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Table of Contents

Emergency Rules Now in Effect.**Pages 5 to 8**

Agriculture, Trade and Consumer Protection:

Create section ATCP 161.50 (3) (e) and subchapter VI of Chapter ATCP 161, relating to the “grow Wisconsin dairy producer” grant and loan program. **EmR1202**

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

Children and Families:

Safety and Permanence, Chs. DCF 37–59

Create sections DCF 57.485 and 57.49 (1) (am), relating to determination of need for new group homes. **EmR1034**

Employment Relations Commission:

Create Chapters ERC 90 and 100, relating to the calculation and distribution of collectively bargained base wages. **EmR1203**

Health Services:

Health, Chs. DHS 110—

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

Insurance:

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

Justice:

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

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Repeal section NR 40.02 (28m), amends section NR 40.04 (3m), and repeals and recreates section NR 40.07 (8), relating to the identification, classification and control of invasive species. **EmR1045**

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

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

Safety and Professional Services:
(formerly Regulation and Licensing)

Create section RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker. **EmR0827**

Scope Statements.**Pages 9 to 13**

Agriculture, Trade and Consumer Protection:

Revise Chapter ATCP 125, relating to mobile home parks. **SS 047–12**

	Revise Chapter ATCP 134, relating to residential rental practices. SS 048-12
	Revise Chapters ATCP 110 and 111, relating to home improvement practices and basement waterproofing practices. SS 049-12
Public Service Commission:	Revise Chapter PSC 135, relating to adoption of federal gas pipeline safety regulations. SS 051-12
Safety and Professional Services:	<i>Safety, Buildings, and Environment, General Part I, Chs. SPS 301-319</i> Revise Chapter SPS 305, relating to licenses, certifications and registrations. SS 050-12
Rule Orders Filed with the Legislative Reference Bureau.	Page 14
Agriculture, Trade and Consumer Protection:	Repeal and recreate Appendix A of Chapter ATCP 30, relating to pesticide product restrictions. CR 11-046
Natural Resources:	<i>Fish, Game, etc., Chs. NR 1-</i> Revise Chapter NR 10, relating to hunting and the 2011 migratory game bird seasons and waterfowl hunting zones. CR 11-032
Revenue:	Revise Chapters Tax 1 and 11, relating to sales and use tax law changes made by 2011 Wisconsin Act 32 and other legislation. CR 12-014
Safety and Professional Services — Physical Therapy Examining Board:	Revise Chapters PT 1, 2, 3, 4, 5, 6, 8, and 9, relating to licensure, examinations, temporary licenses, locum tenens license, referrals, and continuing education. CR 12-002
Rules Published with this Register and Final Regulatory Flexibility Analyses.	Pages 15 to 18
Agriculture, Trade and Consumer Protection:	Revise Chapters ATCP 10, 12, and 15, relating to animal health and disease control and humane officer training. CR 11-048
	Revise Chapter ATCP 21, relating to voluntary certification of firewood dealers. CR 11-051
Children and Families:	<i>Safety and Permanence, Chs. DCF 35-59</i> Revise Chapter DCF 57, relating to determination of need for new group homes. CR 10-105
Safety and Professional Services — Dentistry Examining Board:	Revise sections DE 2.03 (1) (intro.) and (a), (2), (3), and (5) (a) (intro.) and 1.; and to create sections DE 2.03 (1) (d), (4), and (5) (a) 4., and Chapter DE 13, relating to licensure renewal and continuing education for dentists and dental hygienists. CR 11-033
	Repeal the note following section DE 1.02 (2); and to amend sections DE 1.02 (2), 2.015 (1) (c), (2) (a) and (b), (3), and (4), and 2.04 (1) (e), relating to the active practice of dentistry, specialty certification, and faculty licenses. CR 11-034

Revise sections DE 2.03 (1) (intro.) and (a), (5) (a) (intro.) and 1., 2.04 (1) (g) and (h), (2) (a), (g), and (h), 6.02 (4) (c), 7.03 (2), and 7.05 (2) (a); and to create sections DE 2.03 (1) (c) and (5) (a) 3., relating to CPR training for licensure renewal for dentists and dental hygienists and related to certification of dental hygienists to administer local anesthesia, and unprofessional advertising for dentists. **CR 11-035**

Employee Trust Funds:

Revise Chapters ETF 10, 11, 20, 40, 50, 52, 60, and 70, relating to technical and minor substantive changes in existing ETF administrative rules. **CR 11-040**

Revise sections ETF 20.35 (1) (b) and (c), (2), (3), (4) (c) 3., (5), (6), (7) (a), and (8) (b) and (c); and to create sections ETF 20.35 (8) (d), (9), and (10), relating to the division of Wisconsin retirement system accounts under a qualified domestic relations order. **CR 11-041**

Repeal section ETF 10.08 (2) (b) 3. Note; to amend sections ETF 10.08 (1) (a), (2) (a), (b) 2. and 5. Example, and (d) Note, and 20.02 (1); and to create sections ETF 10.08 (2) (b) (title), (c) (title) and (d) (title), and 20.02 (2) (title), (3) (title), and (4), relating to rehired annuitants and separation from employment. **CR 11-042**

Revise sections ETF 11.02 (3) and (8), 11.03 (2) (b), (3m), (4) (b), (8), and (11), 11.04 (2), and (8), 11.05 (4) and (7), 11.07 (1), 11.08 (2) (b) 1., 11.09 (1) and (3) (intro.), 11.12 (1) (a), 11.13 (3), 11.14 (2) (c) and (4) (intro.) and 11.16 (4); and to create sections ETF 11.02 (3m), 11.03 (9) Note, (14), (15), and (16), 11.08 (2) (f) and (g), and (5m), 11.09 (3) (c), 11.12 (8), 11.13 (1) (h), relating to the ETF appeals process. **CR 11-044**

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Revise Chapter NR 50, relating to Administration of Outdoor Recreation Program Grants and State Aids, and Chapter NR 64, relating to All-Terrain Vehicles. **CR 11-050**

Safety and Professional Services — Board of Nursing:

Revise sections N 3.03 (1) (a) 3. and (b) 6., and (2) (a) 3. and (b) 6., relating to endorsement licensure. **CR 12-004**

Public Service Commission:

Repeal sections PSC 185.815, 185.84 and 185.87; to renumber sections PSC 185.21 (intro.) and 185.22 (5); to renumber and amend section PSC 185.33 (2); to repeal and recreate Chapters PSC 184 and PSC 185.85; and to create sections PSC 185.12 (3e), (3m), (3s), (4m), (10e), (10m), (10s), (11m), (12m), (17m), (20g), (20r) and (22), 185.21 (1) (title), 185.21 (2), 185.33 (1m), 185.89, 185.90 and subchapter IX of Chapter PSC 185, relating to water conservation and construction by water utilities and municipal combined water and sewer utilities. **CR 11-039**

Revenue:

Create section Tax 11.10; relating to wind, solar, and certain gas powered products. **CR 11-052**

Repeal section Tax 2.61 (9) (b) 1.; amend sections Tax 2.61 (9) (intro.), (a) (intro.) and 1., (b) (intro.), and (d) (intro.); repeal and recreate section Tax 2.61 (9) (c); and create sections Tax 2.60 (2) (Lm) and 2.61 (9) (dm), relating to pre-2009 net business loss carryforwards. **CR 12-006**

