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Table of Contents

Emergency Rules Now in Effect.**Pages 5 to 11**

Administration:

Revises Chapter Adm 2: Use of state buildings and facilities.
EmR1321

Agriculture, Trade and Consumer Protection:

Amends section ATCP 21.17 (1) (b) and creates section ATCP 21.17 (1) (f), relating to the quarantine of Dane County for the emerald ash borer. **EmR1322**Revises sections ATCP 136.02, 136.10, and 136.12, relating to mobile air conditioners, reclaiming or recycling refrigerant. **EmR1325**Amends sections ATCP 161.50 (3) (f), 161.60, and 161.62 (1) (intro.), relating to the “grow Wisconsin dairy processor” grant program. **EmR1402**Amends section ATCP 21.10 (1) (b) and creates section ATCP 21.10 (1) (c), relating to the quarantine of Iowa County for the gypsy moth. *[First Appearance]* **EmR1407**

Employment Relations Commission:

Creates Chapters ERC 70, 71, and 80, relating to annual certification elections. **EmR1310**

Insurance:

Creates 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. **EmR1314**

Natural Resources:

Fish, Game, etc., Chs. NR 1—Revises Chapters NR 10, 12, and 19, relating to the wolf hunting and trapping season and regulations and a depredation program. **EmR1210*****Fish, Game, etc., Chs. NR 1—***Repeals and recreates section NR 10.01 (3) (h) 1., relating to the coyote hunting season. **EmR1215*****Fish, Game, etc., Chs. NR 1—***Amends sections NR 10.275 (intro.) and 45.09 (1) and creates sections NR 10.13 (Note) and 10.275, relating to hunting and trapping in state parks. **EmR1319*****Fish, Game, etc., Chs. NR 1—***Creates Chapter NR 85, relating to development of a competitive grant program for cities, villages, towns, counties, federally recognized Indian tribes or bands located in this state, and fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters. **EmR1320*****Fish, Game, etc., Chs. NR 1—***Amends sections NR 20.20 (73) (n) 4. and 25.06 (1) (a), Wis. Adm. Code, relating to lake trout harvest limits in Lake Superior. **EmR1401*****Fish, Game, etc., Chs. NR 1—***Revise Chapter NR 10, relating deer management, hunting, and implementation of the 2012 White-tailed Deer Trustee Report. **EmR1405**

Public Instruction:	Amends sections PI 5.02 (6) and (11m), 5.035 (6), and 5.04, relating to high school equivalency diplomas and certificates of general educational development. EmR1324
Revenue:	Amends section Tax 11.93, relating to sales tax filing frequency. EmR1323
Safety and Professional Services:	<i>Uniform Dwelling Code, Chs. 320—325</i> Amends Chapter SPS 321 and Chapter SPS 320 to 325 Appendix — Minimum Fastener Schedule Table, relating to wall bracing for one- and two-family dwellings. EmR1403
Safety and Professional Services — Controlled Substances Board:	Creates section CSB 2.36, relating to scheduling controlled substances. EmR1318
Transportation:	Creates section Trans 327.14, relating to motor carrier safety and affecting small businesses. EmR1404
Workforce Development:	<i>Unemployment Insurance, Chs. DWD 100—150</i> Revises Chapters DWD 126 to 129, relating to unemployment insurance work registration, work search, and benefit claiming procedures. EmR1316
	<i>Apprenticeship, Chs. DWD 295—296</i> Creates section DWD 295.25, relating to apprenticeship completion awards. <i>[First Appearance]</i> EmR1406
	<i>Employment and Training, Chs. DWD 805—830</i> Creates Chapter DWD 801, relating to workforce training grants under the Wisconsin Fast Forward program. EmR1317
Scope Statements.	Pages 12 to 17
Children and Families:	<i>Safety and Permanence, Chs. 35—59</i> <i>Early Care and Education, Chs. 201—252</i> Creates Chapter DCF 12 and revises Chapters DCF 51, 52, 54, 55, 56, 57, 59, 202, 250, 251, and 252, relating to caregiver background checks. SS 030—14
Safety and Professional Services:	<i>Professional Services, Chs. 1—299</i> Revises Chapters SPS 30 to 35, relating to credentialing requirements and procedures for private detective agencies, private detectives, and private security professionals. SS 027—14
Safety and Professional Services — Dentistry Examining Board:	Revises Chapters DE 2, 3, 7, and 11, relating to administration of nitrous oxide and the practice of dental hygiene. SS 025—14
Safety and Professional Services — Board of Nursing:	Revises Chapters N 5 and N 6, relating to renewal and standards of practice. SS 026—14
	Revises Chapter N 8, relating to advanced practice nurse prescribers. SS 028—14
Safety and Professional Services — Psychology Examining Board:	Revises Chapter Psy 2, relating to licensure. SS 029—14

Submittal of Proposed Rules to Legislative Council Clearinghouse.**Page 18**

Children and Families:

Early Care and Education, Chs. 201—252Revises Chapter DCF 201, relating to the incentive program for local agencies that identify child care subsidy fraud committed by child care providers. **CR 14–030**

Transportation:

Creates section Trans 327.14, relating to motor carrier safety and affecting small businesses. **CR 14–031****Rule–Making Notices.****Pages 19 to 35**

Agriculture, Trade and Consumer Protection:

Amends section ATCP 21.10 (1) (b) and creates section ATCP 21.10 (1) (c), relating to the quarantine of Iowa County for the gypsy moth. **EmR1407**

Children and Families:

Early Care and Education, Chs. 201—252Revises Chapter DCF 201, relating to the incentive program for local agencies that identify child care subsidy fraud committed by child care providers. **CR 14–030**

Technical College System:

Repeals and recreates Chapter TCS 3, related to certification of personnel: requirements and procedures. **CR 14–022**

Transportation:

Creates section Trans 327.14, relating to motor carrier safety. **EmR1404, CR 14–031****Submittal of Proposed Rules to Legislature.****Pages 36 to 38**

Agriculture, Trade and Consumer Protection:

Revises Chapter ATCP 136, relating to mobile air conditioners. **CR 13–107**

Government Accountability Board:

Creates Chapter GAB 4, relating to election observers. **CR 10–130**

Insurance:

Revises sections Ins 6.91 to 6.99, relating to navigators, nonnavigator assisters and related entities and affecting small business. **CR 13–113**

Military Affairs:

Creates Chapter DMA 1, relating to military family financial aid. **CR 10–111**

Natural Resources:

Fish, Game, etc., Chs. 1—Revises Chapter NR 10, relating to mink and muskrat trapping seasons. **CR 13–021*****Fish, Game, etc., Chs. 1—***Revises Chapters NR 10 and 45, relating to hunting and trapping in state parks. **CR 13–108*****Fish, Game, etc., Chs. 1—***Revises Chapter NR 25, relating to lake trout harvest limits in Lake Superior. **CR 13–111*****Environmental Protection — General, Chs. 100—***Revises Chapter NR 115, related to revisions of Wisconsin's statewide minimum standards for shoreland zoning. **CR 13–051*****Environmental Protection — General, Chs. 100—******Environmental Protection — Water Supply, Chs. 800—***Revises Chapters NR 146 and 812, relating to geothermal licensing. **CR 13–096*****Environmental Protection — General, Chs. 100—******Environmental Protection — Water Supply, Chs. 800—***Revises Chapters NR 146 and 812, relating to well driller and pump installer registration, construction, and installation requirements. **CR 13–099**

Revenue:	Revises Chapters Tax 2 and 3, relating to income and franchise tax provisions. CR 14–005
	Revises Chapter Tax 11, relating to relating to sales and use tax provisions. CR 14–006
Safety and Professional Services:	<i>Safety and Professional Services, Chs. 1–299</i> Amends section SPS 128.04, relating to course instructors. CR 13–056
Safety and Professional Services — Controlled Substances Board:	Creates section CSB 3.045, relating to special use authorization. CR 14–009
Safety and Professional Services — Dentistry Examining Board:	Creates Chapter DE 8, relating to patient dental record retention. CR 14–011
Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board:	Repeals Chapter MPSW 8 and section MPSW 14.03 and repeals and recreates Chapter MPSW 19, relating to continuing education. CR 13–117
Safety and Professional Services — Board of Nursing:	Revises Chapter N 7, relating to code of conduct. CR 13–097
Safety and Professional Services — Occupational Therapists Affiliated Credentialing Board:	Revises Chapters OT 1 to 4, relating to occupational therapy practice standards. CR 13–109
Safety and Professional Services — Pharmacy Examining Board:	Revises Chapter Phar 18, relating to prescription drug monitoring. CR 14–003
	Revises sections Phar 1.02 (7), 7.10 (1), and 16.03, relating to council and exam names. CR 14–023
Safety and Professional Services — Podiatry Affiliated Credentialing Board:	Revises section Pod 1.02 and creates sections Pod 1.02 (2m) and (6m) and 7.01, relating to podiatric x–ray assistants. CR 13–110
Safety and Professional Services — Real Estate Examining Board:	Repeals Chapters REEB 22 and 26, relating to apprentices and inactive licenses. CR 13–100
Transportation:	Revises Chapters Trans 254 and 255, relating to single and multiple trip permits for oversize and overweight vehicles or loads, which is being submitted to the Legislature. CR 13–093
Rule Orders Filed with the Legislative Reference Bureau.	Page 39
Administration:	Creates Chapter Adm 93, relating to the Community Development Block Grant Program. CR 13–069
Agriculture, Trade and Consumer Protection:	Revises Chapters ATCP 17, 21, 53, 60, 70, 80, relating to various minor and technical rule changes. CR 13–063
Safety and Professional Services — Marriage and Family Therapy, Professional Counseling and Social Work Examining Board:	Repeals and recreates sections MPSW 10.01(6) and 14.01, relating to education. CR 13–009
Safety and Professional Services — Medical Examining Board:	Amends section Med 1.02 (2), relating to copy of diploma requirement. CR 13–090
Public Notices.	Page 40
Children and Families:	DCF 201, Administration of Child Care Funds
Notice of Nonacquiescence.	Page 41
Tax Appeals Commission:	Telephone And Data Systems, Inc. v. Wisconsin Department of Revenue

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

EmR1321 — The Department of Administration hereby adopts an order to repeal **section Adm 2.14 (2) (vr) c.**; to renumber and amend **section Adm 2.14 (2) (v) 9. a. and b.**; to amend **sections Adm 2.02 (1) (a), 2.04 (1), 2.04 (2), (3), (5), and (7), 2.07 (2), 2.08 (1) and (1) (d), 2.11, 2.14 (2), (2) (v), (2) (vm) and (2) (vm) 5.**; and to create **sections Adm 2.03 (3m), (3r) and (6m), 2.04 (1m), (2m), (2r), (2z), (9), and (10), and 2.14 (2) (vm) and (2) (vm) 5.**

The statement of scope for this rule, SS 131–13, was approved by the Governor on October 8, 2013, and published in Register No. 694 on October 31, 2013, and approved by Department of Administration Secretary Mike Huebsch on November 13, 2013. This emergency rule was approved by the Governor on November 21, 2013.

Finding of Emergency

Since 1979 the legislature has vested the department of administration with the responsibility and authority to manage various state buildings and grounds, including those of the Wisconsin state capitol. S. 16.84 (1), Stats. Since 1979, the department has permitted the use of these buildings and grounds for the free discussion of public questions and other

purposes, so long as such uses did not interfere with the prime uses of these facilities, or otherwise infringe on interests of the state. s. 16.845, Stats., and s. Adm 2.04.

Each year, the Wisconsin state capitol police issue nearly 500 permits for the use of various state facilities. Permits are used for a variety of purposes, whether political, non–political, charitable, or commercial. Permits are issued regardless of political party, affiliation, or content. Permits are given to any person free of charge.

Occupation of the capitol rotunda and other areas has caused disruptions to the properly permitted events and normal government activities, including but not limited to, a Red Cross blood drive, a high school science exhibit, school group tours, general public tours, and legislative committee meetings and sessions. The state does not refuse permits for the lawful and safe use of state facilities by any person or persons, and the state cannot allow any person or persons to occupy the capitol in disregard of the rights of permit holders, public employees, or visitors. It is imperative that the department gain compliance in order to protect the public safety and welfare.

On October 24, 2013, a lawsuit was dismissed based upon a stipulation of and settlement agreement between the parties. The department is obligated under the settlement agreement to advance certain changes in procedure. The department seeks to fulfill its obligations in a timely manner, which is not possible without engaging in the emergency rule process.

Filed with LRB:	November 26, 2013
Publication Date:	November 27, 2013
Effective Dates:	November 27, 2013 through April 25, 2014
Hearing Date:	February 21, 2014

Agriculture, Trade and Consumer Protection (4)

1. EmR1322 — 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) (f)**, relating to the quarantine of Dane County for the emerald ash borer.

This emergency rule was approved by the Governor on December 10, 2013.

The blanket scope for this rule, SS 141–13, was approved by the Governor on October 30, 2013 published in register No. 695 on November 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on December 10, 2013.

Finding of Emergency

The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Madison, Dane County on November 22, 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 Dane 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 this county 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: December 17, 2013
Publication Date: December 18, 2013
Effective Dates: December 18, 2013 through May 16, 2014
Hearing Date: January 13, 2014

2. EmR1325 — The Wisconsin Department of Agriculture, Trade and Consumer Protection adopts the following emergency rule to repeal **sections ATCP 136.02 (4) (d) and 136.10 (2) (c), (3) (a) 2., and (b) 4.,** and to amend **sections ATCP 136.02 (4) (g) (Note), (5), (7), (8) (a), 136.08 (1), (7) (Note), and 136.12 (1) (b) (Note) and (2) (Note),** relating to mobile air conditioners, reclaiming or recycling refrigerant.

This emergency rule was approved by the Governor on December 23, 2013.

The scope statement for this rule, SS 122–13, was approved by the Governor on September 20, 2013 published in register No. 694 on October 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on November 13, 2013.

Finding of Emergency

In Wisconsin, businesses that repair mobile air conditioners must register with the department and pay an annual registration fee of \$120 for each registered location. In addition, each technician working on mobile air conditioners at these businesses must attend a DATCP–approved training course and pass an exam.

A recent statutory change harmonized Wisconsin’s state mobile air conditioner law with federal law, and Wisconsin’s unique training course content is no longer applicable.

The registration year begins on March 1 of each year. By that date, all mobile air conditioning businesses and technicians must be registered with the department or pay a surcharge fee.

DATCP has determined that it has sufficient alternative revenue sources to fund the mobile air conditioning program and is undergoing rule–making to permanently eliminate the \$120 registration fee. However, the rule–making will not be effective for the upcoming registration year that begins March 1, 2014. The department has also determined that its technician training requirements can be modified due to recent changes in state statute that harmonize Wisconsin law with federal law. Technicians who complete the federally approved training course will now meet Wisconsin’s training requirement.

This temporary emergency rule is necessary to protect the welfare of the small businesses that would otherwise pay the registration fee. In addition, the emergency rule is needed to protect the welfare of small businesses and their employees by eliminating an unnecessary training requirement.

Filed with LRB: December 27, 2013
Publication Date: December 31, 2013
Effective Dates: December 31, 2013 through May 29, 2014
Hearing Date: January 21, 2014

3. EmR1402 (DATCP Docket No. 13–R–17) — The Wisconsin department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **sections ATCP 161.50 (3) (f), 161.60, and 161.62 (1) (intro.),** relating to the “grow Wisconsin dairy processor” grant program created under ss. 20.115 (4) (dm) and 93.40 (1) (g), Stats.

