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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

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

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

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

Finding of Emergency

The department of agriculture, trade and consumer protection finds that an emergency exists and that the attached

rule is necessary for the immediate preservation of the public welfare. Statements of the facts constituting the emergency are:

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

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

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

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

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

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

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

Finding of Emergency

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

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

Children and Families*Safety and Permanence, Chs. DCF 37–59*

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

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

The statement of scope for this rule, SS 040–12, was approved by the governor on June 8, 2012, published in Register No. 678 on June 30, 2012, and approved by Secretary Eloise Anderson on July 16, 2012.

Finding of Emergency

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

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

Filed with LRB: August 31, 2012
Publication Date: September 3, 2012
Effective Dates: September 3, 2012 through January 30, 2013
Extension Through: March 31, 2013
Hearing Date: November 30, 2012

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

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

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

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

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

Finding of Emergency

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

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

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

Justice

EmR1217 — The State of Wisconsin Department of Justice (“DOJ”) proposes an order to re-create **Chapter Jus 17 and Chapter Jus 18**, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; the recognition by Wisconsin of concealed carry licenses issued by other states; and the certification of firearms safety and training instructors.

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

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

Finding of Emergency

Under section 101 of 2011 Wis. Act 35, DOJ has been statutorily required to receive and process concealed carry license applications and to issue or deny licenses since November 1, 2011. The Legislature has thus determined that the public welfare requires the licensing system commenced on that date to remain continuously in effect. In order for DOJ to accomplish that goal and comply with all applicable statutory requirements, it is necessary to continuously have in effect administrative rules establishing the procedures and standards that govern the enforcement and administration of those requirements.

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

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

The public welfare thus requires that additional emergency rules be promulgated, in order to ensure that there is no interruption in DOJ's ability to continue to carry out all of its statutory responsibilities in administering and enforcing the concealed carry licensing program. These rules will prevent such a discontinuity and ensure continuous and uniform operation of the concealed carry program through the time of completion of the permanent rulemaking process that is already under way. Only if DOJ utilizes the emergency rulemaking procedures of s. 227.24, Stats., can these emergency rules be promulgated and in effect in time to prevent discontinuity in the operation of the existing rules. The public welfare thus necessitates that the rules proposed here be promulgated as emergency rules under s. 227.24, Stats.

Filed with LRB: December 10, 2012
Publication Date: December 15, 2012
Effective Dates: December 15, 2012 through May 13, 2013

Natural Resources

Fish, Game, etc., Chs. NR 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.

Public Instruction

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

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

Finding of Emergency

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

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative educator effectiveness systems. The statute also specifies criteria on which the process shall be based, including alignment to the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards. Additionally, the statute explains certain approval requirements.

The Educator Effectiveness System will be fully implemented and mandatory throughout the entire state by the 2014-15 school year. The pilot, which allows schools and districts to implement the system and inform modifications, will go into effect during the 2013-14 school year.

In order to have possible alternative models available for pilot use in 2013-14, there is an urgent need to get the equivalency process in place to approve other evaluation models. Districts intending on applying for an equivalency review of an alternative model must alert the department in writing by March 15, 2013, and January 15 each subsequent year. They must submit their application by April 15 of this year and March 15 each subsequent year in order to be approved.

Filed with LRB: March 4, 2013
Publication Date: March 8, 2013
Effective Dates: March 8, 2013 through August 4, 2013.

Safety and Professional Services

Professional Services, Chs. SPS 1—299

EmR1302 — The Wisconsin Department of Safety and Professional Services hereby adopts an order to amend **sections SPS 60.01; SPS 61.02 (1) (a), (2) (a), (3) (a), and (4) (a); 62.10 (title) and 62.10; 65.01; 65.02 (1); 65.07; and 65.12 (1) (h) and (i) 6.**; and to create **chapter SPS 205** relating to barbers and to barbering and cosmetology schools and instructors, and affecting small business.

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

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

Finding of Emergency

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

On July 1, 2012, 2011 Wisconsin Act 190 transferred regulatory authority over barbers from the Barbering and

Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the educational requirements for initial licensure of barbers, and the continuing-education requirements for renewal of barber licenses. Due to the transfer of authority and the changes in education requirements, immediate rulemaking by the Department is needed to implement corresponding rule changes prior to April 1, 2013, which is the renewal date mandated by section 440.08 (2) (a) of the Statutes for all barbering licenses.

Filed with LRB: February 14, 2013

Publication Date: February 14, 2013

Effective Dates: February 14, 2013 through July 13, 2013

Scope Statements

Natural Resources

Fish, Game, etc., Chs. NR 1—

SS 017–13

This statement of scope was approved by the governor on February 18, 2013.

Rule No.

WM–05–13, ch. NR 45.

Relating to

Hunting and management of bobcat and elk.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

These will be permanent rules.

Detailed Description of the Objective of the Proposed Rule

This proposal could result in new hunting and trapping opportunities for bobcat in portions of the state where harvest is not allowed under current rules.

This proposal would create a new elk management zone and population goal in an area of the state where elk are not currently found but where a management plan approved by the Natural Resources Board recommends establishing a herd.

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

Bobcat are currently hunted and trapped in one management zone which consists of the area north of Hwy 64. Demand for this opportunity greatly exceeds availability – the department consistently receives more than 12,000 applications for fewer than 500 available permits. Research currently under way may provide us with additional answers about the presence and observed expansion of bobcats in areas south of Hwy 64. The findings could result in a recommendation to allow hunting and trapping in additional areas, which would require rule changes.

This rule proposal will be in anticipation of a decision to hunt and trap bobcats in new areas. The rule proposal would establish a new management zone or could reconfigure the existing management zone. A population goal for bobcats north of Hwy 64 is currently established in administrative rule and would either need to be updated or an additional goal created. This rule may also establish new, or modify existing, conditions for the taking of bobcat by hunting and trapping if that is necessary and compliments the primary goal of improving hunting and trapping opportunities.

The department has already established, by rule, elk management zones in the northwest part of the state and is managing an elk herd in that area. The department anticipates establishing another elk herd in the Black River Falls Area and has a management plan that has been approved by the

Natural Resources Board and which enjoys significant local support. This proposal would establish a management zone and may establish a population goal in Wis. Admin. Code for the Black River herd. It also seeks an expansion of the current elk management zone in the Clam Lake area.

Additional provisions necessary for establishing a new elk herd and the management of elk in this state may also be promulgated if they are identified during the rule making process.

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

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule-making authority allows the department to promulgate rules related to bobcat hunting and trapping and elk hunting.

Special regulations on the taking of certain wild animals are authorized under s. 29.192 (4), Stats., including specific language that authorizes rules related to bobcat hunting and trapping.

The department is directed in by s. 23.09 (1) and (2), Stats., to provide a system for the development of game and other outdoor resources and may promulgate such rules necessary to carry out the purposes of section 23.09, Stats. The department considers the establishment of an elk herd to be consistent with that direction.

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

200 hours.

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

Groups likely to be impacted or interested in the bobcat related portions of this rulemaking are bobcat hunters and trappers, including members of groups such as the Wisconsin Trappers Association, Bear Hunters Association, Wildlife Federation, and the Conservation Congress.

Groups likely to be impacted or interested in provisions related to elk include big game hunters and wildlife watchers. There is great interest in elk restoration by the Ojibwe tribes and Ho–Chunk Nation. In addition, impacted people may be members of conservation organizations such as the Rocky Mountain Elk Foundation, Jackson County Wildlife Fund, Safari Club International, Wildlife Federation, local conservation clubs, or the Conservation Congress. Additionally, tourism related business people and local governments in the Northern and West–Central Wisconsin region may be affected by the rule. It is reasonable to assume that agriculture–related business will be affected. However, the plan considered that dairy and cash grain farming are not widely practiced in the location where elk introduction is planned, which should result in limited impacts of the species on agriculture.

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

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

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

Bobcat

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be similar in scope to those in place during the previous seasons. While this proposal would result in increased hunting and trapping opportunities, the number of harvest permits issued will continue to be low relative to other hunting seasons like deer, bear, or turkey. The positive impacts of increased hunting related expenditures will likely not be noticeable. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Elk

The positive impacts of elk-related tourism will be noticeable in local communities. The Cable Chamber of Commerce estimates that 1,200 people visiting the Clam Lake area annually to view elk and contribute approximately \$175/day totaling approximately \$210,000 annually to the area. While difficult to predict in the Black River Falls area of Jackson County, elk-related tourism is expected to be higher due to the ease of accessing this area via the Interstate corridor between southern Wisconsin and the Twin Cities. The Black River Falls Bureau of Tourism has been a supporter of establishing a herd there and is optimistic that they will see high levels of elk viewing interest. Local and state interest in elk is high, as evidenced by continually large numbers of requests for information about the elk reintroduction, and statewide support from a variety of partners including the Ojibwe tribes and Ho-Chunk Nation, government partners such as the U.S. Forest Service and county administration boards, and non-profit groups like the Rocky Mountain Elk Foundation and Safari Club International. Hunting will become part of elk management in Wisconsin when a harvestable surplus develops. The Clam Lake herd is nearing that level with a hunt anticipated in 2013. Harvest permit levels will be limited, but local economies would receive some economic gains from elk hunting. Hunters would be expected to spend money on food, lodging, fuel, and hunting equipment. However, the greatest impact will be from general tourism activities as people travel simply to view elk, primarily during the fall rutting season. Michigan sees as many as 53,000 visitors per year who spend over \$3,000,000.

These rules direct the department's management activities and may be applicable to individual hunters, but they impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Contact Person

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Natural Resources

*Fish, Game, etc., Chs. NR 1—
SS 018-13*

This statement of scope was approved by the governor on February 18, 2013.

Rule No.

WM-07-13(E), ch. NR 10.

Relating to

Establishing the 2013 migratory bird season framework.

Rule Type

These will be emergency rules.

Finding/Nature of Emergency (Emergency Rule Only)

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Detailed Description of the Objective of the Proposed Rule

This emergency rule order will establish the 2013 migratory bird hunting seasons.

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

This is an annual rule that will be consistent with a federal framework and is not a change from past policies. Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20, who will offer a final season framework to Wisconsin on approximately August 1, 2012. The State of Wisconsin's season proposal will be based on the federal framework and local conditions. Wisconsin will also not be more restrictive than the federal bag limit framework except that we will propose one less hen mallard in the bag limit if the federal framework allows two or more, consistent with existing Wisconsin rules. This rule may relax the prohibition on hunting waterfowl in open water for holders of permits for hunters with disabilities and lift a sunset of special migratory bird hunting regulations at the Mead and Zeloski Marsh Wildlife Management Areas.

The department will also recommend ways to simplify Canada goose hunting regulations. Current rules require tagging geese that are harvested in the Horicon Zone but a simpler process of recording harvest may be possible. Additionally, the department will consider eliminating the permit application deadline for Horicon zone hunters and simply issue harvest permits while recognizing the flyway management and federal protections against overharvest of the Mississippi Valley Population. The department will also

consider reducing the size of the Horicon zone which would result in expanded hunting opportunities in areas no longer in that zone.

Through this rulemaking, the department may suggest revisions to the existing prohibition and exceptions for open-water hunting. Most waterfowl hunters are required to be partially or entirely concealed in emergent vegetation while hunting from a boat, blind or similar device on state water. This requirement preserves open water areas as safe resting areas for migrating waterfowl. This rule would establish an exception for disabled permit holders and their assistants.

The department will consider other simplifications to migratory bird hunting regulations that may be identified during this rulemaking process.

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

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

Special regulations on the taking of certain wild animals are authorized under s. 29.192, Stats., including specific language that authorizes rules related to Canada goose hunting.

The establishment of migratory game bird refuges is authorized in s. 23.09 (2) (b), Stats., relating to the department’s ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

Wisconsin’s boundary waters with other states are popular waterfowl hunting locations. Specific authority to regulate hunting in and on all interstate boundary waters and outlying waters is established in s. 29.041, Stats.

Sections 23.11 and 29.014, Stats., allow for the protection of natural resources on state lands such as migratory bird refuges, establish general department powers, and authority to establish hunting and trapping regulations on department managed lands.

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

Approximately 640 hours will be needed by the department prior to and following the hearings.

Description of all Entities that may be Impacted by the Rule

These rules will impact migratory game bird hunters and those who enjoy viewing waterfowl in Wisconsin.

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

Migratory game bird hunting is regulated by the United States Fish & Wildlife Service (USFWS), in 50 CFR part 20. Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service annually evaluates migratory game bird populations and breeding habitat in cooperation with state provincial agencies and the Canadian Wildlife Service. After

considering recommendations from the flyway councils of states and the guidance of cooperatively developed harvest strategies, the USFWS establishes annual frameworks within flyway or bird populations regions. States can then establish hunting seasons within the sideboards for each species and region. As a result, the hunting seasons of neighboring states are similar to Wisconsin migratory game bird hunting regulations because they are subject to the same federal frameworks.

Locally produced giant Canada geese are now a considerable portion of the harvest in states that also harvest Mississippi Valley Population geese that nest in Northern Ontario. The Mississippi Flyway Council has tested the use of a standard season framework for 5 years, ending in 2011. Season lengths and bag limits for each MVP harvest state remained unchanged. In 2012, the MFC conducted an evaluation of harvest impacts of these stable regulations and established a framework for future seasons. It was agreed within the MFC that states harvesting MVP Canada geese could take small steps toward liberalization while impacts are cooperatively monitored.

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

No economic impacts are anticipated. The hunting season frameworks proposed in this rule will be comparable to those in place during the previous season. These rules are applicable to individual hunters and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Contact Person

Scott Loomans, 101 S Webster St., Madison, WI 53707, (608) 267-2452, scott.loomans@wisconsin.gov or Kent Van Horn, Migratory Birds Specialist, 101 South Webster Street, PO Box 7921, Madison, WI 53707-7921, (608) 266-8841, kent.vanhorn@wisconsin.gov.

Natural Resources

Fish, Game, etc., Chs. NR 1—

SS 019-13

This statement of scope was approved by the governor on February 20, 2013.

Rule No.

WM-09-13(E) and WM-08-13, ch. NR 45.

Relating to

Firearms use on department land in Columbia County.

Rule Type

Permanent and emergency.

Finding/Nature of Emergency (Emergency Rule Only)

This rule is necessary to protect public safety and welfare due to the popularity of target shooting at properties which are undeveloped, have not been designated by the department, and are in locations which jeopardize the safety of neighbors and property users.

Detailed Description of the Objective of the Proposed Rule

The objective of these rules will be to prohibit firearms discharge for target shooting purposes on all department

managed lands in Columbia County in areas where target shooting is not authorized. Firearm discharge for hunting, trapping, and dog training purposes and at established ranges would continue to be allowed.

This rule will prevent potentially unsafe target shooting activities on department managed lands where concentrated housing developments are located downrange and where property user safety is a concern.

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 department currently possesses the ability to prohibit firearms discharge by posting lands that it owns or manages. However, the department believes that hunting, trapping, and dog training can still safely occur on department managed lands in Columbia County. Prohibiting target shooting, but still allowing hunting, trapping, and dog training, requires rule making.

Policies relevant to this rule are consistent with existing rules and this proposal will not establish new statewide policies. Under this proposal, portions or all department managed lands in Columbia County will be added to an existing rule that already prohibits target shooting on some individual properties and all department properties in the counties of: Dane, Dodge, Fond du Lac, Jefferson, Juneau, Kenosha, La Crosse, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Sauk, Sheboygan, Walworth, Washington, Waukesha and Winnebago.

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

The department is generally charged with the care, protection, and supervision of state lands by s. 23.11 Stats.

Under s. 23.09 (2) (d) related to conservation, the department is directed to provide an adequate and flexible system for the use of outdoor resources in this state and may promulgate such rules as are necessary. These rules are necessary to preserve public opportunities to hunt with firearms on lands that have been acquired as areas where any citizen may hunt or trap.

Pursuant to s. 227.24 (1) (a) Stats., 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.

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

80 hours.

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

Target shooting is an enjoyable and normally safe activity that is enjoyed by many people in the Columbia County area. A subset of target shooters who are using department wildlife properties instead of gun clubs or private lands will be impacted by this rule. Under the proposal, it would remain possible for the department to authorize target shooting in a designated location without additional rulemaking. Safe locations and facilities for public target shooting are being considered in the area and, if they can be developed, would minimize any impact to target shooters. A number of residential property owners that live nearby or adjacent to areas currently used for target shooting will also be impacted

by an improvement in safety conditions. Improved safety conditions will also benefit people who are using the properties for hunting, trapping and other purposes. In one location, people have reported having difficulty being able to safely return to their vehicle at a popular target shooting location which is also a main parking lot.

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

Pittman–Robertson funding has been used to acquire and manage wildlife areas to sustain wildlife and allow hunting, trapping and other outdoors activities in Columbia County. Through these rules, the department hopes to preserve the use of firearms for hunting, consistent with federal guidelines for properties where Pittman–Robertson funding has been invested.

The United States Fish & Wildlife Service owns and manages a number of waterfowl production areas in Columbia County. The topography and management of those properties is similar to that of department managed lands in the county. The service does not allow recreational target shooting on its properties but does allow hunting.

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

While target shooting is an activity that many people in the Columbia County area enjoy, the department estimates that a minority of target shooters are using department managed public lands. The department is not aware of any economic impacts of this regulation in the 18 other counties where it is currently in effect. The department does not anticipate any economic impact as a result of extending this regulation to Columbia County.

Contact Person

Scott Loomans, 101 S Webster St., Madison, WI 53707, (608)267–2452, scott.loomans@wisconsin.gov

Safety and Professional Services

General Part I, Chs. SPS 301—319
Uniform Dwelling Code, Chs. SPS 320—325
General Part II, Chs. SPS 326—360
Commercial Building Code, Chs. SPS 361—366
Plumbing, Chs. SPS 381—387
General Part IV, chs. SPS 388—

SS 020–13

This statement of scope was approved by the governor on January 4, 2013.

Rule No.

Chapters SPS 303, 307, 308, 310, 314, 316, 318, 320, 326, 330, 332, 333, 334, 340, 341, 343, 345, 347, 360, 361, 382, 383, 384, 385, 386, 387, 390 and 391.

Relating to

Administrative processes and procedures utilized by the industry services division.

Rule Type

Permanent.

Finding/Nature of Emergency (Emergency Rule Only)

Not applicable.

Detailed Description of the Objective of the Proposed Rule

Primarily, this rulemaking project is to review and standardize as much as possible the various administrative processes delineated in the codes implemented by the department's Industry Services Division. The processes to be evaluated include plan review, permits, appeals, inspections and agent authorization. The project will also evaluate the advantage of placing the administrative processes in one chapter or code rather than in each program code.

The Industry Services Division facilitates public safety, health and welfare by administering and enforcing various codes relating to: explosives; fireworks; mines; pits; quarries; flammable, combustible and hazardous liquids; fire prevention; electrical; elevators; escalators; lift devices; one– and 2– family dwellings; manufactured home communities; fire department safety and health; public employee safety and health; passenger ropeways; amusement rides; gas systems; boilers; pressure vessels; anhydrous ammonia; mechanical refrigeration; erosion control; commercial buildings; plumbing; private onsite wastewater treatment systems; soil and site evaluations; boat and on–shore sewage facilities; public swimming pools; water attractions and sanitation. It is anticipated that standardizing administrative processes will result in efficiencies for both stakeholders and the Division, as well as facilitate code compliance.

The revisions relating to administrative provisions may necessitate modifications to coordinate other chapters not specifically enumerated that are also administered by the Industry Services Division. It is anticipated that the coordination would possibly involve cross referencing changes.

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 various administrative processes and procedures necessitate various stakeholders, including building owners, to interact with the Industry Services Division. These interactions, such as submitting plans, data or information, providing information or inspections, are for the most part specified in each of the program codes; for example: chapter SPS 318, for Elevators, Escalators, and Lift Devices, chapter SPS 361 for the Wisconsin Commercial Building Code, and chapters SPS 382 to 384 for the Plumbing Code. Under the separate program codes, aspects of the administrative processes and procedures vary, including the minimum number of plans or copies required to be submitted, the time frames and conditions when information or data needs to be reported, and the manner or steps for appeals. In some cases, stakeholders interact with the Division across several programs. The alternative of leaving variation in the different administrative processes and procedures would allow the ability to focus solely on an individual program.

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

For the propose of facilitating public safety, health and welfare under various statutory provisions of chapters 101 and 145, Stats., both specific and general, the department's Industry Services Division oversees the design and construction of public buildings and places of employment, including many building components, such as electrical, boilers, elevators, plumbing, as well as other mechanical devices such as passenger ropeways, amusement rides, public swimming pools and water attractions. Depending upon the

program (object), the Division's oversight involves a variety of administrative processes to accomplish its mission. Specific statutory provisions include:

101.12 Approval and inspection of public buildings and places of employment and components. (1) Except for plans that are reviewed by the department of health services under ss. 50.02 (2) (b) and 50.36 (2), the department shall require the submission of essential drawings, calculations and specifications for public buildings, public structures and places of employment including the following components:

- (a) Heating, ventilation, air conditioning and fire detection, prevention or suppression systems.
- (b) Industrial exhaust systems.
- (c) Elevators, escalators, lifts, as defined in s. 167.33 (1) (f), and power dumbwaiters.
- (d) Stadiums, grandstands and bleachers.
- (e) Amusement and thrill rides equipment.

101.935 (2) (a) The department or a village, city or county granted agent status under par. (e) shall issue permits to and regulate manufactured home communities. No person, state or local government who has not been issued a permit under this subsection may conduct, maintain, manage or operate a manufactured home community.

(b) *Application.* A person applying for a permit under par. (a) shall include, along with the application, copies of specifications and accurately scaled and fully dimensioned plans showing the location of the construction, installation, or alteration in relation to the plans and elevation of the building; the location of the applicable machinery room, if any, and the equipment to be constructed, installed, or altered; and all structural supporting members relevant to the construction, installation, or alteration, including foundations. The specifications and plans shall be sufficiently complete to illustrate all details of design and construction, installation, or alteration. The application shall specify all materials to be used and all loads to be supported or conveyed. The department may authorize a person to include the application and other information required under this paragraph with any submission required under s. 101.12 (1) to avoid duplicative filing of information.

101.983 (2) OPERATION. (a) *Permit required.* No person may allow a conveyance to be operated on property owned by the person unless the person has received a permit for the operation from the department. The department may not issue a permit required under this paragraph until all inspections required under par. (c) are completed.

101.983 Conveyance permits required. (1) CONSTRUCTION, INSTALLATION, AND ALTERATION. (a) *Permit required.* No person may construct, install, or alter a conveyance in this state unless an elevator contractor licensed by the department under s. 101.985 (1) has received a permit for the construction, installation, or alteration from the department.

145.26 (2) The department shall, in advance of construction, alteration or reconstruction, review and approve plans and specifications for the construction, alteration or reconstruction of public swimming pools or water recreation attractions or the alteration of public swimming pool equipment in this state.

General statutory provisions include:

101.17 Machines and boilers, safety requirement. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employees and frequenters in places of employment and

public buildings and with the orders of the department adopted and published in conformity with this subchapter. Any person violating this section shall be subject to the forfeitures provided in s. 101.02 (12) and (13).

145.02 (2) The department shall have general supervision of all such plumbing and shall after public hearing prescribe and publish and enforce reasonable standards therefor which shall be uniform and of statewide concern so far as practicable. Any employee designated by the department may act for the department in holding such public hearing. To the extent that the historic building code applies to the subject matter of these standards, the standards do not apply to a qualified historic building if the owner elects to be subject to s. 101.121.

(3) (g) By rule, fix fees for the examination and approval of plans of plumbing systems and collect the same.

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 1000 hours will be needed to perform the review and develop the needed rule changes. This time includes meeting with stakeholders, 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

The rule revisions would potentially affect a variety of stakeholders who interact with the department's Industry Services Division under its various programs. The stakeholders would include: plan submitters, such as architects; engineers; designers; contractors; master plumbers; master electricians; equipment/material suppliers; building owners; owners/operators of passenger ropeways; amusement rides; passenger ropeways; manufactured home communities; and permit applicants: such as owners or their agents for boilers; tanks containing flammable, combustible or hazardous liquids; elevators; escalators; lift devices; passenger ropeway; amusement rides; mechanical refrigeration systems; anhydrous systems; and gas systems; and other individuals submitting data or information: such as owners/operators of mines, pits or quarries.

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

For the most, part federal regulations do not cover the various programs administered by the Industry Services Division. With the exception of erosion control and flammable, combustible and hazardous liquids, federal regulations do not involve administrative and enforcement activities such as permits, plan review, inspections and appeals.

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

Any economic impact realized by the implementing the rule revisions would most likely be positive in that the changes would result in efficiencies and clarity for the various stakeholders, including owners, who utilize or are required to

utilize the administrative services of the Industry Services Division.

Contact Person

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

Safety and Professional Services

Professional Services, Chs. SPS 1—299

SS 012-13

This statement of scope was originally published on February 14, 2013, in Register 686 and is reprinted here to correct a Legislative Reference Bureau transcription error in Paragraph 7. (The error has been corrected in the Internet version of Register 686.)

This statement of scope was approved by the governor on January 28, 2013.

Rule No.

Section SPS 81.04.

Relating to

Reciprocity.

Rule Type

Permanent and emergency.

Finding/Nature of Emergency (Emergency Rule Only)

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

Detailed Description of the Objective of the Proposed Rule

The sole purpose of the proposed rule is to bring current Wisconsin administrative code in line with federal legislation.

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

The existing policy in Wis. Admin. Code s. SPS 81.04 (2) requires reciprocity applicants be evaluated as to whether they are "substantially equivalent" to the requirements for licensure or certificate as an appraiser in this state. The evaluation is based on the other state's requirements for licensure or certification that were in effect at the time the applicant's credential was granted in that state; instead of at the time the applicant filed an application in this state.

The new reciprocity policy, as prescribed by federal statute, will require that an appraiser coming from another state

seeking reciprocity in this state must hold a current certification or license in the other state that was issued in compliance with the Financial Institution Reform Recovery Act of 1989, 12 U.S.C. 3351, and that the credentialing requirements of the other state, as they currently exist, meet or exceeds Wisconsin credentialing requirements as they currently exist.

The alternative for failing to make the necessary revisions to current Wis. Admin. Code s. SPS 81.04 would result in Wisconsin appraisers being precluded from appraising properties that are being financed with federal loans.

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

Section 227.11 (2) (a), Stats., provides that, “each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it...” Section 440.03 (1), Stats., specifies, “the department may promulgate rules defining uniform procedures to be used by the department, [and] the real estate appraisers board, . . .” The department administers s. 458.06 (4m), Stats., regarding reciprocal certification which states, “upon application and payment of the fee specified in s. 440.05 (2), the department shall grant and issue a certificate of certification as a general appraiser or as a residential appraiser, as appropriate, to any applicant to whom any of the following applies . . .” Since the department administers s. 458.06, Stats., the department is empowered pursuant to ss. 227. (2) (a) and 44.03 (1), Stats., to define the uniform procedures to be used regarding real estate appraisers and reciprocity.

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

200.

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

Certified and licensed appraisers in Wisconsin and other states.

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

Title XI of the Federal Financial Institutions Reform Recovery and Enforcement Act of 1989, as amended by the Dodd–Frank Act of 2010, “provides that Federal financial and public policy interest in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.” 12 USCS § 3331. In order to accomplish this purpose, federal legislation has set up the ASC. The ASC monitors the states to insure that state certified or licensed appraisers meet the federal standards before engaging in federally related transaction and “for the purpose of determining whether a State agency’s, policies, practices, and procedures are consistent with” FIRREA. 12 USCS § 3347.

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 a minimal economic impact.

Contact Person

Shawn Leatherwood, Department of Safety and Professional Services, Division of Policy and Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708–8935, Shancethea.L Leatherwood@wisconsin.gov.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Agriculture, Trade and Consumer Protection CR 13-016

(DATCP Docket # 11-R-01)

The Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it referred the following proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to s. 227.15, Stats., on February 25, 2013.

The scope statement for this rule, SS 003-11, was approved by the Governor on July 14, 2011, published in Register No. 667 on July 31, 2011, and approved by the Board of Agriculture, Trade and Consumer Protection as required by s. 227.135 (2), Stats., on September 7, 2011.

Analysis

Chapter ATCP 50, relating to soil and water resource management.

Agency Procedure for Promulgation

The department will hold public hearings on this rule beginning March 26, 2013.

Contact Person

The department's Division of Agricultural Resource Management is primarily responsible for this rule. If you have questions, you may contact Richard Castelnuovo at (608) 224-4608.

Children and Families

Family and Economic Security, Chs. 101-153

CR 13-015

The Department of Children and Families submitted proposed rules to the Legislative Council Rules Clearinghouse on February 20, 2013.

The statement of scope for this rule, SS 034-11, was approved by the Governor on October 31, 2011, published in Register No. 671 on November 14, 2011, and approved by Secretary Eloise Anderson on November 29, 2011.

Analysis

The proposed rules affect ch. DCF 101, relating to Wisconsin Works case management services for job-ready individuals.

Agency Procedure for Promulgation

A public hearing is required and will be held in Madison on April 5, 2013. The organizational unit responsible for the promulgation of the proposed rules is the Division of Family and Economic Security.

Contact Person

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

Natural Resources Fish, Game, etc., Chs. 1- CR 13-019

(DNR # FH-18-12)

The Wisconsin Department of Natural Resources announces that it referred the following proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on March 1, 2013.

The scope statement for this rule, SS 057-12, was approved by the Governor on July 25, 2012, published in Register No. 680, on August 15, 2012, and approved by the Natural Resources Board on September 26, 2012.

Analysis

Chapters NR 20 and 23, relating to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin.

Agency Procedure for Promulgation

The department will hold a public hearing on this rule on April 8, 2013, in each county of the State.

Contact Person

Kate Strom Hiorns, Bureau of Fisheries Management, (608) 266-0828, and Linda Haddix, Bureau of Legal Services, (608) 266-1959.

Natural Resources Fish, Game, etc., Chs. 1- CR 13-021

(DNR # WM-01-13)

The Department of Natural Resources submitted proposed rules to the Legislative Council Rules Clearinghouse on March 4, 2013.

The scope statement for this rule, SS 062-12, was approved by the Governor on August 14, 2012, published in Register No. 680 on September 1, 2012, and approved by the Natural Resources Board on January 23, 2013.

Analysis

The proposed rule affects chs. NR 10, 11, 17, and 45, relating to hunting, trapping, closed areas, dog training, and the use of department lands.

Agency Procedure for Promulgation

A public hearing is required and will be held in each county of the state on April 8, 2013.

Contact Person

Scott Loomans, Bureau of Wildlife Management, (608) 266-1959.