Repeal sections Tax 2.63 (4), 3.095 (4) (a) 9., and 8.24; amend sections Tax 2.105 (1), (3) (a) and (b), (4) (a) (intro.), 1. f., 2., and 3. and (b), (5) (c) 2., and (6) (a), 2.12 (1), (3) (a), (b), (c), and (e), and (Note), 2.32 (title), (1), (1) (Note), (2) (a) 1. and 7. (Note), (d) 1., 3., 4., 5., and 6., (e) 1., (g) 1. and 2., and (h) 1., (3), and (Note), 2.60 (2) (d), 2.65 (3) (c), 2.67 (2) (d) 3., 2.82 (1) (c), (6), and (Examples), 2.96 (2) (c) and (3) (a), (b), and (c), 2.99 (title), (1), and (2) (a), and 3.01 (4) (e) 4. b.; repeal and recreate section Tax 1.11 (4) (e); and create sections Tax 2.99 (Note) and 3.095 (4) (a) 12. to 20., relating to tax law changes made by 2011 Wisconsin Act 32 and other legislation. **CR 12-011**

Create section Tax 2.985, relating to the electronic medical records credit. **CR 12-012**

Renumber sections Tax 7.23 (1) (a) to (d); amend sections Tax 7.23 (title), (1) (intro.), and (3) (intro.); and create sections Tax 7.23 (1) (a), (c), (d), (e), and (f), (2) (title), (4), and (5); relating to the activities of brewers, bottlers, out-of-state shippers, and wholesalers. **CR 12-013**

Create section Tax 11.20, relating to sales and use tax exemptions for biotechnology. **CR 12-015**

Safety and Professional Services:

Safety, Buildings, and Environment, General Part I, Chs. SPS 301-319

Repeal SPS 305.02 Table 305.02 lines 50r. to 50t., SPS 305.06 Table 305.06 lines 45r. to 45t., SPS 305.125 (3m), SPS 305.74 to 305.743, relating to thermal insulator credentials. **CR 12-007**

Technical College System Board:

Revise section TCS 6.05, relating to procurement. **CR 11-053**

Executive Orders.

Page 19

Public Notices.

Page 20

Health Services:

Annual Adjustment to Fees That May be Charged by a Health Care Provider for Providing Copies of a Patient's Health Care Records

Sections Affected.

Pages 21 to 23

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. EmR1202 — Rule adopted to create **section ATCP 161.50 (3) (e)** and **subchapter VI of Chapter ATCP 161**, relating to the “grow Wisconsin dairy producer” grant and loan program created under sections 20.115 (4) (d) and 93.40 (1) (g), Stats.

This emergency rule was approved by the governor on March 27, 2012.

The scope statement for this rule, SS 002–12, was approved by the governor on January 9, 2012, published in Register No. 673, on January 31, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection on February 22, 2012.

Finding of Emergency

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

Filed with LRB: March 22, 2012
Publication Date: March 30, 2012
Effective Dates: March 30, 2012 through August 26, 2012
Hearing Date: June 28, 2012

2. EmR1209 — The state of Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (c)**, relating to the quarantines of Rock County and Walworth County for emerald ash borer.

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

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

Finding of Emergency

(1) On June 11, 2012, APHIS identified EAB in Walworth County, near the village of Walworth. Subsequently, APHIS also positively identified EAB in Rock County in the city of Janesville on June 25, 2012. EAB is an exotic pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare quarantines for Rock County and Walworth County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

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

Filed with LRB: July 16, 2012
Publication Date: July 17, 2012
Effective Dates: July 17, 2012 through December 13, 2012

Children and Families

Safety and Permanence, Chs. DCF 37–59

EmR1034 — Rule adopted to create **sections DCF 57.485 and 57.49 (1) (am)**, relating to determination of need for new group homes.

Exemption from Finding of Emergency

Section 14m (b) of 2009 Wisconsin Act 335 provides that the department is not required to provide evidence that promulgating a rule under s. 48.625 (1g), Stats., 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.

Section 14m (b) also provides that notwithstanding s. 227.24 (1) (c) and (2), Stats., an emergency rule promulgated under s. 48.625 (1g), Stats., remains in effect until the

permanent rules promulgated under s. 48.625 (1g), Stats., take effect.

Filed with LRB: August 31, 2010
Publication Date: September 2, 2010
Effective Dates: September 2, 2010 through the date permanent rules become effective
Hearing Date: October 21, 2010

Employment Relations Commission

EmR1203 — Rule adopted to create **Chapters ERC 90 and 100**, relating to the calculation and distribution of collectively bargained base wages.

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

The statement of scope for this rule, SS 005–11, was approved by the governor on August 31, 2011, published in Register No. 669, on September 14, 2011, and approved by the Employment Relations Commission on September 19, 2011.

Finding of Emergency

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules in effect so that the State of Wisconsin and municipal employers can proceed to bargain over base wages with labor organizations that represent State and municipal employees.

Filed with LRB: April 16, 2012
Publication Date: April 19, 2012
Effective Dates: April 19, 2012 through September 15, 2012

Health Services

Health, Chs. DHS 110—

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

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

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

Exemption from Finding of Emergency

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

2011 Wisconsin Act 32, SECTION 9121 (9) CONGENITAL DISORDER TESTING FEES; RULES. Using the procedure under section 227.24 of the statutes, the department of health services shall promulgate rules required under section 253.13 (2) of the statutes, as affected by this act, for the period before the effective date of the permanent rules promulgated under section 253.13 (2) of the statutes, as affected by this act, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the

statutes, the department of health services is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

Filed with LRB: May 1, 2012
Publication Date: May 4, 2012
Effective Dates: May 4, 2012 through September 30, 2012
Hearing Date: May 25, 2012

Insurance

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

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

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

Finding of Emergency

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

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

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

(Note: The affected sections were incorrectly shown as Jus 17.01 (3) and 17.28 (6) in Register 679, July 15, 2012)

Justice

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

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

The statement of scope for these emergency rules, SS 010–12, was approved by Governor Walker on February 15, 2012, published in Administrative Register No. 674, on

February 29, 2012, and approved by Attorney General J.B. Van Hollen on March 12, 2012.

Finding of Emergency

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

On November 7, 2011, JCRAR suspended certain portions of the emergency rules adopted on October 25, 2011. Since that time, DOJ has implemented concealed carry licensing without enforcing the suspended provisions. DOJ is also in the process of developing proposed permanent rules that do not include the substance of any of the provisions in the emergency rules that were suspended by JCRAR.

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

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

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

Natural Resources (3)

Fish, Game, etc., Chs. NR 1—

1. EmR1045 (DNR # IS-07-11(E)) — Rule to repeal section NR 40.02 (28m), to amend section NR 40.04 (3m), and to repeal and recreate section NR 40.07 (8), (all as created by Natural Resource Board emergency order EmR1039, DNR # IS-49-10(E)), relating to the identification, classification, and control of invasive species.

Exemption from Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under

Ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

Filed with LRB: December 19, 2010
Publication Date: December 13, 2010
Effective Dates: December 13, 2010 through
See bold text above

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

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

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

Finding of Emergency

The department is aware that several ATV trails in Wisconsin overlap existing roads. From the onset of the program, these overlapping paths were identified as trails, signed accordingly, and were eligible to receive ATV grant funds. A few years ago, the ORV Advisory Council and WI County Forestry Association proposed that the department revise Ch. NR 64 to accommodate paths used by both ATVs and motor vehicles. These trail-route combinations — also called hybrid trails but commonly referred to as “troutes” — will be eligible for future maintenance grant funding at the current rate if it can be shown that the hybrid trails (“troute”) existed prior to the effective date of this rule.

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

Without this Emergency Rule, the integrity and safety of troutes could be severely compromised. Our partners may be forced to close troutes without grant funding to maintain them until the permanent rule is effective. If troutes are closed, riders could be stranded in an unfamiliar location or be forced

to turn around and ride back the same way they came instead of continuing onto their destination.