This emergency rule was approved by the Governor on January 10, 2014.

The scope statement for this rule, SS 140–13, was approved by the Governor on October 29, 2013, published in register No. 695 on November 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on December 10, 2013.

Finding of Emergency

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

Filed with LRB: January 21, 2014
Publication Date: January 20, 2014
Effective Dates: January 20, 2014 through June 18, 2014

4. EmR1407 — The Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.10 (1) (b)** and to create **section ATCP 21.10 (1) (c),** relating to the quarantine of Iowa County for the gypsy moth.

This emergency rule was approved by the Governor on March 13, 2014.

The blanket scope for this rule, SS 141–13, was approved by the Governor on October 30, 2013, published in register No. 695 on November 14, 2013, and approved by the Board of Agriculture, Trade & Consumer Protection on December 10, 2013.

Finding of Emergency

Gypsy moth is an exotic, invasive pest that poses a serious risk to Wisconsin’s forest, shade and commercial trees. The 2013 DATCP survey in Iowa County shows that current and projected GM populations in that county have reached the threshold level to trigger implementation of further regulatory measures. Since 2011, multiple trap sites in Iowa County have caught over 100 individual moths, with an average trap count of 28 in 2013 (a five–fold increase from 2011). The survey data indicate that reproducing populations of GM now exist at significant levels in Iowa County and that eradication is not feasible. This evidence supports the need for a quarantine to limit movement from this infestation. When APHIS declares a quarantine, DATCP has regulatory authority for import controls and quarantine for GM under s. ATCP 21.10. It is anticipated that APHIS will declare a quarantine for Iowa 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 GM infested material out of this county to areas of Wisconsin or other states that are not infested with GM.

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: March 28, 2014

Publication Date: March 31, 2014
Effective Dates: March 31, 2014 through August 27, 2014
Hearing Date: April 29, 2014

Publication Date: September 10, 2013
Effective Dates: September 10, 2013 through February 6, 2014
Hearing Date: September 27, 2013
Extension Through: April 7, 2014

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
Extension Through: April 8, 2014

Insurance

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

Natural Resources (6)

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. EmR1319 (DNR # WM–22–13(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.275 (intro.) and 45.09 (1)** and to create **sections NR 10.13 (Note) and 10.275**, relating to hunting and trapping in state parks.

This rule was approved by the Governor on October 31, 2013.

The statement of scope for this emergency rule, SS 083–13, was approved by the Governor on July 15, 2013, published in Register No. 691 on July 31, 2013 and approved by the Natural Resources Board on August 14, 2013.

Finding of Emergency

The department finds that putting this rule into effect prior to the time it would take effect using the permanent rule process is necessary to protect the public safety and welfare. By restricting gun and archery hunting to certain areas, and trapping to certain areas and methods, this rule will prevent those activities in locations where they may jeopardize the safety and welfare of visitors to the Wisconsin State Park System.

Filed with LRB: November 7, 2013

Publication Date: November 15, 2013

Effective Dates: November 15, 2013 through April 13, 2014

4. EmR1320 (DNR # FH–27–13(E)) — The Wisconsin Natural Resources Board proposes an order to create **Chapter NR 85**, relating to development of a competitive grant program for cities, villages, towns, counties, federally recognized Indian tribes or bands located in this state, and fish farms in order to increase the capacity to raise walleye for stocking in Wisconsin waters.

This rule was approved by the Governor on November 8, 2013.

The statement of scope for this emergency rule, SS 104–13, was approved by the Governor on August 12, 2013, published in Register No. 692 on September 1, 2013 (August 31, 2013), and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency — Exemption

2013 Wisconsin Act 20, the 2013–15 state budget, included the following nonstatutory language: The department of natural resources may promulgate emergency rules under section 227.24 of the statutes implementing sections 29.739 and 29.740 of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated for walleye population maintenance and enhancement grants remain in effect until June 30, 2016, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating this rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

Filed with LRB: November 14, 2013

Publication Date: November 21, 2013

Effective Dates: November 21, 2013 through June 30, 2016, or the date on which permanent rules take effect, whichever is sooner.

Hearing Date: December 12, 2013 and December 19, 2013

5. EmR1401 (DNR # FH–26–13(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 20.20 (73) (n) 4. and 25.06 (1) (a)**, Wis. Adm. Code, relating to lake trout harvest limits in Lake Superior.

This rule was approved by the Governor on December 30, 2013.

The statement of scope for this rule, SS 108–13, was approved by the Governor on August 13, 2013, published in Register No. 692 on August 31, 2013, and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency

Pursuant to s. 227.4, 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 2013 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: January 14, 2014

Publication Date: January 13, 2014

Effective Dates: January 13, 2014 through June 11, 2014

6. EmR1405 (DNR # WM–24–13(E)) — The Wisconsin Natural Resources Board proposes an order to propose an order to repeal sections **NR 10.01 (3) (ed), (es) 3., and (et), 10.07 (3), 10.09 (2), 10.28 (3), and 45.09 (9)**, to amend **sections NR 1.15 (1) (a), (b), and (c) 1., (2) (a) (intro.) and (at), and (3), 10.001 (2e), (6p), and (19e), 10.01 (3) (es) 1. and 2. and (3) (ev), 10.02 (3), 10.06 (8) (b) and (note), 10.07 (2m) (b) 1., 10.102 (1) (e) 4., 10.105 (1), (2), (4), and (7), 10.106 (intro.) and (1), 12.06 (1), (2), and (4), 12.16 (4), 13.38 (2) (b) and (Note), and 19.60 (2) (b) 1.**, to repeal and recreate **sections NR 1.15 (2) (a) 8., 10.01 (3) (e) and (em), 10.104, 10.106 (2), 10.28 (1) and (2), 10.28 (4), and 10.41**, and to create **Chapter NR 10 (Title.) and sections NR 10.001(1k) and (23a) and (b), 10.01 (2) (b) (Note) and (4) (dm) (Note), and Subchapter II**, relating to deer management, hunting, and implementation of the 2012 White–tailed Deer Trustee Report.

This emergency rule was approved by the Governor on February 10, 2014

The statement of scope for this rule, SS 098–13, was approved by the Governor on July 23, 2013, published in Register No. 692, on August 14, 2013, and approved by the Natural Resources Board on September 25, 2013.

Finding of Emergency

A non–statutory provision, SECTION 9132 of 2013 Act 20, establishes that the department may promulgate rules to

implement the 2012 final deer management report and that the department is not required to make a finding of emergency.

Filed with LRB: February 25, 2014
Publication Date: March 7, 2014
Effective Dates: March 7, 2014 through June 30, 2015

Public Instruction

EmR1324 — The State Superintendent of Public Instruction hereby proposes to amend **sections PI 5.02 (6) and (11m), 5.035 (6), and 5.04**, relating to high school equivalency diplomas and certificates of general educational development.

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

The scope statement for this rule, SS 093–13, was published in Register No. 692, on August 14, 2013, and approved by State Superintendent Tony Evers on August 27, 2013.

Finding of Emergency

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

The number of subtests and the passing scores for the General Educational Development (GED) Test will be changing in January 2014 when a new test is implemented by the GED Testing Service.

Unless the rule is changed to reflect these new subtests and passing scores, the Department may be prevented from issuing credentials for test takers who pass the GED Test because the required passing scores will be incorrect.

Filed with LRB: December 27, 2013
Publication Date: December 27, 2013
Effective Dates: December 27, 2013 through May 25, 2014
Hearing Date: February 24, 2014

Revenue

EmR1323 — The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.58 (1) (a) and (5), Stats., and amending **section Tax 11.93**, relating to sales tax filing frequency.

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

The scope statement for this rule, SS 100–13, was approved by the Governor on August 2, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Revenue on September 10, 2013.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that the attached rule order is necessary for the immediate

preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Section 77.58 (1), Stats., provides that retailers must file sales tax returns quarterly, except as provided in s. 77.58 (1) (a) and (b), Stats., which allows for sales tax returns to be filed monthly.

Section 77.58 (5), Stats., provides that the department may require returns and payments on the amount of taxes for other than a quarterly period if it deems it necessary to ensure payment to or facilitate the collection by the state of the amount of taxes. The department has provided for annual sales tax returns by rule in s. Tax 11.93 (1) for retailers that have an annual tax liability of \$300 or less.

Because 2013 Wis. Act 20 doubles the threshold upon which a monthly sales tax return is required to be filed (\$600 to \$1200), s. Tax 11.93 (1) should also be changed to reflect a similar increase in the threshold upon which an annual sales tax return can be filed.

As the statutory change to the monthly filing standard goes into effect on January 1, 2014, the corresponding change to the annual filing standard in s. Tax 11.93 (1) should also go into effect on January 1, 2014. There is insufficient time for the permanent rule to be effective on January 1, 2014.

Filed with LRB: December 19, 2013
Publication Date: January 1, 2014
Effective Dates: January 1, 2014 through May 30, 2014
Hearing Date: January 27, 2014

Safety and Professional Services

Uniform Dwelling Code, Chs. 320—325

EmR1403 — The Wisconsin Department of Safety and Professional Services adopts an order to amend **sections SPS 321.02 (1) (c), 321.23, Table 321.25–A, 321.25 (7) (d) and (8) (a) (Note), and Chapters 320 to 325 Appendix — Minimum Fastener Schedule Table**; and to repeal and recreate **section SPS 321.25 (8) (b) to (h) and (9)**, relating to wall bracing for one– and two–family dwellings.

This emergency rule was approved by the Governor on January 28, 2014.

The statement of scope for this rule, SS 139–13, was approved by the Governor on October 28, 2013, published in Register 695 on November 14, 2013, and approved by the Department on November 26, 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.

Some building designers find the current rules for wall bracing for one– and two–family dwellings are too difficult to understand and apply, which results in unnecessary costs and delays in home building. Promulgating revisions to the rules through the emergency rule process is needed in order to avoid these costs and delays as soon as possible. In addition, the report that the Dwelling Code Council is required to complete by July 1, 2014, under section 101.62 (4) of the Statutes is expected to include recommendations to clarify and simplify these rules through the emergency rule process.

Filed with LRB: February 13, 2014

Publication Date: February 19, 2014
Effective Dates: April 1, 2014 through August 28, 2014
Hearing Date: March 11, 2014

Safety and Professional Services — Controlled Substances Board

EmR1318 — The Controlled Substances Board adopts an order to create **section CSB 2.36**, relating to scheduling controlled substances.

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

The statement of scope for this rule, SS 062–13, was approved by the Governor on May 29, 2013, published in Register 690 on June 15, 2013, and approved by the Controlled Substances Board on July 15, 2013.

Finding of Emergency

The Controlled Substances Board 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:

The Brown County District Attorney’s office has provided the Controlled Substances Board with information relevant to emergency scheduling and the commencement of a prosecution concerning a controlled substance analog. UR–144, XLR–11, and AKB48 are pharmacologically similar to Schedule I substances THC and JWH–018. By sharing pharmacological similarities with the Schedule I substances, synthetic cannabinoids pose a risk both to the individual user and other affected individuals. UR–144, XLR–11, and AKB48 are being marketed as “legal” alternatives to marijuana. This characterization (and the reputation as potent herbal intoxicants) has increased their popularity and prevalence.

The Controlled Substances Board finds that scheduling of UR–144, XLR–11, and AKB48 on an emergency basis is necessary to avoid an imminent hazard to public safety. The substances are not included in any other schedule and no exemption or approval is in effect for the substance under 21 USC 355.

On May 16, 2013, the U.S. Department of Justice Drug Enforcement Administration emergency scheduled UR–144, XLR11, and AKB48 as Schedule I, illegal drugs under the Controlled Substances Act.

Filed with LRB: October 17, 2013
Publication Date: October 13, 2013
Effective Dates: October 13, 2013 through October 12, 2014
Hearing Date: November 11, 2013

Transportation

EmR1404 — The Wisconsin Department of Transportation proposes an order to create **section Trans 327.14**, relating to motor carrier safety and affecting small businesses.

This emergency rule was approved by the Governor on February 10, 2014.

The statement of scope for this rule, SS 155–13, was approved by the Governor on December 16, 2013, published in Register 696, on December 31, 2013, and approved by Secretary Mark Gottlieb as required by s. 227.135 (2), Stats., on January 13, 2014.

Finding of Emergency

The welfare of commercial motor vehicle drivers who hold a commercial driver license (“CDL”) issued by the State of Wisconsin who operate commercial motor vehicles outside this state will be harmed beginning January 30, 2014, if they cannot demonstrate compliance with recent federal regulations because they will be treated by other states as unlicensed drivers. Beginning on January 1, 2014, federal regulations require CDL holders to have certified to DOT the type of commercial driving they do and, if required, to have submitted proof of medical fitness to drive, and to have their driving records updated by DOT to show these actions, before driving a commercial motor vehicle. The Department published the scope statement for permanent rulemaking in September 2011 to implement these federal requirements. The permanent rulemaking effort is ongoing but will not take effect before the January 30, 2014 deadline for compliance.

Filed with LRB: February 14, 2014
Publication Date: February 16, 2014
Effective Dates: February 16, 2014 through July 15, 2014

Workforce Development

Unemployment Insurance, Chs. DWD 100–150

EmR1316 — The Wisconsin Department of Workforce Development hereby adopts an order to repeal **sections DWD 126.02 (2), (3), and (4), 126.03 (1), 126.04, 126.05, 127.01 (2) (b), (f) to (i), and (3), 127.02 (intro.), (1), (2), (3), and (4), 127.02 (5) and (10), and 127.08**; to renumber and amend **section DWD 126.02 (1)**; to amend **sections DWD 126.01, 126.03 (intro.) and (2), 127 (title), 127.01 (1), (2) (intro.), (a), (c), and (d), 127.02 (7), (9), and (11), 127.04 (title), (1), and (2), 127.05, 127.06 (1), (2), and (3), 127.07 (title) and (1), 128.01 (2) (a), and 129.01 (1) and (2)**; to repeal and recreate **sections DWD 127.01 (2) (j) and 127.07 (2)**; and to create **sections DWD 126.02 (Note), 126.03 (3), (4), (5), (6), and (7), 127.01 (2) (em), 127.02 (12), 127.04 (1m) (e), and 127.06 (1) (c)**, relating to unemployment insurance work registration, work search, and benefit claiming procedures.

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

The statement of scope for this emergency rule, SS 106–13, was approved by the Governor on August 14, 2013, published in Register No. 692 on August 31, 2013, and approved by the Secretary of Workforce Development on September 11, 2013.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of the facts constituting the emergency are:

- (1) In order to fulfill the new statutory directives to require claimants for unemployment insurance benefits to increase their number of weekly work search actions from two to at least four;
- (2) In order to simplify the process and compliance with respect to requirements for unemployment insurance claimants to register for work;

- (3) In order to execute the new statutory requirement to request additional information from claimants;
- (4) In order to improve the unemployment insurance trust fund balance and thereby relieve employers of the burden of additional taxation;
- (5) In order to better assist unemployment insurance benefit claimants to obtain gainful employment; and,
- (6) In order to promote the improvement in the Wisconsin economy as a result of the immediate implementation of legislative directives with respect to the unemployment insurance program contained in 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

Adoption of the emergency rule will ensure that these legislative directives are implemented within the time–frame envisioned with enactment of 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

Effective Dates: September 29, 2013 through February 25, 2014, except that changes to ss. DWD 126.03 and 127.02 take effect after the Secretary determines the Department has the technological ability to implement the changes.

