subd. 5. b.

(d) The commission shall evaluate all complete and timely applications submitted. In evaluating the applications the commission shall consider information including, ~~but not limited to,~~ all of the following:

1. The basis of the public need to be met;

2. The extent to which other programs or projects, either funded under this section or otherwise under this chapter, meet that need; ~~and;~~

3. The overall cost of the proposed program or project.

(e) The universal service fund shall reimburse applicants for up to ~~50%~~ 75% of the cost of reimbursable portions of the program or project, or both. The reimbursable costs include those listed in par. (c) 5. a. to d. The applicant may include in-kind goods or services, or both, as resources to be used for the remainder of the costs of the program or project, or both.

(f) The commission shall determine the programs or projects, or both, to be funded and the amount of reimbursement for each program or project ~~shall be determined by the commission. The commission shall seek comments on the programs or projects to be funded, but shall not hold a hearing. A~~ The commission may grant a maximum

of \$500,000 in funding ~~may be dispersed~~ under this subsection per state fiscal year, or \$1,000,000 per state biennium.

SECTION 120. PSC 160.13 is repealed and recreated to read:

PSC 160.13 (1) GENERAL. (a) The commission may designate a telecommunications provider as an eligible telecommunications carrier. This designation is not transferable.

(b) The commission may suspend or revoke an ETC designation if the designee violates the requirements in this section.

(2) Requirements for ETC designation. (a) A full or low-income ETC, but not a federal-only ETC, is eligible to receive universal service funding for an area, under both applicable federal and state universal service programs, if it meets all of the following requirements:

1. Holds itself ready to offer all elements of essential telecommunications service, as defined in s. PSC 160.03 (2), to all customers in the area for which it is requesting ETC status.

2. Regularly advertises its service in the area for which it is requesting ETC status, with the advertisements meeting all of the following requirements:

a. Are disseminated in media of general distribution in the area, at least 2 times per year.

b. Describe the services offered.

c. Describe the discounts available to low income customers.

3. Offers lifeline-service, as defined in s. PSC 160.062, wherever service is offered in the area for which it is requesting ETC status, and publicizes the availability of those offerings in a manner reasonably designed to reach those likely to qualify for them.

4. Meets all of the applicable federal eligibility requirements in 47 CFR 54.201 and 54.202 (a).

(b) An applicant for federal-only ETC designation under s. 196.218 (4) (b), Stats., is required to meet all of the applicable federal eligibility requirements in 47 CFR 54.201 and 54.202, and any state requirements or processes that federal law requires ETCs to follow.

Note: For example, federal ETC regulations require all providers to follow some provisions of state law, such as use of state lifeline eligibility verification databases.

(3) Application for new or expanded ETC status. An applicant for new or expanded eligible telecommunications carrier status shall demonstrate its ability to meet the requirements under sub. (2) by including all of the following information in its application:

(a) Certification that it will meet the requirements in sub. (2) (a) or (b).

(b) A demonstration of how the applicant meets the requirement of 47 USC 214 (e) (1) (A). This shall be demonstrated in one of the following ways:

1. An explanation of how the applicant will use its own facilities to provide voice telecommunications service to a Wisconsin customer.

2. An electronic link to or copy of the federal communications commission order approving the applicant's compliance plan, and an electronic link to the approved compliance plan.

Note: A provider may apply for ETC designation before its compliance plan is approved by the Federal Communications Commission, but the commission will not act on the application until the plan is approved.

(c) One of the following:

1. A copy of the applicant's 5 year plan, and associated documentation, as required by 47 CFR 54.202 (a) (1) ii., including certification that it will use any federal high cost support monies for the purposes allowed under 47 USC 254 (e), 47 CFR 54.313 (a) and 54.314 (a).

2. A certified statement that the applicant will not seek high cost assistance funding from the federal universal service fund or high rate assistance funding from the state universal service fund.

(d) A copy of any certifications, information and demonstrations required under 47 CFR 54.201 and 54.202.

(e) A list of all of the exchanges or wire centers, or both, for which ETC status is sought and identification of any wire center for which status is sought for only a portion of the wire center.

(f) The applicant's name, any other name under which the applicant does business, the applicant's commission utility identification number and proof of registration with the department of financial institutions.

(g) The applicant's contact information for each of the following:

1. Commission inquiries about financial or assessment issues.

2. Commission inquiries about customer issues.

3. Customers to use to contact the applicant directly about customer issues.

4. Potential customers to use to obtain service from the applicant.

(h) A statement that the applicant will timely update the information in pars. (f) and (g).

(i) A statement that the applicant will provide the information necessary to populate the state broadband map or its successor.

(j) Any other information the commission considers necessary.

(4) ETC REPORTING. All eligible telecommunications carriers shall submit to the commission, within 14 days of the associated federal filing date, all of the following:

(a) For full ETCs that are eligible for high cost assistance, all of the following:

1. All of the information required under 47 CFR 54.313.

2. Any information necessary for the commission to certify that the ETC has this year, and will next year, use its high cost assistance monies for the purposes allowed under 47 USC 254 (e), and 47 CFR 54.313 (a) and 54.314 (a).

3. Any other information that federal regulations require such ETCs to provide to state commissions.

(b) For all full and low-income ETCs, all of the following:

1. The information required under 47 CFR 54.422.

2. Any other information that federal regulations require such ETCs to provide to state commissions.

(c) For all ETCs, all of the following within 14 days of the occurrence:

1. Updates to all of the information in subs. (3) (g) and (h).

2. Any other information that federal regulations require ETCs to provide to state commissions.

Note: Some of the information required under this section can be provided to the commission by submitting copies of filings with the FCC.

(5) AREA COVERED BY ETC DESIGNATION. (a) The area in which a provider shall be designated as an eligible telecommunications carrier shall be one of the following:

1. If requesting ETC designation for an area that is served by an incumbent local exchange provider that is not a rural telephone company, one of the following:

a. For a full ETC applicant, one or more of the incumbent local exchange service provider's wire centers.

b. For a low-income ETC applicant, the area designated by the applicant and approved by the commission.

2. If requesting ETC designation for an area that is served by an incumbent local exchange service provider that is a rural telephone company, one of the following:

a. Except as provided in sub. 2. b., the incumbent local exchange service provider's entire service territory.

b. If the federal communications commission has granted a provider forbearance from the requirement that its designated area match the boundaries of a rural incumbent local exchange carrier's service territory, the area designated by the applicant and approved by the commission.

(b) Notwithstanding any other provision in this subsection, unless approved by the commission and, if necessary, the federal communications commission, no ETC designation area may include only a portion of a wire center.

(6) DESIGNATION OF MULTIPLE ETCs IN AN AREA. (a) The commission may only designate an additional eligible telecommunications carrier in an area where one has already been designated after finding that doing so is in the public interest. For an area served by an incumbent local exchange service provider that is not a rural telephone company, the commission may perform a less detailed public interest analysis than if the area is served by an incumbent local exchange service provider that is a rural telephone company.