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

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

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

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

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

Finding of Emergency

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

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

Filed with LRB: May 30, 2012
Publication Date: June 10, 2012
Effective Dates: October 1, 2012 through
 February 27, 2013
Hearing Date: August 27, 2012

Safety and Professional Services (Formerly Regulation and Licensing)

EmR0827 — Rule adopted creating **section RL 91.01 (3) (k)**, relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

Exemption from Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of safety and professional services (formerly regulation and licensing) is not required to provide evidence that promulgating a 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 to implement 2007 Wisconsin Act 104. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Filed with LRB: September 8, 2008
Publication Date: September 10, 2008
Effective Dates: September 10, 2008
 through the date on which
 the final rules take effect
Hearing Date: November 26, 2008
 April 13, 2009

Scope Statements

Agriculture, Trade and Consumer Protection

SS 047-12

This statement of scope was approved by the governor on July 6, 2012.

Rule No.

Chapter ATCP 125, Wis. Adm. Code (Existing).

Relating to

Mobile home parks.

Description of the Objective of the Rule

This proposed rule will update and modernize Chapter ATCP 125 to make it more compatible with current industry practices and to align it with other sections of law that regulate mobile home parks. Specifically, the department will make technical changes for consistency with other provisions of law. The department will explore modernizing sections of the rule that are outdated. The department will also explore whether provisions of the rule deter or prohibit lenders from making loans to mobile home park operators.

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

History and background. ATCP 125 was first promulgated as Ag 125 in 1972. At the time, zoning restrictions led to a shortage of mobile home sites in many areas of the state, which inhibited competition and market choice. The rule was promulgated to address unfair trade practices and methods of competition that emerged in the industry. The rule prohibited mobile home park operators from using unfair or deceptive trade practices and unconscionable rental terms and conditions. It also required that rental contracts be in writing and contain specific disclosures. The rule was rewritten in 1976 in response to a substantial number of complaints from mobile home park residents and after a thorough evaluation of the industry and the problems not fully resolved by the existing rule. ATCP 125 was amended again in 1987, following a request from the legislature's Joint Committee for the Review of Administrative Rules in response to numerous consumer complaints.

Proposed policies. DATCP is not planning any major policy change to the existing rule. Rather, there are a number of details in the current rule that should be examined and updated if necessary. For example, the current rule limits security deposits to 3 months' rent or \$350, whichever is less. The \$350 limit dates back to 1987. DATCP proposes to consider updating the limit to reflect inflationary changes. Additionally, the current rule's provisions relating to tie-in sales may need revisions to correspond to current practices.

Policy Alternatives. Do nothing. If the department does not revise the rule, manufactured home site tenants, community operators, and dealers will continue to operate under outdated regulations.

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

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

Section 93.07 Department duties. It shall be the duty of the department:

(1) REGULATIONS. To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

Section 100.20 (2) (a), Stats.

The department, after public hearing, may issue general orders forbidding methods of competition in business or trade practices in business which are determined by the department to be unfair. The department, after public hearing, may issue general orders prescribing methods of competition in business or trade practices in business which are determined by the department to be fair.

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

DATCP estimates that it will use approximately 0.4 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Description of all Entities that may be Impacted by the Rule

This rule impacts mobile home park operators, mobile home dealers, and mobile home park tenants throughout the state.

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

The federal government does not regulate mobile home park landlord and tenant relationships.

Anticipated Economic Impact

DATCP expects the proposed rule to have minimal economic impact statewide and locally.

Contact Person

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Agriculture, Trade and Consumer Protection

SS 048-12

This statement of scope was approved by the governor on July 6, 2012.

Rule No.

Chapter ATCP 134, Wis. Adm. Code (Existing).

Relating to

Residential rental practices.

Description of the Objective of the Rule

This proposed rule will modify current rules related to residential rental practices. Existing Ch. ATCP 134 (Residential Rental Practices) and Ch. 704, Stats., (Landlord and Tenant) both regulate transactions and relationships between renters and landlords. However, because of recent changes made to Ch. 704, Stats., by 2011 Wisconsin Act 143, there are now areas where ATCP 134 either overlaps or conflicts with Ch. 704, Stats. This rulemaking will be limited to addressing these conflicts.

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

History and background. ATCP 134 was first adopted as Ag 134 in 1980. There were revisions to the rule in 1998.

ATCP 134 prescribes requirements for earnest money, security deposits, and nonstandard rental agreements. It prohibits various practices and rental agreement provisions, such as entering an apartment without providing twelve hours' notice, and it requires landlords to make certain disclosures, such as any uncorrected building code violations.

Proposed policies. DATCP proposes only limited changes to the rule as necessary to resolve conflicts with recently revised Ch. 704, Stats. For example, existing s. ATCP 134.06 specifies check-in procedures and disclosures of pre-existing damages with new tenants. It also regulates the process landlords must use to return security deposits after termination of a rental agreement and the circumstances under which the security deposit might be withheld. However, 2011 Wisconsin Act 143 incorporated very similar – but not identical – provisions into Ch. 704, Stats.

Policy Alternatives. Do nothing. If the department does not revise the rule, it could be confusing to both rental property owners and tenants because the existing rule is inconsistent with new statutory provisions.

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

Sections 93.07 (1) and 100.20 (2) (a), and 704.95, Stats.

Section 93.07 Department duties. It shall be the duty of the department:

(1) REGULATIONS. To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

Section 100.20 (2) (a), Stats.

The department [of Agriculture, Trade, and Consumer Protection], after public hearing, may issue general orders forbidding methods of competition in business or trade practices in business which are determined by the department to be unfair. The department, after public hearing, may issue general orders prescribing methods of competition in business or trade practices in business which are determined by the department to be fair.

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

DATCP estimates that it will use approximately 0.20 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Description of all Entities that may be Impacted by the Rule

This existing rule affects landlords or rental property owners, and tenants or renters involved in residential rentals.

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

Federal law does not generally regulate landlord and tenant relationships. The Federal Fair Housing Act of 1968, however, does prohibit a landlord from discriminating because of a renter's race, sex, national origin, or religion.

Many states, including all of Wisconsin's neighbors, have statutes and/or administrative codes that regulate landlord and tenant relationships.

Anticipated Economic Impact

DATCP expects the proposed rule to have minimal to no economic impact statewide and locally.

Contact Person

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Agriculture, Trade and Consumer Protection**SS 049-12**

This statement of scope was approved by the governor on July 6, 2012.

Rule No.

Chapters ATCP 110 and 111, Wis. Adm. Code (Existing).

Relating to

Home improvement practices and basement waterproofing practices.

Description of the Objective of the Rule

This proposed rule will update Ch. ATCP 110 (Regulation of Home Improvement Practices) to reflect current practices of the building industry. Specifically, the rule will define a design build project and, as appropriate, regulate a design build project differently than other home improvement projects.

For example, Chapter ATCP 110 now requires that home improvement businesses attain all necessary permits prior to beginning work on any home improvement project. This is not practical for a design build project, where the consumer may make final design selections weeks after the project begins. The rule would also modify the prohibition on verbal change orders in order to avoid unnecessary delays of completion of projects while still protecting consumers. Further, the rule will clarify s. ATCP 110.06, relating to preservation of buyer's claims and defenses, to more effectively align the rule with the design build process.

Finally, the rule would repeal Ch. ATCP 111 and modify Ch. ATCP 110 to incorporate the provisions in the existing Ch. ATCP 111 with technical modifications.