**Safety and Professional Services
Optometry Examining Board
CR 13-017**

On February 26, 2013, the Optometry Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 036-11, was approved by the Governor on November 1, 2011, published in Register No. 671 on November 15, 2011, and approved by Optometry Examining Board on December 19, 2011.

Analysis

Statutory Authority: Section 15.08 (5) (b), Stats.

This proposed rule-making order revises s. Opt 5.02 and relates to lens prescriptions.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 28, 2013 at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Department of Safety and Professional

Services, Division of Policy Development, (608) 261-2377, Sharon.Henes@wisconsin.gov.

**Safety and Professional Services
Pharmacy Examining Board
CR 13-018**

On February 26, 2013, the Pharmacy Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 064-12, was approved by the Governor on August 23, 2012, published in Register No. 681 on September 15, 2012, and approved by Pharmacy Examining Board on October 18, 2012.

Analysis

Statutory Authority: Sections 15.08 (5) (b) and 450.02 (3) (a), Stats.

This proposed rule-making order revises s. Phar 7.01 (1) (e) and relates to delivery of prescription drugs.

Agency Procedure for Promulgation

A public hearing is required and will be held on April 15, 2013, at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Sharon Henes, Department of Safety and Professional Services, Division of Policy Development, (608) 261-2377, Sharon.Henes@wisconsin.gov.

Rule-Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

CR 13-016

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) announces that it will hold public hearings on proposed rule changes relating to the soil and water resource management program (ch. ATCP 50).

DATCP will hold five public hearings at the time and place shown below.

Hearing Dates and Locations

- Date:** Tuesday, March 26, 2013
Time: 2:30 p.m. to 4:30 p.m. and 6:00 p.m. to 8:00 p.m.
Location: Town of Washington Town Hall
 5750 Old Town Hall Road
 Eau Claire, WI 54701
- Date:** Wednesday, March 27, 2013
Time: 2:30 p.m. to 4:30 p.m. and 6:00 p.m. to 8:00 p.m.
Location: Outagamie County Highway Department
 Conference Room
 1313 Holland Road
 Appleton, WI 54911
- Date:** Thursday, March 28, 2013
Time: 2:30 p.m. to 4:30 p.m. and 6:00 p.m. to 8:00 p.m.
Location: Rodeway Inn & Suites
 1738 Comfort Drive
 Tomahawk, WI 54403
- Date:** Wednesday, April 3, 2013
Time: 2:30 p.m. to 4:30 p.m. and 6:00 p.m. to 8:00 p.m.
Location: Bjarne Ullsvik Hall South
 University of Wisconsin– Platteville
 1 University Plaza (Corner of S Hickory
 Street and Main Street)
 Platteville, WI 5318
- Date:** Thursday, April 4, 2013
Time: 2:30 p.m. to 4:30 p.m. and 6:00 p.m. to 8:00 p.m.
Location: Board Room (1st Floor)
 Department of Agriculture, Trade and
 Consumer Protection
 2811 Agriculture Drive
 Madison, WI 53718–6777

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by March 20, 2013, by writing to Lisa Schultz, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911; or by emailing lisaj.schultz@wisconsin.gov; or by telephone at (608) 224–4604. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is handicap accessible.

Availability of Rules and Submitting Comments

DATCP invites the public to attend the hearings and comment on the proposed rule changes.

Following the public hearings, the hearing record will remain open until April 30, 2013, for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, or to lisaj.schultz@wisconsin.gov, or to <http://adminrules.wisconsin.gov>.

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You can obtain a free copy of this hearing draft rule and related documents including the economic impact analysis by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–4604 or by emailing lisaj.schultz@wisconsin.gov. Copies will also be available at the hearing. To view the hearing draft rule online, go to: <http://adminrules.wisconsin.gov>.

Comments or concerns relating to small business may also be addressed to DATCP’s small business regulatory coordinator Keeley Moll at the address above, or by email to keeley.moll@wisconsin.gov, or by telephone at (608) 224–5039.

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

This rule modifies ch. ATCP 50, Wis. Admin. Code, related to Wisconsin’s soil and water resource management (SWRM) program. The department of agriculture, trade and consumer protection (“DATCP” or “department”) administers the SWRM program under ch. 92, Stats. The SWRM program is designed to conserve the state’s soil and water resources, reduce soil erosion, prevent pollution runoff and enhance water quality.

Statutes interpreted

Chapter 92 and ss. 71.57 to 71.61, 71.613 (3), 91.80 and 91.82, and 281.16, Stats.

Statutory authority

Sections 91.82 (3), 92.05 (3) (c) and (k), 92.14 (8), 92.15 (3) (b), 92.16, 92.18 (1), 93.07 (1), and 281.16 (3) (b) and (c), Stats.

Explanation of Agency Authority

DATCP has responsibilities imposed by statute for implementing the state’s nonpoint source pollution control program. Section 281.16, Stats., requires that DATCP develop rules to implement department of natural resources (DNR) farm runoff standards, also known as the agricultural performance standards adopted in ch. NR 151, Wis. Adm. Code (NR 151). Chapter 92, Stats., establishes the framework

for DATCP to operate a statewide program that includes implementation of farm conservation practices, approval of county land and water resource management plans, administration of soil and water resource management grants, oversight of manure storage and other local regulations covering livestock operations, provision of training and engineering practitioner certification, and standards for cost–sharing practices. Through ch. ATCP 50, Wis. Adm. Code (ATCP 50), DATCP carries out these responsibilities. Among other things, ATCP 50 ensures that implementation of the farm runoff standards is contingent on cost–share requirements (see s. ATCP 50.08).

Related statutes and rules

As explained above, this rule is related to s. 281.16, Stats., and ch. NR 151. Chapter 92, Stats., establishes the framework for DATCP to operate a statewide soil and water resource management program. This rule also implements the soil and water conservation requirements in subch. V of ch. 91, Stats.

Plain language analysis

Background

Chapter ATCP 50 is being revised primarily to implement the new and modified farm runoff control standards adopted by the DNR in 2011. These new and modified DNR standards (referred to as “2011 DNR standards”) require farmers to improve pasture management, maintain a tillage setback, control discharges of process wastewater, meet Phosphorus Index targets for nutrient management, and meet targeted performance standards for Total Maximum Daily Loads (TMDLs). Under state law, DATCP is responsible for developing conservation practices and other components to implement performance standards for farms. In most cases, farmers cannot be required to implement new and modified performance standards unless they receive an offer of 70 percent cost–sharing.

Other changes in the rule are designed to improve administration of the SWRM program, including grants management, cost–sharing and establishing qualifications of engineering practitioners certified under the program.

Rule Content

Among other things, this rule will:

- Update the farm conservation standards in subch. II of ch. ATCP 50, and related definitions, including updates to the RUSLE 2 definition.
- Define a method for determining the distance between 5 and 20 feet for a tillage setback.
- Revise the soil erosion control standard to include pastures.
- Modify nutrient management planning requirements for pastures, including a phase–in process to address high risk areas.
- Clarify the conservation compliance requirements for the farmland preservation program, including a phase–in of the farm runoff standards updated in ch. NR 151.
- Simplify the manner by which engineering practitioners are certified.
- **Update the technical and other standards for practices cost–shared with state funds.**
- **Better support implementation of performance standards on farms.**

The following provides more detailed analysis by subchapter.

SOIL AND WATER CONSERVATION ON FARMS

Farm Conservation Practices

To implement the 2011 DNR standards, this rule modifies the farm conservation practices as follows:

- *Soil Erosion Control.* This rule requires farmers to manage pastures as well as cropland so that soil erosion rates do not exceed a tolerable rate (“T”). For most soils, the tolerable rate (“T”) is equivalent to 2 to 5 tons of soil loss per acre per year. The rule also clarifies how soil erosion is calculated in the case of wind erosion. The RUSLE 2 equation, as defined in the rule, must be used to measure sheet and rill erosion and NRCS Wind Erosion Prediction System (WEPS) model to measure wind erosion.
- *Nutrient Management and Phosphorus Index.* This rule clarifies the process for annual review of all nutrient management plans to ensure that updates are prepared when needed. It also defines how nutrient management planning will be implemented for pastures by expanding the nutrient management standard to include pastures, and establishes a phase–in period for implementation. Within three years of the effective date of the rule revision, nutrient management plans are required in high risks areas. By 2020, all pastures must have nutrient management plans subject to cost–share requirements. To facilitate implementation of the Phosphorus Index, this rule references the most current tool for calculating soil loss, RUSLE 2.
- *Tillage Setback.* This rule defines the method for calculating a setback over 5 feet but less than or equal to 20 feet.
- *Process Wastewater.* This rule implements this new performance standard by adding a standard for cost–sharing in subch. VIII.

Subject to the cost–share requirements in this rule, which remain unchanged, landowners must implement these new farm conservation practices to achieve compliance with the 2011 DNR standards. As part of this rule revision, however, DATCP plans to phase–in compliance with the 2011 DNR standards for landowners who claim Farmland Preservation Program (FPP) tax credits. This phase–in will enable farmers to plan in advance for necessary changes in conservation practices on their farms, and allow an orderly transition for counties from a system focused on implementation of the original performance standards (adopted by DNR in 2002) to the new standards (adopted by DNR in 2011).

This rule continues to allow farmers to choose the best way to comply with this rule. A farmer may choose between conservation practices that are appropriate for his or her farm, as long as those practices achieve compliance. In creating a cost–share standard for feed storage runoff control systems, this rule includes a note that explains the options to address a feed storage discharge, pointing out that farmers’ choices may be affected by whether they receive state and other cost–sharing funds intended to achieve long–term prevention and other conservation objectives. Farmers continue to have access to a range of resources such as DATCP, UW–Extension, NRCS and the county land and water conservation departments to secure technical assistance.

Cost–Sharing Required

DATCP has not changed the requirement for cost–sharing availability when a landowner is required to install

conservation practices that change “existing” agricultural facilities or practices. However, the DNR rule revision in 2011 changed the definition of “existing” and “new” agricultural facilities and practices for cost–share purposes. DNR’s rule did make changes in cost–sharing requirements in certain cases where landowners must close unused manure storage structures. This rule changes the cost–sharing provisions for landowners installing conservation practices in non–farm settings.

COUNTY SOIL AND WATER CONSERVATION PROGRAMS

Farmland Preservation: Conservation Standards

In addition to addressing 2011 DNR standards, this rule incorporates the changes to the conservation compliance requirements for FPP to reflect the passage of the Working Lands Initiative in 2009 Act 28, the state’s 2009–2011 biennial budget (codified primarily in ch. 91, Stats.). The key changes are as follows:

- This rule ensures that a farmer’s eligibility is based on meeting state conservation standards that mirror DNR performance standards and prohibitions, except that this rule phases in implementation of the 2011 DNR standards for FPP participants, making them effective as of 2016.
- Landowners with pre–2009 agreements are only required to meet the conservation requirements specified in their agreements, as under prior laws.
- The concept of compliance is defined. Landowners must comply with state standards on the farm, as defined in this rule, not just the land for which they are claiming a tax credit. However, landowners can remain in compliance with the nutrient management standard when they add or convert land as long they update their plans in a timely manner. A livestock or cropping activity may be treated as part of one farm operation if certain conditions exist. For example, if a farmer conducts activities on the same tax parcel or adjacent tax parcels of land, a county may evaluate all relevant parcels to determine compliance on a farming operation. To streamline county recordkeeping for DATCP monitoring purposes, the rule establishes minimum requirements for documenting county compliance determinations.
- Landowners may continue to claim tax credits if they enter into performance schedules (previously “compliance schedules”) with the county and make reasonable progress in implementing farm conservation practices identified in the schedule. Schedules may provide landowners with as many as five years to achieve compliance.
- Counties have expanded responsibilities related to compliance monitoring, including more detailed standards for entering into performance schedules with farmers. County authority is clarified to include farm inspections. Counties must review a farmer’s compliance at least once every 4 years, not 6 years as previously required.
- Counties must issue certificates of compliance to enable farmers to fulfill the documentation requirements in the tax law, and may issue certificates to create a record of compliance.
- As in the past, a county may issue a notice of noncompliance if it finds that a program participant is not complying. Now counties have the option to issue a notice if the landowner wishes to “refrain from

collecting a tax credit,” in addition to notices issued based on a failure to meet program requirements. This rule explains the need for counties to exercise sound judgment in handling of critical aspects related to monitoring conservation compliance on farms, including treatment of non–compliance and the issuance of notices of non–compliance.

GRANTS TO COUNTIES

Currently, DATCP must follow an annual allocation process to award grants to counties, including extensive procedures for revising the allocation plan. Allocation decisions are made according to priorities and other criteria, which are slightly changed by this rule to place greater emphasis on statewide priorities. This rule also simplifies the process for revising the allocation plan related to transfers and reallocations as noted below.

Annual Staffing Grants to Counties

This rule codifies a past decision by DATCP to waive the minimum staffing grant of \$85,000 per county, ensuring that DATCP funding is used to support the county’s actual costs for staff. To ensure that counties spend most of their allocation on staffing costs, this rule caps reimbursements for support costs. This rule also modifies the criteria DATCP uses to set priorities for making grant awards. Reflecting the end of the priority watershed program, obsolete procedures and references to that program have been removed.

Grants for Conservation Practices

This rule codifies a past decision by DATCP (through a rule waiver) to reinstate cost–sharing to resolve notices of discharge and notices of intent issued by DNR for discharges from livestock operations. It also formalizes procedures for the voluntary transfer of cost–share funds between two counties, or the award of grants from a reserve established in the original allocation plan. In regard to requests for extensions of projects, this rule simplifies the process for making requests and allows DATCP to accept requests for extensions received before February 15th of the subsequent grant year if good cause is demonstrated. Consistent with waivers issued by DATCP, this rule allows extended cost–share funds to be pooled and used for any extended project in the county, and also allows non–county project cooperators to request a one year extension to spend their grant funds.

Cost–Share Grants to Landowners

It also adds details to the procedures for recording cost–share contracts, including the timing for recording, the use of department grant funds to cover recording costs, and elimination of the requirement to record contracts involving nutrient management and other soft practices.

SOIL AND WATER PROFESSIONALS

Conservation Engineering Practitioners

Under s. 92.18, Stats., the department is directed to establish, to the extent possible, requirements for certification in conformance with the federal engineering approval system. This rule creates a more flexible and responsive framework for certifying engineering practitioners that better matches the federal system, and ultimately ensures maximum capacity for design and installation of farm and other conservation practices. In place of a list of practices prescribed by rule, this rule allows DATCP to grant certification for any practice authorized by NRCS and DNR as long as DATCP follows a public process specified in the rule to modify the list of practices for which certification may be provided. Less

complicated than a rule revision, this new process allows for public review and comment before DATCP changes the certification standards and the related form.

To improve coordination of the evaluation and rating of applicants, this rule allows DATCP to designate a state conservation engineer, to function similarly to the NRCS state engineer. Under this revamped framework, certification will likely include non–agricultural practices, and accordingly the certification designation has been changed from “agricultural” to “conservation” engineering practitioner.

This rule also imposes restrictions on the use of this certification authority to sign engineering documents, thus preventing one person from certifying all facets of a project including design, review and approval.

Nutrient Management Planners

This rule recognizes that DATCP may develop minimum standards for department–approved training courses for farmers who develop their own nutrient management plans.

COUNTY AND LOCAL ORDINANCES

This rule adds provisions to ensure compliance with the requirements of the livestock facility siting law (siting law). See s. 93.90, Stats., and ch. ATCP 51, Wis. Admin. Code. It makes clear that counties can enforce water quality standards in a siting permit even if cost–sharing is not provided. Consistent with the siting law, a county cannot require a permit under its manure storage ordinance if it also requires a facility to obtain a permit under a siting ordinance.

The standards for manure storage ordinances have been updated to reflect changes in the management of manure, including the use of storage for non–manure wastes such as feed leachate and milking center waste, and revisions of applicable technical standards to reflect those changes.

Regarding more stringent local regulation, this rule describes requirements imposed under the siting law to implement local ordinances with these additional provisions.

STANDARDS FOR COST–SHARED PRACTICES

This rule adds these general provisions that apply to all cost–shared practices:

- Expansion of the concept of voluntary use of updated technical standards, an option first adopted in ch. ATCP 50 in 2007 in connection with the nutrient management performance standard. Under this procedure, a landowner or grant recipient may agree to use updated NRCS or DNR standards as a part of cost–shared project if certain conditions are satisfied (e.g. the newer standard is at least as protective of the environment as the referenced standard).
- A process that allows DATCP to require advance approval of a practice design in special cases before any county can receive a cost–share reimbursement for installation of the practice.

In addition to updating NRCS and other technical standards incorporated into this subchapter, this rule:

- Creates a standard for cost–sharing systems to control discharges of feed storage leachate to complement the cost–share standard to address discharges of milkhouse wastewater (see s. ATCP 50.77).
- Clarifies the responsibility of a landowner to maintain the storage capacity of the original storage facility cost–shared by DATCP, if animal units are added during the maintenance period of the manure storage cost–share contract.

- Recognizes the use of a limited set of practices such as access roads and streambank and shoreline protection in non–farm contexts, but imposes restrictions to prevent misuse of limited state cost–share funds (e.g. access roads cannot be used to pay for road building for public use).
- Separates cattle crossings from access roads as a cost–shareable practice and creates a new standard for “stream crossing.”
- Eliminates heavy use area protection as a separate cost–shareable practice and allows this practice only as a component of other practices such as barnyard runoff control systems.
- Provides more flexibility to cost–share pesticide spill control structures without the requirement of a pesticide management plan in all cases.
- Better defines structural and bioengineering treatments that are cost–shareable under streambank or shoreline protection and makes other changes to the standard.

Standards Incorporated by Reference

Pursuant to s. 227.21, Stats., DATCP has requested permission from the attorney general to incorporate the following standards by reference in this rule:

- NRCS technical guide standards and related documentation.
- ASCE and other private sector–developed engineering practice standards.
- State agency (DNR, DOT) erosion control standards for construction sites and stormwater management.
- UW–Extension publications including milking center waste water management, rotational grazing, and soil and manure testing.
- NRCS standards for determining soil erosion (RUSLE 2, WEPS).

Copies of these standards will be on file with DATCP and the legislative reference bureau. DATCP has discontinued the practice of including key documents as appendices and will utilize its website to indicate where documents may be obtained.

Waivers

DATCP may grant a waiver from any standard or requirement under this rule if DATCP finds that the waiver is necessary to achieve the objectives of this rule. The DATCP secretary must sign the waiver. DATCP may not waive a statutory requirement.

Land and Water Conservation Board

The land and water conservation board has reviewed this rule as required by s. 92.04 (3) (a), Stats.

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

NRCS has adopted standards for conservation practices cost–shared by NRCS. Current DATCP rules incorporate many NRCS standards by reference. In most cases, the standards apply only to conservation practices cost–shared with DATCP funds. But in some cases (such as nutrient management), DATCP rules incorporate the NRCS standards as mandatory pollution control standards. Enforcement of these mandatory standards is generally contingent on cost–sharing (there are limited exceptions).

While NRCS sets national standards, standards vary, to some extent, between states. NRCS coordinates its Wisconsin standard–setting process with DATCP, DNR and others. For

purposes of Wisconsin's soil and water conservation program, DATCP may incorporate NRCS standards as written or may modify the standards as appropriate. This rule will modify current DATCP rules that incorporate NRCS standards by reference. This rule may incorporate updated NRCS standards, or may modify NRCS standards to make them more clear or workable in Wisconsin's soil and water conservation program. It will allow landowners receiving cost-sharing to voluntarily take advantage of new NRCS standards not yet incorporated into rule, thereby ensuring that they get the most value for their investment in practices.

NRCS certifies engineering practitioners who design, install or approve conservation engineering practices cost-shared by NRCS. DATCP certifies practitioners who perform similar functions under DATCP rules. As noted above, this rule makes changes to better match the state and federal programs, which ultimately will benefit the landowners who rely on technical services from engineering practitioners.

The United States Department of Agriculture administers a number of federal programs that offer voluntary conservation incentives to farmers. The Environmental Quality Incentives Program (EQIP) is a key program offering cost-sharing for conservation improvements, including nutrient management plans, manure storage improvements and other conservation practices. As a result of confidentiality requirements, federal cost-sharing provided to landowners through this and other NRCS cost-share programs cannot be publicly disclosed. Without accurate historical data about past use of NRCS cost-sharing to implement state conservation standards, it is difficult to account for the role these funds may play in the future.

Other programs, such as the Conservation Reserve Program (CRP) and the Conservation Reserve Enhancement Program (CREP) also provide cost-sharing and other incentives for conservation practices. DATCP attempts to coordinate state programs for conservation funding with relevant federal programs.

Comparison with rules in adjacent states

This comparison examines how surrounding states are addressing issues related to the 2011 DNR standards, with particular focus on the implementation of such standards through farmland preservation activities. In general, the adjacent states do not use statewide performance standards specifically designed to address polluted runoff from agricultural sources. However, these states have various regulations and procedures in place to address many of the polluted runoff sources that these rule revisions address. All four states use the phosphorus index in some form but none use it in the same manner as ch. NR 151 provides. For example, phosphorus management strategies in Michigan are implemented as part of the state's Generally Accepted Agricultural and Management Practices (GAAMPs). Wisconsin's approach differs from the programs in adjacent states in that it has more detail in its phosphorus index, is more quantitative and has more research to validate it. Also, in Wisconsin, pursuant to s. 281.16, Stats., cost-sharing must be made available to existing agricultural operations before the state may require compliance with the standards. Cost-sharing is often tied to compliance responsibilities in adjacent states, but there are instances where farmers must

meet standards other than the phosphorus index as part of regulatory programs.

Illinois

Using a different framework and programming, Illinois implements several standards similar to those adopted in Wisconsin. In addition to implementing a phosphorus index for large livestock operations, Illinois encourages the equivalent of a tillage setback for croplands through a property tax incentive related to the construction of livestock waste management facilities. This incentive applies to the installation of vegetative filter strips in cropland that is surrounding a surface-water or groundwater conduit. Illinois law does not allow raw materials, by-products and products of livestock management facilities, including milkhouse waste, silage leachate, and other similar products to be discharged to waters of the state.

While Illinois has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Iowa

Like Illinois, Iowa requires that nutrient management plans for livestock operations of 500 or more animal units be based on the phosphorus index. Iowa does not require a separation distance between tillage activities and waterbodies. Iowa prohibits discharges to waters of the state, polluting waters of the state and discharge to road ditches. Medium-sized livestock operations are required to install runoff controls to eliminate discharges of process wastewater into waters of the state. See Iowa's website at: http://www.iowadnr.gov/portals/idnr/uploads/afo/fs_desncriteria_medcafo.pdf.

While Iowa operates a county-based statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Michigan

Michigan relies on GAAMPs [see *Generally Accepted Agricultural and Management Practices for Manure Management and Utilization* (January 2012)] to support the Michigan Agriculture Environmental Assurance Program (MAEAP), which includes a compliance verification process that ensures nuisance protection to farmers under Michigan's Right to Farm law. GAAMPs covers standards similar to those in Wisconsin including standards for process wastewater and pasture management. These standards are implemented as part of the state's right to farm law and its complaint investigation program. The state assesses problems identified through complaints, and farmers must take corrective action to earn nuisance protection under the right to farm law.

Michigan does not require a separation distance between tillage activities and waterbodies. The state's regulatory requirements regarding process wastewater only apply to permitted concentrated animal feeding operations, but discharges from smaller farms are generally prohibited as a violation of water quality standards.

While Michigan has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits,

the program does not include conservation compliance requirements

Minnesota

Minnesota implements a variation of a tillage setback in limited settings, requiring a 16.5 foot (one rod) grass strip along certain public drainage ditches as well as vegetated strips, restored wetlands, and other voluntary set-aside lands through federal, state and local programs. For process wastewater, Minnesota rules place a limit of less than 25 mg/l BOD5 (biological oxygen demand) that can be released to surface water and, if released to a leach field, the threshold is less than 200 mg/l BOD5. State and local officials work with pasture owners to prevent and abate water quality violations (Minn. R. ch. 7050 and 7060) that may be created by sediment or nutrient runoff from poorly managed pastures.

Under its feedlot program, Minnesota imposes mandatory requirements on about 25,000 registered feedlots. This program requires feedlot owners, ranging in size from small farms to large-scale commercial livestock operations, to “register with the MPCA, and meet the requirements for runoff discharge, manure application and storage, and processed wastewater.”

While Minnesota has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Summary of factual data and analytical methodologies

To develop this rule, DATCP participated in the DNR advisory group convened as part of the revision of NR 151, worked with DNR to achieve a revision of NR 151 consistent with statutory framework and the interests of regulated groups and other stakeholders, informally worked with interest groups including organizations representing farm groups, environmental groups, and government entities such as county land and water conservation departments, conducted listening sessions with affected parties to secure input, and prepared an assessment of the business impacts using DNR’s assessment and a methodology similar to the one used for the 2002 nonpoint rule revision.

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

In preparing its analysis and supporting documentation, the department consulted with stakeholder groups, reviewed rule documents developed by DNR related to the adoption of 2011 DNR standards, including revised fiscal estimate and final rule order, and estimated costs using a methodology similar to the one used for the 2002 nonpoint rule revision.

Effects on Small Business

Most impacts of this rule will be on farmers, a great majority of whom qualify as “small businesses.” The analysis of the impacts on farms takes into consideration the following factors:

- The proposed rule does not add standards for farms. Those were created by DNR in 2011, but focus on implementation of DNR’s standards. DNR’s analysis of the 2011 standards was consulted.
- In its implementation of the 2011 DNR standards, this rule includes measures intended to minimize the financial impacts on farmers, including a phase-in of the nutrient management requirements for pasture,

and limitations on increasing the tillable setback over 5 feet.

- Most farmers will be insulated from some of the costs of implementation by the state’s cost-share requirement and the limited state funding available to provide cost-sharing.
- For farmers receiving farmland preservation tax credits, this rule provides farmers flexibility to minimize the financial impacts related to compliance (which range from \$8 to \$12 million state-wide), including a delay in the effective date for compliance with the 2011 DNR standards, the use of performance schedules, pursuit of cost-sharing for which they are eligible, use of a tax credit to offset some implementation costs, or if needed, withdrawal from the farmland preservation program to avoid unmanageable costs.

The proposed rule changes will have small, but positive impacts on businesses other than farmers. Those businesses include nutrient management planners, soil testing laboratories, farm supply organizations, agricultural engineering practitioners, and contractors installing farm conservation practices. The *Initial Regulatory Flexibility Analysis*, which will be filed with this rule, provides a more complete analysis of this issue.

Initial Regulatory Flexibility Analysis

Rule description

General

This proposed rule will modify the soil and water resource management (SWRM) program under ch. ATCP 50, primarily for the purpose of incorporating the changes in ch. NR 151 adopted by the Department of Natural Resources (DNR) in 2011.¹ Specifically, the changes of most significance for this analysis center on the agricultural conservation standards and practices in subchapters I and II of ATCP 50, requirements for farmland preservation conservation compliance in subchapter III and the technical and other standards for practices cost-shared with state funds in Subchapter VIII. Farmers and others may benefit from other rule changes intended to improve program implementation, such as cost-sharing modifications for non-farm conservation practices and clarification of the process for certifying engineering practitioners.

Small businesses affected

The moderate impacts of this rule will mostly affect farmers, a great majority of whom qualify as “small businesses.” It is important to note that this rule does not impose new runoff control standards on farmers beyond those required by the 2011 changes to ch. NR 151 (2011 DNR standards), and, in fact, this rule takes certain steps to minimize impacts by defining implementation steps. Most farmers will be insulated from some of the costs of implementation because of the state’s cost-share requirement and the limited availability of state funding to provide cost-sharing. For farmers receiving farmland preservation program (FFP) tax credits, this rule provides farmers the flexibility to minimize financial impacts of compliance, including the option of discontinuing collection of a tax credit as a last recourse to avoid compliance responsibilities.

Rule changes will also affect businesses other than farmers including nutrient management planners, soil testing laboratories, farm supply organizations, agricultural engineering practitioners, and contractors installing farm

conservation practices. The rule will impact these businesses to a much smaller degree, and with primarily positive impacts.

To reach its conclusion regarding impacts on farmers and non–farmers, the department first defines its responsibility to assess impacts in relation to DNR’s responsibilities. To place its analysis in context, the department reviewed the cost estimates prepared by DNR as part of its adoption of the 2011 agricultural performance standards. This review includes a discussion regarding DNR’s primary justification asserting the limited impacts of the 2011 DNR standards; namely, the cost–share requirement imposed by state law.

The analysis then turns to the impacts directly related to this rule, which focuses on implementation of the 2011 DNR standards. The department separately analyses the impacts on farmers and non–farmers, and each of these analyses considers the direct costs and benefits of this rule; reporting, bookkeeping and other procedures; and professional skills required. Key aspects of this rule that are designed to minimize impacts of the 2011 DNR standards on farmers are also included in this analysis. The department also considered the requirements of the farmland preservation program, as modified by this proposed rule, in assessing the impacts. After performing this expanded analysis of costs and impacts, the department finds no reason to modify DNR’s conclusion regarding the impacts of the 2011 DNR standards, and ultimately the department concludes that this rule will create no more than a moderate impact on farmers and other businesses.

DNR Impact Analysis

When DNR adopted the new and modified state runoff standards for farms as the lead agency responsible for setting performance standards, it analyzed the costs of the new and modified standards as part of its fiscal and business analyses, received public comment, and then summarized its conclusions in its final rulemaking documents.

DNR’s 2011 rule revision expanded the runoff standards for farms, and was a minor adjustment in comparison to the 2002 rule that created the new state agricultural performance standards. The 2011 DNR standards defined the framework for the department’s limited rulemaking, relegating the department to clarification of the practices and cost–sharing needed to comply with the new ch. NR 151 requirements.

DNR’s 2011 rule order added the following new and modified performance standards to address polluted runoff from farms:

- A setback area between cropland and waterbodies within which tillage is prohibited for the purpose of maintaining streambank integrity and avoiding soil deposits into state waters.
- A new annual and rotational limit on the amount of phosphorus that may run off cropland and pasture, as measured by a phosphorus index.
- Extension of the sheet, rill and wind erosion standard to pastures starting July 1, 2012.
- A prohibition against significant discharge of process wastewater from milk houses, feedlots, and other similar sources.
- A requirement that crop and livestock producers reduce discharges if necessary to meet a load allocation specified in an approved Total Maximum Daily Load (TMDL) by implementing targeted performance standards specified for the TMDL area

using best management practices and farm conservation practices in ch. ATCP 50.