(b) In its public interest analysis under par. (a) the commission shall include consideration of all of the following:

1. The factors in s. 196.03 (6), Stats.

2. The potential for cream-skimming.

(7) LIST OF ETCs. The commission shall maintain a list of the eligible telecommunications carriers for all areas of the state.

(8) RELINQUISHING ETC DESIGNATION. (a) An eligible telecommunications carrier may relinquish that designation for an area by notifying the commission and the administrators of both the state and federal universal service funds, in writing, of its intention.

(b) If at least one other ETC is designated for that area, the relinquishing ETC shall be relieved of ETC status for that area, without commission action, on the later of 14 days after commission receipt of the notification or the effective date proposed by the provider.

(c) If no other ETC is designated for that area, the relinquishing ETC shall remain as the ETC for that area until the commission designates an alternative ETC. In that case, the commission shall notify the relinquishing, ETC and the administrators of the state and federal funds, that ETC status is still in effect. The commission may use an auction or other reasonable process to designate a new ETC for an area for which the only existing ETC is seeking to relinquish that

status. The commission may authorize compensation from the universal service fund as part of this process.

(d) A provider may continue to provide services in an area for which it has relinquished ETC status. If a provider seeks to abandon facilities or discontinue any service, it shall notify affected customers and follow any abandonment or discontinuance procedures required by the commission, Wisconsin department of agriculture, trade and consumer protection or the federal communications commission.

(e) A federal-only eligible telecommunications carrier that is no longer eligible for that designation because it is no longer a wireless provider or because it wants to access state USF support may apply for a new ETC designation. The ETC's federal-only ETC status remains in effect while the commission investigates and acts on the ETC's new application.

SECTION 121. PSC 160.14 and 160.15 are repealed.

SECTION 122. PSC 160.16 (1) and (2) are amended to read:

PSC 160.16 **Fund administrator.** (1) The commission shall designate the fund administrator and provide for an annual independent audit of the fund. The commission shall establish guidelines for administration and assignment of liabilities.

(2) The fund administrator may propose ~~changes~~ a change or modification to the mechanisms of administration of the fund. The commission may approve ~~such requests~~ the request without hearing.

SECTION 123. PSC 160.17 (1) (c), (2) and (4) are amended to read:

PSC 160.17 (1) (c) Deferring support ~~payments~~ payment decisions to a later period.

(2) At least annually, the commission, in consultation with the ~~technology for educational achievement in Wisconsin board and department of administration~~ the appropriate agencies, shall determine the amounts necessary for funding the payments specified in s. PSC 160.05 (2), ~~(3) and (4)~~ (5) to (8).

(4) The commission shall provide notice of the proposed budget under sub. (1) ~~and any proposed changes to the budget~~ to the universal service fund council and other interested ~~parties~~ persons with an opportunity for comment prior to commission action.

SECTION 124. PSC 160.18 (4), (6) and (9) (a) are amended to read:

PSC 160.18 (4) Each telecommunications provider shall submit information, on a schedule and in a format ~~to be~~ set by the commission, on the telecommunications provider's gross intrastate telecommunications revenues during the preceding calendar year.

(6) ~~The amount to be assessed to a~~ A given telecommunications provider is ~~shall be assessed~~ the percentage liability of that provider under sub. (5) multiplied by the total annual amount to be collected. For monthly billings, the annual assessment amount shall be divided into 12 equal parts. For quarterly billings the annual amount shall be divided into four equal parts.

(9) (a) ~~Assessments shall be paid~~ The commission may bill telecommunications providers for the assessments as calculated in sub. (6) on a monthly, quarterly or annual basis. A telecommunications provider shall pay its monthly, quarterly or annually billed portion of its calculated assessment within 30 ' days after the bill is mailed. A

telecommunications provider that has not paid within 30 days after the bill is mailed shall be deemed considered to have not paid under s. 196.218 (8), Stats. ~~Assessments not paid within 30 days after the bill is mailed shall be collected, and the commission may collect the bill using the process described in s. 196.85 (3), Stats.~~

SECTION 125. PSC 160.18 (9) (b) is renumbered 160.18 (9) (b) 1., and amended to read:

PSC 160.18 (9) (b)1. ~~Objection to an assessment amount shall be made~~ A telecommunications provider that disagrees with a new assessment amount as calculated under sub. (6) shall object within 30 days after the bill using the new assessment amount is mailed. ~~The making of the objection and commission action regarding that objection shall follow the process described in s. 196.85 (4), Stats. The commission shall consider an objection to an assessment amount made more than 30 days after the first bill using the new assessment amount is mailed as an objection to the assessment amount beginning with the most recent assessment bill.~~

Note: For example, if a new assessment amount is billed on October 1 and an objection is filed on October 15, the objection will be to the amount on all bills from October 1 on. If an objection is filed on November 15, the objection will be to the amount on all bills from November 1 on.

SECTION 126. PSC 160.18 (9) (b) 2. and 3. are amended to read:

PSC 160.18 (9) (b) 2. The making of an objection and commission action regarding that objection shall follow the process described in s. 196.85 (4), Stats.

3. Notwithstanding subd. (b) 1., if the objection is due to a mistake in calculating or reporting data, and the mistake results in a provider overpaying, then the commission shall reimburse the provider the amount overpaid even if the objection is made more than 30 days after the first bill using a new assessment amount.

SECTION 127. PSC 160.18 (10) is repealed and recreated to read:

PSC 160.18 (10) A telecommunications provider's adjustments of local exchange rates or surcharges to correct overcollection or undercollection of amounts charged for the purpose of recovering contributions to the universal service fund shall be limited to adjustments for the prior year or for the period beginning with the effective date of the commission's last assessment determination. A

telecommunications provider shall file notice of such an adjustment with the commission, in a format acceptable to the commission, within 180 days after the date on which a new assessment rate amount goes into effect.

SECTION 128. PSC 160.181 is amended to read:

PSC 160.181 **Use audit.** Recipients of universal service fund monies may be audited by the commission to ensure that the funding was ~~applied for~~ requested and used appropriately.

SECTION 129. PSC 160.19 (1), (2) and (4) (b) are amended to read:

PSC 160.19 **Universal service fund council.** (1) The commission shall appoint a universal service fund council to advise the commission concerning the administration of s. 196.218, Stats., the content of administrative rules adopted pursuant to under s. 196.218, Stats., and any other matters assigned to the universal service fund council by the commission.

(2) The universal service fund council shall consist of telecommunications providers and of consumers of telecommunications services. The commission shall appoint a diverse membership to the universal service council including representatives of the local exchange telecommunications industry; ~~the interexchange telecommunications industry, including facilities-based carriers and resellers;~~ the cable television industry; the wireless industry; other telecommunications providers and consumers of telecommunications services including residential, business, governmental, ~~institutional,~~ and public special interest group users of telecommunications services.

(4) (b) The commission may appoint a replacement member ~~when necessary~~ to serve the remaining term of a member withdrawing from the universal service fund council.

SECTION 130. PSC 161.05 (4) is repealed.

SECTION 131. 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, 196.203, 196.218, 196.25, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65 and 196.66, Stats.