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

History and background. Chapter ATCP 110 was first adopted as a general and specific order in 1940 to require all individuals and companies selling roofing and siding at retail to cease and desist from using methods and trade practices that mislead or tended to mislead prospective customers. The rule was codified Ag 110 as part of a uniform administrative code in 1953. Ag 110 was expanded to cover a broader range of building and home improvement trade practices in 1963. The rule was repealed and recreated in 1964 to address two main issues: (1) to remove conflicts with the newly enacted WI Consumer Act and existing trade practice rules; and (2) to help solve new trade practice problems revealed in consumer complaints, hearings, and written comments. Ag 110 was further amended in 1976, 1993, and 2001. The rule was renumbered ATCP 110 in 1993.

Proposed policies. The department will amend its rule, as necessary, to more effectively align regulation with the current design build business practice while maintaining protection for consumers. The changes proposed to ATCP 111 are not substantive.

Policy Alternatives. Do nothing. If the department does not modify its home improvement practices rule, design build projects will continue to be regulated in the same way as all home improvement projects.

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

Section 100.20 (2) (a), Stats.

The department, after public hearing, may issue general orders forbidding methods of competition in business or trade practices in business which are determined by the department to be unfair. The department, after public hearing, may issue general orders prescribing methods of competition in business or trade practices in business which are determined by the department to be fair.

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

DATCP estimates that it will use approximately .2 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Description of all Entities that may be Impacted by the Rule

This rule impacts all businesses in the home improvement industry. However, the proposed rule change specifically impacts businesses that use the design build process.

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

The federal government does not regulate home improvement practices. Federal regulations instead apply to the related issues of financing and product warranties.

Anticipated Economic Impact

DATCP expects that the proposed rule will have minimal, if any, economic impact statewide and locally. Any impact will be positive on home improvement businesses that use the design build process.

Contact Person

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Public Service Commission

SS 051-12

This statement of scope was approved by the governor on July 11, 2012.

Rule No.

Wis. Admin. Code Chapter PSC 135, PSC Docket # 1-AC-241.

Relating to

Adoption of federal gas pipeline safety regulations.

Description of the Objective of the Rule and Expected Financial Impact

The proposed rule revision adopts, for state purposes, changes to the federal pipeline safety code that have been enacted since the last revisions to the state pipeline safety code were adopted. The state has adopted federal pipeline safety provisions in Wis. Admin. Code Ch. PSC 135. Adoption of these amendments will keep the Commission in compliance with its obligation to adopt all federal changes in the pipeline safety area.

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

Under an agreement with the U.S. Department of Transportation, Office of Pipeline Safety, the Commission is authorized to enforce federal natural gas pipeline safety requirements as set out in the Code of Federal Regulations, 49 C.F.R. Parts 192, 193, and 199. As part of the agreement, the Commission adopts the federal pipeline safety code in Wis. Admin. Code s. PSC 135.019. The Commission's latest version of that rule adopts the federal code up to July 1, 2007. New gas pipeline safety code requirements are generally enacted in October of each year. As a result, the Commission needs to amend its rule to include those federal rule changes made since October 2007.

This rule will result in no economic impact since pipeline operators are required, under federal law, to follow the federal regulations. Any economic impact of those federal regulations has already occurred. This rulemaking just updates the state's enforcement authority.

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

Sections 196.02 (1) and (3), and Section 227.11, Stats., authorize agencies to promulgate administrative rules. Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3), Stats., grants the commission specific authority to promulgate rules.

Under an agreement with the U.S. Department of Transportation, Office of Pipeline Safety, the Commission agrees to adopt those parts of the federal code that apply to pipeline safety.

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

The Commission estimates that fewer than 100 hours of employee time will be required to develop the rules.

Description of all Entities that may be Impacted by the Rule

Every intrastate gas pipeline operator that operates gas transmission or distribution facilities in this state will be impacted by the rule.

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

Under an agreement with the U.S. Department of Transportation, Office of Pipeline Safety, the Commission is authorized to enforce federal natural gas pipeline safety requirements as set out in the Code of Federal Regulations, 49 C.F.R. Parts 192, 193, and 199. As part of the agreement, the Commission agrees to adopt those parts of the federal code that apply to pipeline safety.

Contact Person(s)

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Safety and Professional Services

Safety, Buildings, and Environment, General Part I, Chs. SPS 301-319

SS 050-12

This statement of scope was approved by the governor on June 29, 2012.

Rule No.

Chapter SPS 305.

Relating to

Licenses, certifications and registrations.

Rule Type

Permanent rule.

Detailed Description of the Objective of the Proposed Rule

The primary objective in revising Chapter SPS 305, Licenses, Certifications and Registration is to coordinate the rules with the direction provided by 2011 Wisconsin Act 146. The Act revised provisions of chapters 101 and 145, Stats., affecting various trade credentials processed and issued by the department, including refrigerant handling technicians, HVAC contractors, elevator mechanics and master plumbers.

The Act repealed s. 101.177, Stats., relating to ozone-depleting refrigerants. The focus of these statutory provisions is further defined in reference to refrigeration equipment, excluding mobile air conditioners and trailer refrigeration equipment. The statutory provisions served as the basis for certifying or registering individuals and entities where the installation or servicing of refrigeration equipment has the potential of releasing ozone-depleting refrigerant.

Another objective is to revise the certification and renewal provisions for elevator inspectors, if necessary, in order to coordinate the rules with the changes announced by the American Society of Mechanical Engineers, ASME, with respect to their accreditation of credentialing organizations. Three organizations have been accredited by ASME to certify individuals as inspectors according to the ASME QEI-1, Standard for the Qualification of Elevator Inspectors. ASME has indicated that their accreditation of the three certifying organizations is to cease as of January 1, 2014.

The revisions for Chapter SPS 305 may necessitate modifications to other chapters affected by the Chapter SPS 305 revisions including, but not limited to, Chapter SPS 345, Mechanical Refrigeration.

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 rules under s. SPS 305.72 delineate the procedures for qualifying, obtaining and renewing refrigerant handling technician certifications. These rules require an individual to hold a Type I, II, III or Universal technician certification issued in accordance with section 608 of the federal Clean Air Act and title 40 CFR part 82, subpart F in order to obtain the department's credential. Provisions under s. SPS 305.70 (1) require any person, business or entity to obtain and hold a HVAC contractor registration issued by the department if engaged in installing or servicing refrigeration or air conditioning equipment that would release or may release ozone-depleting refrigerant.

The alternative of not revising the rules regarding ozone-depleting credentials would result in the rules not reflecting the direction provided by the legislation under 2011 Wisconsin Act 146.

Currently, the rules under s. SPS 305.64 delineate the procedures for qualifying, obtaining and renewing elevator inspector certifications. Provisions under s. SPS 305.64 necessitate applicants and credential holders to acquire and maintain an ASME QEI-1 certification.

Potentially, if the ASME elevator inspector certification process changes and the department's rules remain unsynchronized, the status of elevator inspectors utilized or recognized by the department to perform installation and period inspections may no longer be valid.

Section SPS 305.992 delineates the options and qualifications necessary to obtain elevator mechanic license. The rules reflect the provisions of s. 101.985, Stats. Act 146 established another option in obtaining the mechanic's license

by recognizing various supervisory or management experience in the elevator industry. No other alternatives have been considered in light of the statutory direction.

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

2011 Wisconsin Act 146 repeals s. 101.177, Stats., in its entirety including s. 101.177 (4) (a) which read as follows:

(4) DEPARTMENT DUTIES. The department shall do all of the following:

(a) Promulgate rules for the administration of this section including establishing all of the following:

1. A standard of purity for reclaimed refrigerant that is based on recognized national industry standards.

2. Qualifications, which may include training or certification requirements, for individuals who use equipment to transfer ozone-depleting refrigerant from refrigeration equipment to storage containers.