Hearing Date: November 4, 2013

Extension Through: April 26, 2014

Workforce Development

Apprenticeship, Chs. DWD 295–296

EmR1406 — The Wisconsin Department of Workforce Development hereby adopts the following emergency rule to create **section DWD 295.25**, relating to apprenticeship completion awards.

The emergency rule was approved by the governor on March 21, 2014.

The statement of scope for this emergency rule was approved by the Governor on February 13, 2014, published in Register No. 698 on February 28, 2014, and approved by the Secretary of the Department of Workforce Development on March 11, 2014.

Finding of Emergency

The department of workforce development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of facts constituting an emergency include:

(1) Wisconsin currently has more than 2,100 employers participating in, and training individuals, under the apprenticeship program.

(2) During 2013, Wisconsin had 9,723 valid apprenticeship contracts.

(3) Over the past ten years, the completion rate of the apprenticeship program averaged between 55–60%.

(4) 2013 Wisconsin Act 57 creates an apprenticeship completion award program to be administered by the department of workforce development to partially reimburse tuition costs incurred by an apprentice who has successfully completed part or all of the requirements of their apprenticeship contract, and is employed in the trade,

occupation, or business under the apprenticeship contract, or the sponsor of the apprentice.

(5) The department of workforce development has received general purpose revenue (GPR) funds of \$225,000 in fiscal year 2013–14 and 2014–15, to distribute up to 25%, or \$1,000, whichever is less, of the tuition costs incurred by the apprentice and sponsor of the apprentice. The amount of the first payment upon successful completion by the apprentice of the first year of the contract may not exceed \$250.

(6) The department of workforce development is adopting this emergency rule to prevent a potential hardship to Wisconsin's apprenticeship program participants. Adoption of this emergency rule will ensure those participating in an eligible apprenticeship contract may begin receiving apprenticeship completion awards as soon as possible. Because a permanent rule cannot be adopted in time, GPR funds for fiscal year 2013–14 would be lost if the emergency rule is not adopted.

Filed with LRB: March 26, 2014

Publication Date: March 27, 2014

Effective Dates: March 27, 2014 through August 23, 2014

Workforce Development

Employment and Training, Chs. DWD 805–830

EmR1317 — The Wisconsin Department of Workforce Development hereby adopts an order to create **Chapter DWD 801**, relating to workforce training grants under the Wisconsin Fast Forward program.

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

The statement of scope for this rule, SS 109–13, was approved by the Governor on August 15, 2013, published in Register No. 692 on August 31, 2013, and approved by the Department of Workforce Development on September 11, 2013.

Finding of Emergency

The Department of Workforce Development (DWD) finds that an emergency exists and emergency rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. The reason for the emergency is:

DWD proposes to create new rules in Chapter DWD 801 to implement the program of workforce training grants enacted by 2013 Wisconsin Act 9. DWD held a public hearing on the permanent rule for this new program on July 15, 2013, and has made revisions to the text of the proposed permanent rule in response to the comments received. It would now benefit the public welfare to proceed with the rules in emergency form so that the program can begin this fall.

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

Effective Dates: October 1, 2013 through February 27, 2014

Hearing Date: November 5, 2013

Extension Through: April 28, 2014

Scope Statements

Children and Families

Safety and Permanence, Chs. 35—59 *Early Care and Education, Chs. 201—252*

SS 030–14

This statement of scope was approved by the governor on March 31, 2014.

Rule No.

Chapter DCF 12 (create) and Chapters DCF 51, 52, 54, 55, 56, 57, 59, 202, 250, 251, and 252 (revise).

Relating to

Caregiver background checks.

Rule Type

Permanent.

1. Finding/Nature of Emergency (for Emergency Rules Only)

2. Detailed Description of the Objective of the Proposed Rule

The proposed rulemaking order will create ch. DCF 12, relating to caregiver background checks required under s. 48.685, Stats. The scope of the proposed ch. DCF 12 will be similar to ch. DHS 12, which is the Department of Health Services caregiver background check rule. Chapter DHS 12 was created as ch. HFS 12 in 1999 to apply to background checks required under ss. 48.685 and 50.065, Stats., except for the certified child care program that was administered by the Department of Workforce Development. Administration of s. 48.685, Stats., was transferred to the Department of Children and Families (DCF) when the department was created in 2008. 2007 Wisconsin Act 20 provides that ch. DHS 12 applies to DCF programs until the department creates its own background check rule.

The proposed rulemaking order will also update rules for the programs affected by s. 48.685, Stats., to ensure that information on the caregiver background check is current, accurate, and clear.

3. Detailed Explanation of Statutory Authority for the Rule

Section 48.685 (1) (ag) 1. a., Stats., directs the department to define the term “entity” by rule.

Section 48.685 (2) (d), Stats., provides that every entity shall maintain or shall contract with another person to maintain the most recent background information obtained on a caregiver. The information shall be made available for inspection by authorized persons, as defined by the department by rule.

Section 48.685 (4), Stats., provides that an entity that violates s. 48.685 (2), (3), or (4m) (b), Stats., may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

Section 48.685 (5) (a), Stats., directs the department to establish procedures by rule under which a person may show by clear and convincing evidence that he or she has been rehabilitated. Section 48.685 (5) (bm) and (br), Stats., lists offenses for which rehabilitation is not available. Section 48.685 (5) (a), Stats., does not authorize a person to demonstrate that he or she has been rehabilitated if the person was convicted of an offense that is not a serious crime under s. 48.685 (1) (c), Stats., but is substantially related to the care of a client under s. 48.685 (5m), Stats.

Section 48.685 (6) (b) 1., Stats., provides that caregivers licensed by the department, persons who are under 18 years of age and who are caregivers for a child care center, nonclient residents of an entity that is licensed by the department, and other persons specified by the department by rule shall send the background information form to the department.

Section 48.685 (6) (b) 2., Stats., provides that caregivers who are licensed or certified by a county department or an agency contracted with under s. 48.651 (2), Stats., nonclient residents of those entities, and other persons specified by the department by rule shall send the background information form to the county department or contracted agency.

Section 48.685 (6) (b) 3., Stats., provides that caregivers who are licensed by a child welfare agency, nonclient residents of those entities, and other persons specified by the department by rule shall send the background information form to the child welfare agency.

Section 48.685 (6) (b) 4., Stats., provides that caregivers who are contracted with by a school board, nonclient residents of those entities, and other persons specified by the department by rule shall send the background information form to the school board.

Section 48.685 (6) (c), Stats., provides a person who provides false information on a background information form may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

Section 48.67 (intro.), Stats., provides that the department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees.

Section 49.155 (1d), Stats., provides that the department shall promulgate rules establishing standards for the certification of child care providers under s. 48.651, Stats.

Section 227.11 (2) (a) (intro.), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

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

160 hours

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

Applicants for license or certification, licensees, employees, contractors, and non–client residents in residential care centers for children and youth, child–placing agencies, foster homes, group homes, shelter care facilities, certified child care providers, family child care centers, group child care centers, days camps for children, and child care programs established by school boards.

County departments of social services, county departments of health and human services, licensed private child–placing agencies, tribes, and the department’s Bureau of Milwaukee Child Welfare and Milwaukee Early Care Administration.

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

42 USC 671 (20) requires that states provide for background checks of any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child and prohibits payment of foster care maintenance or adoption assistance if the record check indicates certain convictions or other findings. It also requires that states provide for background checks of any relative guardian before the guardian may receive kinship guardianship assistance payments on behalf of the child.

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

None or minimal

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Safety and Professional Services

Professional Services, Chs. 1–299

SS 027–14

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

Rule No.

Chapters SPS 30 to 35 (Revise).

Relating to

Credentialing requirements and procedures for private detective agencies, private detectives, and private security professionals.

Rule Type

Permanent.

1. Finding/Nature of Emergency (for Emergency Rules Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of this rulemaking project is to clarify existing rules for private detectives, private detective

agencies, and private security professionals and to streamline the Department’s licensure processes outlined in chs. SPS 30 to 35. The processes to be evaluated include licensure and permit approvals, fee collection, records maintenance and retention, renewals, temporary permits, and the application of penalties for noncompliance with the code. The Department seeks to increase the efficiency of its licensing processes and ease the administrative burdens on private detectives. These goals are substantially in accordance with Governor Walker’s Executive Order No. 61 which directs the Department to analyze its rules to increase efficiency and decrease costs to small businesses.

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

Chapters SPS 30 to 35 establish licensure and credentialing requirements for private detectives, private detective agencies, and private security personnel. The existing policies set standards for obtaining licenses and permits via submissions to the Department and a third party vendor. Certain records are held and maintained by the Department while others are verified by the third party vendor. Potential rule changes would simplify the form and content of submissions and standardize document maintenance and retention policies. All policies will be examined for opportunities to increase efficiency and decrease costs to small businesses pursuant to Executive Order No. 61. Not conducting this review may result in unnecessary costs and delays.

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

Generally, Wis. Stat. s. 227.11 (2) (a) empowers the Department of Safety and Professional Services to promulgate rules interpreting the provision of any statute the Department enforces or administers. The Department has specific authority to prescribe requirements for the licenses and permits of private detectives, private detective agencies, and private security personnel pursuant to Wis. Stat. s. 440.26.

The Department has the following duties and powers:

Wis. Stat. s. 440.26 (1) (b) The department may promulgate rules specifying activities in which a person may engage without obtaining a license or permit under this section.

Wis. Stat. s. 440.26 (2) (c) Approval.

1. Subject to subs. 2. and 3., the department shall prescribe, by rule, such qualifications as it deems appropriate, with due regard to investigative experience, special professional education and training and other factors bearing on professional competence.
2. An individual who has been convicted in this state or elsewhere of a felony and who has not been pardoned for that felony is not eligible for a license under this section.
3. The department may not issue a license under this section to an individual unless the individual is over 18 years of age.
4. The department, in considering applicants for license, shall seek the advice of the appropriate local law enforcement agency or governmental official, and conduct such further investigation, as it deems proper to determine the competence of the applicant.
5. The department may, based on rules adopted by the department, refuse to issue a license under this section to an individual who has committed any of the acts described in sub. (6) (a) 1. to 5.

Wis. Stat. s. 440.26 (3m) Rules concerning dangerous weapons. The department shall promulgate rules relating to the carrying of dangerous weapons by a person who holds a license or permit issued under this section or who is employed by a person licensed under this section. The rules shall meet the minimum requirements specified in 15 USC 5902 (b) and shall allow all of the following:

(a) A person who is employed in this state by a public agency as a law enforcement officer to carry a concealed firearm if s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.

(b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to carry a concealed firearm if s. 941.23 (2) (b) 1. to 3. applies.

(c) A former officer, as defined in s. 941.23 (1) (c), to carry a concealed firearm if s. 941.23 (2) (c) 1. to 7. applies.

(d) A licensee, as defined in s. 175.60 (1) (d), or an out-of-state licensee, as defined in s. 175.60 (1) (g), to carry a concealed weapon as permitted under s. 175.60.

Wis. Stat. s. 440.26 (6) (a) Subject to the rules adopted under s. 440.03 (1), the department may reprimand the holder of a license or permit issued under this section or revoke, suspend or limit the license or permit of any person who has done any of the following:

1. Been convicted of a misdemeanor or found to have violated any state or local law that is punishable by a forfeiture, subject to ss. 111.321, 111.322 and 111.335.

2. Engaged in conduct reflecting adversely on his or her professional qualification.

3. Made a false statement in connection with any application for a license or permit under this section.

4. Violated this section or any rule promulgated or order issued under this section.

5. Failed to maintain a bond or liability policy as required under sub. (4).

Wis. Stat. s. 440.26 (6) (b) Subject to the rules promulgated under s. 440.03 (1), the department shall revoke the license or permit of any person who has been convicted of a felony in this state or elsewhere and who has not been pardoned for that felony.

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

The staff time needed to revise the rules is expected to be approximately 80 hours. This time includes research, consulting, drafting the rule revisions, consulting with stakeholders and potentially an advisory committee, processing the rule revisions through public hearings, legislative review, and adoption. There are no other resources necessary to revise the rules.

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

This rulemaking project may affect private detectives, private investigative agencies, and private security personnel.

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

An Internet-based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not reveal

any federal regulations pertaining to the licensure of private detectives, private investigative agencies, or private security personnel. Similarly, no federal regulations regulate permits provided to private detectives, private investigative agencies, or private security personnel.

8. Anticipated Economic Impact of Implementing the Rule

The Department believes that the proposed changes will have no adverse economic impact. The changes under consideration are intended to alleviate unnecessary economic burdens on private investigators and their employers. The revisions are also anticipated to decrease the Department's cost of administering Wis. Stat. s. 440.26.

Contact Person

Kristin Degeneffe, kristin.degeneffe@wisconsin.gov, (608) 261-0117.

Safety and Professional Services — Dentistry Examining Board

SS 025-14

This statement of scope was approved by the governor on March 19, 2014.

Rule No.

Chapters DE 2, 3, 7, and 11 (revise).

Relating to

Administration of nitrous oxide and the practice of dental hygiene.

Rule Type

Permanent.

1. Finding/Nature of Emergency (for Emergency Rules Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The primary intent of this proposed rule is to respond to recent legislation and incorporate such provisions that allow the administration of nitrous oxide inhalation analgesia by licensed dental hygienists. Currently, the Dentistry Examining Board certifies qualified dental hygienists to administer anesthesia, which does not include nitrous oxide inhalation analgesia (nitrous oxide). Licensed dentists, having met the training requirements may administer nitrous oxide and with supervision, hygienists may monitor patients. The practice of hygiene will be reviewed and revisions proposed to reflect current practice and use of technology within the practice of dentistry and dental hygiene.

Typographical errors, formatting, and other corrections and cross-references will be made, as some these chapters have not been revised since the 1990's. Where applicable, notes will be updated to reflect current information.

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

Currently, a dental assistant and dental hygienist may assist the dentist in the monitoring of the patient's condition while undergoing nitrous oxide treatment, [s. DE 12.01 (2)]. A dental hygienist may not administer or adjust the

concentration of nitrous oxide as s. DE 3.03 (1) prohibits a dental assistant or dental hygienist from administering or prescribing nitrous oxide. In addition, a licensee is not required to apply for a permit for administering sedation separate from an application for a professional license. A Class I sedation permit is not required before the administration of nitrous oxide inhalation analgesia. Under s. DE 11.03 (2), a dentist utilizing nitrous oxide inhalation shall be trained and certified in administering basic life support. This certification is renewed in compliance with the standards set forth by the American Heart Association, the American Red Cross, or other organizations approved by the board (or DHS). In the current rules, an Application for Dental Hygiene Certificate to Administer Local Anesthesia is required. There are no proposed changes in the type or level of training for a dental hygienist applying for a sedation permit to administer nitrous oxide inhalation analgesia.

Nitrous oxide inhalation analgesia is just one option available for sedation in the practice or dentistry. Research has shown that this class of sedation is used for not only pain control, but also as a sedation that is highly effective in the management of mild to moderate levels of dental anxiety. Nitrous oxide inhalation analgesia is also used in routine procedures undertaken by hygienists such as planing and scaling. It is also administered to patients of all ages having advanced periodontal disease due to dental anxiety or lack of dental care. Nitrous oxide inhalation analgesia has been highly effective in allowing on–going audible and verbal communication between the patient and health–care provider during examination and dental procedures.