SECTION 132. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

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

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

PSC 160 Universal Service Support Funding and Programs

3. Subject

Updating the Universal Service Fund rules

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

Outdated rules that are no longer in compliance with state and federal law. Elimination of outdated or ineffective provisions. Curtail fraud and abuse potential for federal and state USF programs.

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.

Wisconsin Federation of Independent Business; League of Wisconsin Municipalities, Wisconsin Towns Association, Wisconsin Alliance of Cities, Citizens' Utility Board, Wisconsin State Telecommunications Association, National Federation of Independent Businesses, Universal Service Fund Council, and all telecommunications providers.

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

League of Wisconsin Municipalities, Wisconsin Towns Association and Wisconsin Alliance of Cities.

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 changes made in this rulemaking have minimal, if any, economic impacts

Comments on the economic impact of the rulemaking were more about the substance of the rules. No economic figures were provided. One commenter raised two issues about which the commission has no jurisdiction. Another commenter made a number of comments about the existing rule language rather than changes made as a part of this rulemaking. Some concern was raised about the potential for the size of the fund to increase, but the size of the fund is controlled by the legislature. One economic change was made by deleting a proposed provision about when assessments must be paid.

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

Updating and revising outdated rules. Added efficiency. The updates will bring these rules into compliance with recent changes to state and federal laws.

14. Long Range Implications of Implementing the Rule

Added efficiency and compliance with recent changes to state and federal laws.

15. Compare With Approaches Being Used by Federal Government

The state and federal universal service funds and programs are complementary rather than duplicative.

“Eligible Telecommunications Carriers” (ETCs) are designated by the commission and are, thereafter, eligible for funding from the federal USF and for certain funding from the state USF. ETC status was created by the FCC, and codified in 47 U.S.C. § 214(e)(2). Under FCC rules, state commissions are responsible for designating eligible providers as ETCs.¹

Designation as an ETC is required if a provider is to receive federal USF funding. ETC designation is also required to receive funding from some, but not all, state universal service programs. The FCC established a set of minimum criteria that all ETCs must meet. These are codified in the federal rules.² The 1996 Telecommunications Act states that, “A State may adopt regulations not inconsistent with the Commission’s rules to preserve and advance universal service.”³ A court upheld the states’ right to impose additional conditions on ETCs in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999). Therefore, while states must examine the federal requirements, they are allowed to create additional requirements. Wisconsin has done so.

The federal USF provides funding to ETCs that are found to serve high-cost areas. That funding is to be used to help cover the costs of expanding infrastructure into those areas. Doing so should help ensure that rates in those areas stay lower since rates need not provide the funds for that expansion. The Wisconsin USF provides reimbursement to providers that offer credits to customers when rates are higher than as designated in s. PSC 160.09.

The federal USF also includes Lifeline and Link-Up programs to assist low-income customers. The Wisconsin Lifeline and Link-Up programs are structured to complement the federal program and to take advantage of the available federal Lifeline and Link-Up funds.

The federal USF assessment applies to all carriers, including wireless carriers, and is assessed based on interstate revenues. The state USF assessment applies to all providers, including wireless providers, and is assessed based on intrastate revenues. Wisconsin exempts certain providers from assessment, such as those with under \$200,000 in intrastate revenues.

There are parts of the federal USF (e.g., the E-Rate program for schools) that do not have a counterpart in the state USF rules. Likewise, some of the state USF rules (e.g., the program to assist persons with disabilities — s. PSC 160.071) address matters not included in the federal USF law or rules.

¹ 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.201(b)

² 47 U.S.C. § 214(e)(a), 47 C.F.R. § 54.101(a)

³ 47 U.S.C. § 254(f)

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

Many state USF programs, both in Wisconsin and in other states, are intertwined with federal universal service programs. As a result, there is a certain amount of similarity among state programs. For example, each of the surrounding states has Lifeline type programs.⁴ As required under federal law, each has income-based eligibility criteria although the specifics vary somewhat. The level of credits to customers and the resulting reimbursements to providers are similar, due in part to the federal matching dollars attached to credit/reimbursement levels. A difference in Lifeline programs is that the four other states only have a set figure for the Lifeline credit/reimbursement amount (although in Michigan that amount may vary depending on which company is involved). Wisconsin also has a standard Lifeline credit if the base rate⁵ is \$25 or below, although, it has a variable component. If the base rate is \$25 or above, the reimbursement/credit is the lesser of:

1. Whatever is necessary to bring that rate down to \$15.
2. The amount available under the federal USF plus \$9.25.

In this way, low-income customers in higher cost (generally rural) areas receive a credit sufficient to bring the base rate to a reasonably affordable level and providers are on a fairly “level playing field.”

The provision in these rules that allows the Lifeline credit to apply to Internet access where a certified disabled customer requires it as a substitute for regular essential telecommunications service is unique within the region.

Wisconsin also has a program (TEPP) that helps provide access to telecommunications service for persons with hearing, speech and/or mobility disabilities. TEPP provides vouchers to help persons with disabilities that impair their ability to use standard telecommunications equipment for accessing telecommunications service to obtain equipment that will assist them in doing so. Iowa, Illinois, and Minnesota each have similar programs although the specifics vary. For example, Illinois' program is limited to those with hearing or speech disabilities, and in Minnesota the equipment belongs to the state and must be returned if the customer leaves the state or loses his/her telephone line.

Wisconsin also has a program to help lower the monthly cost of telephone service in areas of the state where rates are high. In determining whether assistance under this "high rate assistance" program is required, the program looks both at the rate for basic service and what percentage of a county's median household income that rate entails. Although its commission must vote to activate it, Michigan statutes provide for a similar program that would provide a subsidy to customers of the difference between an affordable rate and the company's forward looking economic cost of providing service (should the latter be higher than the former). Illinois has a high-cost program that provides support to small telecommunications providers if the economic costs of providing certain services exceed the affordable rate set for those services.

Surrounding states have taken a variety of approaches to certification and reporting requirements for ETCs including: adoption of formal rules, orders applicable to either new or all ETCs, and case-by-case determinations.

The Minnesota Public Utilities Commission (docket P999/M-05-741) adopted the FCC's exact language for annual certification requirements, with a couple of modifications. The two main modifications are (1) like these proposed rules, filing 2-year service quality improvement plans, and (2) filing information on a service-area basis instead of a wire-center basis. The new requirements are applied to both new and existing ETCs, and to both landline and wireless providers.

The Michigan Public Service Commission basically adopted the exact language of the FCC's rules unchanged, including the 5-year quality improvement plans. Michigan has service quality and financial reporting rules for wireline companies that do not apply to wireless ETCs, but all ETCs, both existing and new, are required to meet all of the standards and obligations contained in the FCC's ETC rules, FCC 05-46 and 47 USC 214. The one exception to this is ETCs receiving only low-income support; they have lesser reporting requirements. There are no standards for what types of reporting on quality of service issues meet the adopted FCC requirements.