2m. Qualifications, which may include training or certification requirements, for individuals who transfer ozone-depleting refrigerant from storage containers to approved refrigerant recycling equipment, approved refrigerant reclaiming equipment or other storage containers.

3. Qualifications, which may include training or certification requirements, for individuals who use approved refrigerant recycling equipment.

3m. Qualifications, which may include training or certification requirements, for individuals who use approved refrigerant reclaiming equipment.

4. Fees to cover the cost of administering subs. (2) and (3).

The statutory provisions for elevator inspectors can be found under s. 101.895 (3) which read:

(3) ELEVATOR INSPECTOR. The department shall issue an elevator inspector license to each individual who demonstrates to the satisfaction of the department that the individual is adequately qualified and able to provide elevator inspection services. The department shall promulgate rules that establish the qualifications required for issuance of an elevator inspector license.

The statutory provision for plumbing licensure is addressed in s. 145.02 (4) which reads:

(4) (a) The department shall prescribe rules as to the qualifications, examination and licensing of master and journeyman plumbers and restricted plumber licensees, for the licensing of utility contractors, for the registration of plumbing apprentices and pipe layers and for the registration and training of registered learners.

Although there are several inferences and references to the rules promulgated by the department within statutory Chapter 101, Subchapter VII regarding elevator licensing, the department's rule-making authority falls under s. 101.02 (1), which reads:

(1) The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

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

The department estimates approximately 200 hours will be needed to perform the review and develop the needed rule changes. This time includes meeting with the conveyance safety code council, drafting the rule changes and processing the changes through public hearings, legislative review, and adoption. The department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

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

Regarding s. 101.177, Stats., and ozone-depleting refrigerants, there are approximately 9200 individuals who are certified as refrigerant handling technicians by the department and roughly 3600 HVAC contractors registered with the department. Currently, the HVAC contractor registration is required for any entity performing in-house service work on equipment where there is the potential to release ozone-depleting refrigerant. This may include such entities as schools, hospitals, governmental facilities and industrial plants.

The revisions for elevator inspectors would affect primarily governmental units and third-party contractors performing elevator inspections on behalf of the department. There are only 46 elevator inspectors licensed by the department.

The rule revisions would also impact applicants for elevator mechanic licenses and master plumber licenses; as well as other trade credential applicants who take a credentialing examination.

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

Under Section 608 of the Clean Air Act, the U. S. Environmental Protection Agency has established ozone regulations found in 40 CFR Part 82, Subpart F. These federal regulations cover:

- The certification of technicians who perform maintenance, service, repair or disposal that could reasonably be expected to release refrigerants into the atmosphere.
- The sale of ozone-depleting refrigerants to certified technicians.

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding the licensing of elevator mechanics, elevator inspectors or plumbers.

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

The department anticipates that the economic impact in implementing the revised rules would be minimal.

Contact Person

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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.

Agriculture, Trade and Consumer Protection **CR 11-046**

(DATCP # 10-R-10)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection adopts the following order to repeal and recreate Appendix A of Chapter ATCP 30, relating to pesticide product restrictions.
Effective 9-1-12.

Revenue **CR 12-014**

The Wisconsin Department of Revenue adopts an order to revise Chapters Tax 1 and 11, relating to sales and use tax law changes made by 2011 Wisconsin Act 32 and other legislation.
Effective 9-1-12.

Natural Resources *Fish, Game, etc., Chs. NR 1—* **CR 11-032**

(DNR # WM-11-11)

The Wisconsin Natural Resources Board proposes an order to revise Chapter NR 10, relating to hunting and the 2011 migratory game bird seasons and waterfowl hunting zones.
Effective 9-1-12.

Safety and Professional Services — **Physical Therapy Examining Board** **CR 12-002**

The Wisconsin Physical Therapy Examining Board proposes an order to revise Chapters PT 1, 2, 3, 4, 5, 6, 8, and 9, relating to licensure, examinations, temporary licenses, locum tenens license, referrals, and continuing education.
Effective 9-1-12.

Rules Published with this Register and Final Regulatory Flexibility Analyses

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

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

Agriculture, Trade and Consumer Protection

CR 11-048

(DATCP # 09-R-14)

The Department of Agriculture, Trade and Consumer Protection (DATCP) hereby submits an order to revise Chapters ATCP 10, 12, and 15, relating to animal health and disease control and humane officer training. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule will have a generally positive impact on business. This rule will have few, if any, negative impacts on business. Negative impacts, if any, will be limited.

Summary of Comments of Legislative Standing Committees

On March 31, 2011, DATCP transmitted the above rule for legislative committee review. The rule was referred to the Senate Committee on Energy, Biotechnology, and Consumer Protection and the Assembly Committee on Agriculture. Neither committee took action on the rule. The Senate referred the rule to the Joint Committee for Review of Administrative Rules (JCRAR) on April 9, 2012 and the Assembly referred the rule to JCRAR on May 17, 2012. JCRAR took no action on the rule.

Agriculture, Trade and Consumer Protection

CR 11-051

(DATCP # 10-R-05)

The Department of Agriculture, Trade and Consumer Protection (DATCP) hereby submits an order to revise Chapter ATCP 21, relating to voluntary certification of firewood dealers. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule will not have an impact on firewood dealers. The record keeping requirements may produce a minor expense for certified firewood dealers, as will the fee for additional heat treatment run exams. However, certification remains voluntary. The time and temperature reductions for heat treatment will produce a savings for dealers using this method and the reduced expense may result in more businesses becoming certified. The changes in the rule will benefit firewood dealers, many of which are small businesses, and those that heat treat wood. Chapter ATCP 3, Subch. VII, includes special considerations for the application of all DATCP rules to small businesses.

Summary of Comments of Legislative Standing Committees

On March 6, 2012, DATCP transmitted the above rule for legislative committee review. The rule was referred to the

Senate Committee on Energy, Biotechnology, and Consumer Protection and the Assembly Committee on Forestry. Neither committee took action on the rule. The Senate referred the rule to the Joint Committee for Review of Administrative Rules (JCRAR) on April 9, 2012 and the Assembly referred the rule to JCRAR on April 18, 2012. JCRAR took no action on the rule.

Children and Families

Safety and Permanence, Chs. DCF 35-59

CR 10-105

The Department of Children and Families submits an order to revise Chapter DCF 57, relating to determination of need for new group homes. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

The rule will affect small businesses as defined in s. 227.114 (1), Stats., but will not have a significant economic impact on a substantial number of businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

Safety and Professional Services — Dentistry Examining Board

CR 11-033

An order of the dentistry examining board to amend sections DE 2.03 (1) (intro.) and (a), (2), (3), and (5) (a) (intro.) and 1.; and to create sections DE 2.03 (1) (d), (4), and (5) (a) 4., and Chapter DE 13, relating to licensure renewal and continuing education for dentists and dental hygienists. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed by the department's small business review advisory committee. It was determined the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Safety and Professional Services — Dentistry Examining Board

CR 11-034

An order of the dentistry examining board to repeal the note following section DE 1.02 (2); and to amend sections DE 1.02 (2), 2.015 (1) (c), (2) (a) and (b), (3), and (4), and 2.04 (1) (e),

relating to the active practice of dentistry, specialty certification, and faculty licenses. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed by the department's small business review advisory committee on May 19, 2011. It was determined the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Safety and Professional Services — Dentistry Examining Board CR 11-035

An order of the dentistry examining board to amend sections DE 2.03 (1) (intro.) and (a), (5) (a) (intro.) and 1., 2.04 (1) (g) and (h), (2) (a), (g), and (h), 6.02 (4) (c), 7.03 (2), and 7.05 (2) (a); and to create sections DE 2.03 (1) (c) and (5) (a) 3., relating to CPR training for licensure renewal for dentists and dental hygienists and related to certification of dental hygienists to administer local anesthesia, and unprofessional advertising for dentists. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed by the department's small business review advisory committee on May 19, 2011. It was determined the rules will not have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats

Summary of Comments of Legislative Standing Committees

No comments were reported.

