

# Wisconsin Administrative Register

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## WISCONSIN ADMINISTRATIVE REGISTER

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## Emergency Rules Now in Effect

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*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](http://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.*

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### Agriculture, Trade and Consumer Protection (2)

**1. EmR1211** — The state of Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (c)**, relating to the quarantine of Trempealeau County for emerald ash borer.

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

The scope statement for this rule, SS 042-11, was approved by the governor on November 8, 2011, published in Register No. 671 on November 30, 2011, and approved by the Board of Agriculture, Trade and Consumer Protection on December 15, 2011.

#### Finding of Emergency

(1) On August 16, 2012, APHIS identified Emerald Ash Borer (EAB) in Trempealeau County, at Perrot State Park. EAB is an exotic pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare quarantines for Trempealeau County but that it will take six

to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of the county to areas of Wisconsin or other states that are not infested with EAB.

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

**Filed with LRB:** September 6, 2012

**Publication Date:** September 7, 2012

**Effective Dates:** September 7, 2012 through February 3, 2013

**Hearing Date:** October 12, 2012

**2. 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  
**Hearing Date:** October 15, 18, 19, 2012

### 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  
**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

### Health Services

#### *Health, Chs. DHS 110—*

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

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

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

#### **Exemption from Finding of Emergency**

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

2011 Wisconsin Act 32, SECTION 9121 (9) CONGENITAL DISORDER TESTING FEES; RULES. Using the procedure under section 227.24 of the statutes, the department of health services shall promulgate rules required under section 253.13 (2) of the statutes, as affected by this act, for the period before the effective date of the permanent rules promulgated under section 253.13 (2) of the statutes, as affected by this act, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department of health services is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**Filed with LRB:** May 1, 2012



**Publication Date:** May 4, 2012  
**Effective Dates:** May 4, 2012 through September 30, 2012  
**Hearing Date:** May 25, 2012  
**Extension Through:** January 28, 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 (4)

### *Fish, Game, etc., Chs. NR 1—*

**1. EmR1207** (DNR # WM-03-12(E))— The Wisconsin Natural Resources Board proposes an order to amend **section NR 10.01 (3) (d) 1.**, relating to the bobcat hunting and trapping season.

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

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

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

### Finding of Emergency

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

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

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

**2. 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.**

**3. EmR1214** (DNR # WM-02-12(E)) — The Wisconsin Natural Resources Board proposes an order to repeal and recreate sections NR 10.01 (1) (b), (g) and (u), 10.06 (9) (a) and 10.32, to amend section NR 10.01 (1) (v), and to create section NR 10.12 (3) (e), relating to hunting and the 2012 migratory game bird seasons and waterfowl hunting zones.

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

The statement of scope for this rule, SS 011-12, was approved by the governor on February 15, 2012, published in Register No. 674, on February 29, 2012, and approved by the Natural Resources Board on May 23, 2012.

**Finding of Emergency**

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.

**Filed with LRB: September 10, 2012**

**Publication Date: September 12, 2012**

**Effective Dates: September 13, 2012 through February 9, 2013**

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

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

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

**Finding of Emergency**

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

**Filed with LRB: September 14, 2012**

**Publication Date: October 1, 2012**

**Effective Dates: October 1, 2012 through February 27, 2013**



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## Scope Statements

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### Natural Resources

#### *Fish, Game, etc., Chs. NR 1—*

#### SS 098–12

(DNR # FH–26–12)

The statement of scope was approved by the governor on December 14, 2012.

#### Rule No.

Chapter NR 26.

#### Relating to

Lake Trout harvest limits in Lake Superior.

#### Rule Type

Permanent.

#### Finding/Nature of Emergency (Emergency Rule Only)

Not Applicable.

#### Detailed Description of the Objective of the Proposed Rule

A decline in the lake trout population in the Apostle Islands vicinity of Lake Superior threatens harvest capability of state-licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses. The purpose of the rule is to amend Lake Superior lake trout harvest limits and other issues related to shared fisheries as required by revisions to the State-Tribal Lake Superior Agreement.