The Illinois Commerce Commission has not officially adopted the FCC rules, but uses them as a base for its ETC decisions, which so far have been on a case-by-case basis. The requirements are not applied to existing ETCs. There have been requests for ETC status where the Illinois Commerce Commission has required wireless ETCs to do more than is spelled out by the FCC, holding that the FCC's requirements are "the minimum requirements." The primary areas where wireless ETCs have been subjected to more scrutiny involve consumer protection, service quality standards, and the public interest analysis. As to telephone directories, wireless providers have been required to provide written disclosure to customers that directories will not be provided and numbers will not be published. The FCC's 5-year plan is retained.

The Iowa Utility Board's (IUB) ETC rules incorporate the FCC rules with some modifications. Similar to these proposed rules, IUB requires maps of signal coverage depicting signal strength (although IUB ILECs may refer to maps already on file with the commission.) IUB adopted service quality standards for ETCs although, again like these proposed rules, they differ for landline and wireless. Rolling one year network improvement and maintenance plans are required. The rules are applied to both new and existing ETCs.

The Indiana Regulatory Commission (case 41052-ETC-47) adopted the FCC's exact language in a proceeding involving an individual ETC applicant, but made that decision applicable to all ETCs, both landline and wireless.

⁴ Lifeline helps pay the monthly cost of telephone service

⁵ The "base rate" is the monthly residential rate including applicable in-state fees, touch-tone service, 911 charges on the telephone bill, the federal subscriber line charge, access recovery charge and 120 local calls.

17. Contact Name	18. Contact Phone Number
Lisa Farrell	608-267-9086

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

ATTACHMENT A

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)

Existing USF rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. These small telecommunications utilities, like other telecommunications providers (both large and small), may have obligations under the USF, including an obligation for payments to the USF. Other requirements in the rule only apply to CMRS providers who voluntarily choose to become designated as eligible telecommunications carriers. Since the Commission does not regulate CMRS providers, it does not have records indicating how many of them are small businesses.

These proposed rules should have no particular impact on small businesses. The Commission already has established, in s. PSC 160.18(1), an exemption from fund assessments to protect entry by and continued operation of small telecommunications providers as directed by statutory objectives. In s. PSC 160.01(2)(b), the existing rules allow the Commission to give individual consideration to unusual situations and to adopt different requirements for particular telecommunications providers. Small businesses can request that the Commission provide an exception to a rule requirement. There are no new reporting or bookkeeping requirements created under these proposed rules. Also, most of the requirements in the proposed rules only apply to providers who voluntarily choose to be designated as "eligible telecommunications carriers."

The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small businesses. Accordingly, the agency has included provisions for exemption from assessments for small providers, and allowing requests for consideration of unusual circumstances, as noted above. Further application of these methods is not consistent with statutory objectives.

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

Knowledge of the programs, input from industry.

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

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

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

No requirement to pay assessments if revenues are less than \$200,000. Ability to request waiver. Applicability of most requirements is based on a voluntary election.

5. Describe the Rule's Enforcement Provisions

160.01 (4) ENFORCEMENT. The manner of enforcing ch. PSC 160 is prescribed in ss. 196.218, 196.499 (17), and 196.66, Stats., and includes such other means as provided in statutory sections administered by the commission.

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. SPS 1 — 299
CR 13-056

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in sections 15.405 (3) and 480.08 (6), Wis. Stats., and interpreting sections 480.04 (1) and (2), and 480.08 (6), Wis. Stats., the Department will hold a public hearing at the time and place indicated below to consider an order to amend section SPS 128.04 (6) (a) and to create section SPS 128.04 (6) (d), relating to course instructors for auctioneers.

Hearing Information

Date: Tuesday, October 15, 2013
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
Room 121A
Madison, WI 53718

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 Shawn Leatherwood, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to shancethea.leatherwood@wisconsin.gov. Comments must be received at or before the public hearing to be held on or by October 15, 2013 to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Shawn Leatherwood, 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 shancethea.leatherwood@wisconsin.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 480.04 (1) and (2) and 480.08 (6), Stats.

Statutory authority

Sections 15.405 (3) and 480.08 (6), Stats.

Explanation of agency authority

Pursuant to s. 15.405 (3), Stats., the Department of Safety and Professional Services has oversight of the Auctioneer Board as an attached board of the Department. In accordance with s. 480.04 (2), Stats., the Auctioneer Board does not have rule-making authority. However, under s. 480.04 (1), Stats., the Auctioneer Board may advise the Department on matters relating to auctioneers. Per s. 480.08 (6), Stats., states that the department may promulgate rules, on behalf of the Auctioneer Board, governing the requirements and procedures for auctioneers obtaining continuing education. The topic of these proposed rules is the requirements concerning instructors administering continuing education courses. Therefore, the Department is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule

Section SPS 128.04.

Plain language analysis

Currently, per Wis. Admin. Code s. SPS 128.04 (6), course instructors offering continuing education for auctioneers in Wisconsin must be either an auctioneer registered in this state, actively practicing auctioneering for the past five years; or an attorney that practices in the area of auctioneering, or an appraiser approved by the Appraiser Qualifications Board (AQB). The Auctioneer Board reviewed s. SPS 128.04 (6) and determined that the rule limited the number of eligible course instructors by excluding instructors from other disciplines that may be knowledgeable about auctioneering. By promulgating these proposed rules, the Department and

the Auctioneer Board seek to enlarge the pool of eligible instructors to those who are experts in their field, have the required years of experience, and have a course approved by the Department.

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

None.

Comparison with rules in adjacent states

Illinois: In Illinois auctioneers are regulated by the Department of Financial and Professional Regulation, Division of Professional Regulation. Continuing education courses must be approved by the Division. Illinois further requires that continuing education must be, "developed and presented by persons with education and/or experience in subject matter of the CE course". 68 Ill. Adm. Code 1440.310 (b) (8) (c).

Iowa: Iowa does not regulate continuing education requirements for auctioneers.

Michigan: Michigan does not regulate continuing education requirements for auctioneers.

Minnesota: Minnesota does not regulate the continuing education requirements for auctioneers.

Summary of factual data and analytical methodologies

The Auctioneer Board reviewed Wis. Admin. Code s. SPS 128.04 and determined a revision to the rule was necessary because the rule limited the type of course instructors that may conduct continuing education in Wisconsin. The pool of eligible instructors is currently restricted to auctioneers registered in Wisconsin, attorneys who are engaged in the field of auctioneering law, and an appraisers approved by the AQB. The Board sought to enlarge the pool of course instructors by drafting this proposed rule. No other factual data or analytical methodologies were used.

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

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at greg.gasper@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Initial Regulatory Flexibility Analysis or Summary

None.

Environmental Assessment/Statement

None.

Agency Contact Person

Shawn Leatherwood, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at shancethea.leatherwood@wisconsin.gov.

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

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

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

SPS 128.04 (6)

3. Subject

Course Instructors

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The proposed rule seeks to expand the pool of course instructors eligible to provide continuing education courses to auctioneers in Wisconsin. Enlarging the types of course instructors that can provide continuing education will alleviate the problem of unnecessarily excluding qualified instructors from providing their expertise in various fields to auctioneers in this state.