- Manure storage standards for existing and new facilities are modified to include margin of safety requirements, and redefine responsibilities for closure.

In its 2011 rulemaking order (p. 10), DNR reached the following conclusion regarding impacts on small businesses: “the overall effect on small businesses may be increased time, labor and money spent on BMPs or planning tools, but there will not be a significant economic impact on small business.” This conclusion applies to most farms which are considered small businesses. Also, the small business focus is a reliable measure of impacts on all farms because many of our state’s largest livestock operations must already meet process wastewater and nutrient management requirements as part of their WPDES permits, including pastures. Confirming this interpretation of overall impacts, DNR’s revised Fiscal Estimate, which specifically addressed all private sector impacts and concluded that: “The department [DNR] does not believe that the rule revisions will have a significant fiscal impact on the private sector.”

Regarding increased time, labor and money, DNR’s rule making order (pp. 9–10) states that: “the rules will not result in additional reporting or significant increases in record–keeping requirements for small businesses. Rather than mandate specific design standards, the rules either establish new performance standards or revise existing performance standards.”

To support its assessment of the financial impacts of the 2011 DNR standards, DNR’s rule making order (pp. 9–10) provides the following:

“Agricultural producers who are in compliance with the existing nutrient management performance standard may already be in compliance with the new phosphorus index and tillage setback performance standards. A phosphorus reduction strategy is included in NRCS nutrient management technical standard 590 (Sept. 5, 2005). A phosphorus index of 6 or less is specified in the PI strategy in Criteria C, 2 of the technical standard. The concept of streambank integrity, as proposed through a tillage setback performance standard, is an assumption of the phosphorus index calculation, which estimates phosphorus delivery to the stream via overland flow, but not from bank erosion or other means that soil, manure or fertilizer might enter the stream from farming operations.”

DNR’s revised Fiscal Estimate (p. 4) also discusses provisions of the new standards designed to “limit the financial impact of the new standards on the private sector” and provides these examples:

“In the agricultural portion of NR 151, the Phosphorus Index (PI) performance standard requires that the average PI calculated over an 8–year period shall not exceed 6, and also requires that the PI shall not exceed 12 in any year. Allowing use of planning information until records can be established will greatly reduce the effort required to document the PI accounting period. Crop producers may use alternative methods to calculate the PI for situations where available tools are not adequate, which will help some producers such as cranberry farmers develop suitable methods to determine compliance. A PI cap of 12

provides considerable leeway to manage crops using conventional methods, although in some cases additional cropping management measures will still be needed such as where corn silage is grown on steeper slopes or where vegetable crops are grown in areas where excessive phosphorus has accumulated in soils. The standard tillage setback requirement is 5 feet, which will not significantly reduce the amount of land available for cropping. The rule contains provisions that allow some bare areas within pastures for cattle travel lanes and supplemental feeding areas. This will allow standard pasturing management, although if such bare areas become significant pollution sources then they will be subject to additional management requirements.”

DNR evaluated specific costs in reaching its conclusions about the new and modified performance standards. For example, the revised Fiscal Estimate (p. 2) provides a detailed calculation in relation to implementation of the new process wastewater performance standard. Based on a \$13.3 million estimate for the cost of full implementation, DNR determined that the state would need \$9,312,500 for landowner cost-sharing, with landowners responsible for paying about \$4.0 million if 70 percent cost-sharing were provided.

Cost–Share Requirement Limits Impact

The state cost–share requirement was critical to DNR’s determination regarding the limited economic impact of the 2011 DNR standards. In support of its position, DNR in the final rule making order (p. 10) explains:

“Compliance requirements for agricultural producers vary depending on the type of operation and the performance standard, but the revisions to the rules will not change the existing compliance requirements for agricultural operations. Under state law, compliance with the performance standards is not required for existing nonpoint agricultural facilities and practices unless cost sharing is made available for eligible costs. A less stringent compliance schedule is not included for agricultural producers because compliance is contingent on cost sharing and in many cases, it can take years for a county or the state to provide cost share money to a producer.”

The following facts bear out DNR’s position about the relationship between funding and implementation of the 2011 DNR standards on Wisconsin’s 78,000 farms (2011 Wisconsin Ag Statistics). Based on state cost–sharing provided in the 10 years from 2003–2012, the state is likely to provide no more than \$10–\$13 million annually to cost–share practices in the future, and it is likely that funding may even decline further.² Between \$8 to \$10 million annually will likely be in the form of bond revenue funds that can be used to pay for hard practices such as those to control discharges of process wastewater or stabilize streambanks to protect their integrity. Only \$2 to \$3 million will likely be available each year to cost–share nutrient management plans for pastures and soil erosion control practices needed to meet the phosphorus index (PI) performance standard.

In addition to possible reductions in funding based on budget considerations, other factors will limit the amount of state funds available to cost–share the 2011 DNR standards. In the foreseeable future, much, if not all, of state funds are likely to be spent on cost–sharing practices to comply with the original performance standards and prohibitions adopted in 2002. At the time of their adoption in 2002, the department and DNR estimated that \$373–\$573 million were necessary

to fully implement the original performance standards over ten years. In its first ten years of implementation of the designed nonpoint program, DNR and DATCP provided \$100 million in cost–share funding. Less certain in terms of future trends, but no less important, is that there may be reduced state support for county conservation staff if recent budget cuts become the norm. County conservation staff are the only public sector professionals authorized to distribute state cost–share funding from the department and DNR. Reduced staff support translates into fewer county staff in the field and diminished capacity to provide technical services and to deliver cost–share dollars.

DATCP Impact Analysis

Under the state framework for managing farm runoff, the department is responsible for implementation of performance standards promulgated by DNR. In the case of the 2011 DNR standards, DNR rule changes went beyond setting performance standards³, further circumscribing the department’s rule making options and confining the impacts arising out of this proposed rule. In the end, the key focus of ch. ATCP 50 rule revisions involves clarifying the implementation of the new standards for pastures and a tillage setback, and the implications of the new standards for farmer participants in FPP. As noted in the “Accommodation for Small Business”, this rule in fact employs measures to minimize those impacts generally, and specifically in regard to the FPP participants.

Farmers

IMPLICATIONS FOR RECIPIENTS OF FARMLAND PRESERVATION PROGRAM (FPP) TAX CREDITS

The impacts from this rule on farmers participating in the FPP arise from the changes related to FPP implementation. In the case of the 15,023 farmers who collected \$18.9 million in farmland preservation tax credits (based on 2012 payments for tax year 2011 claims, <http://www.revenue.wi.gov/ra/FarmPres2012payments.pdf>), they may be required to comply with new and modified standards without cost–sharing. Identifying impacts with precision is complicated by a number of factors including the changes in program participants over time, the compliance status of new participants, and the range of options to achieve compliance.

The department’s proposed rule revision has taken several steps to limit impacts on this group by providing time for program participants to comply with the new and modified performance standards, and allowing participants to claim a tax credit on the basis of performance schedules. In addition, the proposed rule has sought to ease the transition to the standards for farmers with pastures by first focusing application of nutrient management plans to pastures in high risk locations. Also, farmers may receive cost–sharing to install conservation practices necessary to maintain their eligibility for tax credits. Last, but not least, farmers who do feel the compliance burdens are too great may decide to stop collecting a tax credit rather than implement the new standards.

Notwithstanding these accommodations, there is a fiscal impact on FPP farmer participants. To comply with the phosphorus index requirement, FPP participants have alternatives short of installing soil erosion control practices to reduce discharges. In the quote from the DNR fiscal estimate (pp. 4–5 above), several options are discussed. However, some participants may need to install conservation practices to reduce erosion on cropland. By 2020, when the phase–in for pastures is completed, all farmers will need to develop

nutrient management plans for pastures. In the end, the department estimates that FPP participants may need to spend \$5 to \$7 million to develop nutrient management plans for their pastures once the requirement is fully phased in. To meet the process wastewater standard, this rule gives producers options to reduce discharges below the significant threshold without installing the most expensive practices required when state or federal cost-sharing is provided. However, to access cost-sharing, some farmers may select higher-cost options which require that they install practices that must fully meet NRCS technical standards and specifications. The department estimates that the costs for meeting the process wastewater standard will range from \$2 to \$4 million.

RECORDKEEPING AND NEW SKILLS REQUIRED

In considering impacts, the department must evaluate additional reporting or record-keeping requirements imposed on farmers, particularly with respect to nutrient management planning. Consistent with DNR's assessment, the department believes these impacts will not be significant. Among the chief reasons for this conclusion, the department assumes that these obligations will not arise in most cases unless farmers are provided cost-sharing. For those farmers who must comply with nutrient management requirements related to the new pasture standard or the phosphorus index, they will need to:

- Manage soil test and other data to prepare nutrient management plans.
- Understand and keep records of soil types, soil tests, crop nutrient requirements (including University of Wisconsin recommendations), nutrient applications, nutrient contents of manure, nutrient application scheduling and other matters related to nutrient management. Most farmers have knowledge in some or all of these areas, but some farmers may need to update or expand their knowledge.

The increased requirements for nutrient management planning are slight in comparison with the responsibilities imposed on farmers in 2002 when the nutrient management standards were first adopted, or in comparison to 2005 when the standard was modified to include the phosphorus component. As noted in the DNR Revised Fiscal Estimate (p. 4), "allowing use of planning information until records can be established will greatly reduce the effort required to document the PI accounting period."

Farmers claiming FPP tax credits already must keep records to document compliance with the DNR performance standards adopted in 2002. For FPP participants, additional recordkeeping created by this rule should be minimal. For example, since farmers already must keep records related to nutrient management plans, farmers should be able to readily incorporate requirements relating to pasture and PI into their systems.

By its nature, the business of farming requires that farmers be skilled at managing changes that are driven by the need to incorporate new technologies, respond to growing conditions or modify production methods. In changing bedding systems for livestock, for example, a farmer must work through a challenging series of steps to deploy new equipment and change management practices, and may use adaptive management techniques to overcome challenges. The skills and experience gained in these settings help farmers manage newly installed conservation practices such as feed storage runoff control systems. Nonetheless, there is a learning curve

that farmers must negotiate. In the case of nutrient management, farmers may need to build their skills with computers to take advantage of tools that facilitate tracking of the PI on cropland and pastures.

Whether the challenge involves recordkeeping or new skills, the demands of this rule should be viewed in the larger context of the many programs in which farmers participate. Farmers need to make changes to meet other program requirements including state and local permitting and federal cost-share programs. For example, expanding livestock operations must at a certain point control discharges of process wastewater as condition of a required permit. Many programs, from county manure storage permits to FPP, require that farmers have nutrient management plans for their cropland. For farmers in these programs, it is a small step to add pastures to these required nutrient management plans.

OVERALL IMPACT ON FARMERS

This impact analysis focuses primarily on the costs associated with compliance by participants who claim FPP tax credits. In evaluating the net impact on FPP participants, the department weighed the potential costs against offsetting considerations such as DNR and department rule provisions intended to minimize implementation costs, the option of withdrawing from the program, access to cost-share funds, and the availability of tax credits to offset costs. In its final analysis, the department estimates an impact of \$8 to \$12 million to implement the 2011 DNR standards based on FPP cross-compliance.

The department believes that recordkeeping and other increased responsibilities are offset by a number of factors including DNR and department rule provisions that minimize burdens, and the following potential benefits from implementation of the 2011 DNR standards:

- Promotion of more efficient use of nutrients and possible cost-savings on fertilizer through nutrient management planning.
- The implementation of conservation practices that provide protection against environmental and other liability created by runoff events or groundwater contamination.
- The protection of water quality, particularly for drinking water wells, through conservation practices.
- Improved availability of the department cost-sharing as a result of cutting red tape and adding new efficiencies in managing grant funds.
- Improved focus of limited cost-share funds on support for farmer compliance with conservation practices by excluding the use of cost-sharing on land owned by state and local governments, and (limiting or encouraging reduced) cost-sharing for practices not required to achieve compliance with state runoff performance standards, and by clarifying that economic hardship is not available to non-farm landowners.
- Provision of a wider range of engineering services from conservation engineers to farmers and others as a result of the simplification of the process for updating their certification.

Non-Farm Businesses

This rule has the following impacts on non-farm businesses, a considerable number of which qualify as "small businesses."

NUTRIENT MANAGEMENT PLANNERS AND CROP CONSULTANTS

This rule will marginally increase the demand for professional nutrient management planners to help implement the phosphorus index and to develop nutrient management plans for pastures. Nutrient management planners who prepare plans for others must be qualified to do so, and these qualifications will equip them to develop plans for pastures. Nutrient management planners must know how to prepare nutrient management plans. They must understand and follow record keeping requirements related to soil types, soil tests, crop nutrient requirements (including University of Wisconsin recommendations), nutrient applications, nutrient contents of manure, nutrient application scheduling and other matters related to nutrient management. Planners holding certain professional credentials are presumed to be qualified. Professionals with the knowledge and skill to use SNAP–Plus, a computer program critical to calculating the phosphorus index, are in a special position to capture business.

FARM SUPPLY AND FARM SERVICE ORGANIZATIONS

This rule will marginally increase the demand for entities that provide services to farmers. Farm supply and farm service organizations may provide nutrient management planning services, crop consulting, fertilizer sales, conservation compliance and other services. They may also sponsor the department–approved training courses for farmers who wish to develop their own nutrient management plans.

This rule will not necessarily increase demand for manure hauling services. Nutrient management planning on pastures will not trigger demand for this service.

This rule is not likely to have a measurable impact on the sales of agricultural fertilizers, since it will not likely to create an increase in sales to those farmers who must manage nutrients more carefully. Persons selling agricultural bulk fertilizer to farmers must record the name and address of the nutrient management planner (if any) who prepared the farmer’s nutrient management plan. This rule does not prohibit the sale of fertilizer to a farmer who lacks a nutrient management plan.

SOIL TESTING LABORATORIES

This rule will slightly increase demand for soil testing. Nutrient management plans must be based on soil tests conducted by certified laboratories. The department certifies soil testing laboratories and may audit laboratories to ensure accurate testing.

CONSTRUCTION CONTRACTORS

This rule will slightly expand the demand for construction of farm practices by contractors, particularly in the area of process wastewater management. This rule does not substantially alter construction standards for new or modified performance standards, nor does it impose any new contractor reporting or recordkeeping requirements. This rule may affect construction demand and the distribution of projects across the state. Certain changes such as limitations on cost–sharing for non–farm projects may reduce certain business opportunities. This may not affect large contractors who can make adjustments to handle changes in demand, but smaller, less flexible operations may be negatively affected.

CONSERVATION ENGINEERING PRACTITIONERS

This rule may increase demand for agricultural (conservation) engineers and engineering practitioners. Certain conservation practices must be designed by licensed engineers or certified engineering practitioners, to ensure safety and effective performance. Engineering costs are eligible for cost–sharing under this rule.

Under this rule, as under prior rules, conservation engineering practitioners must be certified by the department. This rule simplifies current certification requirements and procedures.

RECORDKEEPING AND NEW SKILLS REQUIRED FOR NON–FARM BUSINESSES

This rule does not directly trigger changes in reporting, bookkeeping or other procedures for non–farm businesses.

Business professionals will need to enhance their skills to help farmers implement the 2011 DNR standards; however, these professionals will likely take these actions for reasons other than this rule. Engineers and nutrient management planners must keep pace with the latest technical standards to meet the needs of customers and protect themselves from liability. Certain professionals such as engineers and certified crop advisors are required to update their skills to retain their registration or certification.

Reporting, bookkeeping and other procedures

To the extent that this rule requires reporting, bookkeeping or other procedures, the department’s analysis is included in the prior sections covering impacts on farmers and non–farm businesses.

Professional skills required

To the extent that this rule requires changes in professional skills, the department’s analysis is included in the prior sections covering impacts on farmers and non–farm businesses.

Accommodation for small business

Both DNR and the department have taken steps to identify compliance and reporting effects of these rule changes. In its final rule draft, DNR considered: (1) the existing performance standards and prohibitions in ch. NR 151, (2) the requirements of NRCS technical standard 590 needed to meet the nutrient management performance standard, (3) assumptions contained in the Wisconsin phosphorus index, and (4) feedback from members of advisory committees that included small business owners and organizations. The department worked extensively with farm representatives and others to minimize adverse effects of this proposed rule on small business. The department took the following actions: (1) worked with DNR to determine the scope of the department rule revision, (2) conducted listening sessions that included farm and conservation groups, (3) held numerous public hearings throughout the state, (4) prepared simplified information materials, and (5) reviewed the rule to identify opportunities to accommodate small businesses.

While DNR’s 2011 rule revision established the core requirements, most of which the department could not alter, the department’s proposed rule provides accommodations to small businesses. These accommodations minimize the impact on farms and other businesses, both small and large. In general, this rule:

- Clarifies the process for annual review of nutrient management plans to ensure that plans are updated when needed.

- Allows farmers to identify practices to meet new performance standards such as the process wastewater standard, particularly if the discharge can be reduced to below the level of “significant”.
- Seeks voluntary compliance with the rule changes to the maximum extent feasible, consistent with the department’s past approach.
- Incorporates NRCS standards for feed storage, manure storage and waste transfer that recognize less costly approaches to manage smaller systems.
- Eases the transition for farmers with pastures by limiting the initial application of nutrient management plans to pastures in high risk locations.
- Improves availability of department cost-sharing by cutting red tape and adding new efficiencies in managing grant funds.
- Minimizes the removal of cropland from production necessary to comply with tillage setback within NR151, through precise interpretation of the tillage setback requirements.
- Enables conservation engineers to provide a wider range of engineering services to farmers and others by simplifying the process for updating their certifications.

In connection with the farmland preservation program, this rule:

- Provides a phase-in for 2011 DNR standards for farmers who must meet the conservation compliance requirements to receive a farmland preservation tax credit.
- Creates a range of options for a farmer, from a performance schedule to voluntary exit from the program, which will enable farmers to make choices about how to meet the added compliance responsibilities.

Conclusion

This rule will have no more than a moderate impact on farmers, including “small businesses.” The limited scope of the rule changes, combined with the cost-share mandate, account for the reduced impact. Other businesses may slightly benefit from these rule changes.

¹ DNR’s final rulemaking order of September 24, 2010, Administrative Rule Number WT-14-08, as well as revised fiscal estimate is available at <https://health.wisconsin.gov/admrules/public/Rmo?nRmold=1703>.

² If recent history is any indicator, the state is less likely to increase spending and incur debt. In 2012, for example, the department and DNR each year provided counties about \$10.8 million in cost-share funding, a reduction of nearly \$8.0 million from the amount provided in 2002 when there were fewer performance standards.

³ For example, DNR established the definition of pasture, and assumed responsibility for approving an alternative method for calculating the phosphorous index. Nor can the department address DNR’s rule change to eliminate the cost-share requirement for closing manure storage facilities that do not meet s. NR 151.05 (3) and “were either constructed on or after Oct. 1, 2002, or were constructed prior to Oct 1., 2002, and subject through Oct. 1, 2002, to the operation and maintenance provisions of a cost share agreement.”

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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		
ATCP 50, Soil Water Resource Management		
Subject		
Soil and Water Resource Management		
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 checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S		20.115 (7) (c), 20.115 (7) (qe), 20.115 (7) (qf), 20.866 (2) (we)
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 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

ATCP 50 is being revised primarily to implement the new and modified agricultural runoff control standards adopted by the Department of Natural Resources (DNR) in 2011 (hereinafter referred to as “2011 DNR standards”). The 2011 DNR standards require farmers to improve pasture management, maintain a tillage setback, control discharges of process wastewater, meet Phosphorus Index targets for nutrient management, and meet targeted performance standards for Total Maximum Daily Loads (TMDLs). Under state law, the Department of Agriculture, Trade and Consumer Protection (“DATCP” or the “department”) is responsible for developing conservation practices and other components to implement performance standards for farms. This rule will update the farm conservation standards in Subchapter II and related definitions, including updates to the RUSLE 2 definition, revise the soil erosion standard to include pastures, modify nutrient management planning requirements for pastures, and identify a method for establishing the distance between 5 and 20 feet for a tillage setback.

In addition, this rule will make adjustments to improve the framework for the statewide soil and water resource management (SWRM) program. In regard to the farmland preservation program (FPP), this rule will better define conservation compliance requirements, including a phase-in of the updated farm runoff standards in NR 151. This rule will improve the mechanism for distributing department grant funds to counties (Subchapter IV), with a primary goal of ensuring that farmers have access to funds needed for extended implementation responsibilities, and identify a process for providing cost-share dollars that is more efficient and customer friendly. Changes in the rule will also simplify the manner in which engineering practitioners are certified.

In most cases, farmers cannot be required to implement new and modified performance standards unless they receive an offer of 70 percent cost-sharing. This rule will update the technical and other standards for practices cost-shared with state funds in Subchapter VIII.

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)

Impact on Business Sectors

This rule will mostly impact farmers, a great majority of whom qualify as “small businesses.” The analysis of the impacts on farms takes into consideration the following factors:

- The proposed rule does not add standards for farms as DNR created those standards in 2011. This rule focuses on several mechanisms for implementation of DNR’s standards. DNR’s analysis of the 2011 standards was consulted when developing this analysis.
- In its implementation of 2011 DNR standards, this rule includes measures intended to minimize the financial impacts to farmers by including a phase-in of the nutrient management requirements for pasture, and limitations on increasing the tillable setback over 5 feet.
- Most farmers will be insulated from costs of implementation by the state’s cost-share requirement and limited state funding available to provide cost-sharing.
- For farmers receiving farmland preservation tax credits, this rule provides flexibility to minimize the financial impacts related to compliance (which range from \$8 to \$12 million), including the use of performance schedules, pursuit of cost-sharing for which they are eligible, use of a tax credit to offset some implementation costs, or if needed, may avoid unmanageable costs by electing not to collect tax credits under the farmland preservation program.

The proposed rule changes will have a small, but positive impact on businesses other than farmers. Those businesses include nutrient management planners, soil testing laboratories, farm supply organizations, agricultural engineering practitioners, and contractors installing farm conservation practices. The *Initial Regulatory Flexibility Analysis*, which accompanies this rule, provides a more complete analysis of the issue.

Utility Rate Payers

The rule will have no impact on utility rate payers.

State and Local Government

This rule is expected to have minimal impact on local and state governments since neither is likely to increase expenditures to accelerate implementation of the 2011 DNR standards within 10 years. This conclusion is based on spending trends over the last 10 years, which have seen state funding for staffing and cost-share grants remain level or in some cases decline, and trends in reducing county commitments to conservation programming. State and local governments are likely to use existing resources for implementation, and prioritize implementation within their existing framework.

Local governments

Full implementation of the 2011 DNR standards requires increased effort from counties who are the primary entities responsible for implementing farm runoff standards, with the bulk of the workload falling on counties with the highest acres in farmland (40 counties have over 175,000 acres of farmland according to the 2007 Ag Census). Within these agricultural counties, those with farmland preservation program (FPP) participants will see the greatest workload increases. Among other things, counties must develop land and water resource management (LWRM) plans to implement expanded state runoff standards, learn requirements to provide effective technical assistance, conduct systematic evaluations of farms to assess their compliance status, prepare records to document their status, identify and access state and federal cost-share funds needed to install additional conservation practices, provide technical assistance to design and install needed conservation practices, and monitor compliance status particularly for farmers who claim FPP tax credits. Most of these work activities must be performed even if cost-share dollars are not increased.

The department believes that an additional 40 county land conservation staff are needed to assist farmers in implementing practices to achieve compliance with the 2011 DNR standards, with the greatest need in the 40 counties with the most farmland. Using the latest salary and fringe benefits costs for engineers, outreach specialists and technicians, whose salary falls within the range of \$55,000 to \$65,000 per year per person, the department estimates a total annual increase in cost ranging from \$2.2 to \$2.6 million per year.

Counties are not likely to incur these added costs without close to 100 percent state funding for each position. Over the last few years, counties reduced commitments to conservation programs through consolidations and other cost saving measures. For its part, the state is unlikely to increase its investment in local conservation staff based on the last ten years of spending. In fact, if recent trends are any indicator, beginning with a \$1.5 million reduction in state funding in 2012, state investment may decline. Without new resources to pay for staff, counties will prioritize their workload, fitting implementation of the 2011 DNR standards into their existing programs as best they can. Reduced capacity is most likely to impact farmers who need assistance to meet conservation compliance responsibilities associated with the farmland preservation program.

In addition to the increased demand for grant funds to pay for county staff, the state will need to provide landowner cost-sharing to achieve compliance with 2011 DNR standards, and deal with new responsibilities for oversight related to implementation 2011 DNR standards. In terms of increased debt and appropriations to fund cost-sharing, neither the statutes nor rules demand any specific level of commitment to provide cost-sharing. In the foreseeable future, the department does not anticipate increased expenditures by the state, and therefore is not including increased costs for cost-sharing.

State

Since the nonpoint program redesign was first adopted in 2002, state funding of county staff and landowner cost–sharing has been the ultimate factor driving implementation of the performance standards and prohibitions. While the statutes set goals for state funding [see. s. 92.14 (6) (b)], the state is not obligated to provide funding at any particular level to support implementation. As noted above, the state is not likely to increase investment in county staff in the near future.

For similar reasons, the state is not likely to provide additional funding for cost–sharing. If recent history is any indicator, the state will be less inclined to spend taxpayer money and incur debt. In 2012, for example, the department and DNR provided counties about \$10.8 million in cost–share funding, a reduction of nearly \$8.0 million from the amount provided in 2002 when fewer performance standards were in effect. In the foreseeable future, the department anticipates that much if not all of state funds are likely to be spent on cost–sharing practices to comply with the original performance standards and prohibitions adopted in 2002. The *Initial Regulatory Flexibility Analysis*, prepared with this rule, provides an analysis of the impacts on farmers as a result of inadequate cost–share funding.

It is reasonable to assume that the rule changes will increase the workload for the department in the following areas: the revision of underlying technical standards, outreach and education, training in the use of SNAP–Plus and other implementation tools, grant oversight and management, farmland preservation compliance monitoring, development of program policies and procedures, technical assistance to install conservation standards, and enhanced coordination with USDA Natural Resources Conservation Service (NRCS) involving training and other matters. Additionally, if state funding for county staff remains the same or decreases, the department will need to fill in the gaps to provide technical assistance for conservation engineering projects and nutrient management planning. In consideration of these factors, the department estimates 2.0 FTE will be required to perform the additional work, with a significant focus of this workload on nutrient management implementation for pastures and phosphorus index, and conservation engineering for new practices such as feed storage leachate control systems.

State's Economy

While it is difficult to assess the rule's specific impact on the state's economy as a whole, since there are many variables at play, this rule's overall impact is expected to be negligible. First and foremost, it is critical to note that this rule does not impose new runoff control standards on farmers beyond those required by the 2011 DNR standards. This rule's purpose is limited to facilitating implementation of the 2011 DNR standards, primarily with respect to participants who claim FPP tax credits, and this rule takes certain steps to minimize impacts by defining implementation steps. In its limited application, this rule will have the financial impacts discussed in this document and the *Initial Regulatory Flexibility Analysis*. In considering the impacts on the state economy as whole, these costs must be balanced against benefits generated by this rule, including improvements in water quality of lakes and rivers that support recreation and tourism, and increased spending power of FPP participants who can continue to claim FPP tax credits.

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

By facilitating implementation of the 2011 DNR standards, this rule will result in the installation of conservation practices and capital improvements that directly prevent water quality problems and reduce soil erosion. This rule is expected to result in positive environmental impacts. By facilitating implementation of the following farm runoff control standards, this rule is designed to protect water quality and prevent soil loss by:

- Controlling discharges of process wastewater from livestock operations.
- Reducing soil erosion from pastures.
- Expanding nutrient management plan requirements to include pastures.
- Documenting compliance with the phosphorus index through nutrient management plans.

The addition of new requirements ensures a more comprehensive approach to managing runoff from farms, and enables farmers to take actions that better protect natural resources. Provisions in this rule are designed to reduce unintended consequences from installing conservation practices. For practices paid for with department funds, cost–share recipients must take actions to mitigate impacts from excavation and other installation activities including measures to manage sediment runoff from construction sites. This rule specifically updates the standards used to mitigate runoff during and after construction of conservation practices. Through changes in cost–sharing standards and conservation engineering requirements, this rule will also enhance technical and other support for conservation. A full discussion of the benefits is provided in the *Environmental Assessment* prepared in connection with this rule.

Those landowners, whose soil and water resources are improved or protected as a consequence of implementing the 2011 DNR standards, realize certain benefits. By controlling farm runoff and reducing groundwater pollution, these landowners can protect resources that are essential to their business and safeguard their families. Reducing soil erosion maintains the conditions for successful crop production, while controlling discharges from the farm’s production can prevent contamination of drinking water wells. Farmers who take corrective actions can reduce their environmental and liability risks. By coming into compliance with conservation requirements, farmers may maintain their eligibility for programs such as the FPP tax credits.

Landowners with properties located “downstream” of lands with nutrient and sediment delivery runoff problems also stand to benefit from the conservation practices required to meet the 2011 DNR standards. For example, nutrient management plans for pastures can improve water quality. Such improvements may help protect the property values of neighboring landowners, particularly those with non–farm holdings.

The general public will benefit from the 2011 DNR standards, but the benefits will vary depending on location and the resource concerns of a particular area. Cleaner water can have direct economic benefits particularly for businesses associated with tourism and recreation. Because of the cost–share requirements, tax dollars will be needed to fund grants provided to farmers to install conservation practices.

Alternatives

No Action

Not promulgating the proposed rule would cause the department to be in violation of state statutes. The department is required to promulgate rules prescribing conservation practices to meet performance standards and to specify a process for the development and distribution of technical standards for the practices [s. 281.16 (3) (b), Stats.]. The department is also required to promulgate rules related to cost-sharing [s. 281.16 (3) (e) Stats.]. If no action is taken, the most recent changes to NR 151 will be implemented using the current version of ch. ATCP 50. Should this occur, some of 2011 DNR standards could be implemented while others may not be implemented absent clarification provided by this rule. Unless the department takes action, farmers will not have options to cost-share practices such as feed storage leachate runoff control required to meet the 2011 DNR standards nor will they benefit from other accommodations designed to ease implementation of the 2011 DNR standards. Without an update to ATCP 50, counties, farmers and other landowners will be required to follow outdated rule provisions including technical standards that do not provide improved environmental benefits and may not adequately address stakeholder needs. Failure to update technical standards will result in inconsistent treatment of farmers who must follow one standard for one program and another standard for a different program.

The department must develop applicable land and water conservation standards for owners claiming farmland preservation tax credits [s. 91.80, Stats.]. This rule will ensure that the department has in effect the most current standards for conservation compliance.