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

Section 447.02 (1) reads: “447.02 Dentistry examining board. (1) The examining board may promulgate rules:

- (a) Governing the reexamination of an applicant who fails an examination specified in s. 447.04 (1) (a) 5. or (2) (a) 5. The rules may specify additional educational requirements for those applicants and may specify the number of times an applicant may be examined.
- (b) Governing the standards and conditions for the use of radiation and ionizing equipment in the practice of dentistry.
- (c) Subject to ch. 553 and s. 447.06 (1), governing dental franchising.
- (d) Specifying practices, in addition to the practices specified under s. 447.01 (3) (a) to (f), that are included within the practice of dental hygiene.
- (e) Providing for the granting of temporary licenses under this chapter.”

Section 447.02 (2) (b) and (e) reads: “447.02 (2) The examining board shall promulgate rules specifying all of the following:

- (b) The standards, conditions and any educational requirements that are in addition to the requirements specified in s. 447.04 (1) that must be met by a dentist to be permitted to induce general anesthesia or conscious sedation in connection with the practice of dentistry.
- (e) The educational requirements for administration of local anesthesia by a dental hygienist licensed under this chapter under s. 447.06 (2) (e) 2.”

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

The staff time needed to develop the rules is expected to be about 160 hours, depending on the complexity. This includes coordinating the rule–making process with the Board, research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

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

Licensed dental hygienists and dentists.

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

There is no known existing or proposed federal regulations addressing the administration of nitrous oxide inhalation analgesia by licensed dental hygienists. With regard to the definition of “dentistry” or limitations on dental specialties, no existing or proposed federal regulations were found.

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 is not expected to have a significant adverse economic impact on small business, as defined in s. 227.114 (1), Stats.

Contact Person

Jean MacCubbin, (608) 266–0955.

Safety and Professional Services — Board of Nursing

SS 026–14

This statement of scope was approved by the governor on March 19, 2014, for publication.

Rule No.

Chapters N 5 and 6 (revise).

Relating to

Renewal and standards of practice.

Rule Type

Permanent.

1. Finding/Nature of Emergency (for Emergency Rules Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to do a comprehensive review and update of the renewal process and standards of practice chapters in order to bring them up–to–date with current practice.

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

The current renewal chapter contains rules which are inconsistent with current practices for renewal and include

outdated references. The proposed policies for the renewal chapter are to update the renewal rules to recognize modern practices, technologies and procedures, remove obsolete references and correct inconsistencies with statutes.

The Board plans to review the standards of practice chapter to ensure the rules are updated to current nursing practice standards.

The alternative to the proposed policies is to not update to current practices and procedures.

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

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

Section 441.01 (3) The board may establish minimum standards for schools for professional nurses and schools for licensed practical nurses, including all related clinical units and facilities, and make and provide periodic surveys and consultations to such schools. It may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of this chapter in accordance with ch. 227.

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

125 hours

6. List with description of all entities that may be affected by the proposed rule

Nurses and health care entities.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None

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

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

Contact Person

Sharon Henes, Administrative Rules Coordinator, (608) 261–2377.

Safety and Professional Services — Board of Nursing

SS 028–14

This statement of scope was approved by the Governor on March 25, 2014.

Rule No.

Chapter N 8 (revise).

Relating to

Advanced practice nurse prescribers.

Rule Type

Permanent.

1. Finding/Nature of Emergency (for Emergency Rules Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The current ch. N 8 was created in 1995 with only a few minor revisions. The Board's intention is to do a comprehensive review, evaluation and update to the rules governing advanced practice nurse prescribers.

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

The Board will update the chapter to reflect current procedures and the changes in the profession.

Stakeholders have brought to the Board's attention that national certification bodies which previously certified clinical nurse specialist in a specific specialty no longer certifies that specialty. Other states have addressed with requirements which did not include relying on a national certification. The Board will consider options to address this stakeholder concern as part of the rule-making project.

The alternative is to keep the current rules which have some inconsistency with the statute and rules, and maintain procedures and practice of the profession which remain out-of-date.

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

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

Section 441.01 (3) The board may establish minimum standards for schools for professional nurses and schools for licensed practical nurses, including all related clinical units and facilities, and make and provide periodic surveys and consultations to such schools. It may also establish rules to prevent unauthorized persons from practicing professional nursing. It shall approve all rules for the administration of this chapter in accordance with ch. 227.

Section 441.16 (3) The board shall promulgate rules necessary to administer this section, including rules for all of the following:

(a) Establishing the education, training or experience requirements that a registered nurse must satisfy to be an advanced practice nurse. The rules promulgated under this paragraph shall require a registered nurse to have education, training or experience that is in addition to the education, training or experience required for licensure as a registered nurse.

(am) Establishing the appropriate education, training and examination requirements that an advanced practice nurse must satisfy to qualify for a certificate to issue prescription orders.

(b) Defining the scope of practice within which an advanced practice nurse may issue prescription orders.

(c) Specifying the classes of drugs, individual drugs or devices that may not be prescribed by an advanced practice nurse.

(cm) Specifying the conditions to be met for a registered nurse to do the following:

1. Administer a drug prescribed by an advanced practice nurse who is certified to issue prescription orders.

2. Administer a drug at the direction of an advanced practice nurse who is certified to issue prescription orders.

(d) Establishing procedures for maintaining a certificate to issue prescription orders, including requirements for continuing education and a requirement to complete the nursing workforce survey and submit the fee required under s. 441.01 (7).

(e) Establishing the minimum amount of malpractice liability insurance coverage that an advanced practice nurse shall have if he or she is certified to issue prescription orders. The board shall promulgate rules under this paragraph in consultation with the commissioner of insurance.

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

175 hours

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

Nurses and other health care professionals and entities.

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

None

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

None or minimal economic impact. There is not likely to be a significant economic impact on small businesses.

Contact Person

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

**Safety and Professional Services —
Psychology Examining Board**

SS 029–14

This statement of scope was approved by the governor on March 27, 2014.

Rule No.

Chapter Psy 2 (revise).

Relating to

Licensure.

Rule Type

Permanent.

1. Finding/Nature of Emergency (for Emergency Rules Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rule is to update the rule to reflect the changes due to Wisconsin 13 Act 114. In addition, the objective is to streamline, clarify and update the licensure and examination process for applicants.

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

Wisconsin 13 Act 114 allows an applicant to take any required examination prior to graduation. The rule needs to be updated to reflect this change in the statute.

The code contains outdated practices and procedures. This proposed rule would review and update all licensure and examination requirements in the interest of streamlining the process while maintaining the health, safety and welfare of the public.

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

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

Section 455.08 The examining board shall adopt such rules as are necessary under this chapter.

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

100 hours.

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

Psychology applicants.

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

None.

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

Minimal to none. It is not likely to have an economic impact on small businesses.

Contact Person

Sharon Henes, Administrative Rules Coordinator, (608) 261–2377.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Children and Families *Early Care and Education, Chs. 201—252* **CR 14–030**

On March 20, 2014, the Department of Children and Families submitted proposed rules to the Legislative Council Rules Clearinghouse.

The statement of scope for this rule, SS 041–12, was approved by the Governor on June 8, 2012, published in Register No. 678 on June 30, 2012, and approved by Secretary Eloise Anderson on July 16, 2012.

Analysis

The proposed rules affect Chapter DCF 201, relating to the incentive program for local agencies that identify child care subsidy fraud committed by child care providers.

Agency Procedure for Promulgation

A public hearing is required and will be held in Madison on May 7, 2014.

The organizational unit responsible for the promulgation of the proposed rules is the Division of Early Care and Education.

Contact Person

Elaine Pridgen
(608) 267–9403
elaine.pridgen@wisconsin.gov

Transportation **CR 14–031**

On April 3, 2014, the Department of Transportation

submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 012–11, was approved by the Governor on August 16, 2011, published in Wis. Admin. Register No. 669 on September 15, 2011, and approved by the Department of Transportation on September 26, 2011.

Analysis

Statutory Authority: s. 343.065 (3), Wis. Stats.

This proposed rule-making order creates section Trans 327.14, relating to motor carrier safety and affecting small businesses.

Agency Procedure for Promulgation

A public hearing is required. The Department of Transportation will hold a public hearing on the following date and time:

Thursday, May 1, 2014
Wisconsin Department of Transportation
1:00 p.m. to 3:00 p.m.
Hill Farms State Transportation Building
4802 Sheboygan Avenue, Room 144–B
Madison, WI 53707

Contact Person

Stephanie LaSage, Administrative Rules Coordinator,
Department of Transportation, Office of General Counsel,
(608) 267–3703.

Rule–Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection EmR1407

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 21.10, Wis. Adm. Code, relating to the quarantine of Iowa County for the gypsy moth.

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

Hearing Date and Location

Date: Tuesday, April 29, 2014
Time: 1:00 p.m.
Location: Department of Agriculture, Trade and Consumer Protection
Conference Room 211 (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 April 21, 2014, by writing to Barbara Stalker, also at the address above, or by calling (608) 224–4660. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is accessible to disabled users.

Place Where Comments are to be Submitted and Deadline for Submission

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 Monday, **May 12, 2014**, 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 online at <http://adminrules.wisconsin.gov>.

Copies of Rule and Comments Relating to Small Business

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 53708–8911. 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 businesses, please contact DATCP’s small business regulatory coordinator, Keeley Moll, at the same address above, or by emailing Keeley.Moll@wisconsin.gov or by calling (608) 224–5039.

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

This emergency rule creates a quarantine for Iowa County for the gypsy moth (“GM”). Under this rule, the Department of Agriculture, Trade and Consumer Protection (“DATCP”) quarantines Iowa County to restrict the movement of GM from generally infested areas to other areas of Wisconsin and to other states.

DATCP is adopting this temporary emergency rule pending the adoption of a parallel federal regulation to quarantine Iowa County. 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) and (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. Under s. 94.01, Stats., DATCP may 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. 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

Gypsy moth is a highly destructive insect pest of approximately 500 species of trees and shrubs. This insect has the potential to defoliate entire stands of forest, shade, and commercial trees such as nursery stock and Christmas trees. Any infestation of GM can result in substantial losses both to forest ecosystems and to urban trees, as well as to Wisconsin’s vital tourism and timber industries. In the United States, GM has defoliated an estimated 30 million forest hectares since 1970, and has cost millions of dollars annually in losses to the timber and nursery industries and local municipalities.

DATCP conducts annual trapping surveys for *Lymantria dispar*, the gypsy moth (GM). The 2013 survey in Iowa County showed that current and projected GM populations there have reached the threshold level to trigger implementation of further regulatory measures. Over the last three years, multiple trap sites in Iowa County have caught over 100 individual moths, with an average trap count of 28 in 2013. These counts represent a five–fold increase from 2011. The survey data indicate that reproducing populations

of GM now exist at significant levels in Iowa County and that eradication is not feasible. These findings support the need for a quarantine to limit movement and to prevent the artificial spread of this infestation.

This emergency rule creates a DATCP quarantine for Iowa County. Gypsy moth quarantines created by this rule are part of an overall state strategy to prevent and control plant pest infestations, including GM infestations. A parallel federal quarantine will be enacted approximately six to eight weeks after a formal submission by the state plant regulatory official.

Emergency rule content

Under this emergency rule, movement of all logs, timbers, and firewood of any type, plus movement of any woody nursery stock or Christmas trees out of Iowa County is prohibited with certain exceptions. The emergency rule will do the following:

- Create a quarantine for GM for Iowa County that prohibits the movement of all trees, woody shrubs, cut Christmas trees, logs, pulpwood, slabwood, firewood or wood chips out of Iowa County or any contiguous GM quarantined counties.
- Prohibit any common carrier from transporting any used outdoor household item out of Iowa County or any contiguous GM quarantined counties.
- Provide an exemption for articles that have been inspected and certified by a pest control official or trained inspector and are accompanied by a written certificate issued by that official or inspector.
- 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 21.10 and 7 CFR 301.45, 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 and dealers operating in Iowa County. Based on previous and ongoing work with Wisconsin’s gypsy moth and firewood certification programs, DATCP staff also identified known sawmills, loggers, 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 nursery stock, hardwood firewood or timber materials in Iowa County. The affected businesses are all small businesses. This emergency rule restricts the sale or distribution of nursery trees, Christmas trees, timber, and raw wood products plus any hardwood firewood from Iowa County to locations outside of this county 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/distribute nursery stock or Christmas trees outside these counties, 2) firewood producers/dealers that sell/distribute outside these counties, 3) loggers and sawmills that move untreated timber or raw wood products outside these counties, and 4) untreated wood waste (e.g. brush, chips or mulch) that is moved outside these counties.

Iowa County has a total of 14 licensed nursery growers and dealers that could possibly transport nursery stock. Those growers will not be able to move or sell nursery stock outside of the quarantine area without a compliance agreement with DATCP or U.S. Department of Agriculture – Animal and Plant Health Inspection Service (“APHIS”) that authorizes movement of nursery stock outside of the quarantine only when there is assurance that the movement will not spread GM to non–quarantined locations.

There are also an estimated eight known firewood dealers in Iowa County. Firewood dealers would need to be certified under s. ATCP 21.20 to sell or move firewood outside of the contiguous quarantine area. To obtain certification, a firewood dealer pays a \$50 annual certification fee to DATCP and treats the firewood in a manner that ensures it is free of regulated insect pests.

There are an estimated 15 lumber mills in Iowa County and an estimated 12 other tree service/wood processing facilities that may also deal with woody material. These businesses also will have to enter into a compliance agreement to transport logs, timber or raw wood products outside of the quarantine area.

Businesses with compliance agreements can self–inspect regulated articles moved from quarantine areas. State or Federal officials will provide inspection and certification services to businesses without compliance agreements at no additional cost. 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 negative impact on the environment. By reducing the spread of gypsy moth, this emergency rule is expected to have a net positive impact on Wisconsin’s forested environments and treescapes.

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 GM. APHIS has instituted statewide quarantines on the movement of all regulated materials for Connecticut, Delaware, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont in addition to portions of Illinois, Indiana, Maine, Ohio, Virginia, and West Virginia. APHIS has also enacted quarantines for Adams, Ashland, Bayfield, Brown, Calumet, Clark, Columbia, Dane, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Iron, Jackson, Jefferson, Juneau, Kenosha, Kewaunee, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Oneida, Outagamie, Ozaukee, Portage, Price, Racine, Rock, Sauk, Shawano, Sheboygan, Vilas, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood Counties in Wisconsin. The quarantines include restrictions on the movement of firewood.

The proposed rule will do the following:

- Create a quarantine for GM for Iowa County that prohibits the movement of all trees, woody shrubs, cut Christmas trees, logs, pulpwood, slabwood, firewood or wood chips out of Iowa County or any contiguous GM quarantined counties.
- Prohibit any common carrier from transporting any used outdoor household item out of Iowa County or any contiguous GM quarantined counties.
- Provide an exemption for articles that have been inspected and certified by a pest control official or trained inspector and are accompanied by a written certificate issued by that official or inspector.
- 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 GM may produce additional workload for local governments in Iowa County, but the quarantine itself will not produce any local fiscal impact.

Long – Range Fiscal Implications

DATCP has over two decades of experience in surveying and regulating GM infestations in Wisconsin. While potential GM population spikes may cause the agency to experience substantial one–time costs and personnel demands for providing regulatory oversight and working with affected industries, in general DATCP does not expect that future costs for regulation will differ significantly from current allocated budgets.