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 proposed rule will primarily affect auctioneers and various professionals from a variety of disciplines. The rule was posted on the Department of Safety and Professional Services website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.

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

No local governmental units participated in the development of this EIA

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

This rule will have no economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

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

The proposed rule would benefit auctioneers and the public by allowing experts in their respective fields to teach auctioneers about various topics related to auctioneering. By receiving this training, auctioneers will augment their skills and be better prepared to conduct auctions.

14. Long Range Implications of Implementing the Rule

Broadening the knowledge base of Wisconsin auctioneers in various fields related to auctioneering.

15. Compare With Approaches Being Used by Federal Government

None.

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

Illinois: In Illinois auctioneers are regulated by the Department of Financial and Professional Regulation, Division of Professional Regulation. Continuing education courses must be approved by the Division. Illinois further requires that continuing education must be, “developed and presented by persons with education and/or experience in subject matter of the CE course”. 68 Ill. Adm. Code 1440.310 (b) (8) (c).

Iowa: Iowa does not regulate continuing education requirements for auctioneers.

Michigan: Michigan does not regulate continuing education requirements for auctioneers.

Minnesota: Minnesota does not regulate the continuing education requirements for auctioneers.

17. Contact Name
Shawn Leatherwood

18. Contact Phone Number
608-261-4438

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

Notice of Hearing

Safety and Professional Services — Dentistry Examining Board CR 13-060

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in sections 15.08 (5) (b), 227.11 (2), and 447.03 (3) (f) 1., Stats., and interpreting section 447.03 (3) (f) 1., Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order repeal and recreate section DE 9.01; amend section DE 9.02 (intro.), (1), (2), and (4); and create section DE 9.015, relating to lab work authorizations.

Hearing Information

Date: Wednesday, November 6, 2013
Time: 9:30 a.m.
Location: 1400 East Washington Avenue (enter at 55 North Dickenson Street)
Room 121A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 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 Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received before the public hearing to be held on November 6, 2013 to be included in the record of rule-making proceedings.

Copies of rule

Copies of this proposed rule are available upon request to Jean MacCubbin, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935, by email at Jean.MacCubbin@wisconsin.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

Section 447.03 (3) (f) 1., Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), and 447.03 (3) (f) 1., Stats.

Explanation of agency authority

Section 15.08 (5) (b), Stats., requires that examining boards shall promulgate rules for their own guidance and for

the guidance of the professions over which they have jurisdiction, which reads:

Section 227.11 (2), Stats., permits an agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency, which reads:

Section 447.03 (3) (f) 1., Stats., provides exceptions to licensees regarding practices, such as lab work authorizations, which reads:

“(3) EXCEPTIONS. No license or certificate under this chapter is required for any of the following: ... (f) A dental laboratory or dental laboratory technician to construct appliances or restorations for dentists if all of the following apply: 1. The appliances or restorations are constructed upon receipt from a dentist of impressions or measurements, directions, and a written work authorization on a form approved by the examining board.”

Related statute or rule

There are no other related statutes or rules beyond those indicated above.

Plain language analysis

The objective of the proposed rule is to eliminate the requirement that a written authorization for dental laboratory work shall be on a form approved by the board. The proposed rule will also allow for the continued use of current technologies, such as the request may be made electronically and work orders detailed digitally.

SECTIONS 1. and 2. These sections are proposed to separate the subjects of authority and definitions from the current section, s. DE 9.01 whereby creating two renumbered sections, ss. DE 9.01 and 9.015. The definitions for both dental laboratory and work authorization now clearly remove any reference to a written request or the use of a board-approved form.

SECTION 3. This section deals primarily with the changes to no longer requiring written lab work authorizations, in so far as amending s. DE 9.02 (intro.), (1), (2), and (4) to remove references to out-dated methods of work order requests.

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

No rules or laws were found in an Internet-based search of the U.S. Code or the Code of Federal Register (CFR) for dental lab work authorizations, written or electronic, made by dentists.

Comparison with rules in adjacent states

An Internet-based searched resulted in the following findings:

Illinois: The Illinois statutes and codes were researched via the Internet and no specifications were found for dental work authorizations, either written or electronic. [PART 1220 ILLINOIS DENTAL PRACTICE ACT]

Iowa: In searching Iowa codes, ch. 153, Dentistry, no specifications were found for dental work authorizations, either written or electronic. [http://www.state.ia.us/dentalboard/board/rules-policy/docs/IowaCode153_2013.pdf]

Michigan: Board of Dentistry 2012-111 LR, No specifications were found for dental work authorizations, either written or electronic.

[http://www7.dleg.state.mi.us/orr/Files/AdminCode/1118_2012-111LR_AdminCode.pdf]

Minnesota: Minnesota board of dentistry rules for dentists, hygienists, and assistants are contained in ch. 3100 [<https://www.revisor.mn.gov/rules/?id=3100>]. No specifications were found for dental work authorizations, either written or electronic.

Summary of factual data and analytical methodologies

The Board, in reviewing their rules in response to Executive Order 61, recognized these out-dated methods for making lab work order requests and authorizations. These methods are costly and time consuming to small business.

The proposed provisions are expected to make such requests more efficient, more accurate and less costly for small business.

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

The Dentistry Examining Board in reviewing their rules in response to Executive Order 61 found that the industry has replaced an outdated process with technological advances.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Environmental Assessment/Statement [if required]

A copy of the preliminary assessment/statement is available upon request and will be available at the public hearing.

Agency Contact Person

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0955 or telecommunications relay services via 711; email at Jean.MacCubbin@wisconsin.gov.

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

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DE 9 Laboratories and Work Authorizations

3. Subject

Lab Work Authorizations

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165 (1) (g)

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The current rule relies on out-dated methods to request dental lab work; modern technology is used in the industry.

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.

Licensees and commercial dental laboratories

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 proposed provisions are expected to make such requests more efficient, more accurate and less costly for small business.

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

The proposed provisions are expected to make such lab requests more efficient, more accurate and less costly for small business. To do nothing relies on an outdated and possibly cumbersome process.

14. Long Range Implications of Implementing the Rule

The proposed provisions are expected to make such lab requests more efficient, more accurate and less costly for small business.

15. Compare With Approaches Being Used by Federal Government

None

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

For the four neighboring states, no specifications were found for dental work authorizations, either written or electronic.

17. Contact Name

Jean MacCubbin

18. Contact Phone Number

608.266.0955

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

Notice of Hearing

Safety and Professional Services — Dentistry Examining Board CR 13–061

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in sections 15.08 (5) (b) and 447.02 (2) (b), Stats., and interpreting section 447.02 (2) (b), Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend sections DE 11.05 (1), 11.06 (1), and 11.07 (1) and create section DE 11.02 (9m), relating to sedation permits and classes of permits.

Hearing Information

Date: Wednesday, November 6, 2013
Time: 9:30 a.m.
Location: 1400 East Washington Avenue (enter at 55 North Dickenson Street)
 Room 121A
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708–8935. 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 Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received before the public hearing to be held on **November 6, 2013**, to be included in the record of rule-making proceedings.