The department is required by statute to establish by rule a nutrient management program [s. 92.05 (3) (k), Stats.]. Without a rule change, farmers would not have a phased-in approach to implement nutrient management on pastures.

The department is required by statute [s. 92.18 (2) (b), Stats.] to develop and maintain requirements of a certification program for the design and installation of conservation practices in conformance with the engineering approval system used by the Natural Resources Conservation Service. Without rule changes, the department cannot maintain a conservation engineering program that is consistent with NRCS's parallel program. A failure to act on this rule will hinder future coordination of federal, state and local conservation programs.

Finally, the environmental and other benefits of the 2011 DNR standards will not be realized without the department's rule changes.

Modification

The department could modify the proposed rule provisions beyond the accommodations described below. However, the department developed this rule in consultation with government agencies, organizations and industry groups that have supported implementation of the 2011 DNR standards and other provisions of this rule. This rule includes accommodations that address the needs of the most impacted groups, and represent a fair balance between business concerns and the need for natural resource protection. In this regard, this rule:

- Clarifies the process for annual review of nutrient management plans to ensure that plans are updated when needed.
- Allows farmers to identify low cost options to meet new performance standards such as the process wastewater standard, particularly if the discharge can be reduced below the level of significance.
- Seeks voluntary compliance with the rule changes to the maximum extent feasible, consistent with the department's past approach.
- Incorporates NRCS standards for feed storage, manure storage and waste transfer that recognize less costly approaches to manage smaller systems.
- Eases the transition for farmers with pastures by initially limiting the application of nutrient management plans to pastures in high risk locations.
- Improves availability of department cost-sharing by cutting red tape and adding new efficiencies in managing grant funds.
- Minimizes the removal of cropland from production necessary to comply with ch. NR 151, through precise interpretation of the tillage setback requirements.
- Enables conservation engineers to provide a wider range of engineering services to farmers and others by simplifying the process for updating their certification.

Long Range Implications of Implementing the Rule

Implementing 2011 DNR standards is a long-term endeavor. The minimum period for assessing implementation is a ten year horizon. First and foremost, the availability of state and other cost-share funding will determine progress in implementing these standards. If state funding does not increase from current levels, it is not likely that we will see significant progress during the first ten years of implementation. Lapses and other reductions in grant funding, similar to those imposed during recent years, could also slow down progress.

This rule cannot be implemented without effective support for the local delivery system provided by county conservation programs. County staff ensures that farmers receive the technical and financial assistance needed to meet their conservation responsibilities. If current trends in state funding persist, efforts to sustain the local capacity to implement the 2011 DNR standards will be lost. On the other hand, increased state funding as described above may keep implementation on track.

Long-term implementation will be defined by the provisions in this rule intended to minimize the impact on farms and other businesses (see the list of accommodations discussed in prior sections). Some of these provisions include a phase-in for the new and modified performance standards for farmers who must meet the conservation compliance requirements to receive a farmland preservation tax credit, and phased-in application of new standards for pastures.

Ultimately the progress made toward implementing the 2011 DNR standards will determine the extent of the improvements in water quality protection and soil erosion control, which are the ultimate goals of the rule.

Compare With Approaches Being Used by Federal Government

NRCS adopts standards for conservation practices cost-shared by NRCS. Current DATCP rules incorporate many NRCS standards by reference. In most cases, the standards apply only to conservation practices cost-shared with DATCP funds. But in some cases (such as nutrient management), DATCP rules incorporate the NRCS standards as mandatory pollution control standards. Enforcement of these mandatory standards is generally contingent upon cost-sharing (there are limited exceptions).

While NRCS sets national standards, the standards vary, to some extent, between states. NRCS coordinates its Wisconsin standard-setting process with DATCP, DNR and others. For purposes of Wisconsin's soil and water conservation program, DATCP may incorporate NRCS standards as written or may modify the standards as appropriate. This rule will modify current DATCP rules that incorporate NRCS standards by reference. This rule may incorporate updated NRCS standards, or may modify NRCS standards to make them more clear or workable in Wisconsin's soil and water conservation program. It will allow landowners receiving cost-sharing to voluntarily take advantage of new NRCS standards not yet incorporated into rule, thereby ensuring that they get the most value for their investment in practices.

NRCS certifies engineering practitioners who design, install or approve conservation engineering practices cost-shared by NRCS. DATCP certifies practitioners who perform similar functions under DATCP rules. As noted above, this rule makes changes to better match the state and federal programs, which ultimately will benefit the landowners who rely on technical services from engineering practitioners.

The United States Department of Agriculture administers a number of federal programs that offer voluntary conservation incentives to farmers. The Environmental Quality Incentives Program (EQIP) is a key program offering cost-sharing for conservation improvements, including nutrient management plans, manure storage improvements and other conservation practices. As a result of confidentiality requirements, federal cost-sharing provided to landowners through this and other NRCS cost-share programs cannot be publicly disclosed. Without accurate historical data about past use of NRCS cost-sharing to implement state conservation standards, it is difficult to account for the role these funds may play in the future.

Other programs, such as the Conservation Reserve Program (CRP) and the Conservation Reserve Enhancement Program (CREP) also provide cost-sharing and other incentives for conservation practices. DATCP attempts to coordinate state programs for conservation funding with relevant federal programs.

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

This comparison examines how surrounding states are addressing issues related to the 2011 DNR standards, with particular focus on the implementation of such standards through farmland preservation activities. In general, the adjacent states do not use statewide performance standards specifically designed to address polluted runoff from agricultural sources. However, these states have various regulations and procedures in place to address many of the polluted runoff sources that these rule revisions address. All four states use the phosphorus index in some form but none use it in the same manner as ch. NR 151 provides. For example, phosphorus management strategies in Michigan are implemented as part of the state's Generally Accepted Agricultural and Management Practices (GAAMPs). Wisconsin's approach differs from the programs in adjacent states in that it has more detail in its phosphorus index, is more quantitative and has more research to validate it. Also, in Wisconsin, pursuant to s. 281.16, Stats., cost-sharing must be made available to existing agricultural operations before the state may require compliance with the standards. Cost-sharing is often tied to compliance responsibilities in adjacent states, but there are instances where farmers must meet standards other than the phosphorus index as part of regulatory programs.

Illinois

Using a different framework and programming, Illinois implements several standards similar to those adopted in Wisconsin. In addition to implementing a phosphorus index for large livestock operations, Illinois encourages the equivalent of a tillage setback for croplands through a property tax incentive related to the construction of livestock waste management facilities. This incentive applies to the installation of vegetative filter strips in cropland that is surrounding a surface-water or groundwater conduit. Illinois law does not allow raw materials, by-products and products of livestock management facilities, including milkhouse waste, silage leachate, and other similar products to be discharged to waters of the state.

While Illinois has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Iowa

Like Illinois, Iowa requires that nutrient management plans for livestock operations of 500 or more animal units be based on the phosphorus index. Iowa does not require a separation distance between tillage activities and waterbodies. Iowa prohibits discharges to waters of the state, polluting waters of the state and discharge to road ditches. Medium-sized livestock operations are required to install runoff controls to eliminate discharges of process wastewater into waters of the state. See Iowa's website at: http://www.iowadnr.gov/portals/idnr/uploads/afo/fs_desncriteria_medcafo.pdf.

While Iowa operates a county-based statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Michigan

Michigan relies on GAAMPs [see *Generally Accepted Agricultural and Management Practices for Manure Management and Utilization* (January 2012)] to support the Michigan Agriculture Environmental Assurance Program (MAEAP), which includes a compliance verification process that ensures nuisance protection to farmers under Michigan's Right to Farm law. GAAMPs covers standards similar to those in Wisconsin including standards for process wastewater and pasture management. These standards are implemented as part of the state's right to farm law and its complaint investigation program. The state assesses problems identified through complaints, and farmers must take corrective action to earn nuisance protection under the right to farm law.

Michigan does not require a separation distance between tillage activities and waterbodies. The state's regulatory requirements regarding process wastewater only apply to permitted concentrated animal feeding operations, but discharges from smaller farms are generally prohibited as a violation of water quality standards.

While Michigan has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Minnesota

Minnesota implements a variation of a tillage setback in limited settings, requiring a 16.5 foot (one rod) grass strip along certain public drainage ditches as well as vegetated strips, restored wetlands, and other voluntary set-aside lands through federal, state and local programs. For process wastewater, Minnesota rules place a limit of less than 25 mg/l BOD5 (biological oxygen demand) that can be released to surface water and, if released to a leach field, the threshold is less than 200 mg/l BOD5. State and local officials work with pasture owners to prevent and abate water quality violations (Minn. R. chs. 7050 and 7060) that may be created by sediment or nutrient runoff from poorly managed pastures.

Under its feedlot program, Minnesota imposes mandatory requirements on about 25,000 registered feedlots. This program requires feedlot owners, ranging in size from small farms to large-scale commercial livestock operations, to “register with the MPCA, and meet the requirements for runoff discharge, manure application and storage, and processed wastewater.”

While Minnesota has a statewide farmland preservation program in which landowners may restrict the use of their land to agricultural or related uses in exchange for tax credits, the program does not include conservation compliance requirements.

Public Comments Including Comments in Response to Web Posting

Both DNR and the department have undertaken extensive efforts to receive public feedback. DNR received feedback from members of advisory committees that included small business owners and organizations. The department took the following actions: (1) worked with DNR to determine the scope of the department rule revision, (2) conducted listening sessions that included farm groups, and (3) reviewed the rule to identify opportunities to accommodate small business.

On January 25, 2013, the department posted the hearing draft rule and other documents as required on the department and Wisconsin administrative rules websites to receive comment on the economic impacts of the proposed rule. The department sent email notification to individuals who requested information about the rule and to other persons that the department identified to be interested in the proposed rule. Comments were accepted for a 30-day period as required by the moderate economic impact of the proposed rule.

The department received comments related to the economic impact of this rule from county stakeholders including multiple counties located in the northern part of the state. Their comments focused on the proposed rule’s impact on the award and use of department funds to operate land and water conservation programs. Specifically, the comments addressed the following issues: the elimination of the minimum staffing grant requirement, requirements in ch. 92, Stats., to fund county conservation programs, a 10 percent cap on reimbursement of support costs for county staff, restrictions on landowner cost-sharing including a 50 percent maximum cost-share rate for certain non-farm practices, and the level of appropriations and authorizations received by the department to fund county staff and cost-sharing.

After reviewing the comments, DATCP has determined that they do not alter the economic impact analysis of ATCP 50 for the following reasons:

1. Regarding comments on the potential impact of this rule on county staffing grants, the department considered the possible impacts of eliminating the minimum annual staffing grant and capping support costs, and determined on balance that this action would provide the department greater flexibility to best meet county staffing needs statewide. Specifically, these changes ensure that department funds pay for actual costs related to staff work assisting landowners. In addition, this rule does not specify funding outcomes for any individual county, even though funding criteria have been added by this rule. Each year, the department will make policy decisions to award grants to counties by using the expanded funding criteria in this rule to develop a grant application. Any changes in the annual allocation based on redefined criteria and priorities will not diminish total funds available for grant awards, but will re-distribute benefits of the program. To the extent that ch. 92, Stats., requires certain funding of counties, this rule does not conflict with the statute. Also this rule cannot control appropriations and authorizations provided to the department to fund county programs.

2. Regarding comments on the potential impact of this rule on county cost–sharing, the department considered the possible impacts on certain landowners and small businesses, including farms and local contractors, of establishing a 50 percent maximum cost–share rate and the elimination of cost–sharing on government–owned land, and determined on balance that this action would maximize statewide funding to support installation of conservation practices on farms. In reaching this conclusion, the department considered that landowners have access to cost–share programs operated by other agencies such as NRCS and DNR that may offer cost–sharing at higher rates or on government–owned land. In addition, this rule does not specify funding outcomes for any individual county, even though funding criteria have been added by this rule. Each year, the department will make policy decisions to award grants to counties by using the expanded funding criteria in this rule to develop a grant application. Any changes in the annual allocation based on redefined criteria and priorities will not diminish total funds available for grant awards, but will re–distribute benefits of the program. To the extent that ch. 92, Stats., requires certain funding of counties, this rule does not conflict with the statute. Also this rule cannot control appropriations and authorizations provided to the department to fund county programs.

3. Regarding comments on the potential for negative impacts to property values due to the proposed rule revisions, the department considers that on balance the rule revisions provide greater flexibility to meet resource concerns statewide, which may result in overall increased property values due to focusing implementation and addressing priority resource mitigation opportunities.

The department responded to each stakeholder who provided comments with the explanation provided in this EIA and encouraged them to submit their comments either orally or in writing at public hearings or during the hearing comment period.

After reviewing the comments received and comparing those persons who commented to the listing of persons affected contained in the scope statement, the department did not need to update the stakeholder listing with the Governor’s Office of Regulatory Compliance.

Notice of Hearing

Children and Families

Family and Economic Security, Chs. 101—153

CR 13–015

NOTICE IS HEREBY GIVEN that pursuant to s. 49.147 (2) (am) 2., Stats., the Department of Children and Families proposes to hold a public hearing to consider proposed rules relating to Chapter DCF 101, Wisconsin works case management services for job–ready individuals.

Hearing Dates and Locations

Date: Friday, April 5, 2013
Time: 1:30 p.m.
Location: GEF 1 building
 Room H206
 201 E. Washington Ave.
 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.

Copies of the Rule, Place Where Comments are to be Submitted and Deadline for Submission

A copy of the proposed rules 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 rule or fiscal estimate by contacting:

Elaine Pridgen
 Department of Children and Families
 PO Box 8916
 201 E. Washington Avenue
 Madison, WI 53708
 (608) 267–9403
dcfpublichearing@wisconsin.gov

Written comments on the proposed rules received at the above address, email, or through the <http://adminrules.wisconsin.gov> website no later than April 8, 2013, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Children and Families

Statutory authority

Section 49.147 (2) (am) 2., Stats.

Statutes interpreted

Section 49.147, Stats.

Related statute or rule

None.

Explanation of agency authority

Effective January 1, 2012, s. 49.147 (2) (am), Stats., as created by 2011 Wisconsin Act 32, provides that in lieu of placing the individual in a Wisconsin Works (W-2) subsidized employment position, a W-2 agency may provide case management services to an individual who applies for a W-2 employment position if the W-2 agency determines all of the following:

- The individual meets the eligibility requirements under s. 49.145 (2) and (3), Stats.
- The individual is willing to work and has no barriers to employment that cannot be addressed with W-2 services.
- The individual is job ready, based on the individual’s employment history or education.
- The most appropriate placement for the individual is in unsubsidized employment.

A W-2 agency shall, every 30 days, review the provision of case management services to an individual, if the individual is not successful in obtaining unsubsidized employment after legitimate efforts to secure employment, to determine whether the individual should be placed in a trial job, community service job, or transitional placement. The department shall promulgate rules that specify the criteria for the review process.

Section 49.147 (2) (b), Stats., as affected by 2011 Wisconsin Act 32, provides that a W-2 agency shall assist a participant in his or her search for unsubsidized employment. In determining an appropriate placement for a participant, a W-2 agency shall give priority to placement in unsubsidized employment and providing case management services under s. 49.147 (2) (am), Stats., over placements in trial jobs, community service job, or transitional placement under s. 49.147 (3) to (5), Stats.

Summary of the rule

The proposed rule provides the criteria for the review of W-2 participants in a case management services for job-ready individuals placement.

Summary of factual data and analytical methodologies

During the fall 2011, the department developed a policy to implement the case management placement for job-ready individuals effective January 1, 2012. The department developed this rule in conjunction with the Wisconsin Works

(W-2) Contract and Implementation Committee, Policy and Program Operations Subcommittee. The PPO subcommittee consists of representatives of W-2 agencies, Legal Action of Wisconsin, Wisconsin Coalition Against Domestic Violence, and the Wisconsin Council on Children and Families.

Summary of related federal requirements

None

Comparison to adjacent states

Illinois. The Illinois TANF program does not have a comparable policy that provides case management services in lieu of cash assistance.

Iowa. The Iowa Family Investment Program (FIP) (Iowa’s TANF program) does not have a comparable policy that provides case management services in lieu of cash assistance.

Minnesota. The Minnesota Family Investment Program (MFIP) (Minnesota’s TANF program) does not have a comparable policy that provides case management services in lieu of cash assistance.

Michigan. The Michigan Family Independence Program (FIP) (Michigan’s TANF program) does not have a comparable policy that provides case management services in lieu of cash assistance.

Effect on Small Business

The rule will not affect small businesses.

Analysis used to determine effect on small business or economic impact

The rule will affect W-2 applicants, W-2 participants in the case management services for job-ready individuals placement, and W-2 agencies. None of the W-2 agencies is a small business.

There are some costs to W-2 agencies to implement the new case management services for job-ready individuals placement type in s. 49.147 (2) (am), Stats., as created by 2011 Wisconsin Act 32. There are no costs associated with the specific criteria proposed to be used for the 30-day review of an individual in the placement.

Agency Contact Person

Margaret McMahon, Bureau of Working Families, Division of Family and Economic Security, (608) 266-1717, margaret.mcmahon@wisconsin.gov.

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

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

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

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapter DCF 101, Wisconsin Works

3. Subject

Wisconsin Works case management services for job-ready individuals.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

Section 49.147 (2) (am), Stats., directs the department to promulgate rules that specify the criteria for a W-2 agency to use in reviewing, every 30 days, the provision of case management services to an individual in a case management services for job-ready individuals placement, if the individual is not successful in obtaining unsubsidized employment after legitimate efforts to secure employment, to determine whether the individual should be placed in a trial job, community service job, or transitional placement.

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.

Department of Health Services, Department of Workforce Development, Wisconsin County Human Service Association, W-2 agencies, Legal Action of Wisconsin, Wisconsin Coalition Against Domestic Violence, and Wisconsin Council on Children and Families. The department requested that the advocacy agencies solicit comments from their stakeholders and requested that the W-2 agencies solicit comments from their Community Steering Committee members.

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

None.

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

None. George Gerharz submitted comments on the impact of the job-ready placement on W-2 agencies and W-2 participants. His comments are all related to statutory requirements.

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

The rule is required by s. 49.147 (2) (am), Stats.

14. Long Range Implications of Implementing the Rule

None.

15. Compare With Approaches Being Used by Federal Government

None

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

None of the adjacent states have a comparable policy that provides case management services in lieu of cash assistance in their TANF program.

17. Contact Name

Margaret McMahon

18. Contact Phone Number

(608) 266-1717

Notice of Hearing**Natural Resources*****Fish, Game, etc., Chs. 1—*****CR 13-019**

(DNR # FH-18-12)

NOTICE IS HEREBY GIVEN that the Wisconsin Natural Resources Board proposes an order to revise chs. NR 20 and 23 pertaining to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin.

NOTICE IS HEREBY FURTHER GIVEN that at 7:00 p.m. on Monday, April 8, 2013, the Wisconsin Conservation Congress will hold its election of county delegates in each county. Upon completion of the delegate elections, the joint Spring Department of Natural Resources Rules Hearing and Conservation Congress Meeting will convene to take comments on the Department's proposed rule changes and Conservation Congress advisory questions.

Hearing Information

The public hearings/meetings will be held on **Monday, April 8, 2013, at 7:00 p.m.** at the following locations:

Adams	Adams County Courthouse, County Board Room A230, 400 Main Street Friendship, WI 53934	Door	Sturgeon Bay High School, 1230 Michigan St. Sturgeon Bay, WI 54235
Ashland	Ashland County Court House, 201 Main Street West, Ashland, WI 54806	Douglas	Superior Senior High School, Cafeteria 2600 Catlin Ave., Superior, WI 54880
Barron	Barron Government Center, Auditorium, 330 E. LaSalle Ave., Barron, WI 54812	Dunn	Dunn County Fish and Game Club 1600 Pine Ave., Menomonie, WI 54751
Bayfield	Bayfield County Courthouse, County Board Room, 117 E. 5 th Street Washburn, WI 54891	Eau Claire	CVTC Business Education Center Auditorium, 620, W. Clairemont Ave. Eau Claire, WI 54701
Brown	Northeast Wisconsin Technical College (SC132), 2740 W. Mason St. Green Bay, WI 54313	Florence	Florence Natural Resource Center Basement Conference Rm. 5631 Forestry Dr., Florence, WI 54121
Buffalo	Alma High School, Gymnasium S1618 STH 35, Alma, WI 54610	Fond du Lac	Theisen Middle School, 525 E. Pioneer Rd. Fond du Lac, WI 54935
Burnett	Burnett County Government Center, Room 165, 7410 County Road K, Siren, WI 54872	Forest	Crandon High School, Auditorium 9750 US HWY 8 West, Crandon, WI 54520
Calumet	Calumet County Courthouse, Rm. B025, 206 Court Street, Chilton, WI 53014	Grant	Lancaster High School, Auditorium 806 East Elm Street, Lancaster, WI 53813
Chippewa	Chippewa Falls Middle School, 750 Tropicana Blvd., Chippewa Falls, WI 54729	Green	Monroe Middle School, 1510 13th Avenue Monroe, WI 53566
Clark	Greenwood High School, 306 W. Central Ave. Greenwood, WI 54437	Green Lake	Green Lake High School, Small Gym 612 Mill St., Green Lake, WI 54941
Columbia	Wayne E. Bartels Middle School, Gymnasium 2505 New Pinery Rd., Portage, WI 53901	Iowa	Dodgeville High School, Gymnasium 912 Chapel Street, Dodgeville, WI 53533
Crawford	Prairie du Chien High School, Auditorium 800 E. Crawford St. Prairie du Chien, WI 53821	Iron	Iron County Courthouse, 300 Taconite Street Hurley, WI 54534
Dane	Sun Prairie High School, Performing Arts Center, 888 Grove St., Sun Prairie, WI 53590	Jackson	Black River Falls Middle School, LGI Room 1202 Pierce Street Black River Falls, WI 54615
Dodge	Horicon International Education Center Lower Level Auditorium, N7725 STH 28 Horicon, WI 53032	Jefferson	Jefferson County Fair Park, Activity Center 503 N. Jackson, Jefferson, WI 52549
		Juneau	Olson Middle School, Auditorium 508 Grayside Avenue, Mauston, WI 53948
		Kenosha	Bristol Elementary School, Gymnasium 20121 83rd Street, Bristol, WI 53104
		Kewaunee	Kewaunee High School, Auditorium 911 Third Street, Kewaunee, WI 54216
		La Crosse	Onalaska High School, Auditorium 700 Hilltopper Place, Onalaska, WI 54650
		Lafayette	Darlington Elementary School 11630 Center Hill Road arlington, WI 53530
		Langlade	Antigo High School, Volm Theater 1900 10th Ave., Antigo, WI 54409
		Lincoln	Tomahawk High School, Field House 1048 E. Kings Road, Tomahawk, WI 54487
		Manitowoc	UW-Manitowoc, Auditorium 705 Viebahn Street, Manitowoc, WI 54220
		Marathon	D.C. Everest Middle School, Auditorium 9302 Schofield Avenue, Weston, WI 54476
		Marinette	Wausaukee School, N11041 Highway 141 Wausaukee, WI 54177
		Marquette	Montello High School, Community Room 222 Forest Lane, Montello, WI 53949
		Menominee	Menominee County Courthouse 3269 Courthouse Lane, Keshena, WI 54135

Milwaukee	Nathan Hale High School, Auditorium 11601 W. Lincoln Ave., West Allis, WI 53227	Walworth	Delavan–Darien High School 150 Cummings St., Delavan, WI 53115
Monroe	Tomah High School, Cafeteria 901 Lincoln Ave., Tomah, WI 54660	Washburn	Spooner High School, Auditorium 801 County Highway A, Spooner, WI 54801
Oconto	Suring High School, Cafeteria 411 E Algoma St., Suring, WI 54174	Washington	Washington County Fair Park 3000 Cty Hwy PV, West Bend, WI 53095
Oneida	James Williams Middle School 915 Acacia Lane, Rhineland, WI 54501	Waukesha	Waukesha Co. Tech. College Richard Anderson Ed. Center 800 Main Street, Pewaukee, WI 53072
Outagamie	Appleton North High School 5000 N. Ballard Road, Appleton, WI 54913	Waupaca	Waupaca High School, PAC–Auditorium E2325 King Road, Waupaca, WI 54981
Ozaukee	Webster Middle School, Commons W75 N624 Wauwatosia Rd. Cedarburg, WI 53012	Waushara	Waushara County Courthouse County Board Rm. 265, 209 S. St. Marie St. Wautoma, WI 54982
Pepin	Pepin County Government Center County Board Room, 740 7th Ave. West Durand, WI 54736	Winnebago	Webster Stanley Middle School, Auditorium 915 Hazel Street, Oshkosh, WI 54901
Pierce	Ellsworth Senior High School, Auditorium 323 Hillcrest, Ellsworth, WI 54011	Wood	Pittsville School District Administrative Bldg., Auditorium 5459 Elementary Ave., Pittsville, WI 54466
Polk	Unity High School, Auditorium 1908 150th St. Hwy 46 Balsam Lake, WI 54810		
Portage	Ben Franklin Junior High School, Auditorium 2000 Polk St., Stevens Point, WI 54481		
Price	Price County Courthouse, Board Room 126 Cherry St., Phillips, WI 54555		
Racine	Union Grove High School 3433 S. Colony Ave., Union Grove, WI 53182		
Richland	Richland County Courthouse Upstairs Courtroom, 181 West Seminary Richland Center, WI 53581		
Rock	Milton High School, Auditorium 114 W. High Street, Milton, WI 53563		
Rusk	Ladysmith High School, Auditorium 1700 E. Edgewood Ave. Ladysmith, WI 54848		
Saint Croix	St Croix Central High School, Commons 1751 Broadway St., Hammond, WI 54015		
Sauk	UW Baraboo Campus, Lecture Hall A–4 1006 Connie Road, Baraboo, WI 53913		
Sawyer	Hayward High School 10320 N. Greenwood Lane Hayward, WI 54843		
Shawano	Shawano Middle School, LGI Room 1050 S. Union St., Shawano, WI 54166		
Sheboygan	Plymouth High School, Auditorium 125 Highland Ave., Plymouth, WI 53073		
Taylor	Multi–purpose building, Hwy 64/ Hwy 13 Medford, WI 54451		
Trempealeau	Whitehall City Center, 18620 Hobson St., Whitehall, WI 54773		
Vernon	Viroqua High School, Commons Area, 100 Blackhawk Drive, Viroqua, WI 54665		
Vilas	St. Germain Elementary School, Gymnasium 8234 Hwy 70 West, Saint Germain, WI 54558		

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kari Lee–Zimmermann at (608) 266–0580 with specific information on your request by April 1, 2013.

Copies of Proposed Rules and Submittal of Written Comments

The proposed rule and supporting documents may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov> (search wildlife rule “WM–01–13” and fisheries rule “FH–18–12”). A copy of the proposed rules and supporting documents may also be obtained from Kate Strom Hiorns, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707 or kathryn.stromhiorns@wisconsin.gov; or Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or scott.loomans@wisconsin.gov. Written comments shall be postmarked not later than April 8, 2013. Written comments whether submitted electronically or by U.S. mail will be summarized for the Natural Resources Board, however, they will not be tallied along with the responses received at the county hearings.

Written comments on the proposed rule may be submitted via U.S. mail or email to Kate Strom Hiorns or Scott Loomans at the addresses noted above.

Summary of Proposed Rule

The Department of Natural Resources will take public input on proposed rule changes relating to fishing on the inland, outlying, and boundary waters of Wisconsin. The proposed rules will:

- Allow fishing by the method of trolling on all inland waters with up to three hooks, baits, or lures.
- Allow rough fish to be taken by hand year round or by handheld spear from June 1 to August 31, where spearing is allowed, on inland waters within 200 feet of a fishway, lock, or dam.
- Alter the hours to legally spear sturgeon on lakes Winnebago, Butte des Morts, Winneconne, and Poygan from 6:30 AM – 12:30 PM to 7:00 AM – 1:00 PM, and change the daily deadline for sturgeon spears to register their fish from 1:30 PM to 2:00 PM.