Employee Trust Funds CR 11-040

The Department of Employee Trust Funds adopts an order to revise Chapters ETF 10, 11, 20, 40, 50, 52, 60, and 70, relating to technical and minor substantive changes in existing ETF administrative rules. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

The proposed rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Employee Trust Funds CR 11-041

The Department of Employee Trust Funds adopts an order to amend sections ETF 20.35 (1) (b) and (c), (2), (3), (4) (c) 3., (5), (6), (7) (a), and (8) (b) and (c); and to create sections ETF 20.35 (8) (d), (9), and (10), relating to the division of Wisconsin retirement system accounts under a qualified domestic relations order. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

There is no effect on small business.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Employee Trust Funds CR 11-042

The Department of Employee Trust Funds adopts an order to repeal section ETF 10.08 (2) (b) 3. Note; to amend sections ETF 10.08 (1) (a), (2) (a), (b) 2. and 5. Example, and (d) Note, and 20.02 (1); and to create sections ETF 10.08 (2) (b) (title), (c) (title) and (d) (title), and 20.02 (2) (title), (3) (title), and (4), relating to rehired annuitants and separation from employment. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

There is no effect on small business.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Employee Trust Funds CR 11-044

The Department of Employee Trust Funds adopts an order to amend sections ETF 11.02 (3) and (8), 11.03 (2) (b), (3m), (4) (b), (8), and (11), 11.04 (2), and (8), 11.05 (4) and (7), 11.07 (1), 11.08 (2) (b) 1., 11.09 (1) and (3) (intro.), 11.12 (1) (a), 11.13 (3), 11.14 (2) (c) and (4) (intro.) and 11.16 (4); and to create sections ETF 11.02 (3m), 11.03 (9) Note, (14), (15), and (16), 11.08 (2) (f) and (g), and (5m), 11.09 (3) (c), 11.12 (8), 11.13 (1) (h), relating to the ETF appeals process. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

The proposed rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Natural Resources Fish, Game, etc., Chs. NR 1— CR 11-050

(DNR # CF-16-11)

An order to revise Chapter NR 50, relating to Administration of Outdoor Recreation Program Grants and State Aids, and Chapter NR 64, relating to All-Terrain Vehicles. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not impose any additional compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The department has determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.

This rule will have a positive economic effect. Snowmobile and ATV grants assist with the cost of construction, development, and maintenance of specific trails. Those trails draw riders and their disposable income. Small businesses located in the area of snowmobile and ATV

trails benefit when trail users make the following purchases: fuel and other items at gas stations and convenience stores; retail items; accommodations or lodging; sales of replacement vehicle parts; repair or maintenance of snowmobiles or ATVs; rider clothing, protective gear, and accessories; food and drink at restaurants and other establishments. There would be no implementation or compliance costs expected to be incurred by the proposed rule.

No fiscal impacts are expected for public utility rate payers or local governmental units that receive grants for both the snowmobile and ATV programs. This determination was made after conducting an economic impact analysis. The department requested economic impact comments from 80 individuals, 48 of whom represented Wisconsin counties that contain active snowmobile and/or ATV trails. The remaining individuals contacted represented the following organizations: Governor's Snowmobile Advisory Council, Off Road Vehicle Advisory Council, Wisconsin All-Terrain Vehicle Association and the Wisconsin County Foresters Association. The department posted the proposed rule documents to the department website and the Wisconsin Administrative Rules website.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Safety and Professional Services — Board of Nursing CR 12-004

An order of the Board of Nursing to amend sections N 3.03 (1) (a) 3. and (b) 6., and (2) (a) 3. and (b) 6., relating to endorsement licensure. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Public Service Commission CR 11-039

(PSC Docket # 1-AC-232)

The Public Service Commission of Wisconsin proposes an order to repeal sections PSC 185.815, 185.84 and 185.87; to renumber sections PSC 185.21 (intro.) and 185.22 (5); to renumber and amend section PSC 185.33 (2); to repeal and recreate Chapters PSC 184 and PSC 185.85; and to create sections PSC 185.12 (3e), (3m), (3s), (4m), (10e), (10m), (10s), (11m), (12m), (17m), (20g), (20r) and (22), 185.21 (1) (title), 185.21 (2), 185.33 (1m), 185.89, 185.90 and subchapter IX of Chapter PSC 185, relating to water conservation and construction by water utilities and municipal combined water and sewer utilities. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

The final rule will not affect small businesses. Section 227.114 (1), Stats., defines a small business as: "a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000." The vast majority of the 583

water public utilities in Wisconsin are municipally owned. There are six privately owned water utilities, of which only one (Superior Water and Light) had revenues in excess of \$5 million in 2010. However, utilities operate as monopolies in their service territories, and therefore are dominant in their field. The final rule may have a beneficial impact on water utilities because it will streamline the process for approving construction projects, clarify water loss standards and reporting requirements, and provide flexibility in implementing water conservation programs. The Commission estimates that implementation of the final rules will not require additional funding for most utilities. As a result, small businesses that are customers of water utilities should not incur additional charges or rate increases because of these rules.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Revenue CR 11-052

The Wisconsin Department of Revenue adopts an order to: create section Tax 11.10; relating to wind, solar, and certain gas powered products. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule does not have a significant effect on small business.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Revenue CR 12-006

The Wisconsin Department of Revenue adopts an order to: repeal section Tax 2.61 (9) (b) 1.; amend sections Tax 2.61 (9) (intro.), (a) (intro.) and 1., (b) (intro.), and (d) (intro.); repeal and recreate section Tax 2.61 (9) (c); and create sections Tax 2.60 (2) (Lm) and 2.61 (9) (dm), relating to pre-2009 net business loss carryforwards. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule order does not affect small businesses.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Revenue CR 12-011

The Wisconsin Department of Revenue adopts an order to: repeal sections Tax 2.63 (4), 3.095 (4) (a) 9., and 8.24; amend sections Tax 2.105 (1), (3) (a) and (b), (4) (a) (intro.), 1. f., 2., and 3. and (b), (5) (c) 2., and (6) (a), 2.12 (1), (3) (a), (b), (c), and (e), and (Note), 2.32 (title), (1), (1) (Note), (2) (a) 1. and 7. (Note), (d) 1., 3., 4., 5., and 6., (e) 1., (g) 1. and 2., and (h) 1., (3), and (Note), 2.60 (2) (d), 2.65 (3) (c), 2.67 (2) (d) 3., 2.82 (1) (c), (6), and (Examples), 2.96 (2) (c) and (3) (a), (b), and (c), 2.99 (title), (1), and (2) (a), and 3.01 (4) (e) 4. b.; repeal and recreate section Tax 1.11 (4) (e); and create sections Tax 2.99 (Note) and 3.095 (4) (a) 12. to 20., relating to tax law changes made by 2011 Wisconsin Act 32 and other legislation. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule order does not affect small businesses.

Summary of Comments of Legislative Standing Committees

No comments were reported.

**Revenue
CR 12-012**

The Wisconsin Department of Revenue adopts an order to create section Tax 2.985, relating to the electronic medical records credit. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule order does not affect small businesses.