Agency Prepared by (Name & Phone No.):

DATCP / Christopher Deegan
(608–224–4573)

Authorized Signature:

Date:

February 21, 2014

Notice of Hearing

Children and Families

Early Care and Education, Chs. 201–252

CR 14–030

NOTICE IS HEREBY GIVEN that pursuant to section 49.197 (2), Stats., the Department of Children and Families proposes to hold a public hearing to consider proposed permanent rules to revise Chapter DCF 201, relating to the incentive program for local agencies that identify child care subsidy fraud committed by child care providers.

Hearing Date and Location

Date: Wednesday, May 7, 2014

Time: 2:00 p.m.

Location: GEF 1 Building, Room H206
201 E. Washington Avenue
Madison, WI

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

If you have special needs or circumstances regarding communication or accessibility at a hearing, please call (608) 267–9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available on request to the fullest extent possible.

Place Where Comments are to be Submitted and Deadline for Submission

A copy of the proposed permanent rule is available at <http://adminrules.wisconsin.gov>. This site allows you to view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts

new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rules or fiscal estimate by contacting:

Elaine Pridgen

Department of Children and Families

201 E. Washington Avenue

Madison, WI 53703

(608) 267–9403

dcfpublichearing@wisconsin.gov.

Written comments on the rules received at the above address, email, or through the <http://adminrules.wisconsin.gov> website no later than **May 8, 2014**, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Children and Families

Statutory authority

Section 49.197 (2) (b), Stats., as repealed and recreated by 2011 Wisconsin Act 32.

Statutes interpreted

Section 49.197 (2), Stats., as repealed and recreated by 2011 Wisconsin Act 32.

Related statute or rule

Section 49.155 (7m), Stats.

Explanation of agency authority

Section 49.197 (2), Stats., as repealed and recreated by 2011 Wisconsin Act 32, provides that the department shall by rule establish an incentive program that, using moneys from the allocation under s. 49.175 (1) (p), Stats., rewards county departments, Wisconsin Works (W–2) agencies, and tribal governing bodies that administer the subsidy program for identifying fraud in the subsidy program.

The rule shall specify that a county department, W–2 agency, or tribal governing body shall receive, for identifying

fraudulent activity under the subsidy program on the part of a child care provider, an amount equal to the average monthly subsidy payment per child during the prior fiscal year, multiplied by the number of children participating in the subsidy program for whom the provider provides care, multiplied by 1.5 months. A county department, W–2 agency, or tribal governing body may use payments received for any purpose for which moneys under the Temporary Assistance for Needy Families block grant program may be used under federal law.

No later than January 1, 2012, the department shall submit its plan for the incentive program to the Joint Committee on Finance for review by the committee. The department shall promulgate the rule for the incentive program in accordance with the plan as approved by the committee.

Summary of the proposed rule

The proposed rule for the incentive program will implement the department’s plan as approved by the Joint Committee on Finance on January 23, 2012. The department’s plan is available at http://legis.wisconsin.gov/lfb/jfc/passive_review/Pages/JFC-Passive-Review.aspx.

The proposed rule provides that the department shall provide an incentive payment to a local agency for identifying fraud in the child care subsidy program on the part of a child care provider if all of the following apply:

- The local agency investigates the child care provider by conducting site visits, collecting and reviewing the provider’s attendance and billing records, interviewing persons of interest, or gathering supporting case information.
- The local agency’s investigation finds that the child care provider intentionally submitted false, misleading, or irregular information to the department or failed to comply with the terms of the child care subsidy program and failed to provide to the satisfaction of the agency or the department an explanation for the noncompliance.
- The local agency calculates and establishes the amount of the overpayment made to the provider as a result of the provider’s actions.
- The local agency’s actions result in the department, in conjunction with the local agency, withholding payments to be made to the child care provider.
- The withholding of payments is upheld in the final review under s. DCF 201.07 or the provider does not request a review or appeal.
- If directed by the department, the local agency requests the district attorney to consider criminal prosecution of the child care provider.

The department shall determine the amount of an incentive payment earned by a local agency by multiplying the statewide average monthly subsidy payment per child in the preceding fiscal year by the average monthly number of children for whom payment was authorized to the provider in the 12 months before the local agency or the department refused to issue payments by 1.5 months. If payment was not authorized to the provider for all of the preceding 12 months, multiply by the average monthly number of children for whom payment was authorized to the provider for the number of months that payment was authorized will be used.

An incentive payment earned by a local agency for identifying fraud in the child care subsidy program by a single child care provider may not exceed \$25,000. A local agency may earn more than one incentive payment per year if the local agency identifies fraud in the child care subsidy program by more than one child care provider.

A local agency that has earned an incentive payment may request that the department distribute the funds for any of the following:

- The local agency’s child care fraud contract with the department for the following year.
- The local agency’s current child care fraud contract with the department if the request is made in the first half of the contract term.
- Any purpose that is consistent with the currently approved state plan for use of federal funds under the Temporary Assistance to Needy Families program.

The initial applicability of incentives under the proposed rule is investigations that were initiated on or after January 1, 2012.

Summary of factual data and analytical methodologies

The proposed rule provides detail necessary to implement s. 49.197 (2), Stats. No data was used.

Summary of related federal requirements

None

Comparison to rules in adjacent states

The department is not aware of rules regarding incentive programs for local agencies that identify fraud committed by child care providers in any of the adjacent states.

Agency Contact Person

Erik Hayko, Division of Early Care and Education, (608) 266–9045, erik.hayko@wisconsin.gov.

Text of Rule

SECTION 1. DCF 201.03 (6) is created to read:

DCF 201.03 (6) INCENTIVE PROGRAM FOR LOCAL FRAUD DETECTION.

(a) *Definition.* In this subsection, “local agency” means a child care administrative agency, excluding an agency in a county having a population of 750,000 or more.

(b) *Identifying fraud.* The department shall provide an incentive payment to a local agency for identifying fraud in the child care subsidy program on the part of a child care provider if all of the following apply:

1. The local agency investigates the child care provider by doing any of the following:
 - a. Conducting site visits.
 - b. Collecting and reviewing the provider’s attendance and billing records.
 - c. Interviewing persons of interest.
 - d. Gathering supporting case information.

2. The local agency’s investigation finds that the child care provider intentionally submitted false, misleading, or irregular information to the department or failed to comply with the terms of the child care subsidy program under s. 49.155, Stats., and failed to provide to the satisfaction of the agency or the department an explanation for the noncompliance.

3. The local agency calculates and establishes the amount of the overpayment made to the provider as a result of the provider’s actions under sub. 2.

4. The local agency's actions in subd. 1. to 3. result in the department, in conjunction with the local agency, withholding payments to be made to the child care provider under s. 49.155 (7m) (a) 2., Stats.

5. The withholding of payments under subd. 4. is upheld in the final review under s. DCF 201.07 or the provider does not request a review or appeal.

6. If directed by the department, the local agency requests the district attorney to consider criminal prosecution of the child care provider.

(c) *Payment amount.* 1. The department shall determine the amount of an incentive payment earned by a local agency under par. (b) by multiplying all of the following amounts:

a. The statewide average monthly subsidy payment per child in the preceding fiscal year.

b. The average monthly number of children for whom payment was authorized to the provider under s. DCF 201.04 (2g) in the 12 months before the local agency or the department withheld payments under par. (b) 3. If payment was not authorized to the provider for all of the preceding 12 months, the average monthly number of children for the number of months that payment was authorized.

c. 1.5 months.

2. An incentive payment earned by a local agency for identifying fraud in the child care subsidy program under par.

(b) by a single child care provider may not exceed \$25,000.

3. A local agency may earn more than one incentive payment per year if the local agency identifies fraud in the child care subsidy program under par. (b) by more than one child care provider in that year.

(d) *Use of incentive funds.* A local agency that has earned an incentive payment may request that the department distribute the funds for any of the following purposes:

1. The local agency's child care fraud contract with the department for the following year.

2. The local agency's current child care fraud contract with the department if the request is made in the first half of the contract term.

Note: Contracts with counties are based on a calendar year and contracts with tribes are based on a federal fiscal year.

3. Any purpose that is consistent with the currently approved state plan for use of federal funds under the Temporary Assistance to Needy Families program.

SECTION 2. INITIAL APPLICABILITY. This rule first applies to investigations under s. DCF 201.03 (6) (b) 1. that were initiated on or after January 1, 2012.

SECTION 3. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the 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
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

DCF 201, Administration of Child Care Funds

3. Subject

Incentive Program for Local Agencies that Identify Child Care Subsidy Fraud Committed by Child Care Providers

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

Section 20.437 (2) (md), Stats.

6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

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

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input checked="" type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)

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

Yes No

9. Policy Problem Addressed by the Rule

The rule provides the procedures for implementing s. 49.197 (2), Stats.

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

The department solicited comments from the Wisconsin County Human Service Association, the Wisconsin Association on Public Assistance Fraud, and local agencies that administer the child care subsidy program under s. 49.155, Stats.

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

Rock County

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)

Local agencies that administer the child care subsidy program may increase their revenue if they earn an incentive under the rule. Section 49.197 (2) (b) 1., Stats., directs the department to fund the incentive program from the allocation for direct child care services under s. 49.175 (1) (p), Stats.

Rock County contracts with a private investigator to conduct its child care provider fraud investigations. They asked whether the county or the private investigator would be eligible to receive the incentive payments. The department would make the payment to the local agency. The allowable uses for the funds are in the proposed s. DCF 201.03 (6) (d).

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

Section 49.197 (2) (b) 1., Stats., directs the department to promulgate this rule.

14. Long Range Implications of Implementing the Rule

None

15. Compare With Approaches Being Used by Federal Government

NA

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

The department is not aware of rules governing an incentive program for local agencies that identify child care subsidy fraud committed by providers in any of the adjacent states.

17. Contact Name

Erik Hayko

18. Contact Phone Number

(608) 266–9045

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

Notice of Hearing

Technical College System

CR 14–022

NOTICE IS HEREBY GIVEN that pursuant to Wis. Stats. s. 38.04, and interpreting Wis. Stats. s. 38.04 (4), the Wisconsin Technical College System will hold a public hearing to consider repealing and recreating Chapter TCS 3, related to Certification of Personnel: Requirements and Procedures.

Hearing Date and Location

Date: Tuesday, April 29, 2014
Time: 9:00 a.m.
Location: Wisconsin Technical College System Office

Board Room
 4622 University Avenue
 Madison, WI 53707

It is the policy of the Wisconsin Technical College System Board (WTCSB) to provide accommodations to persons with disabilities, which may affect their ability to access or participate in WTCS activities. To request assistance or reasonable accommodations for the scheduled public hearing, contact Nancy Merrill at (608) 267–9514 or nancy.merrill@wtcsystem.edu.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to the agency contact person listed above. Deadline for submission is 5 p.m., **April 29, 2014**.

Analysis Prepared by the Wisconsin Technical College System Board

Statutes interpreted

Wis. Stats. s. 38.04 (4).

Statutory authority

Wis. Stats. s. 38.04 (4).

Explanation of agency authority

Section 38.04 (4), Stats., states that the qualifications of educational personnel shall be approved by the technical college system board.

Related statute or rule

Wis. Stats. s. 38.12 (3) (b).

Plain language analysis

The Wisconsin Technical College System (WTCS) recently reviewed Chapter TCS 3 of the Wis. Admin. Code, Certification of Personnel: Requirements and Procedures, to ensure that the process is efficient for both the System and its colleges while maintaining a high quality process that supports the statutory responsibilities of the WTCS Board. Chapter TCS 3, which was last amended in 1993, establishes the standards and procedures for implementation of a personnel certification system.

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

There are no federal rules regarding certification of technical college personnel.

Comparison with rules in adjacent states

Not applicable.

Summary of factual data and analytical methodologies

Not applicable.

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

A fiscal estimate and economic impact analysis were completed as required under s. 227.14, Wis. Stats. No fiscal or economic impact is expected. A copy of the fiscal estimate and economic impact analysis can be obtained by contacting the agency contact person listed below.

Effect on Small Business

None

Agency Contact Person

Nancy A. Merrill, Senior Policy Advisor and Federal Relations Officer, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707–7874, telephone (608) 267–9514, e–mail nancy.merrill@wtcsystem.edu.

Text of Rule

CHAPTER TCS 3

Certification of Personnel: Requirements and Procedures

TCS 3.01	Purpose and Applicability
TCS 3.02	Definitions
TCS 3.03	Documentation and Instructor Credentials
TCS 3.04	Instructor Requirements
TCS 3.05	Faculty Quality Assurance System

TCS 3.06 Review of district compliance

TCS 3.01 Purpose and application. (1) PURPOSE. The purpose of this chapter is to establish standards and procedures pursuant to s. 38.04(4)(a), Stats., for the approval of minimum requirements for district educational personnel who provide instruction in courses that apply to a degree or adult basic education.

(2) APPLICABILITY. This chapter applies to all district instructors teaching courses that apply to a degree or adult basic education. It does not apply to instructors teaching adult continuing education or community service/avocational courses listed under aid code 42, 47 or 60.

TCS 3.02 Definitions. In this chapter:

(1) “Academic instructor” means a person teaching one or more courses in academic subjects such as mathematics, social science, English, communications, and science where the knowledge and skills taught are obtained by the instructor through collegiate preparation.

(2) “Accredited” means official recognition as a public or private educational institution by an accrediting agency recognized by the U.S. Department of Education.

(3) “Board” means the Wisconsin Technical College System Board.

(4) “Currency” means ongoing engagement in assigned occupational or academic area(s) that ensure instructors meet the most recent standards of practice for professions associated with their assigned content areas.

(5) “Director” means the person appointed as the System President by the Board under s. 38.04(2), Stats.

(6) “District” means a technical college district established under ch. 38, Stats.

(7) “District board” means the district board in charge of the technical colleges of a district.

(8) “District director” means the person employed by a district board under s. 38.12(3)(a)1, Stats.

(9) “Employed full–time” means employed by a district as an academic or occupational instructor in a position that qualifies as full–time according to district policy or standards.

(10) “Employed part–time” means employed by a district as an academic or occupational instructor in a position that qualifies as part–time according to district policy or standards.

(11) “Faculty Quality Assurance System” means the system used to ensure compliance under this chapter.

(12) “Occupational instructor” means a person employed by a district to teach one or more courses that are vocational or technical in nature and that apply toward a degree.

(13) “Postsecondary degree granting institution” means a public or private educational institution awarding an associate, baccalaureate, or graduate degree.

(14) “Higher Learning Commission” means the independent corporation that accredits degree–granting post–secondary educational institutions in the North Central region, thereby granting accredited institutions membership in the Commission and in the North Central Association.

(15) “Subject matter expert” means an individual with scientific, technical, or other specialized knowledge in a specific subject matter, profession or field of study exhibited by or obtained through knowledge, skill, experience, training, education, or a combination thereof.

(16) “Verifiable occupational experience” means occupational experience that is, at a minimum, documented by a district director’s or designee’s reference check.

TCS 3.03 District documentation of instructor credentials. Prior to being assigned to teach any course, a person employed by a district as an academic or occupational instructor shall provide to the district director or designee:

(1) Official transcripts of undergraduate and graduate credits from accredited institutions to document compliance with educational requirements under this chapter.

(2) Copies of professional or occupational licenses required by a state or federal agency for employment in the occupation or profession.

(3) Verification from accredited institutions of appropriate teaching experience.

(4) Verification of required occupational experience for occupational instructors.

TCS 3.04 Instructor requirements. (1) Each academic and occupational instructor shall meet applicable requirements established by the Higher Learning Commission and federal and state licensing requirements.