- Make permanent a protected slot limit regulation on walleye, sauger, and hybrids where there is a daily bag limit of 5 fish and the minimum length is 15 inches, but fish from 20 to 28 inches may not be kept and only 1 fish over 28 inches is allowed on the Wisconsin River north of the Prairie du Sac Dam in Columbia County up to the Grandfather Dam in Lincoln County and several of its tributaries. The season is open year round. The regulation would also be applied to the Big Rib River downstream from Highway 29, Peplin Creek, Johnson Creek, Little Eau Claire River, and Little Eau Pleine River in Marathon County; and the Little Eau Claire River and the Little Eau Pleine River in Portage County under this proposal, but the season would only be open from the first Saturday in May to the first Sunday in March.
 - Remove the Northern Bass Management Zone early catch and release season for largemouth bass and allow their harvest under existing size and bag limits. Smallmouth bass must be immediately released during the early catch and release season.
 - Simplify rough fish spearing season dates on inland waters statewide by opening most waters in all but 9 northern counties to rough fish spearing year-round. All Lake Winnebago System waters will have an April 21 to February 1 open season.
 - Apply a daily bag limit of 1 fish and a 28-inch minimum length limit on walleye, sauger, and hybrids on Silver Lake, Barron County.
 - Apply a daily bag limit of 2 fish and a 26-inch minimum length limit on northern pike on Diamond Lake, Bayfield County.
 - Apply a 3-fish daily bag limit and 18-inch minimum length limit on walleye, sauger and hybrids; a 1-fish daily bag limit and 18-inch minimum length limit on largemouth and smallmouth bass; and a 1-fish daily bag limit and a 32-inch minimum length limit on northern pike on Park Lake and the Fox River upstream to the Highway 33 bridge.
 - Designate Token Creek Ponds and Syene Ponds in Dane County, Lions Park Pond in Rock County, and Lapham Peak Pond in Waukesha County as urban fishing waters.
 - Make permanent a daily bag limit of 3 fish and an 18-inch minimum length limit for walleye, sauger, and hybrids on Beaver Dam Lake and its tributaries, including Mill Creek from the mouth upstream to the Fox Lake dam and all portions of Beaver Creek in Dodge County.
 - Apply a 5-fish daily bag limit and no minimum length limit, with only 1 fish over 14 inches allowed, to walleye, sauger, and hybrids on Minong Flowage, Douglas and Washburn counties.
 - Apply a daily bag limit of 3 fish and an 18-inch minimum length limit on walleye, sauger, and hybrids on Lake Nebagamon, Douglas County.
 - Apply a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed, in Half Moon Lake, Eau Claire County.
 - Apply a daily bag limit of 5 fish and a 15-inch minimum length limit on walleye, sauger, and hybrids in Patten Lake, Florence County.
 - Apply a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed in Trump Lake, Forest County.
 - Apply a daily bag limit of 5 fish and no minimum length limit for northern pike on Lake Six in Iron County.
 - Apply a daily bag limit of 5 fish and a 15-inch minimum length limit on walleye, sauger, and hybrids on Sandy Beach Lake, Iron County.
 - Apply a daily bag limit of 10 fish and no minimum length limit on catfish and open the catfish season year round in Yellowstone Lake, Lafayette County.
 - Apply a daily bag limit of 1 fish and an 18-inch minimum length limit on largemouth and smallmouth bass, as well as a 1-fish daily bag limit and 32-inch minimum length limit on northern pike in Lake Tomah.
 - Apply a daily bag limit of 25 fish and no minimum length limit for panfish on Thompson Lake, Pepin County.
 - Apply a daily bag limit of 5 fish and no minimum length limit on largemouth and smallmouth bass on Balsam Lake, Polk County.
 - Apply a daily bag limit of 5 fish and no minimum length limit on largemouth and smallmouth bass and a daily bag limit of 3 fish and 18-inch minimum length limit on walleye, sauger, and hybrids on Big Chetac Lake, Sawyer County.
 - Apply a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed on Bass Lake, St. Croix County.
 - Make permanent the current 1-fish daily bag limit and 18-inch minimum length limit for largemouth and smallmouth bass and change the daily bag limit to 3 fish and the minimum length limit to 18-inches for walleye, sauger, and hybrids on Sparkling Lake, Vilas County.
 - Apply a daily bag limit of 10 fish for panfish on Little Hills Lake, Waushara County.
 - Apply a daily bag limit of 1 fish and a 54-inch minimum length limit on muskellunge in Green Bay, Lake Michigan, and its tributaries north of Waldo Boulevard (in Manitowoc) and the Menominee River upstream to the Hattie Street Dam.
 - Allow the Department to make explicit, temporary changes to length or bag limits under certain conditions using a legally defined public notice process, a public information meeting if requested, and posting notice of the regulation change at public access sites to the water.
 - Allow the Department to adjust bag and length limits for walleye or muskellunge in the ceded territory in response to actual tribal harvest, rather than currently waiting until after the third Monday in May.
 - Prohibit the use of lead tackle that is less than 1-inch in diameter or less than 1-ounce in weight on Escanaba, Nebish, and Palette lakes in Vilas County.
- The Department of Natural Resources will take public input on proposed rule changes relating to hunting, trapping, and the management of Department lands. The proposed rules will:
- Simplify firearm deer hunting regulations by allowing the use of rifles statewide. Currently, only shotguns, muzzleloaders and handguns may be used in some

areas. These sections also make housekeeping updates in response to 2011 Act 50 which prohibited certain firearm deer seasons from being held prior to the Saturday before the Thanksgiving holiday.

- Simplify pheasant hunting regulations by eliminating the requirement to tag harvested birds at stocked hen/rooster pheasant hunting areas. Field dressed carcasses of pheasants would need to retain proof of species and sex identification while being transported, similar to current requirements for migratory game birds.
- Simplify mink and muskrat trapping regulations by creating more consistent opening dates throughout the state.
- Establish that hunting hours apply to people who are training bear hunting dogs at times when the bear hunting season is also open. Under 2011 Act 28, bear dog training is now allowed during the open season for hunting bears with dogs.
- Establish a four-day trap check requirement, instead of a daily requirement, for certain types of traps placed for weasels.
- Require reporting the harvest of otter and fisher within 24 hours.
- Establish that, in addition to collecting certain food items, it is also legal to cut and gather willow stakes on Department managed lands for non-commercial uses. Willow stakes are often used by trappers for trap stakes and marking trap set locations. A person will need first obtain permission from the property manager before cutting and removing such willow stems.
- Allow the unattended, overnight placement of portable stands and blinds on Department owned and managed lands from September 1 through January 31.
- Eliminate the refuge/closed area at Mecan Springs, Waushara County, as recommended in voting by the Conservation Congress in 2012.
- Simplify regulations for pheasant hunters at Richard Bong State Recreation Area in Kenosha County by eliminating the arm band requirement for pheasant hunters.
- Establish a controlled dove hunt at Bong State Recreation Area in Kenosha County in order to improve hunter satisfaction by reducing hunter interference.
- Increase the daily pheasant hunting fee at Bong State Recreation Area in Kenosha County from \$3.00 to \$12.00 (\$5.00 if stocking did not occur on that day) because the current fee is not sufficient to cover the cost of this stocking program.
- Expand the area where rifles are allowed for firearm deer hunting in Outagamie and Shawano Counties.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Sections 29.014 (1), 29.041, and 29.053 (2), Stats., have been interpreted as giving the department the authority to make changes to fishing regulations on inland, outlying, and boundary waters of Wisconsin.

Statutory authority

Sections 29.014 (1), 29.041, and 29.053 (2), Stats.

Explanation of agency authority to promulgate the proposed rules under the statutory authority

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

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

Section 29.053 (2), Stats., provides that the department may establish conditions governing the taking of fish for the state as a whole, for counties or parts of counties, or for waterbodies or parts of waterbodies. It also allows the department to establish a fishing season on specified bodies of water in certain urban areas to allow fishing only by persons who are under 16 years old or who are disabled, as specified in s. 29.193 (3) (a), (b), or (c), Stats.

Related statutes or rules

Section 29.039, Stats., nongame species.

Plain language analysis of the proposed rule

The proposed rule would make modifications to portions of chs. NR 20, 21, 22, and 23 pertaining to sport fishing regulations on inland, outlying, and boundary waters of Wisconsin. These changes are proposed to protect and enhance the State's fish resources. Please note, some elements of ch. NR 20 in this Board Order are anticipated to be amended prior to this rule by Natural Resources Board Order FH-19-12, a housekeeping rule.

The existing policy behind fishing regulations is to provide diverse fishing opportunities throughout the State and that policy will be continued and enhanced by these rule changes. Based on the management goals for individual waters and species, the Fisheries Management Program strives to provide:

- consumptive opportunities where anglers can fish for a meal from a self-sustained fish population;
- quality and memorable opportunities where anglers can catch large fish and the density of adult fish in the populations are sustained or increased; and
- trophy opportunities where anglers can catch large trophy-size fish and the survival of older and larger fish is increased.

Sections 1, 2, 4, 11, 12, 14, 16, 19, 23, 25, 29, 31, 33, 37, 38, 40, 42, 44, 49, 51, 54, 58, 60, 61, 63, 68, 70, 71, 74, 76, 78, 82, 85, 90, 93, 96, 104, 106, 108, 112, 116, 119, 121, 122, 123, 124, 127, 129, 133, 135, 136, 139, 144, 145, 149, 150, 151, 155, 157, 160 and 170 allow fishing by the method of trolling on all inland waters with up to three hooks, baits, or lures. Trolling means trailing a lure or bait from a boat propelled by a means other than drifting, pedaling, paddling, or rowing. Trolling is currently allowed for certain disabled anglers by special permit and on all waters in 19 counties; on one or more waters in 45 counties (105 total waters); and on all boundary waters with IA, MN, and MI except in Vilas County boundary waters with MI. In addition to Wisconsin waters, trolling is already allowed in all surrounding states and provinces with no known adverse effects. Allowing trolling statewide would simplify regulations by eliminating confusion about where trolling is allowed, allow moving boats to trail behind suckers or minnows while occupants are casting (a form of trolling) on all waters, eliminate the need to define position fishing (fishing in a manner where the line extends vertically into the

water while the boat is maneuvered by the use of a motor), eliminate the need for disabled anglers to have to apply for trolling permits, and provide additional fishing opportunities for anglers who may have difficulty fishing by other methods.

Sections 3, 5, 9, and 10 allow rough fish to be taken by hand year round or by handheld spear from June 1 to August 31, where spearing is allowed, on inland waters within 200 feet of a fishway, lock, or dam. This would expand fishing opportunities for rough fish that are considered undesirable in Wisconsin waters. Anglers may currently only use hook and line to take fish, including rough fish, within 200 feet of a fishway, lock, or dam.

Sections 7 and 8 alter the hours to legally spear sturgeon on lakes Winnebago, Butte des Morts, Winneconne, and Poygan from 6:30 AM – 12:30 PM to 7:00 AM – 1:00 PM, and change the daily deadline for sturgeon spears to register their fish from 1:30 PM to 2:00 PM. The season would not change, which begins the second Saturday in February and continues for up to 16 days. This change addresses sunlight and visibility safety concerns while anglers are traveling on the frozen lake.

Sections 13, 36, 73, 88, 92, 101, 118, 128, and 159 make permanent a protected slot limit regulation on walleye, sauger, and hybrids where there is a daily bag limit of 5 fish and the minimum length is 15 inches, but fish from 20 to 28 inches may not be kept and only 1 fish over 28 inches is allowed. The season is open year round. The regulation would apply to the Wisconsin River north of the Prairie du Sac Dam in Columbia County up to the Grandfather Dam in Lincoln County. The regulation also applies to the river's sloughs, bayous, and flowages and certain connected waters: the Eau Claire River upstream to the Schofield Dam in Marathon County; the Yellow River to Lake Dexter Dam and Buena Vista Creek to the Nepco Dam in Wood County, and the Lemonweir River in Juneau and Monroe counties. The regulation has been in effect since 2002 and is scheduled to expire in 2014. The walleye protected slot limit regulation would also be applied to additional waters connected to the Wisconsin River under this proposal, but the season would only be open from the first Saturday in May to the first Sunday in March. Those waters are the Big Rib River downstream from Highway 29, Peplin Creek, Johnson Creek, Little Eau Claire River, and Little Eau Pleine River in Marathon County; and the Little Eau Claire River and the Little Eau Pleine River in Portage County. The regulation provides harvest, catch-and-release, and trophy fishing opportunities.

Sections 15, 20, 26, 45, 59, 64, 83, 86, 94, 105, 120, 126, 130, 142, 146, 161, 164, and 167 would remove the Northern Bass Management Zone early catch and release season for largemouth bass and allow their harvest under existing size and bag limits. Currently both largemouth and smallmouth bass must be released if caught in the Northern Bass Zone from the first Saturday in May to the Friday preceding the third Saturday in June. This change would mean that smallmouth bass must be immediately released during the early catch and release season but largemouth bass may be harvested beginning the first Saturday in May so long as the length and bag limits are followed. This proposal affects all waters that currently have an early catch and release season for bass in the Zone, including Lake Superior and its connected sloughs and the Kakagon River, tributaries to Lake Michigan north of STH 29 in Door and Kewaunee counties, and Wisconsin-Michigan boundary waters. The Northern Bass Zone includes waters north of State Trunk Highway

(STH) 77 from its bridge over the St. Croix River east to STH 27, south on STH 27 to STH 64, east on STH 64 to where it ends in the City of Marinette and continuing due east to the shore of Green Bay and all waters north of STH 29 from its bridge over the Fox River east to where it ends in the City of Kewaunee.

Sections 6, 17, 22, 24, 27, 28, 30, 32, 43, 46, 50, 53, 55, 57, 62, 66, 69, 72, 75, 77, 84, 87, 89, 91, 95, 97, 100, 102, 103, 107, 110, 111, 114, 117, 125, 131, 134, 138, 140, 141, 147, 152, 154, 156, 158, and 163 simplify rough fish spearing season dates on inland waters statewide by opening waters in all but 9 northern counties to rough fish spearing year-round. The following areas will now be open to rough fish spearing year-round:

- 61 counties that currently have any open season for rough fish spearing,
- Pierce County that is currently closed to spearing, and
- all tributaries to Lake Michigan.

All Lake Winnebago System waters will have an April 21 to February 1 open season. Most of the System waters already have these open season dates, but some new waters will be included to ensure the entire system has the same open season. Lake Winnebago System waters include Lakes Buttes des Morts, Winneconne, Poygan, Winnebago and all their tributaries from their mouths upstream to the first dam including the Fox river from Lake Winnebago upstream to the dam above Princeton and all its tributaries from their mouths upstream to the first dam and the Wolf river from its mouth upstream to the dam in the City of Shawano and all its tributaries from their mouths upstream to the first dam including Cincoe lake, Partridge Crop lake and Partridge lake in Calumet, Fond du Lac, Green Lake, Marquette, Outagamie, Shawano, Waupaca, Waushara, and Winnebago counties.

Special nighttime spearing seasons for burbot, but no other species, will remain in Douglas and Ashland counties on four rivers, and a bow and arrow or crossbow only season from May 20 to July 1 in Fish Creek Slough in Bayfield County will also remain.

With this rule change, Ashland, Bayfield, Forest, Iron, Menominee, Oneida, Price, Sawyer, and Vilas counties will remain closed to rough fish spearing year-round. All trout streams statewide and Devils Lake in Sauk County will also remain closed. The May 20 to July 1 bow and arrow seasons in Iron and Sawyer counties as well as the March 15 to the Saturday before May 1 season on trout streams in Waushara County will be closed.

No changes will be made on Lake Michigan and Lake Superior which are already open year-round, and no changes will be made to Wisconsin-Minnesota boundary waters which are open April 21 to March 1. All Wisconsin-Michigan boundary waters will be closed to rough fish spearing through Natural Resources Board Order FH-19-12.

Section 18 applies a daily bag limit of 1 fish and a 28-inch minimum length limit on walleye, sauger, and hybrids on Silver Lake, Barron County. The current regulation is a 5-fish daily bag limit and 15-inch minimum length limit.

Section 21 applies a daily bag limit of 2 fish and a 26-inch minimum length limit on northern pike on Diamond Lake, Bayfield County. The current regulation is a 1-fish daily bag limit and 32-inch minimum length limit.

Sections 34, 35, and 36 apply a 3-fish daily bag limit and 18-inch minimum length limit on walleye, sauger and

hybrids; a 1–fish daily bag limit and 18–inch minimum length limit on largemouth and smallmouth bass; and a 1–fish daily bag limit and a 32–inch minimum length limit on northern pike on Park Lake and the Fox River upstream to the Highway 33 bridge. The management goal is to maintain low numbers of detrimental species, specifically common carp and gizzard shad, with the desired outcome of improving water clarity.

Section 39 designates Token Creek Ponds and Syene Ponds in Dane County as urban fishing waters with the following regulations:

- year round season only for youth 15 years of age and younger and certain disabled anglers,
- no length limits, and
- daily bag limits of 3 trout; 1 largemouth bass, smallmouth bass, walleye, sauger, walleye–sauger hybrid, or northern pike; and 10 panfish.

Sections 123 and 150 designate Lions Park Pond in Rock County and Lapham Peak Pond in Waukesha County as urban fishing waters with the following regulations:

- year round season – but a special season mid–March to mid–April only for youth 15 years of age and younger and certain disabled anglers,
- no length limits, and
- daily bag limits of 3 trout; 1 largemouth bass, smallmouth bass, walleye, sauger, walleye–sauger hybrid, or northern pike; and 10 panfish.

Section 135 corrects the regulations applied to urban ponds in Sheboygan County. Under this change, all designated urban ponds in Sheboygan County will have the same regulations, which provide a year–round open season and a special season for only youth and disabled anglers in March and April. This was the original intent of designating these waters and biologists and law enforcement staff encourage the change.

Section 41 would make permanent a daily bag limit of 3 fish and an 18–inch minimum length limit for walleye, sauger, and hybrids on Beaver Dam Lake and its tributaries, including Mill Creek from the mouth upstream to the Fox Lake dam and all portions of Beaver Creek in Dodge County. The regulation has been in effect since 2002 and is scheduled to expire in 2014.

Sections 47 and 148 apply a 5–fish daily bag limit and no minimum length limit, with only 1 fish over 14 inches allowed, to walleye, sauger, and hybrids on Minong Flowage, Douglas and Washburn counties. The regulation would apply upstream to the confluence of the Totagatic River with Bergen creek in Washburn County and to the connected Cranberry Lake in Douglas County. The current regulation is a 5–fish daily bag limit and 15–inch minimum length limit.

Section 48 applies a daily bag limit of 3 fish and an 18–inch minimum length limit on walleye, sauger, and hybrids on Lake Nebagamon, Douglas County. The current regulation is a 5–fish daily bag limit and 15–inch minimum length limit.

Section 52 applies a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed, in Half Moon Lake, Eau Claire County. The current regulation is 14–inch minimum length limit and daily bag limit of 5 fish.

Section 56 applies a daily bag limit of 5 fish and a 15–inch minimum length limit on walleye, sauger, and hybrids in Patten Lake, Florence County, simplifying regulations to match general statewide walleye rules. The current regulation

is a 5–fish daily bag limit and no minimum length limit, but only one fish over 14 inches is allowed.

Section 59 applies a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed in Trump Lake, Forest County. The current regulation is 18–inch minimum length limit and daily bag limit of 1 fish.

Section 65 applies a daily bag limit of 5 fish and no minimum length limit for northern pike on Lake Six in Iron County, simplifying regulations to match current northern zone pike rules. The current regulation is a 2–fish daily bag limit and 26–inch minimum length limit.

Section 67 applies a daily bag limit of 5 fish and a 15–inch minimum length limit on walleye, sauger, and hybrids on Sandy Beach Lake, Iron County, simplifying regulations to match general statewide walleye rules. The current regulation is a 5–fish daily bag limit and no minimum length limit but only 1 fish over 14 inches may be kept.

Sections 79, 80, and 81 apply a daily bag limit of 10 fish and no minimum length limit on catfish and open the catfish season year round in Yellowstone Lake, Lafayette County. This simplifies regulations to match general statewide rules. The current regulation is a 2–fish daily bag limit in combination with walleye or bass and only catfish between 15 and 24 inches may be kept. A combined walleye and bass bag limit regulation will remain.

Sections 98 and 99 apply a daily bag limit of 1 fish and an 18–inch minimum length limit on largemouth and smallmouth bass, as well as a 1–fish daily bag limit and 32–inch minimum length limit on northern pike in Lake Tomah. Currently, the regulations are a daily bag limit of 5 and a 14–inch length limit for bass and a daily bag limit of 2 and a 26–inch length limit for pike. The management goal is to protect large predator fish from harvest in order to maximize predation on smaller fishes and complete a chemical treatment plan.

Section 109 applies a daily bag limit of 25 fish and no minimum length limit for panfish on Thompson Lake, Pepin County, simplifying regulations to match general statewide rules. The current regulation is a 10–fish daily bag limit and no minimum length limit.

Section 113 applies a daily bag limit of 5 fish and no minimum length limit on largemouth and smallmouth bass on Balsam Lake, Polk County. The current regulation is a 5–fish daily bag limit and 14–inch minimum length limit. Section 115 makes administrative code language consistent with Section 113 and with current management practices.

Sections 130 and 132 apply a daily bag limit of 5 fish and no minimum length limit on largemouth and smallmouth bass and a daily bag limit of 3 fish and 18–inch minimum length limit on walleye, sauger, and hybrids on Big Chetac Lake, Sawyer County. The current regulation is a 5–fish daily bag limit and 14–inch minimum length limit for bass and 5–fish daily bag limit and 15–inch minimum length limit for walleye.

Section 137 applies a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed on Bass Lake, St. Croix County. The current regulation is 14–inch minimum length limit and daily bag limit of 5 fish.

Sections 142 and 143 makes permanent the current 1–fish daily bag limit and 18–inch minimum length limit for

largemouth and smallmouth bass and changes the daily bag limit to 3 fish and the minimum length limit to 18-inches for walleye, sauger, and hybrids on Sparkling Lake, Vilas County. The current limits on walleye are a 1-fish daily bag limit and 28-inch minimum length limit which both sunset in March 2014.

Section 153 applies a daily bag limit of 10 fish for panfish on Little Hills Lake, Waushara County. The current daily bag limit is 25 panfish.

Sections 162 and 168 apply a daily bag limit of 1 fish and a 54-inch minimum length limit on muskellunge in Green Bay, Lake Michigan, and its tributaries north of Waldo Boulevard (in Manitowoc) and the Menominee River upstream to the Hattie Street Dam. The current regulation is a 1-fish daily bag limit and 50-inch minimum length limit.

Section 164 allows the department to make explicit, temporary changes to length or bag limits under certain conditions using a legally defined public notice process, a public information meeting if requested, and posting notice of the regulation change on public access sites of the water. The department currently may change length and bag limits using this process, rather than through an administrative rule change, if data show that there is slow growth or high contamination levels. This proposal would expand the DNR's ability to make length or daily bag limit changes to respond to the following conditions and for the following species:

a. A lake restoration project is in place to reduce detrimental fish species that includes bio-manipulation of a waterbody through increasing the abundance and biomass of predator game fish. The department may apply the following limits to particular species: 18-inch, 3-bag walleye; 18-inch, 1-bag largemouth or smallmouth bass; 32-inch, 1-bag northern pike; or 10-bag for panfish.

b. Fish have been removed or destroyed as a result of a rehabilitation program to reestablish a good supply of game fish. The department may apply the following limits to particular species: 18-inch, 3-bag walleye; 18-inch, 1-bag largemouth or smallmouth bass; 32-inch, 1-bag northern pike; or 10-bag for panfish.

c. An inland water has been documented to contain detrimental species, species nonindigenous to the waters of the state, or rough fish. In order to control the population of detrimental, nonindigenous, or rough fish species and protect the native fish populations, the department may apply the following minimum size limits to particular species: 18-inch, 3-bag walleye; 18-inch, 1-bag largemouth or smallmouth bass; 32-inch, 1-bag northern pike; or 10-bag for panfish.

d. The department finds that an evaluation of a size limit could not be completed before a sunset date. The department may extend the size limit and the limit shall remain the same and in full force and effect for 7 years from the date specified or until a permanent rule change is in place, whichever occurs first. The determination to extend a size limit sunset date shall be made within two years prior to the sunset date.

Sections 165 and 169 allow the department to adjust bag and length limits for walleye or muskellunge in the ceded territory in response to actual tribal harvest, rather than currently waiting until after the third Monday in May. Under current law, the department must wait until after the third Monday in May to raise the daily bag limit or reduce the minimum length limit based on expected safe harvest levels for specific waters. However, if ice out occurs earlier in the year, tribal harvest may also occur earlier. With this rule

change, the department will be able to adjust bag limits and get that information to the public as early as possible.

Section 166 prohibits the use of lead tackle that is less than 1-inch in diameter or less than 1-ounce in weight on Escanaba, Nebish, and Pallette lakes in Vilas County. The Natural Resources Board requested that the department carry out a pilot project to evaluate angler acceptance of non-toxic fishing tackle. The purpose of the project is to protect loons and other water birds that have been shown to ingest smaller sizes of tackle and to increase public awareness of the hazard that small sizes of lead-containing tackle pose to water birds.

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

Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with federal regulations.

Comparison with rules in adjacent states

Fisheries management rules are generally similar in the states surrounding Wisconsin. Each bordering state regulates fishing by the use of seasons, bag limits and size limits. Specific seasons and bag and size limits may differ for species among the surrounding states, but the general principles are similar. Michigan, Minnesota, Iowa, and Illinois all have statewide seasons and bag and size limits for fish species, along with special or experimental regulations on individual waters.

Summary of factual data and analytical methodologies

Fishing regulations in this rule, such as length and bag limits or season dates, are used as a tool to ensure good fishing exists into the future. The department has used different types of fishing regulations in order to: control angler impacts on fish populations, maintain numbers and sizes of fish in a lake or stream, provide different types of fishing experiences, and make access to fishing as fair as possible.

All rule change proposals were submitted by fish biologists and peer-reviewed for justification and enforceability by Fisheries Management supervisors and the Bureau Director, species management teams, and the Bureaus of Law Enforcement and Legal Services. Proposals were discussed with Wisconsin Conservation Congress members and will be presented at the 2013 Fish and Wildlife Spring Hearings. Proposals that reduce regulation complexity or eliminate a special regulation in favor of a statewide one were given preference.

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

The proposed rule does not apply directly to businesses, but to sport anglers. It is not expected that there will be any economic impact directly related to these rule changes. The department conducted an economic impact analysis to determine if any individuals, businesses, local governments, or other entities expect to be adversely affected economically. No comments were received.

Rules proposed by the Department of Veterans Affairs

No information.

Effect on Small Business

Pursuant to ss. 227.114 and 227.137, Wis. Stats., it is not anticipated that the proposed rules will have an economic impact on small businesses.

The Department conducted economic impact analyses in consultation with businesses, business associations, local

governmental units, and individuals. The Department has determined that these rules would have no impact on the economy in a material way, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.

The rules will be enforced by Conservation Wardens who have arrest powers and may use citations

The Department’s Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental

effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

Agency contact person

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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

Sections of chs. NR 20, 21, 22, and 23 related fo fishing in inland, outlying, and boundary waters.

3. Subject

The rule will make changes to fish size limits, bag limits, seasons, and other regulations related to fishing in inland, outlying, and boundary waters

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

Rule changes are proposed to protect and enhance the State’s fish resources.

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 proposed rule will primarily affect sport anglers. The Department contacted organizations with an interest in fishing, such as the WI Conservation Congress, the WI Association of Lakes, the WI Council of Sport Fishing Organizations, Walleyes for Tomorrow, and many others for comments on the rule’s economic impact. In addition, the WI Towns Association, League of WI Municipalities, and WI Counties Association were contacted for comments. No comments were received by the Department.

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

The economic impact open comment period was conducted from November 23 to December 7, 2012. No local governments commented on the rule and therefore no LGUs participated in the development of the EIA.

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

It is not expected that there will be any economic impact directly related to these rule changes. The proposed rule will primarily affect sport anglers. Regulations are already in place and this rule is intended to continue protection and enhancement of the State's fish resources. One intention of the rule is to help maintain or improve the general economic impact of fishing throughout Wisconsin.

The proposed rule does not impose any compliance or reporting requirements on small businesses nor are any design or operational standards contained in the rule. The rule does not allow for the potential to establish a reduced fine for small businesses, nor does it establish "alternative enforcement mechanisms" for "minor violations" of administrative rules made by small businesses.

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

Fishing regulations are in place to help meet management goals and objectives for waters and their fish species, such as providing a trophy walleye fishery or a bass fishery that maximizes predation on smaller fishes. New regulations are proposed when management goals have changed or the Department must address a critical need, such as a major fish population decline. They are based on input solicited from stakeholders when the proposals were developed as well as plans for evaluating the regulations after they are in place. Alternatives, such as not making the regulation changes that are included in rule, have been discussed by Fisheries Management Bureau policy staff but are not recommended in order to meet fisheries management goals. As stated in s. NR 1.01(2), Wis. Adm. Code, the Department's goal is "to provide opportunities for the optimum use and enjoyment of Wisconsin's aquatic resources, both sport and commercial. A healthy and diverse environment is essential to meet this goal and shall be promoted through management programs."

14. Long Range Implications of Implementing the Rule

The existing policy behind fishing regulations is to provide diverse fishing opportunities throughout the State and that policy will be continued and enhanced by these rule changes. Based on the management goals for individual waters and species, the Fisheries Management Program strives to provide:

- consumptive opportunities where anglers can fish for a meal from a self-sustained fish population;
- quality and memorable opportunities where anglers can catch large fish and the density of adult fish in the populations are sustained or increased; and
- trophy opportunities where anglers can catch large trophy-size fish and the survival of older and larger fish is increased.

15. Compare With Approaches Being Used by Federal Government

Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with federal regulations.

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

Fisheries management rules are generally similar in the states surrounding Wisconsin. Each bordering state regulates fishing by the use of seasons, bag limits and size limits. Specific seasons and bag and size limits may differ for species among the surrounding states, but the general principles are similar. Michigan, Minnesota, Iowa, and Illinois all have statewide seasons and bag and size limits for fish species, along with special or experimental regulations on individual waters. The Department meets with the Michigan and Minnesota departments of natural resources each year to discuss management and regulation changes.

17. Contact Name
Kate Strom Hiorns

18. Contact Phone Number
(608) 266-0828

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

Notice of Hearing**Natural Resources*****Fish, Game, Etc., Chs. 1—*****CR 13-021**

(DNR # WM-01-13)

NOTICE IS HEREBY GIVEN that the Wisconsin Natural Resources Board proposes an order to revise chs. NR 10, 11, 17, and 45 relating to hunting, trapping, closed areas, dog training, and the use of department lands.

NOTICE IS HEREBY FURTHER GIVEN that at 7:00 p.m. on Monday, April 8, 2013, the Wisconsin Conservation Congress will hold its election of county delegates in each county. Upon completion of the delegate elections, the joint Spring Department of Natural Resources Rules Hearing and Conservation Congress Meeting will convene to take comments on the Department's proposed rule changes and Conservation Congress advisory questions.