Summary of Comments of Legislative Standing Committees

No comments were reported.

**Revenue
CR 12-013**

The Wisconsin Department of Revenue adopts an order to: renumber sections Tax 7.23 (1) (a) to (d); amend sections Tax 7.23 (title), (1) (intro.), and (3) (intro.); and create sections Tax 7.23 (1) (a), (c), (d), (e), and (f), (2) (title), (4), and (5); relating to the activities of brewers, bottlers, out-of-state shippers, and wholesalers. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule order does not affect small businesses.

Summary of Comments of Legislative Standing Committees

No comments were reported.

**Revenue
CR 12-015**

The Wisconsin Department of Revenue adopts an order to: create section Tax 11.20, relating to sales and use tax exemptions for biotechnology. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

This rule order does not affect small businesses.

Summary of Comments of Legislative Standing Committees

No comments were reported.

**Safety and Professional Services
*Safety, Buildings, and Environment, General Part I,
Chs. SPS 301-319*
CR 12-007**

The Wisconsin Department of Safety and Professional Services proposes an order to repeal SPS 305.02 Table 305.02 lines 50r. to 50t., SPS 305.06 Table 305.06 lines 45r. to 45t., SPS 305.125 (3m), SPS 305.74 to 305.743, relating to thermal insulator credentials. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

Originally, it was estimated that the credential rules implemented pursuant to 2009 Wisconsin Act 16 regarding thermal insulators would most likely affect HVAC contractors, plumbing contractors, and mechanical refrigeration contractors. Fees for the various credentials ranged from \$15 for apprentices and helpers to \$250 for mechanics. In light of the 2011 Wisconsin Act 32, the thermal insulator credentials were not implemented and the associated fees not collected.

Summary of Comments of Legislative Standing Committees

No comments were reported.

**Technical College System Board
CR 11-053**

The Wisconsin Technical College System Board proposes an order to amend section TCS 6.05, relating to procurement. Effective 8-1-12.

Summary of Final Regulatory Flexibility Analysis

None.

Summary of Comments of Legislative Standing Committees

No comments were reported.

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 73. Relating to the Re-Creation fo the Governor’s Council on Physical Fitness and Health. **(June 18, 2012)**

Executive Order 74. Relating to Declaring a State of Emergency in Response to Severe Weather. **(June 27, 2012)**

Executive Order 75. Relating to a Proclamation Declaring a State fo Emergency in Response to Drought Conditions. **(July 9, 2012)**

Public Notices

Department of Health Services Annual Adjustment to Fees That May be Charged by a Health Care Provider for Providing Copies of a Patient's Health Care Records

Statutory Authority

Pursuant to Wis. Stat. s.146.83 (3f) (c) 2., each July 1, beginning on July 1, 2012, the Department of Health Services is required to adjust, by the percentage difference between the consumer price index for the 12-month period ending on December 31 of the preceding year and the consumer price index for the 12-month period ending on December 31 of the year before the preceding year, the dollar amounts specified under Wis. Stat. s. 146.83 (3f) (b) that a health care provider may charge for providing copies of a patient's health care records.

Under the methods prescribed in Wis. Stat. s. 146.83 (3f) (c) 2., the adjusted dollar amounts that a health care provider may charge for providing copies of a patient's health care records are as follows:

Schedule of Health Care Provider Records Fees

July 1, 2012 – June 30, 2013

	CPI Dec 31, 2010	% difference from Dec 10 to Dec 11	CPI Dec 31, 2011	Current charges 2011	Adjustment for CPI % increase	New Charges 2012
	1.50%	1.50%	3.00%			
Paper Copies						
First 25 pages				\$ 1.00	\$ 0.02	\$ 1.02
Pages 26 to 50				\$ 0.75	\$ 0.01	\$ 0.76
Pages 51 to 100				\$ 0.50	\$ 0.01	\$ 0.51
Pages 101 and above				\$ 0.30	\$ 0.00	\$ 0.30
Microfiche or Microfilm (per page)				\$ 1.50	\$ 0.02	\$ 1.52
Print of an X-ray (per image)				\$ 10.00	\$ 0.15	\$ 10.15
If the requestor is not the patient or a person authorized by the patient						
Certification of Copies				\$ 8.00	\$ 0.12	\$ 8.12
Retrieval Fee				\$ 20.00	\$ 0.30	\$ 20.30
Actual Shipping Costs and Any Applicable Taxes						
For questions: Please contact the Bureau of Fiscal Services at 608-267-7130.						

Sections Affected by Rule Revisions and Corrections

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

Revisions

Agriculture, Trade and Consumer Protection

Ch. ATCP 10

ATCP 10.01 (27m), (57m), (59), (65), (67), (90), (105) (b), (d)
 ATCP 10.04 (4)
 ATCP 10.05 (2) (b)
 ATCP 10.06 (1) (b), (3) (a), (4) (intro.), (c), (5)
 ATCP 10.07 (2) (a), (b), (c), (3) (e)
 ATCP 10.09
 ATCP 10.12 (1)
 ATCP 10.13 (1) (b)
 ATCP 10.14 (1)
 ATCP 10.20 (1) (b), (2) (b)
 ATCP 10.22 (1) (b) 1., 3., (3) (a), (5) (b) 2., 4. b., (c) 5., (6) (title), (a) (intro.), (c) 3., (g), (9) (c) 4., (e) (title), (10)
 ATCP 10.30 (1) (b) 2., 3., 4., (2) (b) 2., 3., 4., (3) (b) 2., 3., 4., 6., (4) (b) 2., 3., 4., 6., (5) (b) 2., (6) (b) 2., 3., 4., 5., (8) (title), (a) (intro.), (9)
 ATCP 10.32 (title), (1) (intro.)
 ATCP 10.35 (1) (a), (6) (c)
 ATCP 10.40 (3) (b) 4., (4) (a) 1.
 ATCP 10.42 (1) (a)
 ATCP 10.46 (1) (a), (1m), (2) (e), (7) (a) 1., 2., 3., 4., (d), (10) (a) 7., (11) (d), (14)
 ATCP 10.47 (3m)
 ATCP 10.48 (1) (a), (b)
 ATCP 10.49 (1) (a), (b), (c), (1m), (2), (3) (a) 2.
 ATCP 10.51 (1) (title), (c), (1m), (2m)
 ATCP 10.52 (1), (1m), (3) (a) (intro.), (b), (c), (4) (a) (intro.), (b), (c), (5)
 ATCP 10.53 (1), (1m), (2) (d) 4., 5., (5) (a) to (i), (5m), (7) (a) 2., (9) (c), (10) (a) 1., (b), (c)
 ATCP 10.54 (1) (a) 2.
 ATCP 10.55 (3) (e)
 ATCP 10.56 (3) (b), (f), (4) (b)
 ATCP 10.60 (1m), (2m), (10), (10m), (11)
 ATCP 10.61 (1) (a), (2) (b), 3., (d), 3., (g), (h), (i), (3) (c), (d), 3., (e), (f), (5m) (a) (intro.), (c), (6m), (7) (b), (e), (10) (a), (b), (c), (d), (e), (11) (b), (c), (13)
 ATCP 10.62 (1) (a) 3., (b) (intro.), 2., (c), (e), (2) (b) (intro.), 3., (c) 3., (e), (3) (b) 2., (c), (d) to (f), (4) (b), (6) (e), (f), (7) (intro.), (c) 2., (d), (e) 2., (g)
 ATCP 10.63 (1) (a), (b)
 ATCP 10.64 (1), (3) (a), (b) (intro.), 2., (3) (c)
 ATCP 10.65 (1), (2), (3) (a), (4) (a) (intro.), 4., (b) (intro.), (c) (intro.), 2., (4) (d), (f)
 ATCP 10.655 (1) (title), (intro.)
 ATCP 10.69 (2) (d)

ATCP 10.76 (1) (b) 4., (2) (title), (a) (intro.)