(2) Each occupational instructor also shall have a minimum of two years (4,000 hours) of occupational experience in a target job for the program(s) being taught, of which at least one year (2,000 hours) shall be within five years prior to the date of appointment. One year (2,000 hours) of related occupational experience may be waived if the occupational instructor has at least two years of post–secondary teaching experience in the appropriate occupational field within five years prior to the date of appointment (two years of post–secondary teaching experience means eight semesters of part–time teaching or four semesters of full–time teaching at an accredited institution).

(3) An exception to the occupational experience requirements under s. TCS 3.04(2) may be granted by the district director or designee for:

- (a) Emergency staffing situations;
- (b) Pending credentials;
- (c) Specialized expertise or renowned qualifications of candidate;
- (d) Emerging fields; and
- (e) Lack of candidate availability.

(4) An occupational experience exception under s. TCS 3.04(3) shall only be allowed if a plan is approved by the district director or designee to ensure the occupational instructor granted the exception complies with occupational experience requirements within the time period specified pursuant to s. TCS 3.05(2).

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

TCS 3.05 Faculty Quality Assurance System. Each district shall provide annual reports as required by the System President on its activities to maintain a faculty quality assurance system that includes all of the following:

(1) district recruitment and hiring procedures for academic and occupational instructor positions that:

- (a) demonstrate efforts to achieve a diverse instructor population;
- (b) include subject matter expert participation in the development of each new instructor position;
- (c) comply with all state and federal laws;
- (d) comply with Board policy on criminal background checks;
- (e) verify prospective employee qualifications; and
- (f) address onboarding for new employees through providing a district employee handbook or standard operating practice and the Wisconsin Technical College System mission, vision and strategic direction.

(2) professional development plans for each academic and occupational instructor that ensures the instructor:

(a) completes all System President–approved competencies within three years of the date of employment if full–time or within five years of the date of employment if part–time.

(b) maintains currency in their assigned content area(s). The district director or designee shall establish a process to maintain currency of academic and occupational instructors.

(c) fulfills occupational experience requirements within the time period specified by the district director or designee for an occupational instructor hired pursuant to an occupational experience exception under to TCS 3.04 (3).

(d) complies with all other requirements and policies set forth by the State Board or System President.

(3) a performance evaluation system for each full–time academic or occupational instructor that includes (a) documentation that the instructor and their supervisor discussed and set instructor goals; (b) data measures that will be used to assess instructor performance; and an (c) employee development or performance improvement plan.

(4) a process for evaluating academic and occupational instructors who are less than full–time.

(5) a plan that provides peer coaching and/or mentoring for all academic and occupational instructors.

TCS 3.06 Review of district compliance. The System President or designee shall review district compliance with the requirements established in this chapter under TCS 3.03, TCS 3.04 and TCS 3.05 at least once every three years.

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

Agency 292 – Chapter TCS 3

Notice of Hearing

Transportation EmR1404, CR 14–031

NOTICE IS HEREBY GIVEN That pursuant to ss.227.11 (2), 343.06 (3), 343.065 (3), 343.14 (2) (i) 1., 343.23 (2) (a), 343.265 (1r), and 343.27, Stats., the Department of Transportation will hold a public hearing on the emergency rule and proposed permanent rule to consider the creation of section Trans 327.14, relating to motor carrier safety.

Hearing Date and Location

Date: Thursday, May 1, 2014
Time: 1:00 p.m. to 3:00 p.m.
Location: Wisconsin Department of Transportation
 Hill Farms State Transportation Building
 Room 144–B
 4802 Sheboygan Avenue
 Madison, WI 53707

Accessibility

English

DOT is an equal opportunity employer and service provider. If you need accommodations because of a disability or need an interpreter or translator, or if you need this material in another language or in an alternate format, you may request assistance to participate by contacting Alison Lebwohl at 608–266–0054. You must make your request at least 7 days before the activity.

Spanish

El PUNTO es patrón de la oportunidad igual y abastecedor de servicio. Si usted necesita comodidades debido a una inhabilidad o necesita a un intérprete o a traductor, o si usted necesita este material en otra lengua o en un formato alterno, usted puede solicitar ayuda de participar entrando en contacto con a Alison Lebwohl en 608–266–0054. You debe hacer su petición por lo menos 7 días antes de la actividad.

Hmong

DOT yog ib cov chaw ua hauj lwm vaj huam sib luag thiab muab kev pab. Yog hais tias koj xav tau kev kho kom haum vim yog muaj mob xiam oob qhab los yog xav tau ib tug neeg txhais lus los txhais, los yog hais tias koj xav tau qhov khoom ntawd rau lwm hom lus los yog txhais ua lwm hom ntawv, koj yuav thov kev pab mus xamphaj Alison Lebwohl ntawm 608–266–0054. yuav tsum ua koj txoj kev thov txog li 7 hnub ua ntej qhov kev ua.

To view the proposed permanent and emergency rule, and view the current rule, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Copies of Proposed Rule and Fiscal Estimate — Economic Impact Analysis

A copy of the proposed rule and the fiscal estimate–economic impact analysis may be obtained from the Department of Transportation at no charge by downloading the documents from www.adminrules.wisconsin.gov or by contacting:

Alison Lebwohl
 Bureau of Driver Services Section, Division of Motor Vehicles
 Wisconsin Department of Transportation
 4802 Sheboygan Avenue, Room 809
 P.O. Box 7995
 Madison, WI 53707–7995
 Phone: (608) 266–0054
 Email: Alison.lebwohl@dot.wi.gov.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Alison Lebwohl via e–mail or U.S. mail, or to the Wisconsin Administrative Rules Website, at www.adminrules.wisconsin.gov until close of business on **May 1, 2014**.

Impact on Small Business

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have a negative economic impact on small business. The Department’s Small Business Regulatory Coordinator, Michele Carter, may be contacted at: (414) 438–4587 or (608) 266–6961, or by e–mailing her at: Michele.Carter@dot.wi.gov.

Environmental Impact

The Department has made a preliminary determination that this action does not involve adverse environmental effects and does not need an environmental analysis. No petition has been received requesting an environmental analysis.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted

Sections 343.06 (3), 343.065 (3), 343.14 (2) (i) 1., 343.23 (2) (a), 343.265 (1r), and 343.27, Stats.

Statutory authority

Section 343.065 (3), Stats.

Explanation of agency authority

Current law requires the Department of Transportation to administer the driver license law for commercial motor vehicles contained in ch. 343, Wis. Stats. The state has declared its purpose and intent to implement and enforce the federal driver license laws so as to ensure receipt by this state of any federal highway aids. Federal law requires states to conform to federal regulations affecting commercial motor vehicles and their drivers, or face withholding of federal highway funds. See 49 CFR 384.401. The amounts to be withheld from a state that fails to conform to federal regulations affecting commercial motor vehicles or their drivers are 5% of federal highway aid for the first year of substantial nonconformity, and 10% per year of nonconformity thereafter. Current Wisconsin law also requires department rules affecting driver licenses not to conflict with, and be at least as stringent as, standards set by the federal commercial motor vehicle safety act, 49 USC 31301 to 31317 and the regulations adopted under that act.

On December 1, 2008, the federal motor carrier and safety administration (“FMCSA”) issued its final rule concerning “Medical Certification Requirements as Part of the CDL [Commercial Driver License]” at 73 Federal Register 73096.

Among other changes, the federal regulation requires commercial motor vehicle drivers to declare whether they intend to engage in driving operations that require the driver to maintain proof of medical examination showing the driver meets fitness qualifications, and requires the state driver licensing agency to ‘downgrade’ the CDL of any driver that fails to timely make such certification or to maintain such proof on file. In response, Wisconsin enacted conforming statutory requirements as part of 2011 Wisconsin Act 32 (the 2011–13 biennial budget act), and required the Department of Transportation to: promulgate rules to define “downgrade” in accordance with federal law and regulations or guidance from the applicable federal agency; establish the process for downgrading a CDL, and whether or not a new CDL document will be issued after a CDL is downgraded; and to establish the process for reinstating a downgraded CDL after the department receives a valid medical certification or other appropriate certification of physical qualifications from the licensee. See s. 343.065 (3), Stats.

This rule–making implements s. 343.065 (3), Stats. The objective of this rule is to: implement federal requirements for commercial drivers to declare their intended driving type; obtain from drivers federally required medical examiner’s certificates to the department; electronically enter the driver’s self–certification of driving type and the status of their federal medical examiner’s certification online for access by the driver, employers and other state; and for the department to timely make those certificates available for inspection by other states in which the driver may drive.

Related statute or rule

See the “Statutes interpreted”: section; chs. Trans 112 and 327, Wis. Adm. Code.

Plain language analysis

This proposed rule–making would bring Wisconsin into conformity with federal regulations requiring that commercial drivers certify where they drive in commerce (“Tier of Operation”), and require drivers engaged in non–excepted interstate commerce to keep a valid federal medical certificate on file with the licensing state. The federal medical examiner’s certificate (“FedMed Card”) is proof of a qualified medical examination that determined the driver meets federal medical qualifications for operating a commercial motor vehicle. This rule does not change the requirements for when commercial drivers must hold a valid FedMed Card. Specifically, under this rule–making:

- By January 30, 2014, all commercial drivers must certify their Tier of Operation to the Department. This may be: 1) interstate non–excepted (Tier 1); 2) interstate excepted (Tier 2); 3) intrastate non–excepted (Tier 3); or 4) intrastate excepted (Tier 4). Drivers can make the certification by mail, fax, online or by email, using a computer or a Smartphone, or at a DMV service center.
- By January 30, 2014, all commercial drivers certifying their tier of operations as Tier 1 must file a FedMed Card with the department, and keep it up–to–date. Drivers can file FedMed Cards by mail, fax, online or by email, using a computer or a Smartphone, or at a DMV service center.
- The department will update that commercial driver’s record shown on the Commercial Driver License Information System (CDLIS) within 10 days, showing the self–certified tier of operation and whether the

driver has filed any required FedMed Card or medical variance.

- The department will “downgrade” the CDL of any commercial driver who: 1) Does not certify his or her tier of operation by January 30, 2014; 2) Self–certifies himself or herself as a Tier 1 driver and does not provide a valid FedMed Card; or 3) Is a Tier 1 driver whose FedMed Card expires, or is removed or rescinded by FMCSA. Federal regulations require downgrading for these reasons. The department will “downgrade” the CDL by removing the CDL privilege from the holder’s driver’s license, and the driver cannot drive commercial motor vehicles again until he or she certifies a tier of driving other than Tier 1, or submits a valid FedMed Card or medical variance. The driver may reinstate the CDL privilege without additional testing by correcting the cause for the downgrade.
- The department will notify commercial drivers by mail or another method, and notify enrolled employers through Employer Notify, no more than 55 days before a FedMed Card filed with the department expires, upon expiration of that FedMed Card, and immediately upon downgrade.
- Drivers will be able to use the online application – and employers who have signed up to use Employer Notify will be able to use Employer Notify – to verify: downgrade or reinstatement of commercial privileges; tier of operation; and, for Tier 1 drivers, the expiration date of FedMed Cards.
- Fraudulent FedMed Cards – whether presented online, in a DMV field station, or at a safety and weight enforcement facility operated by the Division of State Patrol scale – will be considered a false application and treated accordingly.
- If future federal rule–making provides FedMed information directly to states, then commercial drivers are required to certify only their tier of operation, but not necessarily provide a copy of a current FedMed Card to the department.

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

This rule–making implements the final federal regulations concerning, “Medical Certification Requirements as part of the CDL” at 73 FR 73096 (Dec. 1, 2008). The rulemaking is intended to ensure Wisconsin’s conformity with federal regulations in 49 CFR Part 383 and 391, requiring drivers of commercial motor vehicles to certify their type of driving to the department and submit a copy of their federal medical certificate to the department. All states are required to comply with these regulations.

Comparison with rules in the following states

The four states bordering Wisconsin all have requirements in place similar to those proposed herein. Specifically, all four states: require all CDL holders to certify their commercial driving as 1 of 4 types specified in federal law; require those drivers certifying their driving as ‘non–excepted interstate’ to provide and maintain on file with the state driver licensing authority a valid federal medical certification or medical variance; ‘downgrade’ a CDL by removing all commercial driving privileges, for all commercial drivers that do not complete the self–certification or do not provide the federal medical certificate, by January 30, 2014; and reinstate the downgraded driver that self–certifies a driving type other than non–excepted interstate, or provides a federal medical certification or medical variance. Iowa alone allows a grace

period of 60 days after federally required deadlines before downgrading a CDL for noncompliance.

Illinois. Illinois administrative code requires all CDL holders on or after January 30, 2012 to self–certify one of four types of driving before January 30, 2014. Failure to self–certify will result in cancellation of the CDL privileges, per. Drivers who certify their driving as non–excepted interstate driving must submit and maintain on file a medical examiner’s certificate and, if appropriate, a medical variance issued by the federal motor carrier safety administration (FMCSA). The removal of privileges remains in effect until the driver provides valid federal medical certification or medical variance, or certifies that the driver is not engaged in non–excepted interstate driving. These provisions of Illinois law are found at 92 Ill. Admin. Code 1030.22.

Iowa. Iowa requires all CDL holders to self–certify the type of commercial driving as one of four types, not later than January 30, 2014. Drivers who certify their operations as non–excepted interstate must provide the department of transportation a valid federal medical examiner’s certificate. Iowa law prevents the licensing of any applicant for initial or renewal of a CDL who does not self–certify their driving or does not provide a federal medical certificate. Iowa law requires the downgrade of any driver certified as non–excepted. Iowa deems a CDL expired upon the expiration of a federal medical certificate, and 60 days thereafter will entirely remove the commercial driving privileges if the driver does not provide an updated federal medical certificate or self–certifies a type of driving other than non–excepted interstate. Similarly, Iowa does not remove the driving privileges from a driver who fails to make that self–certification until 60 days after that deadline. Drivers that are downgraded may reinstate a CDL by providing a valid federal medical certification or medical variance, or by self–certifying as driving something other than non–excepted interstate. These provisions of Iowa law are found at Iowa Admin. Code 761–607.50(321), and Iowa Statute at 321.182 and Iowa Code Supplement at 321.188 and 321.207.

Michigan. Michigan requires all CDL holders to declare one of four types of driving, and requires driver’s who certify their driving as “non–excepted interstate” to provide a valid federal medical examiner’s certificate”. Michigan will remove all commercial driving privileges from the driver license if a driver fails to certify the type of driving or fails to provide and maintain a valid medical examiner’s certificate or maintain. Although the Department was unable to find Michigan statutes or administrative code provisions related to this, the Michigan Secretary of State’s website includes FAQs that describe the process summarized above, at: <http://www.michigan.gov/sos/0,1607,7-127-48296---f00.html#5.1> under the heading “Commercial Drivers — Self and Medical Certification”. According to the Michigan Secretary of State website, “You will lose your privilege to operate a CMV if you fail to provide a self–certification to the Secretary of State’s Office before your CDL expires or by January 30, 2014, whichever date comes first.” and “If you self–certify as a non–excepted interstate driver, you must present a completed and signed Medical Examiner’s Certificate, which is also known as a DOT Medical Card, to the Secretary of State to continue your CDL application.”