Hearing Information

The public hearings/meetings will be held on **Monday, April 8, 2013, at 7:00 p.m.** at the following locations:

Adams	Adams County Courthouse, County Board Room A230, 400 Main Street Friendship, WI 53934	Door	Sturgeon Bay High School, 1230 Michigan St. Sturgeon Bay, WI 54235
Ashland	Ashland County Court House, 201 Main Street West, Ashland, WI 54806	Douglas	Superior Senior High School, Cafeteria 2600 Catlin Ave., Superior, WI 54880
Barron	Barron Government Center, Auditorium, 330 E. LaSalle Ave., Barron, WI 54812	Dunn	Dunn County Fish and Game Club 1600 Pine Ave., Menomonie, WI 54751
Bayfield	Bayfield County Courthouse, County Board Room, 117 E. 5 th Street Washburn, WI 54891	Eau Claire	CVTC Business Education Center Auditorium, 620, W. Clairemont Ave. Eau Claire, WI 54701
Brown	Northeast Wisconsin Technical College (SC132), 2740 W. Mason St. Green Bay, WI 54313	Florence	Florence Natural Resource Center Basement Conference Rm. 5631 Forestry Dr., Florence, WI 54121
Buffalo	Alma High School, Gymnasium S1618 STH 35, Alma, WI 54610	Fond du Lac	Theisen Middle School, 525 E. Pioneer Rd. Fond du Lac, WI 54935
Burnett	Burnett County Government Center, Room 165, 7410 County Road K, Siren, WI 54872	Forest	Crandon High School, Auditorium 9750 US HWY 8 West, Crandon, WI 54520
Calumet	Calumet County Courthouse, Rm. B025, 206 Court Street, Chilton, WI 53014	Grant	Lancaster High School, Auditorium 806 East Elm Street, Lancaster, WI 53813
Chippewa	Chippewa Falls Middle School, 750 Tropicana Blvd., Chippewa Falls, WI 54729	Green	Monroe Middle School, 1510 13th Avenue Monroe, WI 53566
Clark	Greenwood High School, 306 W. Central Ave. Greenwood, WI 54437	Green Lake	Green Lake High School, Small Gym 612 Mill St., Green Lake, WI 54941
Columbia	Wayne E. Bartels Middle School, Gymnasium 2505 New Pinery Rd., Portage, WI 53901	Iowa	Dodgeville High School, Gymnasium 912 Chapel Street, Dodgeville, WI 53533
Crawford	Prairie du Chien High School, Auditorium 800 E. Crawford St. Prairie du Chien, WI 53821	Iron	Iron County Courthouse, 300 Taconite Street Hurley, WI 54534
Dane	Sun Prairie High School, Performing Arts Center, 888 Grove St., Sun Prairie, WI 53590	Jackson	Black River Falls Middle School, LGI Room 1202 Pierce Street Black River Falls, WI 54615
Dodge	Horicon International Education Center Lower Level Auditorium, N7725 STH 28 Horicon, WI 53032	Jefferson	Jefferson County Fair Park, Activity Center 503 N. Jackson, Jefferson, WI 52549
		Juneau	Olson Middle School, Auditorium 508 Grayside Avenue, Mauston, WI 53948
		Kenosha	Bristol Elementary School, Gymnasium 20121 83rd Street, Bristol, WI 53104
		Kewaunee	Kewaunee High School, Auditorium 911 Third Street, Kewaunee, WI 54216
		La Crosse	Onalaska High School, Auditorium 700 Hilltopper Place, Onalaska, WI 54650
		Lafayette	Darlington Elementary School 11630 Center Hill Road arlington, WI 53530
		Langlade	Antigo High School, Volm Theater 1900 10th Ave., Antigo, WI 54409
		Lincoln	Tomahawk High School, Field House 1048 E. Kings Road, Tomahawk, WI 54487
		Manitowoc	UW-Manitowoc, Auditorium 705 Viebahn Street, Manitowoc, WI 54220
		Marathon	D.C. Everest Middle School, Auditorium 9302 Schofield Avenue, Weston, WI 54476
		Marinette	Wausaukee School, N11041 Highway 141 Wausaukee, WI 54177
		Marquette	Montello High School, Community Room 222 Forest Lane, Montello, WI 53949
		Menominee	Menominee County Courthouse 3269 Courthouse Lane, Keshena, WI 54135

Milwaukee	Nathan Hale High School, Auditorium 11601 W. Lincoln Ave., West Allis, WI 53227	Walworth	Delavan-Darien High School 150 Cummings St., Delavan, WI 53115
Monroe	Tomah High School, Cafeteria 901 Lincoln Ave., Tomah, WI 54660	Washburn	Spooner High School, Auditorium 801 County Highway A, Spooner, WI 54801
Oconto	Suring High School, Cafeteria 411 E Algoma St., Suring, WI 54174	Washington	Washington County Fair Park 3000 Cty Hwy PV, West Bend, WI 53095
Oneida	James Williams Middle School 915 Acacia Lane, Rhineland, WI 54501	Waukesha	Waukesha Co. Tech. College Richard Anderson Ed. Center 800 Main Street, Pewaukee, WI 53072
Outagamie	Appleton North High School 5000 N. Ballard Road, Appleton, WI 54913	Waupaca	Waupaca High School, PAC-Auditorium E2325 King Road, Waupaca, WI 54981
Ozaukee	Webster Middle School, Commons W75 N624 Wauwatosia Rd. Cedarburg, WI 53012	Waushara	Waushara County Courthouse County Board Rm. 265, 209 S. St. Marie St. Wautoma, WI 54982
Pepin	Pepin County Government Center County Board Room, 740 7th Ave. West Durand, WI 54736	Winnebago	Webster Stanley Middle School, Auditorium 915 Hazel Street, Oshkosh, WI 54901
Pierce	Ellsworth Senior High School, Auditorium 323 Hillcrest, Ellsworth, WI 54011	Wood	Pittsville School District Administrative Bldg., Auditorium 5459 Elementary Ave., Pittsville, WI 54466
Polk	Unity High School, Auditorium 1908 150th St. Hwy 46 Balsam Lake, WI 54810		
Portage	Ben Franklin Junior High School, Auditorium 2000 Polk St., Stevens Point, WI 54481		
Price	Price County Courthouse, Board Room 126 Cherry St., Phillips, WI 54555		
Racine	Union Grove High School 3433 S. Colony Ave., Union Grove, WI 53182		
Richland	Richland County Courthouse Upstairs Courtroom, 181 West Seminary Richland Center, WI 53581		
Rock	Milton High School, Auditorium 114 W. High Street, Milton, WI 53563		
Rusk	Ladysmith High School, Auditorium 1700 E. Edgewood Ave. Ladysmith, WI 54848		
Saint Croix	St Croix Central High School, Commons 1751 Broadway St., Hammond, WI 54015		
Sauk	UW Baraboo Campus, Lecture Hall A-4 1006 Connie Road, Baraboo, WI 53913		
Sawyer	Hayward High School 10320 N. Greenwood Lane Hayward, WI 54843		
Shawano	Shawano Middle School, LGI Room 1050 S. Union St., Shawano, WI 54166		
Sheboygan	Plymouth High School, Auditorium 125 Highland Ave., Plymouth, WI 53073		
Taylor	Multi-purpose building, Hwy 64/ Hwy 13 Medford, WI 54451		
Trempealeau	Whitehall City Center, 18620 Hobson St., Whitehall, WI 54773		
Vernon	Viroqua High School, Commons Area, 100 Blackhawk Drive, Viroqua, WI 54665		
Vilas	St. Germain Elementary School, Gymnasium 8234 Hwy 70 West, Saint Germain, WI 54558		

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kari Lee-Zimmermann at (608) 266-0580 with specific information on your request by April 1, 2013.

Copies of Proposed Rules and Submittal of Written Comments

The proposed rule and supporting documents may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov> (search wildlife rule "WM-01-13" and fisheries rule "FH-18-12"). A copy of the proposed rules and supporting documents may also be obtained from Kate Strom Hiorns, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707 or kathryn.stromhiorns@wisconsin.gov; or Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or scott.loomans@wisconsin.gov. Written comments shall be postmarked not later than April 8, 2013. Written comments whether submitted electronically or by U.S. mail will be summarized for the Natural Resources Board, however, they will not be tallied along with the responses received at the county hearings.

Written comments on the proposed rule may be submitted via U.S. mail or email to Kate Strom Hiorns or Scott Loomans at the addresses noted above.

Summary of Proposed Rule

The Department of Natural Resources will take public input on proposed rule changes relating to fishing on the inland, outlying, and boundary waters of Wisconsin. The proposed rules will:

- Allow fishing by the method of trolling on all inland waters with up to three hooks, baits, or lures.
- Allow rough fish to be taken by hand year round or by handheld spear from June 1 to August 31, where spearing is allowed, on inland waters within 200 feet of a fishway, lock, or dam.
- Alter the hours to legally spear sturgeon on lakes Winnebago, Butte des Morts, Winneconne, and Poygan from 6:30 AM – 12:30 PM to 7:00 AM – 1:00 PM, and change the daily deadline for sturgeon spears to register their fish from 1:30 PM to 2:00 PM.

- Make permanent a protected slot limit regulation on walleye, sauger, and hybrids where there is a daily bag limit of 5 fish and the minimum length is 15 inches, but fish from 20 to 28 inches may not be kept and only 1 fish over 28 inches is allowed on the Wisconsin River north of the Prairie du Sac Dam in Columbia County up to the Grandfather Dam in Lincoln County and several of its tributaries. The season is open year round. The regulation would also be applied to the Big Rib River downstream from Highway 29, Peplin Creek, Johnson Creek, Little Eau Claire River, and Little Eau Pleine River in Marathon County; and the Little Eau Claire River and the Little Eau Pleine River in Portage County under this proposal, but the season would only be open from the first Saturday in May to the first Sunday in March.
 - Remove the Northern Bass Management Zone early catch and release season for largemouth bass and allow their harvest under existing size and bag limits. Smallmouth bass must be immediately released during the early catch and release season.
 - Simplify rough fish spearing season dates on inland waters statewide by opening most waters in all but 9 northern counties to rough fish spearing year-round. All Lake Winnebago System waters will have an April 21 to February 1 open season.
 - Apply a daily bag limit of 1 fish and a 28-inch minimum length limit on walleye, sauger, and hybrids on Silver Lake, Barron County.
 - Apply a daily bag limit of 2 fish and a 26-inch minimum length limit on northern pike on Diamond Lake, Bayfield County.
 - Apply a 3-fish daily bag limit and 18-inch minimum length limit on walleye, sauger and hybrids; a 1-fish daily bag limit and 18-inch minimum length limit on largemouth and smallmouth bass; and a 1-fish daily bag limit and a 32-inch minimum length limit on northern pike on Park Lake and the Fox River upstream to the Highway 33 bridge.
 - Designate Token Creek Ponds and Syene Ponds in Dane County, Lions Park Pond in Rock County, and Lapham Peak Pond in Waukesha County as urban fishing waters.
 - Make permanent a daily bag limit of 3 fish and an 18-inch minimum length limit for walleye, sauger, and hybrids on Beaver Dam Lake and its tributaries, including Mill Creek from the mouth upstream to the Fox Lake dam and all portions of Beaver Creek in Dodge County.
 - Apply a 5-fish daily bag limit and no minimum length limit, with only 1 fish over 14 inches allowed, to walleye, sauger, and hybrids on Minong Flowage, Douglas and Washburn counties.
 - Apply a daily bag limit of 3 fish and an 18-inch minimum length limit on walleye, sauger, and hybrids on Lake Nebagamon, Douglas County.
 - Apply a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed, in Half Moon Lake, Eau Claire County.
 - Apply a daily bag limit of 5 fish and a 15-inch minimum length limit on walleye, sauger, and hybrids in Patten Lake, Florence County.
 - Apply a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed in Trump Lake, Forest County.
 - Apply a daily bag limit of 5 fish and no minimum length limit for northern pike on Lake Six in Iron County.
 - Apply a daily bag limit of 5 fish and a 15-inch minimum length limit on walleye, sauger, and hybrids on Sandy Beach Lake, Iron County.
 - Apply a daily bag limit of 10 fish and no minimum length limit on catfish and open the catfish season year round in Yellowstone Lake, Lafayette County.
 - Apply a daily bag limit of 1 fish and an 18-inch minimum length limit on largemouth and smallmouth bass, as well as a 1-fish daily bag limit and 32-inch minimum length limit on northern pike in Lake Tomah.
 - Apply a daily bag limit of 25 fish and no minimum length limit for panfish on Thompson Lake, Pepin County.
 - Apply a daily bag limit of 5 fish and no minimum length limit on largemouth and smallmouth bass on Balsam Lake, Polk County.
 - Apply a daily bag limit of 5 fish and no minimum length limit on largemouth and smallmouth bass and a daily bag limit of 3 fish and 18-inch minimum length limit on walleye, sauger, and hybrids on Big Chetac Lake, Sawyer County.
 - Apply a daily bag limit of 3 fish and no minimum length limit on largemouth and smallmouth bass, however all bass from 14 to 18 inches must be released and only 1 fish greater than 18 inches is allowed on Bass Lake, St. Croix County.
 - Make permanent the current 1-fish daily bag limit and 18-inch minimum length limit for largemouth and smallmouth bass and change the daily bag limit to 3 fish and the minimum length limit to 18-inches for walleye, sauger, and hybrids on Sparkling Lake, Vilas County.
 - Apply a daily bag limit of 10 fish for panfish on Little Hills Lake, Waushara County.
 - Apply a daily bag limit of 1 fish and a 54-inch minimum length limit on muskellunge in Green Bay, Lake Michigan, and its tributaries north of Waldo Boulevard (in Manitowoc) and the Menominee River upstream to the Hattie Street Dam.
 - Allow the Department to make explicit, temporary changes to length or bag limits under certain conditions using a legally defined public notice process, a public information meeting if requested, and posting notice of the regulation change at public access sites to the water.
 - Allow the Department to adjust bag and length limits for walleye or muskellunge in the ceded territory in response to actual tribal harvest, rather than currently waiting until after the third Monday in May.
 - Prohibit the use of lead tackle that is less than 1-inch in diameter or less than 1-ounce in weight on Escanaba, Nebish, and Palette lakes in Vilas County.
- The Department of Natural Resources will take public input on proposed rule changes relating to hunting, trapping, and the management of Department lands. The proposed rules will:
- Simplify firearm deer hunting regulations by allowing the use of rifles statewide. Currently, only shotguns, muzzleloaders and handguns may be used in some

areas. These sections also make housekeeping updates in response to 2011 Act 50 which prohibited certain firearm deer seasons from being held prior to the Saturday before the Thanksgiving holiday.

- Simplify pheasant hunting regulations by eliminating the requirement to tag harvested birds at stocked hen/rooster pheasant hunting areas. Field dressed carcasses of pheasants would need to retain proof of species and sex identification while being transported, similar to current requirements for migratory game birds.
- Simplify mink and muskrat trapping regulations by creating more consistent opening dates throughout the state.
- Establish that hunting hours apply to people who are training bear hunting dogs at times when the bear hunting season is also open. Under 2011 Act 28, bear dog training is now allowed during the open season for hunting bears with dogs.
- Establish a four–day trap check requirement, instead of a daily requirement, for certain types of traps placed for weasels.
- Require reporting the harvest of otter and fisher within 24 hours.
- Establish that, in addition to collecting certain food items, it is also legal to cut and gather willow stakes on Department managed lands for non–commercial uses. Willow stakes are often used by trappers for trap stakes and marking trap set locations. A person will need first obtain permission from the property manager before cutting and removing such willow stems.
- Allow the unattended, overnight placement of portable stands and blinds on Department owned and managed lands from September 1 through January 31.
- Eliminate the refuge/closed area at Mecan Springs, Waushara County, as recommended in voting by the Conservation Congress in 2012.
- Simplify regulations for pheasant hunters at Richard Bong State Recreation Area in Kenosha County by eliminating the arm band requirement for pheasant hunters.
- Establish a controlled dove hunt at Bong State Recreation Area in Kenosha County in order to improve hunter satisfaction by reducing hunter interference.
- Increase the daily pheasant hunting fee at Bong State Recreation Area in Kenosha County from \$3.00 to \$12.00 (\$5.00 if stocking did not occur on that day) because the current fee is not sufficient to cover the cost of this stocking program.
- Expand the area where rifles are allowed for firearm deer hunting in Outagamie and Shawano Counties.

Analysis Prepared by Department of Natural Resources

Statutory authority and explanation of agency authority

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule–making authority allows the department to make changes related to deer hunting and management, simplify Canada goose hunting regulations, eliminate previous rules on the possession of hen pheasants but require that the species and sex of birds being transported be identifiable. This section authorizes other rule–making such

as establishing the types of firearms that may be used for hunting, waterfowl hunting regulations, and bear and wolf pursuit regulations and other hunting regulations. Finally, this section authorizes setting season dates for species such as coyotes, mink and muskrat and establishing trap–check and carcass harvest reporting requirements.

The establishment of game refuges is authorized in s. 23.09 (2) (b), Stats., relating to the department’s ability to designate locations reasonably necessary for the purpose of providing safe retreats in which birds may rest and replenish adjacent hunting grounds.

Managed hunting opportunities which control activities within zones at Bong Air Base, the Richard Bong Recreation Area, are authorized by ss. 23.09 (13) and 23.091, Stats. Special fees for use of the recreation areas for certain types of visitation, such as pheasant hunting, are authorized under s. 27.01 (9) (c), Stats.

Statutes interpreted and explanation

Sections 23.095, 23.11 and 29.014, Stats. allow for the protection of natural resources, establish general department powers, and authority to establish hunting and trapping regulations on department managed lands including regulations on the placement of hunting stands and blinds, collecting willow stakes, and training dogs to pursue wild animals.

Under 2011 Act 50, the department is prohibited from establishing regular firearm deer seasons that occur earlier than the Saturday before the Thanksgiving holiday. This rule proposal makes changes of a housekeeping nature by striking rule language that is no longer in effect as a result of the act.

Under 2011 Act 28, bear dog training is now allowed during the open season for hunting bears with dogs. This rule will establish that the hours for hunting bear also apply to people who are training dogs to pursue bear, but only at times when the hunting season for bears is open.

Related statute or rule

A permanent rule related to reporting the harvest of wolves and training dogs used to pursue wolves, WM–08–12, is also being promulgated by the department. That rule cites the same scope statement that authorized promulgation of this rule, SS 062–12 and amends the same sections related to harvest reporting except the species affected in this proposal are fisher and otter. Additionally, it is the department’s intention to promulgate housekeeping rules that will make Fish, Game and Enforcement, Forestry and Recreation chapters of Adm. Code consistent with various acts of the legislature in its 2011–2012 Session. The housekeeping rule will be modifying the same chapters as this proposed rule. Finally, the department intends to promulgate rules related to migratory bird hunting that will also modify the same chapters as this proposal.

Plain language rule analysis

These rule changes are proposed for inclusion on the 2013 Spring Hearing rules package and questionnaire. This rule package will create and amend regulations for hunting, trapping, closed areas, dog training, and the use of department lands found in chs. NR 10, 11, 17 and 45, Wis. Adm. Code.

SECTIONS 1, 3 to 5, 9 and 13 simplify firearm deer hunting regulations by allowing the use of rifles statewide. Currently, only shotguns, muzzleloaders and handguns may be used in some areas. If the statewide use of rifles were not to win support during the rule making process, the department would consider expanding rifle use in Shawano and

Outagamie as recommended in spring hearing voting. These sections also make housekeeping updates in response to 2011 Act 50 which prohibited certain firearm deer seasons from being held prior to the Saturday before the Thanksgiving holiday.

SECTIONS 2 and 8 simplify pheasant hunting regulations by eliminating the requirement to tag harvested birds at stocked hen/rooster pheasant hunting areas. Instead, field dressed carcasses of pheasants would need to retain proof of species and sex identification while being transported.

SECTIONS 6 and 7 simplify mink and muskrat trapping regulations by creating more consistent opening dates throughout the state.

SECTIONS 10 and 15 to 17 establish that, when the bear hunting season is open, hunting hours apply to people who are training bear hunting dogs as well as to people who are hunting bears.

SECTION 11 establishes that certain traps placed for weasels need to be checked by the trapper at least once every four days instead of daily.

SECTION 12 requires reporting the harvest of otter and fisher within 24 hours.

SECTION 14 simplifies regulations for pheasant hunters at Richard Bong State Recreation Area in Racine County, including eliminating the arm band requirement for pheasant hunters.

SECTION 13 establishes a controlled dove hunt at Bong State Recreation Area in Racine County in order to improve hunter satisfaction by reducing hunter interference.

SECTION 14 eliminates the refuge/closed area at Mecan Springs, Waushara County, as recommended in voting by the Conservation Congress in 2012.

SECTION 18 establishes that, in addition to collecting certain food items, it is also legal to cut and gather willow stakes on department managed lands for non-commercial uses, if prior permission is obtained from the property manager. Willow stakes are often used by trappers and individuals using licensed set lines and bank poles.

SECTION 19 allows unattended, overnight placement of portable stands and blinds on department owned and managed lands from September 1 through the following January 31.

SECTION 20 increases the daily pheasant hunting fee at Bong State Recreation Area in Racine County from \$3.00 to \$12.00 (\$5.00 if stocking did not occur on that day) because the current fee is not sufficient to cover the cost of this stocking program.

Federal regulatory analysis

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Comparison with rules in adjacent states

These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

Summary of factual data and analytical methodologies

All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest for conservation purposes.

The harvest of hen pheasants is generally prohibited in the wild but is allowed at certain stocked public hunting grounds. Hunters at these properties must tag the leg of harvested birds before transporting them in any way. Eliminating the tag requirement will save money for the department. By instead requiring that all harvested bird carcasses retain evidence of species and sex identification, such as the head or a fully feathered wing, a conservation warden will still be able to identify a hen pheasant and can then verify where it was harvested.

The use of firearms for deer hunting is restricted to shotguns, muzzleloaders and handguns only in certain portions of the state. At one time people generally believed that these firearms were safer but research and experience indicate that is not the case. Allowing the use of rifles statewide will be a simplification of regulations. Residents of Shawano County have asked for a stand-alone rule proposal, in addition to the statewide proposal, so that a Shawano County proposal can advance if a statewide rule does not. In Conservation Congress voting, residents of Outagamie County have also requested expanded use of rifles.

Currently there are four separate zones for mink and muskrat harvest, with slightly different opening or closing dates. This proposal would consolidate zones in order to simplify regulations that are no longer needed.

Richard Bong Recreation Area, located in Racine County, currently experiences very heavy dove hunting pressure that detracts from the quality of the hunting experience. The purpose in creating a controlled dove hunt area on the Richard Bong State Recreation Area (RBSRA) is to prevent conflict with Special Use Zone (SUZ) user groups. The 1200 acre SUZ is located in the southwest part of the RBSRA. During the airbase construction the current SUZ area was to be the runway. The area was stripped of topsoil and a little over 2 miles of gravel was laid. Just south of the gravel runway several shallow runoff ponds were also built. When the property became a park the runway and surrounding area was designated as the SUZ to serve as a special area to support a variety of activities, many non-traditional, because of the heavy disturbance. Administrative rules list 25 different activities permitted in the SUZ – the ones relating to this rule change are hunting, all-terrain vehicles, and dog training/trialing. The priority ranking guidance in rule helps minimize conflicts, but with the introduction of dove hunting new issues started to develop. Currently there are approximately 7–8 miles of ATV & Motor bike dirt/gravel trails north of the gravel runway. The runway area is attractive to doves because of the gravel and shallow ponds, which also attracts the dove hunters. As dove hunting grew in popularity conflicts started to occur in the SUZ. Rangers observed dove hunters within the ATV loops hunting. A hunter would setup in the loop area and wait for an ATV or Motor Bike to drive by. When the vehicle would flush the dove off the trail the hunter would stand up and shoot at the bird. Also, dove hunters hunting by the ponds would shoot in the direction of the ATV/Motor Bike trails. Fortunately no one has been injured, but changes are needed to avoid an accident. Another concern addressed by this proposal is that the pond areas are starting to become over-crowded. Several hunter groups would line the edge of the ponds shooting in different

directions at doves and possibly at other hunting groups and other user groups— ATV/Motor Bike. As a result recommendations were made to create a 300 acre controlled hunting area in the SUZ where hunters are restricted to 8 locations identified by posts. Only 3 hunters are allowed per post; they must hunt within 10 feet of the posts; and they can only shoot to the south. In the remaining portions of the park open to hunting, hunters are not restricted to a specific area to hunt doves.

Arm bands must be worn by pheasant hunters at Richard Bong State Recreation Area. This requirement may no longer be needed and the department will evaluate eliminating it.

This proposal would exempt trappers from the daily trap checking requirement on dry land for certain types of sets made for weasels. Tending traps would be required at least once every four days. The trap types exempted under this proposal would be small body gripping traps contained in enclosures with an opening of a size that should prevent the capture of protected martens. Because body gripping traps are designed to kill the weasel upon capture, trappers have argued that live animals will not remaining in traps for extended periods of time. Additionally, the enclosures in which the traps are placed should prevent scavenging of trapped animals and keep them out of sight. In these specific trapping situations, daily trap checking requirements may not be needed.

Currently, there are no restrictions on the time of day for training dogs to pursue bears. In the past, training dogs by trailing wild bears was not legal during the hunting season for bears. With the passage of 2011 ACT 28, bear dog training is now allowed during the bear hunting season. This proposal will require that all bear pursuit activities take place only during lawful bear hunting hours when the bear hunting season is open in order to eliminate the need to determine who is hunting and who is only training. Bear dog training typically is done during daylight hours so this will not result in a significant loss of opportunity.

Collecting plants from department managed lands is generally prohibited except for some edible plant parts and the removal of invasive plants. This proposal would also allow collecting willow stakes on department managed lands for non-commercial uses with prior permission of the property manager. Willow stakes are often used by trappers for marking trap locations and anchoring traps. The restriction to taking only willows that are 2 ½" in diameter or less will allow taking trees that are large enough to use for bank poles and set lines but will maintain the prohibition of harvesting trees in general. Willow is a fast growing species that, although native, is sometimes considered invasive in certain areas.

Currently the overnight, unattended placement of hunting stands and blinds is not allowed on department managed lands. This regulation is designed to prevent the "staking out" or making advance claims to hunting locations in favor of a first-come-first served practice. However the overnight placement, remaining in place for more than one day, of stands is allowed on some other public lands and may also be practical on department lands.

At Richard Bong Recreation Area hunters pay a daily entrance fee of \$3.00 to hunt stocked pheasants and the daily bag limit is two birds. This fee has not been updated since being established in 1982. An increase to \$12.00 (\$5.00 if stocking was not done on the previous day) will allow the managed pheasant hunt program to continue in a sustainable

manner while improving the quality and consistency of the hunt for program participants.

Anticipated Private Sector Costs and Economic Impact of Implementing the Rule

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

This proposal would increase the daily fee for pheasant hunting at Richard Bong Recreation Area from \$3.00 to \$12.00. The daily bag limit is two birds per day beginning on the third day of the season (1 per day on opening weekend). A survey of privately owned southern Wisconsin pheasant game farms showed that most charge between \$44.00 and \$50.00 for two birds. The Illinois Department of Natural Resources conducts similar managed pheasant hunts and charges \$25.00 per day with a daily bag limit of two. Because the fee at the recreation area will continue to be significantly lower than similar opportunities available in the region, no shift in hunting activity or hunter's related expenditures is anticipated.

Allowing the use of rifles for firearm deer hunting statewide will result in an increase in rifle sales in subsequent years. Many hunters perceive that hunting deer with rifles is preferable to hunting with shotguns, muzzleloaders, or handguns. Because ordering and shipping firearms is difficult, many or most of these purchases will occur at shops in Wisconsin. It is difficult to estimate how many purchases will occur because people would still be able to hunt with shotguns, muzzleloader and handguns. Purchases may be spread out over a period of years as people update their firearms. While the amount of economic impact is difficult to estimate, an increase in firearm sales would be an assured result of this rule change and is something that sporting goods outlets are already anticipating.

Other proposed rule changes are not expected to significantly influence the spending activities or hunting and trapping activity of hunters, trappers, dog trainers, or other outdoor enthusiasts. Correspondingly, no related economic impacts are anticipated.

Effects on Small Business

Pursuant to ss. 227.114 and 227.137, Wis. Stats., it is not anticipated that the proposed rules will have an economic impact on small businesses.

The Department conducted economic impact analyses in consultation with businesses, business associations, local governmental units, and individuals. The Department has determined that these rules would have no impact on the economy in a material way, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Because this rule does not add any regulatory requirements for small businesses, the proposed rules will not have a significant economic impact on a substantial number of small businesses under s. 227.24 (3m), Stats.

The Department’s Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266–1959.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental

analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

Agency Contact Person

Scott Loomans, 101 South Webster St., PO BOX 7921, Madison, WI 53707–7921. (608) 267–2452, scott.loomans@wisconsin.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		
WM–01–13 relating to hunting, trapping, closed areas, dog training, and the use of department lands. This rule modifies Chs. NR 10 related to game and hunting, NR 11 related to closed areas, NR 17 related to dog trials and training, and NR 45 related to the use of department properties.		
Subject		
Economic impact analysis for public comment relating to hunting, trapping, closed areas, dog training, and the use of department lands.		
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG–S	20.370 (1) (mu)	
Fiscal Effect of Implementing the Rule		
<input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units	<input 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		
All of the policies in this rule are generally consistent with past board policies of regulating fish and game harvest for conservation purposes. These rule changes are proposed for inclusion on the 2013 Spring Hearing rules package and questionnaire. This rule package will create and amend regulations for hunting, trapping, closed areas, dog training, and the use of department lands found in Chs. NR 1, 10, 11, 17 and 45. This analysis is required under s. 227.137 Stats. It has been prepared as part of the normal rule making process. The effort involved and sophistication of this analysis are limited but sufficient given the minimal economic impact of these rules. Due to the excessive time required, no effort was made to calculate a net benefit using formal cost–benefit analysis techniques. Pursuant to the Governor’s Executive Order 50, Section II, this is a level 3 economic impact analysis. A notice for Solicitation of comments on this analysis was posted on the department’s website from November 26 through December 10 and various interest groups were contacted by email. The department received a handful of comments in support of individual provisions of the rule but no comments on economic impacts to businesses, local governments, or individuals.		

Specifically, these rules would;

1. Simplify pheasant hunting regulations by eliminating the requirement to tag harvested birds at stocked hen/rooster pheasant hunting areas. Instead, field dressed carcasses of all birds would need to retain proof of species and sex identification while being transported.
2. Simplify firearm deer hunting regulations by allowing the use of rifles statewide. Currently, only shotguns may be used in some areas. If the statewide use of rifles were not to win support at some point during the rule making process, the department would consider expanding rifle use in individual counties including, but not limited to, Shawano and Outagamie as recommended in Conservation Congress voting.
3. Simplify mink and muskrat trapping regulations by creating more consistent opening dates throughout the state and require reporting the harvest of certain species such as otter and fisher within 24 hours.
4. Establish a controlled dove hunt at Bong State Recreation Area in Racine County in order to improve hunter satisfaction by reducing hunter interference.
5. Simplify regulations for pheasant hunters at Richard Bong State Recreation Area in Racine County, including eliminating the arm band requirement for pheasant hunters.
6. Lengthen the period of time that trappers have to check weasel traps, as recommended in voting by the Conservation Congress in 2012.
7. Eliminate the refuge/closed area at Mecan Springs, Waushara County, as recommended in voting by the Conservation Congress in 2012.
8. Establish that, when the bear hunting season is open, hunting hours apply to people who are training bear hunting dogs as well as to people who are hunting bears.
9. Establish that, in addition to collecting certain food items, it is also legal to cut and gather willow stakes on department managed lands for non-commercial uses. Willow stakes are often used by trappers.
10. Allow unattended, overnight placement of portable tree stands on department managed lands.
11. Increase the daily pheasant hunting fee at Bong State Recreation Area in Racine County from \$3.00 to \$12.00 (\$5.00 if stocking was not done on the previous day) because the current fee is not sufficient to cover the cost of this stocking program.

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)

These proposals will contribute to providing good opportunities for hunting and trapping and maintenance of the economic activity generated by people who participate in those activities. However, these rules are not expected to significantly affect currently available outdoor opportunities and no significant impacts to the economic activities of hunters, trappers, or outdoor recreation enthusiasts are expected.