Copies of rule

Copies of this proposed rule are available upon request to Jean MacCubbin, Department of Safety and Professional

Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708–8935, by email at Jean.MacCubbin@wisconsin.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

Section 447.02 (2) (b), Stats.

Statutory authority

Sections 15.08 (5) (b) and 447.02 (2) (b), Stats.

Explanation of agency authority

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

Section 447.02 (2) (b), Stats. The examining board shall promulgate rules specifying the "...standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1), Stats., that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry."

Related statute or rule

Section 447.01 (8) (d), Stats.

Plain language analysis

The intent of the rule is to allow the Dentistry Examining Board discretion in approving sedation permits for licensees who have received discipline action against their permit(s) or are currently under investigation regarding their permit(s). Therefore, the granting of permits shall be permissive. In addition, the definitions of classes of sedation permits are added as no such reference occurs in the rule or the rule series, chs. DE 1 to 13.

SECTION 1 provides a definition of sedation permit classes which correspond to the permit application process.

SECTIONS 2 to 4 modify the current text making the approval of permits permissive and update the permit classes as now defined in s. DE 11.02 (9m).

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

No existing or proposed rules or laws were found in an Internet-based search of the U.S. Code or the Code of Federal

Register (CFR) regarding classes of sedation, sedation permits for licensed dentists or how discipline may affect dentists applying for or maintaining such permits.

Comparison with rules in adjacent states

Illinois: The State of Illinois has an application process for dental sedation permits, which includes conscious sedation – Permit A and deep sedation and general anesthesia — Permit B. A permit application includes a request for information on fines, reprimands, probations, censures, revocations, suspensions, license surrenders, restrictions or limitations, but does not specifically list a prohibition of permit approval as a consequence of any discipline. [Title 68, subch. VIIb, sec. 1220.510]

Iowa: Iowa rules, IAC 650—Chapter 29, much like Illinois, have permits for sedation and their application forms request the following information: “...have your clinical activities ever been limited, suspended, revoked, not renewed, voluntarily relinquished, or subject to other disciplinary or probationary conditions?” In order to obtain a permit for deep sedation/general anesthesia, a dentist must hold current certification in Advanced Cardiac Life Support (ACLS) 650 IAC 29.3(4) — procedures by a dentist with a permit for deep sedation/general anesthesia can only be done with the assistance of at least two auxiliary personnel that have current basic life support certification [IAC 29.3(5)]. In this search, no rule or law was found to specifically prohibit applying for or maintaining such a permit while a licensee has been disciplined.

Michigan: In a search of ch. 33 Michigan health code, no provisions for application for sedation classes or permits were found.

Minnesota: In Minnesota, dentists must obtain a certificate from the Board to administer general anesthesia or conscious sedation per Ch. 3100.3600 Subp 9. Requirements for both general anesthesia and conscious sedation stipulate for the dentist to have current ACLS certification (Subp 2, 3).

Dentists, dental hygienists and registered dental assistants may administer nitrous oxide inhalation analgesia with

current CPR certification (Subp 4D). The required continuing education includes both advanced cardiac life support (ACLS) and pediatric advanced life support (PALS). There is no mention of the ability to apply for or termination of such certification based on discipline or a licensee.

Summary of factual data and analytical methodologies

No factual data and analytical methodologies were used to draft these rules.

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

The information comparing the states listed in this analysis was obtained directly from an Internet-based search and a review of the applicable regulations and rules, when found.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266–8608.

Initial Regulatory Flexibility Analysis or Summary

This rule change will not have an effect on small business.

Environmental Assessment/Statement [if required]

N/A

Agency Contact Person

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608–266–0955 or telecommunications relay services via 711; email at Jean.MacCubbin@wisconsin.gov.

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

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

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

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Ch. DE 11 Anesthesia

3. Subject

Sedation Permits

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

20.165 (1) (g)

6. Fiscal Effect of Implementing the Rule

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

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

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

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

- Yes No

9. Policy Problem Addressed by the Rule

The objective of the proposed rule is to allow the Board to use discretion in granting sedation permits to a dentist who is currently being investigated or has had disciplinary action relating to general anesthesia or conscious sedation.

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.

Licensees

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

None

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

None.

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

Providing the Board to use discretion in granting sedation permits based on investigation or disciplinary actions of licensees.

14. Long Range Implications of Implementing the Rule

None known.

15. Compare With Approaches Being Used by Federal Government

None found.

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

Illinois and Iowa request information pertaining to arrests, convictions, etc. Neither Minnesota or Michigan appears to request such information at time of permit application.

17. Contact Name

Jean MacCubbin

18. Contact Phone Number

608.266.0955

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.

Natural Resources
Fish, Game, etc., Chs. NR 1—
CR 13-019

(DNR # FH-18-12)

On September 4, 2013, the Department of Natural Resources submitted final draft rules to the presiding officer of each house of the Legislature pursuant to s. 227.19, Stats. The rule revises Chapters NR 20 and 23, relating to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin.

The Governor approved the rule on August 29, 2013.

Natural Resources
Environmental Protection — Wis. Pollution Discharge
Elimination System, Chs. NR 200—
CR 13-006

(DNR # WT-28-10)

On September 5, 2013, the Department of Natural

Resources submitted final draft rules to the presiding officer of each house of the legislature pursuant to s. 227.19, Stats. The rule revises Chapter NR 211, relating to pre-treatment wastewater standards and requirements.

This rule is not subject to s. 227.185. The statement of scope for this rule, published in Register 652, on May 1, 2010, was sent to LRB prior to the effective date of 2011 Wis. Act 21.

Public Defender Board
CR 13-049

Pursuant to s. 227.19, Stats., on September 12, 2013, the State Public Defender submitted a proposed rule-making order to the presiding officer of each house of the legislature. The rule amends sections PD 3.02(1), 6.01, and 6.02 (1), relating to the cost of retained counsel, payment for legal representation, and discount option.

The Governor approved the rule on September 4, 2013.

Rule Orders Filed with the Legislative Reference Bureau

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

Employee Trust Funds **CR 12-054**

The Wisconsin Department of Employee Trust Funds proposes order to amend sections ETF 10.01 (3i), ETF 10.63 (1) (a) to (f), 10.63 (2), and (3), and 40.10 (1) (2) and (3) (e); to repeal and recreate section ETF 20.015 (1) and (2); and to create section ETF 10.86, relating to technical and minor substantive changes in existing ETF administrative rules. Effective 11-1-13.

Natural Resources ***Fish, Game, etc., Chs. NR 1—*** **CR 12-021**

(DNR # WM-01-13)

The Wisconsin Natural Resources Board proposes an order to repeal sections 10.001 (23v) and (24), 10.01 (2) (c) 3. to 7., 10.09 (1) (c) 3., and 11.011; to amend sections NR 10.01 (3) (e), (et) 1., and (ev), 10.101 (2) (b) and (c) (Note), 10.145 (8) (a), 10.15 (2), 10.24 (5), 17.04 (3) (c) (intro.) and (Note), 17.08 (2) (c) and (3) (c) (intro.) and (Note), 45.04 (1) (a) 1., 45.09 (2), and 45.12 (4) (f) 2. a.; to repeal and recreate sections NR 10.01 (4) (a) and (e); and to create sections NR 10.08 (6), 10.13 (3) (c) 4., 10.24 (10), 17.04 (3) (c) 3., and 17.08 (3) (c)

3., relating to hunting, trapping, closed areas, dog training, and the use of department lands.
Effective 11-1-13.