Minnesota. Minnesota statutes require CDL applicants to self–certify one of four types of driving and, if required by federal law (i.e. certifies as a non–exempt interstate driver) to

provide and maintain with the driver licensing authority a valid federal medical examiner’s certificate. Minnesota downgrades the commercial driving privileges of any driver who has certified himself or herself as being required by federal law to provide a federal medical examiner’s certificate, unless within 30 days following written notice to the driver that the medical examiner’s certificate is expired, the driver self–certifies as not engaged in non–exempt interstate driving, or provides the required a federal medical examiner’s certificate or medical waiver. Minnesota accomplishes the downgrade by removing the commercial driving privileges from the person’s driver license. These provisions are found at Minnesota Statutes Annot. 171.162. Minnesota administrative rules allow a downgraded CDL driver to reinstate commercial driving privileges within one year or less by submitting a valid federal medical certificate or by self–certifying as driving in something other than non–excepted interstate driving. However, if the commercial driving privileges are downgraded for more than one year the CDL driver must apply as a new CDL applicant and retake the knowledge and driving skills tests. These provisions are found at Minnesota Admin. Code 7421.0800.

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

Wisconsin considered several options for implementing this federal rule: require all commercial drivers, regardless of their tier of operation, to keep a current FedMed Card on record with the department; require that certification or provision of FedMed Cards could only be done in DMV service centers, or only online; require downgraded drivers to appear at service centers to reinstate or repeat some or all of the CDL licensing process. The current approach was selected because it is the most flexible and driver–friendly, yet still meets the letter and spirit of the federal requirements.

Analysis and supporting documentation used to determine effect on small businesses

This rule–making will have a minor fiscal impact on independent truckers and small trucking companies. The new burdens placed on drivers include having to declare a type of operation to the department and, for drivers that declare themselves to be engaged in non–excepted interstate travel, to file and maintain a FedMed Card with the department. FMCSA estimates that 80% of all CDL holders are engaged in non–excepted interstate commerce. Neither the federal regulations nor this rulemaking change the requirements that drivers engaged in non–excepted interstate commerce maintain a FedMed Card on their person when driving a CMV in interstate commerce, so the burden of this rule is largely a reporting burden. However, this rule will simplify the process of drivers providing proof of a FedMed Card, as the federal regulations will make this information available to all employers, drivers and states through a national database, CDLIS. The department has minimized the driver’s compliance costs in a variety of ways.

Effect on Small Business

The department has attempted to identify flexible and business–friendly methods of implementing and enforcing this rule, and has included them in this rule. The department expects the long–term effect on small business to be relatively minor. The requirements of self–certifying a CDL driver’s tier of operation, and of Tier 1 drivers maintaining valid FedMed Cards with the department, will be jointly enforced by the Division of State Patrol (through implementation of the

federal motor carriers safety regulations) and by DMV. Commercial drivers and trucking companies will need to ensure that they and their drivers have certified their tier of operation, and that Tier 1 drivers have a current FedMed Card on file with the department. FedMed requirements remain unchanged. There is no fee: to certify a tier of operation; to change a certification at any time to another tier of operation; to provide a FedMed Card; to verify one's own tier of operation or the expiration of a FedMed Card, or; to reinstate a CDL after being downgraded. Employers and drivers can check a driver's status online or through employer notification, for no charge. Both drivers and employers are notified 60 days before expiration of a FedMed Card, upon expiration and, if the driver does not provide a new, valid FedMed card or declare a tier of driving other than 'non–excepted interstate', upon downgrade. The department has been providing outreach to individual drivers and to trucking companies to inform them of these new requirements, and will continue to do so.

Fiscal Effect

This rule imposes costs in three ways. First, applicants for a CDL are now required to self–certify the type of driving in which they intend to engage. The department estimates that this part of the application process can be completed in less than 1 minute.

Next, the rule requires current CDL holders to self–certify the type of driving in which they intend to engage. Because certification by existing drivers will not be done in conjunction with a CDL application, the department estimates this will take approximately 5 to 10 minutes to complete.

Last, drivers who certify that they engage in non–excepted interstate commerce will be required to file proof of their FedMed Card with the Department, and to refile proof at least once every 2 years when the FedMed card expires. The department believes this can be done in conjunction with the self–certification process, or separately, in no more than 5 minutes per driver.

In December 2012, there were 299,221 CDLs issued by this state, of which 235,808 were valid and 63,413 were withdrawn or expired. Assuming for purposes of estimating the greatest impact that each of 299,221 CDL holders will comply, and that each driver spends 5 minutes complying with the self–certification requirements of this rule, the aggregate compliance time will be 24,935 hours. CDLs are valid for 8 years, so assuming an even rate of CDL issuance and renewals, the aggregate compliance time may be 3,116 hours per year statewide. FMCSA estimates that 74% of CDL holders engage in non–excepted interstate commerce [See, 71 FR 66743 (Nov. 16, 2006)]. If that is correct, as many as 221,423 drivers will also be required to file FedMed Cards with the department. If compliance takes 5 minutes to file a FedMed Card, the aggregate time spent on initial compliance may be 18,451 hours. The FedMed Card is generally valid for 2 years, but drivers with specific medical conditions may require more frequent medical fitness certification (for example, a FedMed Card for a driver with the following diagnoses is valid for one year: high blood pressure, heart disease, diabetes and vision exemption or waiver programs). Assuming that each FedMed Card is valid for 2 years, the aggregate annual time spent on compliance may be 9,226 hours. Taken together, the aggregate time spent to self–certify (3,116 hours) and file FedMed Cards (9,226 hours) could be 12,342 hours annually.

This rule requires the department to enter the self–certification on the CDLIS driving record of each driver. If each record entry can be completed in 2 minutes, the aggregate time to enter may be 1,246 hours, or 0.6 FTE. This figure assumes only one entry per driver every 8 years, which will increase if drivers change their self–certified type of driving during the 8–year CDL duration.

The rule also requires the department to record on the CDLIS driving each FedMed Card it receives. If each record entry can be completed in 2 minutes, the aggregate time to complete those entries is 7,977 hours every two years, or 3,989 hours per year, or 1.9 FTE.

In all, it appears the department will require 2.5 FTE annually to complete the work required by this rule.

The department will incur ongoing costs to provide written notices to drivers that: 1) a FedMed card will expire within 60 days; 2) that a FedMed Card has expired; and 3) that a CDL is downgraded. It is unknown how many of the estimated 239,336 non–excepted interstate drivers will require such notices from the department, but these notices could be required for each driver every 2 years to coincide with the valid period of a FedMed Card. If 10% of all estimated 221,423 drivers required to file FedMed Cards require all 3 notices every 2 years the department will mail 33,213 notices per year as result of this rule. If half of those drivers have employers on file, mailing those notices to employers will require an additional 16,606 mailed notices.

On March 11, 2014, the department solicited information and advice as required under s. 227.137, Stats., and Executive Order #50, to help prepare this economic impact analysis. The Department has solicited information and advice from six individuals who hold CDL's, from around the state and engaged in both interstate and intrastate driving operations, and from all members of the department's standing Motor Carrier Advisory Committee. The motor carrier advisory committee consists of 6 members, including: 3 trucking company representatives; one representative of a corporation specializing in motor carrier driver and fleet management and regulatory compliance; one citizen; and the Wisconsin Motor Carriers Association, a non–profit trade association representing the interests of truck and motor coach owners within the state of Wisconsin, and having 1,050 members ranging from independent contractors with one truck to companies with thousands of trucks, and affiliated with the American Trucking Associations (ATA) in Washington. The comment period remains open until April 5, 2014. As of today's date, March 28, 2014, the department has received no comments responding to the solicitation. Any comments received in response to the solicitation will be considered and addressed in the final rule along with any comments received at the forthcoming public hearing. In addition, the department promulgated Emergency Rule Trans. 327 on February 16, 2014, that implements all of the requirements of this proposed rulemaking, and has received no comments in response to that emergency rule.

Anticipated Costs Incurred by Private Sector

See the discussion above for the anticipated time required to comply with this rule. The department has identified flexible and business–friendly methods of implementing and enforcing this rule. As with small businesses, the department expects compliance with this rule to take no more than 10 minutes per driver, at no charge by the department, so overall costs incurred by the private sector are believed to be minimal per driver, and are the consequence of federal regulations. All

commercial drivers and trucking companies will need to ensure that they and their drivers have certified their tier of operation and that Tier 1 drivers have a current FedMed Card on file with the department. FedMed Card requirements remain unchanged. There is no charge by the department to a driver to certify a tier of operation, to change one's tier of operation at any time, to provide a FedMed Card, to verify a tier of operation or the expiration of a FedMed Card, or to reinstate a CDL after being downgraded. Drivers and employers can verify a driver's status online or through employer notification, free of charge. Both drivers and employers are notified 60 days before expiration, upon expiration and upon downgrade. The department is also providing outreach to individual drivers and to trucking companies.

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

Comments may be submitted to the agency contact person

that is listed below until the deadline given in the upcoming notice of public hearing. The deadline for submitting comments and the notice of public hearing will be posted on the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> after the hearing is scheduled.

Any such comments should be submitted to:

Alison Lebwohl
 Bureau of Driver Services Section, Division of Motor Vehicles
 Wisconsin Department of Transportation
 4802 Sheboygan Avenue, Room 809
 P. O. Box 7995
 Madison, WI 53707-7995
 Phone: (608) 266-0054
 E-mail: alison.lebwohl@dot.wi.gov.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Chapter Trans 327, Motor Carrier Safety		
Subject		
Procedures for commercial driver's to certify driving type, provide federal medical certificate to the department, and define procedures for downgrade of commercial driver's license (interstate only) if no valid federal medical certificate is on file.		
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		20.395 (5) (CQ)
Fiscal Effect of Implementing the Rule		
<input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Increase Costs <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input checked="" type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Local Government Units		<input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Policy Problem Addressed by the Rule			
<p>Changes in federal regulations 49 CFR 383 and 384 require commercial drivers operating in interstate commerce to notify the department of their type of driving (interstate vs. intrastate / excepted vs. non–excepted). Additionally, interstate, non–excepted drivers must keep a valid copy of their federal medical certificate on file with the department. Failure to maintain a valid certificate on file will result in a downgrade of their commercial operating privileges. These changes are required, effective January 30, 2012.</p> <p>2011 Wisconsin Act 32 also created s. 343065 (3) which allows the department to downgrade any commercial driver’s license authorizing operation in interstate commerce if the driver does not file a current federal medical certificate. In addition, this section requires the department to promulgate rules to define the downgrade process in accordance with the federal regulations, as well as to establish the process for reinstating a downgraded license after a valid federal medical certificate is received.</p>			
Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)			
<p>All commercial drivers operating in interstate commerce are already required to carry a valid federal medical card in their possession. This rulemaking requires that these drivers (or their employers) notify us of their driving type. In addition, drivers operating in interstate commerce are required to keep a copy of a valid federal medical certificate on file with the department.</p>			
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule			
<p>Implementing this rule will ensure Wisconsin’s compliance with federal regulations. Failure to comply with federal regulations could result in Wisconsin being found in non–compliance, per 49 CFR 384. Penalties for non–compliance are up to 10% of federal highway funding annually (over \$50 million), loss of MCSAP funding (about \$4 million annually) and decertification of Wisconsin Commercial Driver’s License program. As such, the only alternative is to implement the rule.</p> <p>In addition, the rule helps ensure commercial drivers are medically competent.</p>			
Long Range Implications of Implementing the Rule			
<p>Implementing this rule allows Wisconsin to remain in compliance with federal regulations on commercial driver’s licenses.</p> <p>Failure to comply with federal regulations could result in Wisconsin being found in non–compliance, per 49 CFR 384. Penalties for non–compliance are up to 10% of federal highway funding annually (over \$50 million), loss of MCSAP funding (about \$4 million annually) and decertification of Wisconsin Commercial Driver’s License program.</p>			
Compare With Approaches Being Used by Federal Government			
<p>The federal government is requiring all states to comply with these requirements. However, the states have some flexibility to determine how to downgrade their drivers.</p>			
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)			
State	Method for Certifying Driving Type	Downgrade Process	Reinstatement Process
Iowa	Drivers can self–certify in person, by mail, by fax, or via the web	A courtesy letter will be sent prior to the expiration date of the federal medical certificate. If no updated card is received, the driver will lose their commercial privileges immediately upon the expiration of the federal medical certificate.	Drivers can get their commercial license back by self certifying they are no longer operating in interstate commerce, or by providing an updated federal medical certificate. No fee is required.

Michigan	Drivers can self–certify in person, by mail, by fax, or via the web	A courtesy letter will be sent 10 days prior to the expiration date of the federal medical certificate. If no updated card is received, the driver will lose their commercial privileges immediately upon the expiration of the federal medical certificate.	Drivers can get their commercial license back by self certifying they are no longer operating in interstate commerce, or by providing an updated federal medical certificate. A \$25 fee is required.
Minnesota	Drivers can self–certify in person, by mail, or by fax	A courtesy letter will be sent 45 days prior to the expiration date of the federal medical certificate. If no updated card is received, the driver will lose their commercial privileges 60 days after the expiration date of the federal medical certificate.	Drivers can get their commercial license back by self certifying they are no longer operating in interstate commerce, or by providing an updated federal medical certificate. No fee is required.
Wisconsin	Drivers can self–certify in person, by mail, by fax, or via the web	A courtesy letter will be sent 60 days prior to the expiration date of the federal medical certificate. If no updated card is received, the driver will lose their commercial privileges 10 days after the expiration date of the federal medical certificate.	Drivers can get their commercial license back by self certifying they are no longer operating in interstate commerce, or by providing an updated federal medical certificate. No fee is required.
Please note: several attempts were made to contact Illinois. No one responded to our repeated messages.			
Name and Phone Number of Contact Person			
Alison Lebwohl, 608–266–0054			

Submittal of Proposed Rules to Legislature

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

Agriculture, Trade and Consumer Protection **CR 13–107**

(DATCP DOCKET # 13–R–11)

The Department of Agriculture, Trade and Consumer Protection has submitted a proposed rule for legislative committee review pursuant to s. 227.19, Stats. The proposed rule revises Chapter ATCP 136, relating to mobile air conditioners.

The rule was approved by the governor on March 10, 2014.

Government Accountability Board **CR 10–130**

The Government Accountability Board has submitted a proposed rulemaking order to the to presiding officer of each house. The rule creates Chapter GAB 4, relating to election observers.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule was filed prior to the effective date of s. 227.185, Stats., and published in Register 657 on September 30, 2010.

Insurance **CR 13–113**

The Commissioner of Insurance has submitted a proposed rule in final draft form to the chief clerk of each house of the legislature. The proposed rule revises sections Ins 6.91 to 6.99, relating to navigators, nonnavigator assisters and related entities and affecting small business.

This rule was approved by the governor on March 19, 2014.

Military Affairs **CR 10–111**

The Department of Military Affairs has submitted a proposed rule for legislative committee review, pursuant to s. 227.19, Stats. The proposed rule creates Chapter DMA 1, relating to military family financial aid.

This is a resubmittal of the proposed rule. The rule was recalled from the legislature on February 24, 2014.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule, published in Register No. 656, on August 14, 2010, was sent to Legislative Reference Bureau prior to the effective date of 2011 Wisconsin Act 21.

Natural Resources **Fish, Game, etc., Chs. 1—** **CR 13–021**

(DNR # WM–01–13 B)

On March 18, 2014, the Department of Natural Resources submitted a proposed rule in final draft form to the chief clerk of the Senate and Assembly pursuant to s. 227.19 (2), Stats. The proposed order revises Chapter NR 10, relating to mink and muskrat trapping seasons.