State Fiscal Impact

This proposal would increase the daily fee for pheasant hunting at Richard Bong Recreation Area from \$3.00 to \$12.00. The daily bag limit is two birds per day beginning on the third day of the season (1 per day on opening weekend). Increasing the daily hunting fee at Richard Bong State Recreation Area will generate approximately \$100,000 in additional revenue and will not create any additional costs. This proposal aims to make the Managed Hunt Program a self-sufficient operation so that statewide hunters and fisherman are not subsidizing those that partake in the managed hunt program at Richard Bong.

Eliminating the requirement to tag harvested pheasants at certain department properties will reduce the department's costs annually by at least \$6,752 which is the current cost to print the tags. The department will benefit from some reduced costs for shipping tags, but this will be limited because much distribution is done jointly with other materials that will still need to be distributed.

Other provisions of this rule will not have a fiscal impact on the department. The department already administers seasons and enforces regulations related to all of the other hunting and trapping opportunities that are modified by this rules package. No new expenses or revenues are anticipated as a result of these proposals.

Small Business Impacts

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule.

Economic Impacts

This rule contains a proposal to increase the daily fee for pheasant hunting at Richard Bong Recreation Area from \$3.00 to \$12.00. The daily bag limit is two birds per day beginning on the third day of the season (1 per day on opening weekend). A survey of privately owned southern Wisconsin pheasant game farms showed that most charge between \$44.00 and \$50.00 for two birds. The Illinois Department of Natural Resources conducts similar managed pheasant hunts and charges \$25.00 per day with a daily bag limit of two. Because the fee at the recreation area will continue to be significantly lower than similar opportunities available in the region, no shift in hunting activity or hunter's related expenditures is anticipated. Some private game farm owners likely consider the department's stocking program to be competitive with their businesses. However, some private game farm owners have indicated they believe that department's pheasant stocking maintains public interest in pheasant hunting and ultimately results in more people seeking the additional opportunities provided by private game farms. In either case, no impacts are anticipated.

Allowing the use of rifles for firearm deer hunting statewide will result in an increase in firearm sales in subsequent years. Many hunters perceive that hunting deer with rifles is preferable to hunting with shotguns, muzzleloaders, or handguns. Because ordering and shipping firearms is difficult, many or most of these purchases will occur at shops in Wisconsin. It is difficult to estimate how many purchases will occur because people would still be able to hunt with shotguns, muzzle-loader and handguns. Purchases may be spread out over a period of years as people update their firearms. While the amount of economic impact is difficult to estimate, an increase in firearm sales would be an assured result of this rule change and is something that sporting goods outlets are already anticipating.

Other proposed rule changes are not expected to significantly influence the spending activities or hunting and trapping activity of hunters, trappers, dog trainers, or other outdoor enthusiasts. Correspondingly, no related economic impacts are anticipated.

Public Utility Rate Payers

These proposed rules will have no impact on public utility rate payers.

Local Governmental Units

These rules do not establish any requirements for local governments. These rules are unlikely to have a significant economic impact on local economies because of the limited number of participants in a wolf hunting or trapping season in any given year.

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

This rule proposes several simplifications to existing regulations. Eliminating the requirement that some pheasants be tagged immediately upon harvest will simplify regulations for hunters as well as simplifying the department's administrative procedures.

The use of firearms for deer hunting is restricted to shotguns, muzzleloaders and handguns only in certain portions of the state. At one time people generally believed that these firearms were safer but research and experience indicate that is not the case. Allowing the use of rifles statewide will be a simplification of regulations.

Currently there are four separate zones for mink and muskrat harvest, with slightly different opening or closing dates. This proposal would consolidate zones in order to eliminate regulations that are no longer needed.

Richard Bong Recreation Area, located in Racine County, currently experiences very heavy dove hunting pressure that detracts from the quality of the hunting experience. The purpose in creating a controlled dove hunt area on the Richard Bong State Recreation Area (RBSRA) is to improve the quality of the hunting experience and prevent conflict with Special Use Zone user groups.

Currently, there are no restrictions on the time of day for training bears. In the past, training dogs by trailing wild bears was not legal during the hunting season for bears. With the passage of 2011 ACT 28, dog training is now allowed during the bear hunting season. This proposal will require that all bear pursuit activities take place only during daylight hours when the bear hunting season is open in order to eliminate the need to determine who is hunting and who is only training. Bear dog training typically is done during daylight hours so this will not result in a significant loss of opportunity.

Collecting plants from department managed lands is generally prohibited except for some edibles and the removal of invasive plants. This proposal would also allow collecting willow stakes on department managed lands for non-commercial uses. Willow stakes are often used by trappers for marking trap locations and anchoring traps. Willow is a fast growing species that, although native, is sometimes considered invasive in certain areas.

Currently the overnight, unattended placement of tree stands for hunting is not allowed on department managed lands. This regulation is designed to prevent the "staking out" or making advance claims to hunting locations in favor of a first-come-first served practice. However, the overnight placement, remaining in place for as long as an entire season, of stands is allowed on some lands may also be practical on department lands.

At Richard Bong Recreation Area hunters pay a daily entrance fee of \$3.00 to hunt stocked pheasants and the daily bag limit is two birds. This fee has not been updated since being established in 1982. An increase to \$12.00 (\$5.00 if stocking was not done on the previous day) will allow the managed pheasant hunt program to continue in a sustainable manner while improving the quality and consistency of the hunt for program participants.

Long Range Implications of Implementing the Rule

The long range implications of this rule proposal will be the same as the short term impacts. These proposals will contribute to providing good opportunities for hunting and trapping and maintenance of the economic activity generated by people who participate in those activities.

Compare With Approaches Being Used by Federal Government

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

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

These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

The Illinois Department of Natural Resources conducts similar managed pheasant hunts and charges \$25.00 per day with a daily bag limit of two.

Name and Phone Number of Contact Person

Scott Loomans, Wildlife Regulation Policy Specialist, 608-267-2452.

Notice of Hearing

Revenue

CR 13-011

NOTICE IS HEREBY GIVEN That, pursuant to ss. 77.65 (3) and 227.11 (2) (a), Stats., the Department of Revenue will hold a public hearing to consider permanent rules revising Chapter Tax 11, relating to sales and use tax provisions concerning advertising and promotional direct mail and prosthetic devices.

Hearing Dates and Locations

Date: Monday, April 1, 2013
Time: 9:00 a.m.
Location: Events Room
 State Revenue Building
 2135 Rimrock Road
 Madison, WI 53713

Handicap access is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact person listed below or to adminrules.wisconsin.gov no later than **April 1, 2013**, and will be given the same consideration as testimony presented at the hearing.

Dale Kleven
 Department of Revenue
 Mail Stop 6-40
 2135 Rimrock Road
 P.O. Box 8933
 Madison, WI 53708-8933
 Telephone: (608) 266-8253
 E-mail: dale.kleven@revenue.wi.gov

Analysis by the Department of Revenue

Statutes interpreted

Sections 77.51 (11m) and 77.54 (22b) and (59), Stats.

Statutory authority

Sections 77.65 (3) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 77.65 (3), Stats., provides “[t]he department may promulgate rules to administer this section...”

Section 227.11 (2) (a), Stats., provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Related statute or rule

There are no other applicable statutes or rules.

Plain language analysis

This proposed rule:

- Reflects the creation of s. 77.54 (59), Stats., by 2011 Wisconsin Act 32 to provide a sales and use tax exemption for advertising and promotional direct mail. This requires the explanation of the new exemption in Subchapter III of Chapter Tax 11 and updates to the provisions of ss. Tax 11.19, 11.56, 11.70, and 11.945.
- Amends the second note at the end of s. Tax 11.72 to correctly reflect the effective date of the repeal of the sales and use tax exemption for cloth diapers.
- Amends the list of taxable and exempt purchases contained in s. Tax 11.17 (3) to move “Splints and cast materials” and “Rib belts and supports” from the taxable list to the exempt list so that it is consistent with the information in ss. Tax 11.08 (4) and 11.45 (3) (b) 9. and current law.

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

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states

The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies

2011 Wisconsin Act 32 made a change to Wisconsin's sales and use tax treatment of advertising and promotional direct mail. The department has created this proposed rule order to reflect this statutory change. No other data was used in the preparation of this proposed rule order or this analysis.

Analysis and supporting documents used to determine effect on small business

This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector

This proposed rule does not have a fiscal effect on the private sector.

Effect on Small Business and Initial Regulatory Flexibility Analysis

This proposed rule does not affect small business.

Agency Contact Person

Please contact Dale Kleven at (608) 266–8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this proposed rule.

Text of Rule

SECTION 1. Tax 11.17 (3) is amended to read:

Tax 11.17 (3) PURCHASES BY CLINICS AND MEMBERS OF THE MEDICAL PROFESSION. Purchases made by physicians and medical clinics that do not hold a Certificate of Exempt Status, “CES,” are subject to the sales or use tax unless specifically exempt by law. To be exempt, the items on the exempt list shall be furnished to patients at the direction of a physician, surgeon, or podiatrist in conjunction with providing medical service, except for items noted with an asterisk. These items are exempt even though not purchased under the direction of the health professional. The following is a partial list of taxable and exempt purchases of clinics and members of the medical professions.

Taxable	Exempt
Adhesive tape	*Antiembolism elastic hose and stockings, including parts and accessories
Alcoholic beverages	
Apparatus and equipment for treatment of diabetes	*Artificial eyes and limbs, including parts and accessories
Bandages, gauze and cotton	
Bed pans	
Beds and linens	*Blood sugar level testing supplies
Blankets	Bone pins and plates, including parts and accessories
Cold packs and hot packs	
Compresses and dressings	* Crutches and wheel chairs, including motorized wheelchairs and scooters, including parts and accessories
Cosmetics	
Deodorants and disinfectants	Diaphragms
Distilled water	*Disposable syringes containing insulin
Enema kits	Drugs
Instruments	Dye
Laboratory equipment and supplies	* Hearing aids, including parts and accessories
Medical equipment	Medical oxygen
Needles and syringes	Oral contraceptives
Office equipment and supplies	Pacemakers, including parts and accessories
Oxygen delivery equipment	
Paper products	Prophylactics
Printed material	<u>Rib belts and supports</u>
Rib belts and supports	Rubbing alcohol
Soda water beverages	<u>Splints and cast materials</u>
Soap	Suppositories
Splints and cast materials	Sutures
Uniforms and gowns	Vaccines
X–ray film and machines	Vaginal creams and jellies
	Vitamins

SECTION 2. Tax 11.19 (2) (dm) and (5s) are created to read:

Tax 11.19 (2) (dm) Section 77.54 (59), Stats., provides an exemption for advertising and promotional direct mail.

(5s) ADVERTISING AND PROMOTIONAL DIRECT MAIL. (a) Section 77.54(59), Stats., provides an exemption from Wisconsin sales and use tax for the sales price from the sales of and the storage, use, or other consumption of advertising and promotional direct mail.

(b) “Advertising and promotional direct mail” is defined in s. 77.51(1ag), Stats., to mean direct mail that has the primary purpose of attracting public attention to a product, person, business, or organization or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization.

SECTION 3. Tax 11.19 (Note) is amended to read:

Tax 11.19 (Note) The interpretations in s. Tax 11.19 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for printing or imprinting of tangible personal property furnished by customers and used out–of–state in sub. (2) (a) became effective March 1, 1970; (b) The exemption for advertising materials used out–of–state in sub. (4) (a) became effective May 21, 1972; (c) The second class mail standard described in sub. (3) became effective August 1, 1974; (d) The exemption for sales of shoppers guides became effective July 1, 1978; (e) The exemption for ingredients and components of shoppers guides, newspapers and periodicals described in sub. (2) (d) became effective July 2, 1983; (f) The definition of newspaper in sub. (3) (a) and the limitation of the periodical exemption to “periodicals sold by subscription” became effective July 2, 1983; (g) The exemption for controlled circulation publication reflected in subs. (2) (b) and (3) (b) became effective September 1, 1983, pursuant to 1985 Wis. Act 149; (h) The provision for foreign publishers described in sub. (2) (e) became effective January 1, 1980 for publishers of books or periodicals or both other than catalogs and January 1, 1990, for all other foreign publishers pursuant to 1989 Wis. Act 336; (i) The definition of storage and use for purposes of imposing use tax does not include storing or using raw materials becoming printed materials to be shipped outside Wisconsin effective October 1, 1993, pursuant to 1993 Wis. Act 16; (j) The sales and use tax exemption for raw materials becoming printed materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (k) The exemption for periodicals sold by subscription by educational associations and corporations which are exempt under s. 77.54 (9a) (f), Stats., became effective December 1, 1997 pursuant to 1997 Wis. Act 27; (L) The exemption for catalogs became effective April 1, 2009 pursuant to 2007 Wis. Act 20; (m) The change of the term “gross receipts” to “sales price” and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (n) The definition of “direct mail” became effective October 1, 2009 pursuant to 2009, Wis. Act 2; (o) The definition of “advertising and promotional direct mail” became effective May 27, 2010, pursuant to 2009 Wis. Act 330; and (p) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32.

SECTION 4. Tax 11.56 (4) (b) 3. is created to read:

Tax 11.56 (4) (b) 3. Advertising and promotional direct mail, as defined in s. Tax 11.19 (5s) (b).

SECTION 5. Tax 11.56 (Note) is amended to read:

Tax 11.56 (Note) The interpretations in s. Tax 11.56 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) Sales of typeset material shall first be considered sales of tangible personal property on April 1, 1983; (b) The exemption in sub. (3) (b) 2. for ingredients of publications became effective July 2, 1983, pursuant to 1983 Wis. Act 27; (c) The definition of storage and use for purposes of imposing use tax does not include storing or using raw materials becoming printed materials to be shipped outside Wisconsin effective October 1, 1993, pursuant to 1993 Wis. Act 16; (d) The sales and use tax exemption for raw materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (e) The exemption for fuel and electricity consumed in manufacturing became effective January 1, 2006, pursuant to 2003 Wis. Act 99; (f) The exemption for catalogs and the envelopes in which they are mailed became effective April 1, 2009 pursuant to 2007 Wis. Act 20; (g) The requirement that property and items which qualify for exemption under s. 77.54 (2) and (2m), Stats., be consumed exclusively and directly by a manufacturer in manufacturing property and items destined for sale became effective August 1, 2009 pursuant to 2009 Wis. Act 28; ~~and (h) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; and (i) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32.~~

SECTION 6. Tax 11.70 (1) (a), (b), and (c) are renumbered Tax 11.70 (1) (b), (d), and (e).

SECTION 7. Tax 11.70 (1) (a) and (c) are created to read:

Tax 11.70 (1) (a) "Advertising and promotional direct mail" means direct mail that has the primary purpose of attracting public attention to a product, person, business, or organization or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization.

(c) "Direct mail" means printed material that is delivered or distributed by the U.S. postal service or other delivery service to a mass audience or to addressees on a mailing list provided by or at the direction of the purchaser of the printed material, if the cost of the printed material or any tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) included with the printed material is not billed directly to the recipients of the printed material. "Direct mail" includes any tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d) provided directly or indirectly by the purchaser of the printed material to the seller of the printed material for inclusion in any package containing the printed material, including billing invoices, return envelopes, and additional marketing materials. "Direct mail" does not include multiple items of printed material delivered to a single address.

SECTION 8. Tax 11.70 (2) (c) and (3) (gm) are amended to read:

Tax 11.70 (2) (c) Sales of signs, circulars, business cards, stationary showcards, banners, posters, bulletins, ~~advertising and promotional direct mail~~, brochures, commercials, tapes, or other items of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats.

(3) (gm) Catalogs, ~~as defined in s. 77.51 (1fr), Stats.,~~ and the envelopes in which the catalogs are mailed, if the catalogs are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms.

SECTION 9. Tax 11.70 (3) (n) is created to read:

Tax 11.70 (3) (n) Advertising and promotional direct mail.

Example 1: Company B, located in Wisconsin, contracts with a printer to have 10,000 advertising flyers that are designed to promote Company B's products printed. Once the printer finishes printing the advertising flyers, the printer mails the flyers to the addresses on a mailing list provided by Company B. The addresses are in and outside Wisconsin. The charge by the printer to Company B is exempt from Wisconsin sales and use tax since the advertising flyers are advertising and promotional direct mail.

Example 2: Same as Example 1, except the flyers are sent by the printer to Company B, the purchaser, and Company B mails the flyers to the addresses on the mailing list. The flyers are not advertising and promotional direct mail because the seller/printer is not delivering the flyers to a mass audience or to addresses on a mailing list at the direction of the purchaser.

SECTION 10. Tax 11.70 (Note) is amended to read:

Tax 11.70 (Note) The interpretations in s. Tax 11.70 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for printing or imprinting of tangible personal property furnished by customers and used out-of-state for advertising became effective March 1, 1970; (b) The exemption for printed advertising material used out-of-state became effective May 21, 1972; (c) The exemption for ingredients or components of shoppers guides, newspapers, and periodicals became effective July 7, 1983; (d) The sales and use tax exemption for raw materials for printed materials transported and used solely outside Wisconsin became effective December 1, 1997, pursuant to 1997 Wis. Act 27; (e) The exemption for catalogs and their mailing envelopes became effective April 1, 2009, pursuant to 2007 Wis. Act 20; (f) The provision that items must be consumed exclusively and directly by a manufacturer in manufacturing property or items destined for sale became effective August 1, 2009, pursuant to 2009 Wis. Act 28; (g) The definitions of bundled transaction and finished artwork became effective October 1, 2009, pursuant to 2009 Wis. Act 2; ~~and (h) The change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (i) The definition of "direct mail" became effective October 1, 2009 pursuant to 2009 Wis. Act 2; (j) The definition of "advertising and promotional direct mail" became effective May 27, 2010, pursuant to 2009 Wis. Act 330; and (k) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32.~~

SECTION 11. Tax 11.72 (Note) is amended to read:

Tax 11.72 (Note) The interpretations in s. Tax 11.72 are effective under the general sales and use tax law on and after

September 1, 1969, except: (a) Laundries and dry cleaners became the consumers of, and pay tax on the purchases of, items transferred to customers effective September 1, 1983, pursuant to 1983 Wis. Act 27; (b) The exemption for diaper services and cloth diapers became effective July 1, 1990, pursuant to 1989 Wis. Act 335; (c) The repeal of the exemption for cloth diapers became effective October 1, 2002, pursuant to 2009 Wis. Act 2; and (d) The change of the term "gross receipts" to "sales price" became effective October 1, 2009, pursuant to 2009 Wis. Act 2.

SECTION 12. Tax 11.94 (3) (a) is amended to read:

Delivery charges for ~~advertising and promotional direct mail and "other direct mail"~~ are not subject to sales or use tax if the delivery charges are separately stated on the invoice, bill of sale, or similar document that the seller gives to the purchaser. Delivery charges for "advertising and promotional direct mail" are exempt from sales and use tax regardless of whether they are separately stated on the invoice, bill of sale, or similar document.

SECTION 13. Tax 11.94 (Note) is amended to read:

Tax 11.94 (Note) The interpretations in s. Tax 11.94 are effective under the general sales and use tax law on and after September 1, 1969, ~~except that the:~~ (a) The definitions of "delivery charges" and "direct mail," and the change of the term "gross receipts" to "sales price" and the separate impositions of tax on coins and stamps sold above face value under s. 77.52 (1) (b), Stats., certain leased property affixed to real property under s. 77.52 (1) (c), Stats., and digital goods under s. 77.52 (1) (d), Stats., became effective October 1, 2009, pursuant to 2009 Wis. Act 2; (b) The definitions of "advertising and promotional direct mail" and "other direct mail" became effective May 27, 2010, pursuant to 2009 Wis. Act 330; and (c) The sales and use tax exemption for advertising and promotional direct mail, which includes the delivery charges for advertising and promotional direct mail, became effective July 1, 2013, pursuant to 2011 Wis. Act 32.

SECTION 14. Tax 11.945 (3) (a) 1. to 5. are renumbered Tax 11.945 (3) (a) 2. to 6., and Tax 11.945 (3) (a) 3., 4., 5., and 6.a., as renumbered, are amended to read:

Tax 11.945 (3) (a) 3. If the purchaser provides one of the items indicated in subd. ~~4.-a.~~ 2.a. or b., to the seller, the purchaser shall source the sales to the jurisdictions to which the advertising and promotional direct mail is delivered to the recipients ~~and pay or remit to the department the tax imposed~~

~~under s. 77.53, Stats., on all its purchases of advertising and promotional direct mail for which the tax is due, and in the absence of bad faith the seller is relieved from liability for collecting the tax.~~

4. If the purchaser provides delivery information as provided in subd. ~~1.-c.~~ 2.c., the seller shall ~~collect the tax source the sales~~ according to that information, ~~and in the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction for which the seller has collected tax pursuant to the delivery information provided by the purchaser.~~

5. An exemption certificate provided by the purchaser under subd. ~~1.-b.~~ 2.b. remains in effect for all sales by the seller who received the exemption certificate to the purchaser who provided the exemption certificate, ~~in the absence of bad faith.~~

6.a. Except as provided in subd. ~~5.-b.~~ 6.b., if a transaction is a bundled transaction that includes "advertising and promotional direct mail," subds. ~~1.-2.~~ 1. to 4. 5., only apply if the primary purpose of the transaction is the sale of products or services that meet the definition of advertising and promotional direct mail.

SECTION 15. Tax 11.945 (3) (a) 1. is created to read:

Tax 11.945 (3) (a) 1. Sales of advertising and promotional direct mail sourced to Wisconsin are exempt from Wisconsin sales and use taxes. However, sales of advertising and promotional direct mail sourced to another state may be subject to that other state's sales or use tax.

SECTION 16. Tax 11.945 (5) (d) (Note 2) is amended to read:

Tax 11.945 (5) (d) (Note 2) (a) The interpretations under s. Tax 11.945 are effective beginning October 1, 2009, pursuant to 2009 Wis. Acts 2 and 28; ~~and~~ (b) The definitions of "advertising and promotional direct mail" and "other direct mail" and the provisions relating to the sourcing of transactions that include these types of items are effective May 27, 2010, pursuant to 2009 Wis. Act 330; and (c) The sales and use tax exemption for advertising and promotional direct mail became effective July 1, 2013, pursuant to 2011 Wis. Act 32.

SECTION 17. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

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 Tax 11 – Sales and use tax	
Subject	
Sales and use tax provisions concerning advertising and promotional direct mail and prosthetic devices	
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	

Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units	<input 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		
The rule does not create or revise policy, other than to reflect current law and department policy.		
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)		
As indicated in the attached fiscal estimate, the fiscal effects of the sales and use tax exemption created under 2011 Wisconsin Act 32 have already been reflected under general fund condition statements subsequent to 2011 Wisconsin Act 32. Since the fiscal impacts of the statutory changes have already been reflected, the proposed rule has no fiscal effect. No comments concerning the economic effect of the rule were submitted in response to the department's solicitation.		
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule		
Clarifications and guidance provided by administrative rules may lower the compliance costs for businesses, local governmental units, and individuals. If the rule is not implemented, Chapter Tax 11 will be incomplete in that it will not reflect current law or department policy.		
Long Range Implications of Implementing the Rule		
No long-range implications are anticipated.		
Compare With Approaches Being Used by Federal Government		
N/A		
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)		
N/A		

FISCAL ESTIMATE FORM

2011 Session

- ORIGINAL UPDATED

 CORRECTED SUPPLEMENTAL

LRB #	
INTRODUCTION #	
Admin rule #	Chapter Tax 11: Prosthetic devices, advertising and promotional direct mail

Subject

Proposed order of the Department of Revenue relating to sales and use tax provisions concerning advertising and promotional direct mail and prosthetic devices.

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Costs – May be Possible to Absorb Within Agency’s Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No Local Government Costs

- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory
- 4. Decrease Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others
 - School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The proposed rule updates Chapter TAX 11 of the Administrative Code, pertaining to the sales and use tax, to reflect certain sales tax changes contained in 2011 Wisconsin Act 32, the 2011–13 Budget Bill. The proposed rule also amends chapter TAX 11 provisions pertaining to prosthetic devices and cloth diapers.

The proposed rule modifies the administrative code to reflect law changes and add examples to illustrate the tax treatment of certain items.

The proposed rule includes:

- A sales and use tax exemption for advertising and promotional direct mail created under 2011 Wisconsin Act 2.
- Updates to the list of taxable and exempt purchases of prosthetic devices to reflect current law.
- A modification to correctly reflect the effective date of the repeal of the sales and use tax exemption for cloth diapers.

The fiscal effects of the exemptions created under 2011 Wisconsin Act 32 have already been reflected under general fund condition statements subsequent to 2011 Wisconsin Act 32. Since the fiscal impacts of the statutory changes have already been reflected, the proposed rule has no fiscal effect.

Notice of Hearing

Revenue

CR 13-012

NOTICE IS HEREBY GIVEN That, pursuant to ss. 71.80 (1) (c) and 227.11 (2) (a), Stats., the Department of Revenue will hold a public hearing to consider permanent rules revising chapters Tax 1, 2, and 11 relating to general provisions of income taxation and sales and use tax.

Hearing Dates and Locations

Date: Monday, April 1, 2013
Time: 11:00 a.m.
Location: Events Room
 State Revenue Building
 2135 Rimrock Road
 Madison, WI 53713

Handicap access is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact person listed below or to adminrules.wisconsin.gov no later than **April 1, 2013**, and will be given the same consideration as testimony presented at the hearing.

Dale Kleven
 Department of Revenue
 Mail Stop 6-40
 2135 Rimrock Road
 P.O. Box 8933
 Madison, WI 53708-8933
 Telephone: (608) 266-8253
 E-mail: dale.kleven@revenue.wi.gov

Analysis by the Department of Revenue

Statutes interpreted

Sections 71.07 (9e), 71.63 (6), and 71.78 (4) (L), Stats.

Statutory authority

Sections 71.80 (1) (c) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 227.11 (2) (a), Stats., provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

In addition, under s. 71.80 (1) (c), Stats., the department may make such regulations as it shall deem necessary in order to carry out ch. 71, Stats., relating to income and franchise taxes. This authority pertains to all of the proposed changes in this rule, except those concerning ch. Tax 11.

Related statute or rule

There are no other applicable statutes or rules.

Plain language analysis

The proposed rule makes the following changes:

- Amends s. Tax 1.11 (4) (d) to reflect the Lottery Board no longer exists and the lottery is instead a division of the department.
- Amends s. Tax 2.085 (1), (2), and (3) to reflect a change in the process used to claim a refund on behalf of a deceased taxpayer.
- Adds a note to s. Tax 2.50 (1) explaining that a public utility that is a corporation may be in a combined group.
- Repeals s. Tax 2.90 (6) to reflect retirement pay or pension are not part of the statutory definition of “wages” for withholding purposes.
- Repeals s. Tax 2.97, which is out-of-date and thus obsolete.
- Amends s. Tax 2.98 (1) (b) to update a reference to the Internal Revenue Code.
- Revises s. Tax 2.98 (Note 2) to remove out-of-date statutory references and otherwise provide clarity.
- Amends ss. Tax 11.04 (1), 11.05 (4) (a), and 11.49 (2) (b) to reflect the addition of the Wisconsin Economic Development Corporation as an exempt entity (2011 Wisconsin Act 7).
- Amends s. Tax 11.70 (2) (e) to correct a grammatical error.

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

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states

The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies

2012 Executive Order 61 and 2011 Wisconsin Act 46 requires state agencies to work with the Small Business Regulatory Review Committee to review the agency’s administrative rules that may be particularly onerous to small businesses in Wisconsin. In response, the department initiated a comprehensive review of all of its administrative rules. The changes described above were identified as part of

that review. No other data was used in the preparation of this rule order or this analysis.

Analysis and supporting documents used to determine effect on small business

This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector

This rule order does not have a fiscal effect on the private sector.

Effect on Small Business and Initial Regulatory Flexibility Analysis

This rule order does not affect small business.

Agency Contact Person

Please contact Dale Kleven at (608) 266–8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this rule order.

Text of Rule

SECTION 1. Tax 1.11 (4) (d) is amended to read:

Tax 1.11 (4) (d) *Lottery board division*. The ~~executive director~~ administrator of the lottery board may request examination of tax returns for the purpose of withholding delinquent Wisconsin taxes, child support, and other debts owing this state.

SECTION 2. Tax 2.085 (1), (2), and (3) are amended to read:

Tax 2.085 (1) If a refund of Wisconsin income taxes is due a deceased taxpayer and if the ~~refund exceeds \$100~~ claimant is unable to cash the refund check, the claimant shall file, with the ~~income tax return~~, a completed form I–804 ~~804~~, entitled “Claim for Decedent’s Wisconsin Income Tax Refund”.

(2) ~~Form I–804 does not have to be filed if the~~ If a refund is claimed on a joint Wisconsin income tax return of the surviving spouse and the decedent, ~~The, the~~ surviving spouse shall write “filing as surviving spouse” in the signature area of the return. If someone other than the surviving spouse is the personal representative, the personal representative shall also sign the joint return.

(3) Forms required to be filed under sub. (1) shall be mailed to the Wisconsin Department of Revenue, Tax Operations Bureau – Mail Stop 3–164, P.O. Box 59 ~~8903~~, Madison, WI ~~53785~~ 53708–8903.

SECTION 3. Tax 2.50 (1) (Note) is created to read:

Tax 2.50 (1) (Note) A public utility that is a corporation may be in a combined group for taxable years beginning on or after January 1, 2009. See s. Tax 2.61 (2) for a description of corporations required to use combined reporting.

SECTION 4. Tax 2.90 (6) is repealed.

SECTION 5. Tax 2.97 is repealed.

SECTION 6. Tax 2.98 (1) (b) and (Note 2) are amended to read:

Tax 2.98 (1) (b) If a taxpayer sustains a casualty loss from a disaster in an area subsequently determined by the president of the United States to warrant federal assistance, section 165 ~~(h)~~ (i) of the Internal Revenue Code gives taxpayers the

election to deduct the loss on the return for the current tax year or on the return for the immediately preceding tax year.

(Note 2) Section 71.02 (2) (d), 1983 Stats., which defines "Wisconsin taxable income," was renumbered 71.02 (2) (me), 1985 Stats., and amended by 1985 Wis. Act 29, The treatment described in this section became effective with 1986 individual income tax returns filed in taxable year 1987. This amendment is reflected in s. Tax 2.98. Section 71.02 (2) (me), 1985 Stats., was again renumbered, s. 71.01 (16), Stats., by 1987 Wis. Act 312. For 1985 and prior year income tax returns filed in 1986 and prior taxable years, disaster area losses from damage to property used for personal purposes were also allowed, as an itemized deduction, using the provisions in sub. (1) (b) and the individual treatment in sub. (2) (b).