ATCP 10.80 (1) (title), (a), (b), (c), (2), (3)

ATCP 10.81 (title), (1), (b), (2) (a)

ATCP 10.82 (2)

ATCP 10.85

ATCP 10.87 (3) (a)

ATCP 10.93

Appendix B

Ch. ATCP 12

ATCP 12.01 (9), (10), (20) (f), (g) 3., (24m)

ATCP 12.02 (1), (1m), (8) (b), (9) (a) 2., 5., 6., 9., (b) 4., (9m), (11) (b)

ATCP 12.03 (2) (c), (9m)

ATCP 12.04 (2) (d), (8m)

ATCP 12.045 (1) (b), (6)

ATCP 12.05 (2) (b), (6)

ATCP 12.06 (1) (intro.), (a) to (i), (1s), (2), (3)

ATCP 12.07

ATCP 12.08 (7), (8), (16)

Ch. ATCP 15

ATCP 15.02 (1), (3) (d)

ATCP 15.04 (2) (c), (e), (3) (c), (4) (a), (b), (c), (5)

ATCP 15.06 (4) (a) 1. to 3., (5) (a) to (f)

ATCP 15.08 (1), (2) (b), (6) (b), (c)

Ch. ATCP 21

ATCP 21.01 (6p), (6r)

ATCP 21.20 (1) (c), (2) (a), (c) 9., (d), (dm)

Children and Families

Ch. DCF 57

DCF 57.485

DCF 57.49 (1) (am)

Dentistry Examining Board

Ch. DE 1

DE 1.02 (2)

Ch. DE 2

DE 2.015 (1) (c), (2) (a), (b), (3), (4)

DE 2.03 (1) (intro.), (a), (d), (c), (2) to (4), (5) (a)

DE 2.04 (1) (e), (g), (h), (2) (a), (g), (h)

Ch. DE 6

DE 6.02 (4) (c)

Ch. DE 7

DE 7.03 (d)

DE 7.05 (2) (a)

Ch. DE 13

DE 13 entire chapter

Employee Trust Funds**Ch. ETF 10**

ETF 10.01 (2) (b) 2., 3.
 ETF 10.08 (1) (a), (2) (a), (b) (title), 2., (c) (title), (d) (title)
 ETF 10.71 (1) (a) to (e)
 ETF 10.78 (1), (2), (3)
 ETF 10.84 (2)

Ch. ETF 11

ETF 11.02 (3), (3m), (8), (9) to (15)
 ETF 11.03 (2) (b), (3m), (4) (a), (b), (c), (8), (11), (14) to (16)
 ETF 11.04 (2), (6) (b), (8)
 ETF 11.05 (2), (4), (5) (a), (7)
 ETF 11.06 (4) (c)
 ETF 11.07 (1)
 ETF 11.08 (2) (b) 1., (f), (g), (5m)
 ETF 11.09 (1), (3) (intro.), (c)
 ETF 11.12 (1) (a), (5) (a), (8)
 ETF 11.13 (1) (h), (3)
 ETF 11.14 (2) (c), (4) (intro.)
 ETF 11.16 (4)

Ch. ETF 20

ETF 20.017 entire section
 ETF 20.02 (1), (2) (title), (3) (title), (4)
 ETF 20.35 (1) (b), (c), (2), (3) (a) to (c), (4) (c), (5), (6), (7) (a), (8) (b) to (d), (9), (10)
 ETF 20.045 (4)
 ETF 20.19 (3) (a), (b)
 ETF 20.35 (2) (b)

Ch. ETF 40

ETF 40.10 (2) (intro.), (e), (3) (intro.), (a) to (e)

Ch. ETF 50

ETF 50.52 (2) (a)
 ETF 50.58 (1) (b)

Ch. ETF 52

ETF 52.06 (9)

Ch. ETF 60

ETF 60.60 (3) (Note)

Ch. ETF 70

ETF 70.02 (1) to (4)
 ETF 70.03 (1) to (10)
 ETF 70.04 (1) to (8)

Natural Resources**Ch. NR 50**

NR 50.09 (4) (b), (bm), (f), (5) (bn)

Ch. NR 64

NR 64.02 (9m), (15)
 NR 64.12 (7) (intro.), (a), (am)
 NR 64.14 (2) (b) (title), (2r), (6) (c), (d), (9) (a), (ar), (d), (dg)

Nursing**Ch. N 3**

N 3.03 (1) (a) 3., (b) 6., (2) (a) 3., 6.

Revenue**Ch. Tax 1**

Tax 1.11 (4) (e)

Ch. Tax 2

Tax 2.105 (1), (3) (a), (b), (4) (a), (b), (5) (c), (6) (a)
 Tax 2.12 (1), (3) (a) to (c), (e)
 Tax 2.32 (title), (1), (2) (a), (d), (e), (h), (3)
 Tax 2.60 (2) (d), (Lm)
 Tax 2.61 (9) (intro.), (a) (intro.), 1., (b) (intro.), (9) (b), (c)
 Tax 2.63 (4)
 Tax 2.65 (3) (c)
 Tax 2.67 (d) (d)
 Tax 2.82 (1) (c), (6), (Examples)
 Tax 2.96 (2) (c), (3) (a) to (c)
 Tax 2.985 entire section
 Tax 2.99 (title), (1), (2) (a)

Ch. Tax 3

Tax 3.01 (4) (e)
 Tax 3.095 (4) (a)

Ch. Tax 7

Tax 7.23 (title), (1) (intro.), (1) (a) to (f), (2) (title), (3) (intro.), (4), (5)

Ch. Tax 8

Tax 8.24 entire section

Ch. Tax 11

Tax 11.10 entire section
 Tax 11.20 entire section

Public Service Commission**Ch. PSC. 184**

PSC 184 entire chapter

Ch. PSC 185

PSC 185.12 (3e), (3m), (3s), (3u), (10e), (10m), (10s), (11m), (12m), (17m), (20g), (20r), (22)
 PSC 185.21 (1) (intro.), (title), (2)
 PSC 185.22 (5)
 PSC 185.33 (1m), (2)
 PSC 185.815 entire section
 PSC 185.84 entire section
 PSC 185.85 entire section
 185.87 entire section
 185.89 entire section
 185.90 entire section
 185.95 entire section
 185.96 entire section
 185.97 entire section

Safety and Professional Services**Ch. SPS 305**

SPS 305.02 Table lines 50r. to 50t.
 SPS 305.06 Table lines 45r. to 45t.
 SPS 305.125 (3m)
 SPS 305.74 entire section
 SPS 305.741 entire section
 SPS 305.742 entire section
 SPS 305.743 entire section

Technical College System**Ch. TCS 6**

TCS 6.05 am. (2) (c), (f), (g), (j)

Editorial Corrections

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

Agriculture, Trade and Consumer Protection

Ch. ATCP 10

ATCP 10.46 (10) (b) 7., (c) 5.

ATCP 10.53 (1m) (title)

ATCP 10.61 (7) (b)

Dentistry Examining Board

Ch. DE 1

DE 1.02 (7)

Employee Trust Funds

Ch. ETF 20

ETF 20.19 (3)

Ch. ETF 70

ETF 70.03 (4), (5), (10)

Public Service Commission

Ch. PSC 185

PSC 185.12 (3s)

PSC 185.97 (7)

Revenue

Ch. Tax 2

Tax 2.63 (3) (a), (b) 1.

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