This rule as originally filed with the Legislative Council Rules Clearinghouse was bifurcated by the Department of Natural Resources. The remainder of the rule has been promulgated and was published in Register October 2013 No. 694, effective 11–1–13.

This rule was approved by the Governor on November 21, 2013, pursuant to s. 227.185, Stats.

Natural Resources **Fish, Game, etc., Chs. 1—** **CR 13–108**

(DNR # WM–21–13)

On March 24, 2014, the Department of Natural Resources submitted a proposed rule in final draft form to the chief clerk of the Senate and Assembly pursuant to s. 227.19 (2), Stats. The proposed rule revises Chapters NR 10 and 45, relating to hunting and trapping in state parks.

This rule was approved by the Governor on March 19, 2014, pursuant to s. 227.185, Stats.

Natural Resources **Fish, Game, etc., Chs. 1—** **CR 13–111**

(DNR # FH–26–12)

On March 24, 2014, the Department of Natural Resources submitted a proposed rule in final draft form to the chief clerk of the Senate and Assembly pursuant to s. 227.19 (2), Stats. The proposed rule revises Chapter NR 25, relating to lake trout harvest limits in Lake Superior.

This rule was approved by the Governor on March 19, 2014, pursuant to s. 227.185, Stats.

Natural Resources **Environmental Protection — General, Chs. 100—** **CR 13–051**

(DNR # WT–06–12)

On March 28, 2014, the Department of Natural Resources submitted a proposed rule in final draft form to the chief clerk

of the Senate and Assembly pursuant to s. 227.19 (2), Stats. The proposed rule revises Chapter NR 115, related to revisions of Wisconsin’s statewide minimum standards for shoreland zoning.

This rule was approved by the Governor on March 27, 2014, pursuant to s. 227.185, Stats.

Natural Resources

*Environmental Protection — General, Chs. 100—
Environmental Protection — Water Supply, Chs. 800—*

CR 13–096

(DNR # DG–02–13)

On March 25, 2014, the Department of Natural Resources submitted a proposed rule in final draft form to the chief clerk of the Senate and Assembly pursuant to s. 227.19 (2), Stats. The proposed order revises Chapters NR 146 and 812, relating to geothermal licensing.

This rule was approved by the Governor on March 19, 2014, pursuant to s. 227.185, Stats.

Natural Resources

*Environmental Protection — General, Chs. 100—
Environmental Protection — Water Supply, Chs. 800—*

CR 13–099

(DNR # DG–03–13)

On March 24, 2014, the Department of Natural Resources submitted a proposed rule in final draft form to the chief clerk of the Senate and Assembly pursuant to s. 227.19 (2), Stats. The proposed rule revises Chapters NR 146 and 812, relating to well driller and pump installer registration, construction, and installation requirements.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule, published in Register 614 on March 1, 2007, was sent to the Legislative Reference Bureau prior to June 8, 2011 (the effective date of s. 227.185).

Revenue

CR 14–005

On March 27, 2014, the Department of Revenue hand–delivered a proposed rule order in final draft form to the Chief Clerks of the Assembly and Senate. The proposed rule revises Chapters Tax 2 and 3, relating to income and franchise tax provisions.

The rule was approved by the governor on March 18, 2014.

Revenue

CR 14–006

On March 27, 2014, the Department of Revenue hand–delivered a proposed rule order in final draft form to the Chief Clerks of the Assembly and Senate. The proposed rule revises Chapter Tax 11, relating to elating to sales and use tax provisions.

The rule was approved by the governor on March 6, 2014.

Safety and Professional Services Safety and Professional Services, Chs. 1–299

CR 13–056

On March 28, 2014, the Department of Safety and Professional Services submitted a proposed rule to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed order amends section SPS 128.04, relating to course instructors.

The Governor approved the rule under s. 227.185, Stats., on March 27, 2014.

Safety and Professional Services — Controlled Substances Board

CR 14–009

On March 20, 2014, the Controlled Substances Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed rule creates section CSB 3.045, relating to special use authorization.

The Governor approved the rule under s. 227.185, Stats., on March 20, 2014.

Safety and Professional Services — Dentistry Examining Board

CR 14–011

On March 21, 2014 the Dentistry Examining Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed order creates Chapter DE 8, relating to patient dental record retention.

The Governor approved the rule under s. 227.185, Stats on March 19, 2014.

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

CR 13–117

On March 20, 2014, the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed order repeals Chapter MPSW 8 and section MPSW 14.03 and repeals and recreates Chapter MPSW 19, relating to continuing education.

The Governor approved the rule under s. 227.185, Stats., on March 20, 2014.

Safety and Professional Services — Board of Nursing

CR 13–097

On March 28, 2014, to Board of Nursing submitted a proposed rule–making order to the Chief Clerks of the Senate

and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed order revises Chapter N 7, relating to code of conduct.

The Governor approved the rule under s. 227.185, Stats., on March 28, 2014.

**Safety and Professional Services —
Occupational Therapists Affiliated
Credentialing Board
CR 13–109**

On March 20, 2014, the Occupational Therapists Affiliated Credentialing Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to the appropriate standing committees for review under s. 227.19, Stats. The proposed order revises Chapters OT 1 to 4, relating to occupational therapy practice standards.

The Governor approved the rule under s. 227.185, Stats., on March 14, 2014.

**Safety and Professional Services —
Pharmacy Examining Board
CR 14–003**

On March 20, 2014, the Pharmacy Examining Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed order revises Chapter Phar 18, relating to prescription drug monitoring.

The Governor approved the rule under s. 227.185, Stats., on March 20, 2014.

**Safety and Professional Services —
Pharmacy Examining Board
CR 14–023**

On March 28, 2014, the Pharmacy Examining Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The

proposed rule revises sections Phar 1.02 (7), 7.10 (1), and 16.03, relating to council and exam names.

The scope statement for this rule was published in Register No. 660 on December 14, 2010, prior to the effective date of 2011 Wis. Act 21.

**Safety and Professional Services —
Podiatry Affiliated Credentialing Board
CR 13–110**

On March 20, 2014, the Podiatry Affiliated Credentialing Board submitted a proposed rule to the Chief Clerks of the Senate and the Assembly for referral to the appropriate standing committees for review under s. 227.19, Stats. The proposed order revises section Pod 1.02 and creates sections Pod 1.02 (2m) and (6m) and 7.01, relating to podiatric x–ray assistants.

The Governor approved the rule under s. 227.185, Stats., on March 10, 2014.

**Safety and Professional Services —
Real Estate Examining Board
CR 13–100**

On March 21, 2014, the Real Estate Examining Board submitted a proposed rule–making order to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed order repeals Chapters REEB 22 and 26, relating to apprentices and inactive licenses.

The Governor approved the rule under s. 227.185, Stats., on March 13, 2014.

**Transportation
CR 13–093**

On March 26, 2014, the Department of Transportation submitted a final draft of a proposed rule to the Legislature for for committee review. The proposed rule revises Chapters Trans 254 and 255, relating to single and multiple trip permits for oversize and overweight vehicles or loads.

The rule was approved by the governor on March 25, 2014.

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.

Administration

CR 13–069

An order to create Chapter Adm 93, relating to the Community Development Block Grant Program.
Effective 5–1–14.

Agriculture, Trade and Consumer Protection

CR 13–063

(DATCP DOCKET # 13–R–02)

An order to amend sections ATCP 17.01 (9), 21.21 (1) (c) 1., 60.08 (3) and (6), 60.01 (23m), 70.03 (7) (b) 1., 80.01 (7) (c) and (27m), and 80.24 (3) (a) 2. and (b); to repeal section ATCP 17.01 (19) and Chapter 53; to repeal and recreate Chapter ATCP 21, Appendix A; and to create section ATCP 80.24 (3) (a) 3.; relating to various minor and technical rule

changes.

Effective 5–1–14.

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

CR 13–009

An order to repeal and recreate sections MPSW 10.01 (6) and 14.01, relating to education.
Effective 9–1–18. (Publication 4–30–14)

Safety and Professional Services — Medical Examining Board

CR 13–090

An order to amend section Med 1.02 (2), relating to copy of diploma requirement.
Effective 5–1–14.

Public Notices

Children and Families Division of Early Care and Education

DCF 201 Administration of Child Care Funds Table DCF 201.08

Child Care Co-Payment Schedule for Licensed and Certified Care

DCF 201.08 (3) (a) 4. allows the Department of Children and Families to adjust the amounts in the child care copayment schedule for licensed and certified care based on a change in the federal poverty level. DCF 201.08 (3) (b) provides that the department shall publish adjustments to the copayment schedule in the Wisconsin administrative register. The child care co-payment schedule adjusted based on the 2014 federal poverty level is effective March 30, 2014.

Child Care Co-Payment Schedule for Licensed and Certified Care														
Use the family's monthly income and family size to determine the FPL percentage.														
If the family's income is between two lines use the higher amount. Look to the right to find the co-payment by number of children in subsidized care.														
	Gross Monthly Family Income									WEEKLY CO-PAY AMOUNT				
	FAMILY SIZE									CHILDREN IN SUBSIDIZED CARE:				
	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more
70% FPL	\$918	\$1,154	\$1,391	\$1,628	\$1,865	\$2,102	\$2,339	\$2,575	\$2,812	6	10	17	21	27
75% FPL	\$983	\$1,237	\$1,491	\$1,744	\$1,998	\$2,252	\$2,506	\$2,759	\$3,013	6	14	20	25	32
80% FPL	\$1,049	\$1,319	\$1,590	\$1,861	\$2,131	\$2,402	\$2,673	\$2,943	\$3,214	9	15	21	29	35
85% FPL	\$1,114	\$1,402	\$1,689	\$1,977	\$2,265	\$2,552	\$2,840	\$3,127	\$3,415	13	19	25	32	41
90% FPL	\$1,180	\$1,484	\$1,789	\$2,093	\$2,398	\$2,702	\$3,007	\$3,311	\$3,616	15	24	31	39	47
95% FPL	\$1,245	\$1,567	\$1,888	\$2,210	\$2,531	\$2,852	\$3,174	\$3,495	\$3,817	19	29	38	47	54
100% FPL	\$1,311	\$1,649	\$1,988	\$2,326	\$2,664	\$3,003	\$3,341	\$3,679	\$4,018	22	32	41	52	60
105% FPL	\$1,376	\$1,732	\$2,087	\$2,442	\$2,797	\$3,153	\$3,508	\$3,863	\$4,218	25	34	45	54	63
110% FPL	\$1,442	\$1,814	\$2,186	\$2,558	\$2,931	\$3,303	\$3,675	\$4,047	\$4,419	28	39	47	57	66
115% FPL	\$1,507	\$1,897	\$2,286	\$2,675	\$3,064	\$3,453	\$3,842	\$4,231	\$4,620	31	41	51	61	69
120% FPL	\$1,573	\$1,979	\$2,385	\$2,791	\$3,197	\$3,603	\$4,009	\$4,415	\$4,821	34	45	54	63	74
125% FPL	\$1,639	\$2,061	\$2,484	\$2,907	\$3,330	\$3,753	\$4,176	\$4,599	\$5,022	39	49	57	68	79
130% FPL	\$1,704	\$2,144	\$2,584	\$3,024	\$3,463	\$3,903	\$4,343	\$4,783	\$5,223	40	53	63	75	86
135% FPL	\$1,770	\$2,226	\$2,683	\$3,140	\$3,597	\$4,053	\$4,510	\$4,967	\$5,424	45	57	69	82	94
140% FPL	\$1,835	\$2,309	\$2,783	\$3,256	\$3,730	\$4,204	\$4,677	\$5,151	\$5,625	47	60	74	86	100
145% FPL	\$1,901	\$2,391	\$2,882	\$3,372	\$3,863	\$4,354	\$4,844	\$5,335	\$5,825	51	63	75	89	102
150% FPL	\$1,966	\$2,474	\$2,981	\$3,489	\$3,996	\$4,504	\$5,011	\$5,519	\$6,026	54	66	80	92	106
155% FPL	\$2,032	\$2,556	\$3,081	\$3,605	\$4,129	\$4,654	\$5,178	\$5,703	\$6,227	57	69	82	95	109
160% FPL	\$2,097	\$2,639	\$3,180	\$3,721	\$4,263	\$4,804	\$5,345	\$5,887	\$6,428	60	74	86	100	112
165% FPL	\$2,163	\$2,721	\$3,279	\$3,838	\$4,396	\$4,954	\$5,512	\$6,071	\$6,629	61	75	89	101	115
170% FPL	\$2,228	\$2,804	\$3,379	\$3,954	\$4,529	\$5,104	\$5,679	\$6,255	\$6,830	63	80	92	106	118
175% FPL	\$2,294	\$2,886	\$3,478	\$4,070	\$4,662	\$5,254	\$5,846	\$6,439	\$7,031	64	81	95	109	120
180% FPL	\$2,360	\$2,969	\$3,578	\$4,187	\$4,796	\$5,405	\$6,014	\$6,623	\$7,232	67	84	99	112	124
185% FPL	\$2,425	\$3,051	\$3,677	\$4,303	\$4,929	\$5,555	\$6,181	\$6,806	\$7,432	69	87	102	114	127
190% FPL	\$2,491	\$3,133	\$3,776	\$4,419	\$5,062	\$5,705	\$6,348	\$6,990	\$7,633	70	88	106	117	130
195% FPL	\$2,556	\$3,216	\$3,876	\$4,535	\$5,195	\$5,855	\$6,515	\$7,174	\$7,834	73	91	108	120	134
200% FPL	\$2,622	\$3,298	\$3,975	\$4,652	\$5,328	\$6,005	\$6,682	\$7,358	\$8,035	75	93	111	124	136
	<<< +200% of the Federal Poverty Level >>>													

Co-Payment types: REG = based on family size, FPL, and number of children in care, this code is used for working parents, W -2 participants, and FSET participants. KIN = \$0 co-pay, is used for families with court ordered kinship or guardianship care. NCK = based on 70% FPL, is used for families that have no court order but are caring for a relative child. FOS = \$0 co-pay, Foster families. WVE = based on 70% FPL and is used for W -2 participant in their first month of unsubsidized employment. THS = based on 70% FPL and family size and is used for teen parents that are attending high school. When the authorization for child care is for less than 35 hours per week, the copayment is pro-rated based upon the authorized hours of child care.
Effective: 3/30/14

Notice of Nonacquiescence

**STATE OF WISCONSIN
TAX APPEALS COMMISSION**

TELEPHONE AND DATA SYSTEMS, INC.,

Petitioner, :

v. :

Docket No. 10-S-146

WISCONSIN DEPARTMENT OF REVENUE,

Respondent. :

Pursuant to section 73.01 (4) (e) 2. of the Wisconsin Statutes, the Respondent hereby gives notice that, although it is not appealing the Ruling and Order (Part 2) rendered by the Tax Appeals Commission in the above-captioned matter on February 28, 2014, it has adopted a position of nonacquiescence in those portions of the Commission’s Ruling and Order (Part 2) involving the interpretation of Wis. Stat. s. 77.59 (4) (b).

The effect of this action is that, although the Ruling and Order (Part 2) is binding on the parties for the instant case, neither the Commission’s conclusions of law nor the rationale and construction of statutes in those portions of the Commission’s Ruling and Order (Part 2) in which the Department does not acquiesce in the instant case are binding on or required to be followed by the Department in future cases.

Dated at Madison, Wisconsin this 28th day of March, 2014.

WISCONSIN DEPARTMENT OF REVENUE

By _____
Richard G. Chandler
Secretary of Revenue

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

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