SECTION 7. Tax 11.04 (1) is amended to read:

Tax 11.04 (1) DEFINITION. In this rule, "exempt entity" means a person qualifying for an exemption under s. 77.54 (9a) or 77.55 (1), Stats. Section 77.54 (9a), Stats., provides an exemption for sales to this state or any agency thereof, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, the Health Insurance Risk-Sharing Plan Authority, and the Fox River Navigational System Authority; any county, city, village, town or school district in this state; a county-city hospital established under s. 66.0927, Stats.; a sewerage commission organized under s. 281.43 (4), Stats., or a metropolitan sewerage district organized under ss. 200.01 to 200.15 or 200.21 to 200.65, Stats.; any other unit of government in this state or any agency or instrumentality of one or more units of government in this state; any federally recognized American Indian tribe or band in this state; any joint local water authority created under s. 66.0823, Stats.; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation; a local exposition district under subch. II of ch. 229, Stats.; a local cultural arts district under subch. V of ch. 229, Stats.; a cemetery company or corporation described under section 501 (c) 13 of the Internal Revenue Code, if the tangible personal property or taxable services are used exclusively by the cemetery company or corporation for the purposes of the company or corporation. Section 77.55 (1), Stats., provides an exemption for sales to the United States, its unincorporated agencies and instrumentalities, and any unincorporated [incorporated] agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

SECTION 8. Tax 11.05 (4) (a) is amended to read:

Tax 11.05 (4) (a) Section 77.54 (9a), Stats., exempts sales to and the storage, use or other consumption of tangible personal property and items and property under s. 77.52 (1) (b) and (c), Stats., and services by Wisconsin or by any agency of Wisconsin, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, the Health Insurance Risk-Sharing Plan Authority, and the Fox River Navigational System Authority; any county, city, village, town or school district in this state; a county-city hospital established under s. 66.0927, Stats.; a sewerage commission organized under s. 281.43 (4), Stats., or a metropolitan

sewerage district organized under ss. 200.01 to 200.15 or 200.21 to 200.65, Stats.; any other unit of government in this state or any agency or instrumentality of one or more units of government in this state; any federally recognized American Indian tribe or band in this state; any joint local water authority created under s. 66.0823, Stats.; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation; a local exposition district under subch. II of ch. 229, Stats.; a local cultural arts district under subch. V of ch. 229, Stats.; and a cemetery company or corporation described under section 501 (c) (13) of the Internal Revenue Code, if the tangible personal property or taxable services are used exclusively by the cemetery company or corporation for the purposes of the company or corporation.

SECTION 9. Tax 11.49 (2) (b) is amended to read:

Tax 11.49 (2) (b) Sales made directly to this state or any agency thereof, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin Economic Development Corporation, the Health Insurance Risk-Sharing Plan Authority, and the Fox River Navigational System Authority; any county, city, village, town, or school district in this state; a county-city hospital established under s. 66.0927, Stats.; a sewerage commission organized under s. 281.43 (4), Stats., or a metropolitan sewerage district organized under ss. 200.01 to 200.15 or 200.21 to 200.65, Stats.; any other unit of government in this state or any agency or instrumentality of one or more units of government in this state; any federally recognized American Indian tribe or band in this state; any joint local water authority created under s. 66.0823, Stats.; any corporation, community chest fund, foundation, or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under s. 613.80 (2), Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member, or corporation; a local exposition district under subch. II of ch. 229, Stats.; a local cultural arts district under subch. V of ch. 229, Stats. Sales to a cemetery company or corporation described under section 501 (c) (13) of the Internal Revenue Code, are exempt from sales and use tax if the cemetery company or corporation uses the items exclusively for the purposes of the company or corporation. Section 77.55 (1), Stats., provides an exemption for sales to the United States, its unincorporated agencies and instrumentalities, and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States. Sales to employees of these entities are not exempt, even though the entity may reimburse the employee for the expenditure.

SECTION 10. Tax 11.70 (2) (e) is amended to read:

Tax 11.70 (2) (e) Producing, fabricating, processing, printing, or imprinting tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., for clients for a consideration, even though the client may furnish the materials used in producing, fabricating, processing, printing, or imprinting of the property, items, or goods.

However, the tax does not apply to the printing or imprinting of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., that results in printed material, catalogs, or envelopes that are exempt under s. 77.54 (25) or (25m), Stats.

SECTION 11. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

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		
Chapters Tax 1, 2, and 11 – General administration; income taxation, returns, records and gross income; and sales and use tax.		
Subject		
General provisions of income taxation and sales and use tax		
Fund Sources Affected		Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units	<input 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		
The rule does not create or revise policy, other than to reflect current law and department policy.		
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)		
As indicated in the attached fiscal estimate, since the fiscal impact of any applicable statutory changes has already been reflected in general fund condition statements, the proposed rule has no fiscal effect. No comments concerning the economic effect of the rule were submitted in response to the department's solicitation.		
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule		
Clarifications and guidance provided by administrative rules may lower the compliance costs for businesses, local governmental units, and individuals. If the rule is not implemented, Chapters Tax 1, 2, and 11 will be incomplete in that they will not reflect current law or department policy.		
Long Range Implications of Implementing the Rule		
No long-range implications are anticipated.		
Compare With Approaches Being Used by Federal Government		
N/A		
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)		
N/A		

FISCAL ESTIMATE FORM

2011 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #	
INTRODUCTION #	
Admin rule #	Chapters Tax 1, 2, 11: Various provisions SS 074-12

Subject
Proposed order of the Department of Revenue relating to general provisions of income taxation and sales and use tax.

Fiscal Effect

<p>State: <input checked="" type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation</p> <p><input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation</p>	<p>Increase Costs – May be Possible to Absorb Within Agency’s Budget <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Decrease Costs</p>
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Local: No Local Government Costs

<p>1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p>	<p>3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p>	<p>5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p>
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<p>Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>Affected Ch. 20 Appropriations</p>
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Assumptions Used in Arriving at Fiscal Estimate:

The proposed rule updates Chapter TAX 1, 2 and 11 of the Administrative Code. The proposed rule modifies the administrative code to reflect law changes, improve clarity, and update references.

The proposed rule includes:

- Changes to reflect the replacement of the Lottery Board with the Lottery Division within the Department of Revenue.
- A note explaining that public utilities may be in a combined group for taxable years beginning on or after January 1, 2009 for combined reporting purposes.
- Changes to update the procedure by which individuals may claim individual income tax refunds due to a decedent.
- Changes to reflect that pension and retirement pay are not part of the statutory definition of “wages” for withholding purposes.
- Changes to reflect the sales and use tax exemption for purchases made by the Wisconsin Economic Development Corporation created under 2011 Wisconsin Act 7.

Since the fiscal impact of any applicable statutory changes has already been reflected in general fund condition statements, the proposed rule has no fiscal effect.

Notice of Hearing

Revenue
CR 13-013

NOTICE IS HEREBY GIVEN That, pursuant to s. 125.03, Stats., the Department of Revenue will hold a public hearing to consider permanent rules revising Chapters Tax 4, 8, and 9 relating to general provisions of excise taxation and enforcement.

Hearing Dates and Locations

The hearing will be held:

Date: **Monday, April 1, 2013**
Time: 1:00 p.m.
Location: Events Room
 State Revenue Building
 2135 Rimrock Road
 Madison, WI 53713

Handicap access is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact person listed below or to adminrules.wisconsin.gov no later than **April 1, 2013**, and will be given the same consideration as testimony presented at the hearing.

Dale Kleven
Department of Revenue
Mail Stop 6-40, 2135 Rimrock Road
P.O. Box 8933
Madison, WI 53708-8933
Telephone: (608) 266-8253
E-mail: dale.kleven@revenue.wi.gov.

Analysis by the Department of Revenue

Statute interpreted

Sections 139.34 (3) and 995.12 (2) and (4), Stats.

Statutory authority

Sections 125.03, Stats.

Explanation of agency authority

Section 125.03, Stats., provides “[t]he department, in furtherance of effective control, may promulgate rules consistent with this chapter and ch. 139.”

Related statute or rule

There are no other applicable statutes or rules.

Plain language analysis

The proposed rule makes the following changes:

- Updates notes and examples throughout Chapter Tax 4 to provide current rates of tax and department contact information.
- Repeals s. Tax 8.11 concerning the submission of paper reports, as all reports are electronically filed.
- Updates notes throughout Chapter Tax 8 to provide current contact information for the department.
- Amends s. Tax 9.19 to reflect that, due to advances in technology, machines other than fusion machines may be used to affix cigarette stamps.
- Amends s. Tax 9.21 (3) to be consistent with s. 139.34 (3), Stats., which prohibits out-of-state distributors from shipping unstamped cigarettes to other distributors.
- Repeals s. Tax 9.26 (1) to ensure compliance with Master Settlement Agreement requirements concerning the level of trade or transfer of unstamped cigarettes between distributors among themselves and also with manufacturers.
- Amends ss. Tax 9.47 (4) and 9.51 (1) to be consistent with s. 995.12 (2) and (4), Stats., which requires records be kept for 5 years.
- Updates notes and examples throughout Chapter Tax 9 to provide current rates of tax and department contact information.

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

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states

The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies

2012 Executive Order 61 and 2011 Wisconsin Act 46 requires state agencies to work with the Small Business Regulatory Review Committee to review the agency’s administrative rules that may be particularly onerous to small businesses in Wisconsin. In response, the department initiated a comprehensive review of all of its administrative rules. The changes described above were identified as part of that review. No other data was used in the preparation of this rule order or this analysis.

Analysis and supporting documents used to determine effect on small business

This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector

This rule order does not have a fiscal effect on the private sector.

Effect on Small Business and Initial Regulatory Flexibility Analysis

This rule order does not affect small business.

Agency Contact Person

Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this rule order.

Text of Rule

SECTION 1. Tax 4.12 (3) (b) 1. (Example 1) and (Example 2) and 3.a. (Example) are amended to read:

Tax 4.12 (3) (b) 1. (Example 1) An account of a supplier who is still in business becomes worthless and meets the requirements to be charged off for income or franchise tax purposes on January 10, ~~1995~~ 2011. The supplier may claim a bad debt deduction on the motor vehicle fuel tax return, form MF-002, filed for the month of January ~~1995~~ 2011, even though the bad debt deduction may not be claimed for income or franchise tax purposes until the ~~1995~~ 2011 income or franchise tax return is filed in ~~1996~~ 2012.

(Example 2) Assume the same facts as in Example 1, except the account is that of a wholesaler distributor. Irrespective of when the wholesaler distributor files the income or franchise tax return on which the bad debt deduction is claimed, the wholesaler distributor may file a claim for refund to recover the uncollected motor vehicle fuel tax any time between January 10, ~~1995~~ 2011 and April 15, ~~2000~~ 2016.

3.a. (Example) At the time when the tax rate is ~~23.2¢~~ 30.9¢ per gallon, Supplier A sells 8,000 gallons of gasoline to Company B. Company B has an agreement with Supplier A to delay payment of the tax. The amount of the contract is ~~\$9,696~~ \$12,942, consisting of tax, ~~\$1,856~~ \$2,472, and the cost of fuel, ~~\$7,840~~ \$10,470. Company B defaults and discontinues operations, leaving a balance due Supplier A of \$2,100, which includes interest of \$200 not included in the contract amount. The deductible tax loss is ~~\$367~~ \$363, computed as follows:

Contract amount	\$9,696 <u>\$12,942</u>
Unpaid contract amount	-1,900

Paid contract amount \$7,796~~\$11,042~~
 Portion constituting tax* x.191
 Tax paid \$1,489~~\$2,109~~
 *\$1,856 ~~\$2,472~~ tax ÷ \$9,696 ~~\$12,942~~ contract amount =
 .191.

Since \$1,489 ~~\$2,109~~ of the tax of \$1,856 ~~\$2,472~~ was paid, only the unpaid tax of \$367 ~~\$363~~ may be deducted.

SECTION 2. Tax 4.55 (2) (a) (Note) is created to read:

Tax 4.55 (2) (a) (Note) Form MF-100 is available on the department's web site at www.revenue.wi.gov.

SECTION 3. Tax 4.55 (3) (b) (Note 1) is repealed.

SECTION 4. Tax 4.65 (3) (f) (Note 1) is amended to read:

Tax 4.65 (3) (f) (Note 1) Copies of vendor registration form MF-112, exemption certificate form MF-209, and refund claim form MF-012 ~~may be obtained by writing or calling Wisconsin Department of Revenue, Audit Bureau, P.O. Box 8906, Madison, WI 53708-8906, (608) 266-7233~~ are available on the department's web site at www.revenue.wi.gov.

SECTION 5. Tax 8.001 (2) (c) 1. (Note) is amended to read:

Tax 8.001 (2) (c) 1. (Note) Written requests should be e-mailed to excise@revenue.wi.gov, faxed to (608) 261-7049, or addressed to ~~Mandate Waiver Request, Wisconsin Department of Revenue, Excise Tax Section - Mail Stop 5-407 6-107, PO Box 8900, Madison WI 53708-8900.~~

SECTION 6. Tax 8.03 (2) (Note) is amended to read:

Tax 8.03 (2) (Note) Wine collector registrations may be addressed to Wisconsin Department of Revenue, Excise Tax Section - Mail Stop 6-107, PO Box 8900, Madison, Wisconsin 53708-8900.

SECTION 7. Tax 8.11 is repealed.

SECTION 8. Tax 9.001 (2) (c) 1. (Note) is amended to read:

Tax 9.001 (2) (c) 1. (Note) Written requests should be e-mailed to excise@revenue.wi.gov, faxed to (608) 261-7049, or addressed to ~~Mandate Waiver Request, Wisconsin Department of Revenue, Excise Tax Section - Mail Stop 5-407 6-107, PO Box 8900, Madison WI 53708-8900.~~

SECTION 9. Tax 9.19 (Title) is amended to read:

Tax 9.19 (Title) **Fusion Stamp application machines and stamps.**

SECTION 10. Tax 9.19 (1) is repealed.

SECTION 11. Tax 9.19 (2) is amended to read:

Tax 9.19 (2) The use of ~~fusion~~-stamps and any machines or devices for their application by any distributor shall be subject to the approval of the secretary of revenue and the approval may be withdrawn at any time at the discretion of the secretary of revenue.

SECTION 12. Tax 9.21 (3) is amended to read:

Tax 9.21 (3) All out-of-state manufacturers ~~or distributors~~ may ship cigarettes either stamped or unstamped directly to any Wisconsin manufacturers or distributors who hold the proper permit issued by the department.

SECTION 13. Tax 9.26 (1) is repealed.

SECTION 14. Tax 9.47 (4) is amended to read:

Tax 9.47 (4) A clearly legible copy of all invoices evidencing a sale or exchange of cigarettes shall be retained by each of the parties to the transaction for a period of ~~at least 2 1/2~~ 2 1/2 years from the date of the invoice, in groups covering a period of one month each.

SECTION 15. Tax 9.51 (1) is amended to read:

Tax 9.51 (1) Cigarettes shipped into this state by manufacturers to their representatives, including advertising agencies and airlines, for the purpose of free samples shall be accompanied by a memo invoice stating brands and number of cigarettes. The memos shall be retained by the representative for the statutory period of 2 1/2 years.

SECTION 16. Tax 9.68 (2) (a) (Note) is created to read:

Tax 9.68 (2) (a) (Note) Form CTP-129 is available on the department's web site at www.revenue.wi.gov.

SECTION 17. Tax 9.68 (3) (b) (Note 1) is repealed.

SECTION 18. Tax 9.70 (3) (d) (Example 1) and (Example 2) are amended to read:

Tax 9.70 (3) (d) (Example 1) At a time when the cigarette tax rate is ~~3.85¢ 12.6¢~~ per stick, Person A sells cigarettes to Customer B. The amount of the invoice is \$10,000 ~~\$20,000~~, consisting of cigarette tax of \$1,540 ~~\$5,040~~, cost of cigarettes of \$6,000 ~~\$12,000~~ and sundries of \$2,460 ~~\$2,960~~. Customer B defaults and discontinues operations, leaving a balance due to Person A of \$2,100, which includes interest of \$200 not included in the original invoice amount. The deductible tax is \$292.60 ~~\$478.80~~, computed as follows:

Tax per invoice	\$1,540.00	\$5,040.00
Invoice amount	\$ 10,000.00	20,000.00
Unpaid invoice amount -	1,900.00	
Paid invoice amount	\$ 8,100.00	18,100.00
Portion constituting tax*	<u>x.154</u>	<u>.252</u>
Tax paid	\$1,247.40	<u>\$4,561.20</u>
Tax that may be deducted	\$292.60	478.80
*\$1,540 \$5,040 tax ÷ \$10,000 \$20,000 invoice amount =	.154	<u>.252</u> .

(Example 2) At a time when the tobacco products tax rate is ~~25% 71%~~ of the manufacturer's ~~wholesale established~~ list price, Distributor A sells tobacco products to Customer B. The amount of the invoice is \$9,500 ~~\$11,800~~, consisting of tobacco products tax of \$1,250 ~~\$3,550~~, cost of tobacco products of \$5,000 and sundries of \$3,250. Customer B defaults and discontinues operations, leaving a balance due to Distributor A of \$3,000, which includes interest of \$200 not included in the original invoice amount. The deductible tax is \$365.60 ~~\$841~~, computed as follows:

Tax per invoice	\$1,250.00	\$3,550
Invoice amount	\$ 9,500.00	11,800
Unpaid invoice amount -	2,800.00	<u>2,800</u>
Paid invoice amount	\$ 6,700.00	<u>9,000</u>
Portion constituting tax*	<u>x.132</u>	<u>.301</u>
Tax paid	\$884.40	<u>\$2,709</u>
Tax that may be deducted	\$ 292.60	<u>841</u>
*\$1,250 \$3,550 tax ÷ \$9,500 \$11,800 invoice amount =	.132	<u>.301</u> .

SECTION 19. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats

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	
Chapters Tax 4, 8, and 9 – Motor vehicle and general aviation fuel taxation; intoxicating liquors; and cigarette tax.	
Subject	
General provisions of excise taxation and enforcement.	
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	
Fiscal Effect of Implementing the Rule	
<input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Indeterminate	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency’s Budget <input type="checkbox"/> Decrease Costs
The Rule Will Impact the Following (Check All That Apply)	
<input type="checkbox"/> State’s Economy <input type="checkbox"/> Local Government Units	<input 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	
The rule does not create or revise policy, other than to reflect current law and department policy.	
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)	
As indicated in the attached fiscal estimate, the revisions in the proposed rule will have no impact on either state tax revenues or the department’s administrative costs. No comments concerning the economic effect of the rule were submitted in response to the department’s solicitation.	
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule	
Clarifications and guidance provided by administrative rules may lower the compliance costs for businesses, local governmental units, and individuals. If the rule is not implemented, Chapters Tax 4, 8, and 9 will be incomplete in that they will not reflect current law or department policy.	
Long Range Implications of Implementing the Rule	
No long-range implications are anticipated.	
Compare With Approaches Being Used by Federal Government	
N/A	
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)	
N/A	

FISCAL ESTIMATE FORM

2012 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #	
INTRODUCTION #	
Admin rule #	Chapter Tax 4, Chapter Tax 8, and Chapter Tax 9

Subject

Proposed order of the Department of Revenue relating to general provisions of excise taxation and enforcement.

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs – May be Possible to Absorb Within Agency’s Budget Yes No
 Decrease Costs

Local: No Local Government Costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The proposed rule order modifies several sections in Chapter Tax 4 (Motor vehicle and general aviation fuel taxation), Chapter Tax 8 (Intoxicating Liquors), and Chapter Tax 9 (Cigarette tax). It makes several changes to reflect current law and the technology now available to administer current law. The proposed rule updates department contact information and updates examples to utilize current tax rates.

The revisions in the proposed rule will have no impact on either state tax revenues or the department’s administrative costs.

Long-Range Fiscal Implications:

Agency/Prepared by Wisconsin Department of Revenue Jacek Cianciara 608 266-8133	Authorized Signature/Telephone No. Wisconsin Department of Revenue Paul Ziegler 608 266-5773	Date Nov. 12, 2012
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Notice of Hearing

Safety and Professional Services
Optometry Examining board
CR 13-017

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Optometry Examining Board in s. 15.08 (5) (b), Wis. Stats., and interpreting s. 449.08, Wis. Stats., the Optometry Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend Opt 5.02 (4) relating to lens prescription.

Hearing Dates and Locations

The hearing will be held:
Date: Thursday, March 28, 2013
Time: 9:00 a.m.
Location: 1400 East Washington Avenue
 Room 121C
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be

submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Place where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received at or before the public hearing to be held on March 28, 2013 at 9:00 a.m. to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Sharon.Henes@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 449.08, Wis. Stats.

Statutory authority

Section 15.08 (5) (b), Wis. Stats.

Explanation of agency authority

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 professional.

Related statute or rule

Chapter Opt 5.

Plain language analysis:

Modification of the definition for lens prescription would provide clarity and create a consistency between lens prescriptions and contact lens prescriptions. Health care entities are increasingly utilizing electronic prescriptions and signatures as a way to improve patient safety, and control costs.

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

None.

Comparison with rules in adjacent states

Illinois: In Illinois no ophthalmic lenses, prisms or contact lenses may be sold or delivered to an individual without a prescription signed by a licensed optometrist or a physician licensed to practice medicine in all of its branches. It does not specifically address electronic prescription.

Iowa: In Iowa a person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic or facsimile prescription from a person licensed as an optometrist or physician.

Michigan: Michigan optometry statutes and rules do not have a definition of an optometrist prescription.

Minnesota: Minnesota requires prescriptions furnished to the patient to be signed by the examining optometrist. It does not specify whether the prescription may be electronic.

Summary of factual data and analytical methodologies

The Optometry Examining Board reviewed their rules with the goal of reducing the burden on small business while continuing to ensure public safety. The Board recognized the efficiencies and accuracy which could be obtained with electronic lens prescriptions. The allowance of electronic lens prescriptions brings the rule in line with contact lens prescriptions.

This rule change was highlighted in the SBRRB's 2013 Wisconsin Regulatory Review Report. As noted in the report, thousands of patients will be able to enjoy the increased speed and accuracy of electronic prescriptions for eyeglasses.

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

This rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

The proposed rule will not have an effect on small businesses.

Agency Contact Person

Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608–261–2377; email at Sharon.Henes@wisconsin.gov.

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

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapter Opt 5.02 (4).

3. Subject

Relating to lens prescription.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The current definition for lens prescription states a "written order" which could be interpreted to not allow for an electronic signature. A contact lens prescription does not have the requirement of "written order" and requires a signature. Modification of the current definition for lens prescription would provide clarity and create a consistency between lens prescriptions and contact lens prescriptions.

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

This rule was posted for 14 days for economic impact comments and none were received.

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

None. This rule does not affect local governmental units.

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

This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

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

The benefit to the proposed rule is bring the rules for lens prescriptions in line with contact lens prescriptions. Health care entities are increasingly utilizing electronic prescriptions and signatures as a way to improve patient safety, inefficiencies and control costs. With this change, thousands of patients will be able to enjoy the increased speed and accuracy of electronic prescriptions for eye-glasses.

The alternative is to continue to have different requirements for a lens prescription and a contact lens prescription.

14. Long Range Implications of Implementing the Rule

The long range implication is increased patient safety and efficiencies.

15. Compare With Approaches Being Used by Federal Government

None.

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

Iowa allows electronic prescriptions. Illinois and Minnesota laws do not specify whether a prescription may be electronic. Michigan does not appear to have a definition of an optometrist prescription.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261-2377

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

Public Notices

Department of Children and Families
Chapter DCF 150
Appendix C
Child Support Obligation of Low-Income Payers
at 75% to 150% of the 2013 Federal Poverty Guidelines

1 Person with Monthly Income Up To:	One Child		Two Children		Three Children		Four Children		Five Children	
	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount
\$718.00	11.22%	\$81	16.50%	\$118	19.14%	\$137	20.46%	\$147	22.44%	\$161
\$744.00	11.43%	\$85	16.80%	\$125	19.49%	\$145	20.84%	\$155	22.85%	\$170
\$770.00	11.63%	\$90	17.11%	\$132	19.84%	\$153	21.21%	\$163	23.27%	\$179
\$796.00	11.84%	\$94	17.41%	\$139	20.20%	\$161	21.59%	\$172	23.68%	\$188
\$822.00	12.05%	\$99	17.71%	\$146	20.55%	\$169	21.97%	\$181	24.09%	\$198
\$848.00	12.25%	\$104	18.02%	\$153	20.90%	\$177	22.34%	\$189	24.50%	\$208
\$874.00	12.46%	\$109	18.32%	\$160	21.25%	\$186	22.72%	\$199	24.92%	\$218
\$900.00	12.66%	\$114	18.63%	\$168	21.61%	\$194	23.10%	\$208	25.33%	\$228
\$926.00	12.87%	\$119	18.93%	\$175	21.96%	\$203	23.47%	\$217	25.74%	\$238
\$952.00	13.08%	\$124	19.23%	\$183	22.31%	\$212	23.85%	\$227	26.16%	\$249
\$978.00	13.28%	\$130	19.54%	\$191	22.66%	\$222	24.22%	\$237	26.57%	\$260
\$1,004.00	13.49%	\$135	19.84%	\$199	23.01%	\$231	24.60%	\$247	26.98%	\$271
\$1,300.00	13.70%	\$141	20.14%	\$207	23.37%	\$241	24.98%	\$257	27.39%	\$282
\$1,056.00	13.90%	\$147	20.45%	\$216	23.72%	\$250	25.35%	\$268	27.81%	\$294
\$1,082.00	14.11%	\$153	20.75%	\$225	24.07%	\$260	25.73%	\$278	28.22%	\$305
\$1,108.00	14.31%	\$159	21.05%	\$233	24.42%	\$271	26.11%	\$289	28.63%	\$317
\$1,134.00	14.52%	\$165	21.36%	\$242	24.77%	\$281	26.48%	\$300	29.05%	\$329
\$1,160.00	14.73%	\$171	21.66%	\$251	25.13%	\$291	26.86%	\$312	29.46%	\$342
\$1,186.00	14.93%	\$177	21.96%	\$260	25.48%	\$302	27.24%	\$323	29.87%	\$354
\$1,211.00	15.14%	\$183	22.27%	\$270	25.83%	\$313	27.61%	\$334	30.28%	\$367
\$1,236.00	15.35%	\$190	22.57%	\$279	26.18%	\$324	27.99%	\$346	30.70%	\$379
\$1,261.00	15.55%	\$196	22.88%	\$288	26.54%	\$335	28.37%	\$358	31.11%	\$392
\$1,286.00	15.76%	\$203	23.18%	\$298	26.89%	\$346	28.74%	\$370	31.52%	\$405
\$1,311.00	15.97%	\$209	23.48%	\$308	27.24%	\$357	29.12%	\$382	31.94%	\$419
\$1,336.00	16.17%	\$216	23.79%	\$318	27.59%	\$369	29.49%	\$394	32.35%	\$432
\$1,361.00	16.38%	\$223	24.09%	\$328	27.94%	\$380	29.87%	\$407	32.76%	\$446
\$1,386.00	16.58%	\$230	24.39%	\$338	28.30%	\$392	30.25%	\$419	33.17%	\$460
\$1,411.00	16.79%	\$237	24.70%	\$348	28.65%	\$404	30.62%	\$432	33.59%	\$474
\$1,436.00	17.00%	\$244	25.00%	\$359	29.00%	\$416	31.00%	\$445	34.00%	\$488

Effective March 1, 2013

Appendix C will be adjusted based on the 2014 federal poverty guidelines effective March 1, 2014.

DCF 150.04 (4) (b) The department shall revise the schedule in Appendix C every year based on changes in the federal poverty guidelines since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

Department of Children and Families
Chapter DCF 150
Appendix D
Maximum Birth Cost Judgment Amounts for Low-Income Payers at 75% to 150%
of the 2013 Federal Poverty Guidelines

Monthly Income Up To:	Percent	Number of Months	Maximum Birth Cost Judgment Amount*
\$ 718	3.30%	36	\$ 853
\$ 743	3.36%	36	\$ 899
\$ 768	3.42%	36	\$ 946
\$ 793	3.48%	36	\$ 993
\$ 818	3.54%	36	\$1,042
\$ 843	3.60%	36	\$1,093
\$ 868	3.66%	36	\$1,144
\$ 893	3.73%	36	\$1,199
\$ 918	3.79%	36	\$1,253
\$ 943	3.85%	36	\$1,307
\$ 968	3.91%	36	\$1,363
\$ 993	3.97%	36	\$1,419
\$1,018	4.03%	36	\$1,477
\$1,043	4.09%	36	\$1,536
\$1,068	4.15%	36	\$1,596
\$1,093	4.21%	36	\$1,657
\$1,118	4.27%	36	\$1,719
\$1,143	4.33%	36	\$1,782
\$1,168	4.39%	36	\$1,846
\$1,193	4.45%	36	\$1,911
\$1,218	4.51%	36	\$1,978
\$1,243	4.58%	36	\$2,049
\$1,268	4.64%	36	\$2,118
\$1,293	4.70%	36	\$2,188
\$1,318	4.76%	36	\$2,259
\$1,343	4.82%	36	\$2,330
\$1,368	4.88%	36	\$2,403
\$1,393	4.94%	36	\$2,477
\$1,436	5.00%	36	\$2,585

Effective March 1, 2013

Appendix D will be adjusted based on the 2014 federal poverty guidelines effective March 1, 2014.

The maximum birth cost judgment amount may not exceed the identified percentage of the father's current monthly income available for child support multiplied by 36 months.

Note: DCF 150.05 (2) (c) provides: The department shall revise the schedule in Appendix D every year based on changes in the federal poverty guidelines. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

Notice of Suspension of Administrative Rule

The Joint Committee for the Review of Administrative Rules met in Executive Session on February 26, 2013 and adopted the following motion:

Motion on s. NR 1.483

That the Joint Committee for Review of Administrative Rules suspend the following provisions included in s. NR 1.483, pursuant to s. 227.26 (2) (d), Stats., effective February 26, 2013, on the basis of testimony received at its February 26, 2013 meeting, and on the grounds that these provisions included in s. NR 1.483 impose an undue hardship on telecommunications users in northern Wisconsin, as stated in s. 227.19 (4) (d) 6.

NR 1.483 (3): The department will ~~only~~ consider a request to install a telecommunications system at a department tower site ~~if it meets one of the criteria set forth in sub. (4)~~. The department may reject a request to install a telecommunications system at a department tower site for any reason, including technical, legal or environmental problems associated with the request, or if granting the request could conflict with future department needs.

NR 1.483 (4) (intro.): The department will ~~only~~ consider a request to install a telecommunications system at a department tower site if the request is for a telecommunications system which is a:

Motion RECOMMENDED, Ayes 10, Noes 0

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