Safety and Professional Services ***Professional Services, chs. SPS 1—299*** **CR 13-026**

The Wisconsin Department of Safety and Professional Services proposes an order to create Chapter SPS 50 and to amend sections SPS 60.01, 61.02 (1) (a), (2) (a), (3) (a) and (4) (a), 62.10, 65.01, 65.02 (1), 65.07, and 65.12 (1) (e), (h) and (i) 6., relating to barbers and to barbering and cosmetology schools and instructors, and affecting small business. Effective 11-1-13.

Safety and Professional Services — **Pharmacy Examining Board** **CR 13-018**

The pharmacy Examining Board proposes an order to amend section Phar 7.01 (1) (e), relating to delivery of prescription drugs.
Effective 11-1-13.

Rules Published with this Register and Final Regulatory Flexibility Analyses

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

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

Safety and Professional Services

General Part I, Chs. SPS 301—319

General Part II, Chs. SPS 326—360

CR 13-014

The Wisconsin Department of Safety and Professional Services adopts an order revising Chapters SPS 305 and 345, relating to credentials for HVAC contractors, refrigerant handling technicians, master plumbers, and elevator mechanics.

Effect on Small Business

Pursuant to Executive Order 50, the proposed rules were posted on both the state's and department's administrative rule websites for 14 days to solicit comments regarding potential economic impacts on businesses, business sectors, professional associations, local governmental units, or interested parties. No comments were received as a result of the solicitations.

The proposed rules implement the direction of 2011 Wisconsin Act 146 regarding the credentialing of refrigerant handling technicians, HVAC contractors, plumbers and elevator mechanics. The Act and the proposed rules eliminate the state mandate for credentials relating to ozone-depleting refrigerants. The current credential fees are: refrigerant handling technician \$20 for a 4-year certification, and HVAC contractor \$160 for a 4-year registration.

The department does not believe that the proposed rules will create an impact on small businesses any differently than the mandates of the Act.

Legislative Comments

No comments were reported.

Safety and Professional Services — Medical Examining Board

CR 13-008

The Wisconsin Medical Examining Board proposes an order to renumber section Med 10.01; to amend section Med 10.01 (1) (title); to repeal and recreate section Med 10.02; and to create sections Med 10.01 (2) and 10.03, relating to unprofessional conduct.

Effect on Small Business

The department finds that this rule will have no effect on small business as small business is defined in s. 227.114 (1), Stats.

Legislative Comments

No comments were reported.

Safety and Professional Services — Veterinary Examining Board

CR 12-051

The Veterinary Examining Board proposes an order to repeal section VE 1.02 (8) and to amend section VE 1.02 (7), relating to the definitions of patient and prescription legend animal drugs.

Effect on Small Business

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Legislative Comments

No comments were reported.

Safety and Professional Services — Veterinary Examining Board

CR 12-052

The Veterinary Examining Board proposes an order to repeal sections 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 to amend sections VE 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.

Effect on Small Business

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

Legislative Comments

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **September 2013**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

Revisions

Medical Examining Board

Ch. Med 10

Entire Chapter

Natural Resources

Ch. NR 169

NR 169.05 (12m), (Note), (16g), (16r), (Note), (29e),
(Notes), (29m), (Notes), (29s), (Note)

NR 169.11 (1) (c) 9., (Note)

NR 169.13 (2) (f) 3., (Notes), (3) (a) 6.

NR 169.15 (1), (Note), (2)

NR 169.19 (4) (c)

NR 169.23 (9) (b) 1, (Note)

Technical College System

Ch. TCS 2

TCS 2.02 (1), (3), (5), (5m)

TCS 2.04 (3) (a) 4., 4m., 6., (c) to (e)

Psychology Examining Board

Ch. Psy 2

Psy 2.09 (4)

Psy 2.12 (2)

Safety and Professional Services

Ch. SPS 305

SPS 305.003 (15), (62)

SPS 305.02 Table line 50

SPS 305.06 Table line 45

SPS 305.325 (4) (Note)

SPS 305.70 (1), (Note)

SPS 305.72

SPS 305.91 (3) (a)

SPS 305.92 (3)

SPS 305.992 (1) (c)

SPS 305.993 (1) (c)

Ch. SPS 345

SPS 345.10 (2) (Note)

SPS 345.70 (1) to (5)

Veterinary Examining Board

Ch. VE 1

VE 1.02 (7), (8)

Ch. VE 7

VE 7.06 (22) (intro.), (c) to (e), (Note)

Ch. VE 9

VE 9.05 (12) (intro.) (c) to (e), (Note)

Ch. VE 10

VE 10.02 (1) (a) 1., (2) (a) 1.

Editorial Corrections

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

Financial Institutions — Division of Banking

Ch. DFI-Bkg 60

Entire Chapter

Justice Assistance

Entire Code (Removed under 13.92 (4) (b) 15.)

Safety and Professional Services

Ch. SPS 3

Appendix I

Ch. SPS 5

Entire Chapter

Ch. SPS 303

SPS 303.03 (2) (Note [2])

SPS 303.04 (2) (Note)

SPS 303.05 (2) (b) (Note)

SPS 303.06 (2) (c) (Note)

SPS 303.10

SPS 303.12 (1), (3)

SPS 303.13 (3) (Note)

Ch. SPS 304

SPS 304.11 (2) (a) (Note)

Ch. SPS 305

SPS 305.07 (2) (b) 1. (Note)

SPS 305.10 (1) (d) 1. (Note)

SPS 305.125 (3) 1. (Note), (6) (a) 2., (Note)

SPS 305.30 (Note)

SPS 305.40 (Note)

SPS 305.405 (Note)

SPS 305.41 (1) (a) (Note), (b) (Notes)

SPS 305.993 (4) (b) 2.

Ch. SPS 307

SPS 307.31 (2) (Note)

Ch. SPS 308

SPS 308.05 (Note [2])

SPS 308.10 (Note [2])

SPS 308.12 (2) (Note)

Ch. SPS 314

SPS 314.01 (4) (Note [1]), (5) (Note), (13) (b) 8.
(Note), (14) (c) 1. (Note), (f) 1. (Note), 2. (Note)

SPS 314.10 (3) (Note), (12) (Note)

SPS 314.50 (3) (Note)

Appendix

Ch. SPS 316

SPS 316.005 (Note [2])

Ch. SPS 318

SPS 318.1008 (Notes)

SPS 318.1010 (Note [2])

SPS 318.1013 (3) (b) (Note [3])

SPS 318.1015 (4) (Note)

Ch. SPS 321

SPS 321.125 (1) (Note)

SPS 321.40 (1) (Note [1])

Ch. SPS 323

SPS 323.08 (10) (d) (Note)

SPS 323.14 (2) (a) (Note)

Ch. SPS 324

SPS 324.01 (Note)

Ch. SPS 326

SPS 326.08 (1) (Note [1])

SPS 326.09 (2) (b)

Ch. SPS 330

SPS 330.011 (3) (Note)

SPS 330.23 (Note)

Ch. SPS 332

SPS 332.05 (3) (Note)

SPS 332.10 (Note)

SPS 332.35 (1) (Note [2])

Ch. SPS 333

SPS 333.05 (Note [2])

SPS 333.10 (1) (a) (Note)

SPS 333.14 (Note)

SPS 333.15 (Note)

Ch. SPS 334

SPS 334.04 (2) (Note)

SPS 334.05 (4) (a) (Note)

SPS 334.11 (Note [2])

SPS 334.41 (Note [1])

Ch. SPS 340

SPS 340.30 (4) (Note)

SPS 340.31 (Note)

SPS 340.39 (Notes [1, 3])

Ch. SPS 341

SPS 341.05 (Note [2])

SPS 341.16 (1) (e) (Note), (2) (d) (Note), (e) (Note)

SPS 341.23 (1) (b) (Note)

SPS 341.38 (1) (Note [1]), (4) (Note)

SPS 341.41 (1) (a) (Note), (2) (a) (Note), (4) (b) (Note)

SPS 341.55 (4) (Note [2])

SPS 341.92 (1) (Note)

Ch. SPS 343

SPS 343.10 (5) (Note)

Ch. SPS 345

SPS 345.10 (intro.)

SPS 345.30 (2) (Note)

SPS 345.31 (2) (b) 2. (Note), (d) (Notes [1, 5])

SPS 345.32 (6) (Note)

SPS 345.33 (Note [1])

SPS 345.37 Entire section, (Note [3])

Ch. SPS 360

SPS 360.12 (1) (a) (Note), (c) (Note)

SPS 360.20 (1) (Note)

Ch. SPS 361

SPS 361.03 (15) (Note [2])

SPS 361.20 (2) (b) (Note)

SPS 361.22 (Note)

SPS 361.31 (3) (a) (Note [1])

SPS 361.40 (4) (Note)

SPS 360.60 (7) (Note)

Ch. SPS 362

SPS 362.1107 (3) (a) (Note)

Ch. SPS 366

Appendix A

Ch. SPS 367

SPS 367.02 (2) (h) (Note)

SPS 367.06 (1) (b) (Note)

Ch. SPS 371

SPS 371.05 (1) (Note)

Ch. SPS 372

SPS 372.03 (Note)

Ch. SPS 382

SPS 382.20 (1) (intro.) (Note), (11) (a) (Note [2]), (b)
(Note), (13) (a) (Note)

SPS 382.40 (3) (d) 4. (Note)

Appendix

Ch. SPS 383

SPS 383.21 (2) (a) (Note)

SPS 383.22 (2) (b) 1. a. (Note)

Ch. SPS 385

SPS 385.40 (2) (a) (Note)

SPS 385.60 (3) (j) (Note), (4) (c) 5. (Note), (d) 3.
(Note)

Ch. SPS 386

SPS 386.03 (Note)

Ch. SPS 387

SPS 387.05 (1) (Note)

Ch. SPS 390

SPS 390.02 (4) (Note)

SPS 390.03 (26) (Note)

SPS 390.04 (1) (a) (Note), (4) (f) (Note)

SPS 390.05 (2) (b) (Note)

SPS 390.11 (3) (a) (Note), (8) (b) (Note), (10) (Note)

SPS 390.12 (3) (b) 9. (Note)

SPS 390.13 (2) (g) (Note)

SPS 390.14 (1) (Note), (13) (b) 3. (Note), 8. (Note), (c)
1. a. (Note)

SPS 390.16 (4) (c) (Note), (5) (Note)

SPS 390.19 Table 390.19

SPS 390.20 (3) (Note)

SPS 390.21 (5) (a) (Note)

SPS 390.31 (3) (a) (Note)

Appendix

Ch. SPS 431

Entire Chapter

Appendix

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 110. Relating to a Proclamation Declaring a State of Emergency in Response to Widespread Flooding. **(July 31, 2013)**

Executive Order 111. Relating to a Special Election for the Sixty–Ninth Assembly District. **(September 4, 2013)**

Executive Order 112. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half–Staff to Honor the Victims of the September 11, 2001 Terrorist Attacks and the Members of the Armed Forces Who Answered the Subsequent Call to Defend Our Freedoms Overseas. **(September 6, 2013)**

Executive Order 113. Relating to a Special Election for the Twenty–First Assembly District. **(September 17, 2013)**

Public Notices

Health Services

(Medicaid Benchmark Plan Termination)

The State of Wisconsin reimburses providers for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health Services (the Department), is called Medical Assistance (MA) or Medicaid. In addition, Wisconsin has expanded this program to create the BadgerCare and BadgerCare Plus programs under the authority of Title XIX and Title XXI of the Social Security Act and ss. 49.471, 49.665, and 49.67 of the Wisconsin Statutes. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

Change in Payment Methods

At present some recipients of coverage under BadgerCare Plus receive coverage through a benchmark plan under the authority of section 1937 of the Social Security Act. Section 1937 provides authority for States to provide for medical assistance to one or more groups of Medicaid-eligible individuals, specified by the State in an approved state plan amendment, through enrollment in coverage that provides benchmark or benchmark-equivalent health care benefit coverage. Wisconsin first established a benchmark plan effective February 1, 2008.

The populations who are subject to mandatory alternative coverage are (1) Pregnant women and infants with incomes between 200 and 300% of the federal poverty line (FPL), and (2) newborns who are deemed eligible under s. 1902 (e)(4) of the Social Security Act and were born to women with family incomes of 200 to 300% of the FPL, whose eligibility was determined under s. 1902(a)(10)(A)(ii) or s. 1902(a)(10)(C) of the Social Security Act. With this change, individuals who meet those descriptions will instead receive coverage under the Medicaid standard plan, which offers a more generous package of benefits.

Wisconsin is currently working to implement the new federal health care law, the Patient Protection and Affordable Care Act (PPACA). As part of that implementation, the benchmark plan described above will be terminated.

Proposed Change

The proposed change is to terminate the benchmark plan described above through which certain individuals receive benefits through the Wisconsin Medicaid program.

The change will be effective January 1, 2014, and will apply to claims with dates of service on or after that date. The change is projected to result in an annual cost of \$10.8 million all funds, composed of \$4.3 million general purpose revenue (GPR) and \$6.5 million federal match (FED).

Copies of Changes

Copies of documents relating to the proposed change may be obtained free of charge by calling or writing as follows:

Regular Mail:

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

Fax:

(608) 266-1096
Attention: Al Matano

Telephone:

Al Matano
Bureau of Fiscal Management
(608) 267-7939

E-Mail:

alfred.matano@dhs.wisconsin.gov

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

Written Comments

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

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

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