The total allowable catch of lake trout in Wisconsin waters of Lake Superior is divided among tribal commercial fisheries, state-licensed commercial fisheries, tribal subsistence fishers, and state sport anglers. The 10-year State-Tribal Lake Superior Agreement specifies annual allowable lake trout harvests, defines refuges and special fishing areas, and establishes other terms and arrangements for state and tribal commercial fishing. The Agreement was last negotiated in 2005, but has been amended as needed in response to lake trout population estimates. Lake trout harvest limits were negotiated among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa in October 2012 and will be negotiated again in mid-2013. The results of those discussions will be formalized through this permanent rule change.

#### 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 allowable lake trout harvests are determined by a state-tribal biological committee, using the latest available data and modeling results. Based on those results and recommendations from the biological committee, the Agreement is re-negotiated as needed to change the total annual harvest of lake trout by all fishers, and possibly to address other issues related to shared harvest of lake trout and other species by state and tribal fishers.

There has been a steady decline in lean lake trout abundance in Lake Superior since the early 2000s. This decline has been confirmed by independent surveys conducted by the Department and has been projected by models used to set safe harvest levels. Some level of decline was expected due to high harvest limits in the early 2000s, which were in response to several large year classes (numbers of fish spawned in the same year) predicted to enter the fishery. However, sea lamprey mortality over the last eight years has also been higher than Lake Superior target levels. This combination of increased harvest and lamprey mortality has caused lake trout abundance to decline. While relatively stable abundances of spawning lake trout suggest that this decline is still reversible, action needs to be taken to arrest the lean lake trout population's decline. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate rule changes to assist in maintaining a sustainable lake trout fishery over the long-term.

The rule will amend the annual commercial fishing harvest limit for lake trout on Lake Superior. Additional rule elements and alternatives will be discussed with the Red Cliff and Bad River Bands of Lake Superior Chippewa and agreements made in the State-Tribal Lake Superior Agreement.

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

The proposed rule amends the annual commercial fishing harvest limit for lake trout on Lake Superior, which is an "outlying water." Commercial fishing harvest limits are authorized under s. 29.014(1), Stats., which directs the Department to establish and maintain any bag limits and 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 29.519 (1m) (b), Stats., grants discretion to the Department to establish commercial fish species harvest limits after giving due consideration to the recommendations made by the commercial fishing boards. It also specifies that the limitations on harvests must be based on the available harvestable population of fish and in the wise use and conservation of the fish, so as to prevent over-exploitation.

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

Employees will spend approximately 200 hours developing the rule. It will require in-state travel to meet with tribal negotiators.

#### List with Description of All Entities that May Be Affected by the Proposed Rule

- State-licensed commercial fishers on Lake Superior
- Recreational fishers on Lake Superior
- Red Cliff Band of Lake Superior Chippewa
- Bad River Band of Lake Superior Chippewa

State-licensed and tribal commercial fishers may be affected by the amount of fish they are able to harvest. It is not expected that fishers will have any compliance expenditures or reporting changes associated with the rule.

**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**

No federal regulations apply.

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

The exact amount of economic impact is unknown, but is not expected to exceed \$50,000 in a fishing season. The total dockside value of the reported state commercial lake trout harvest in 2011 was approximately \$20,000. Harvest is not expected to be reduced by more than 25% and therefore the

lost value of lake trout is not expected to exceed \$5,000. However, this rule will also limit the amount of gill net effort commercial fishers can use to target whitefish since lake trout are frequently caught in the same nets. Reductions in gill net effort therefore have the potential to cause commercial fishers additional income reductions. The total dockside value of whitefish harvested by state commercial fishers in gill nets was approximately \$160,000 in 2011. Harvest is expected to be reduced by no more than 25% putting the total loss at no more than \$40,000 and likely less because fishers can shift to using trap nets that are not subject to the same effort restrictions governing gill nets. Moreover, commercial fishers can continue current efforts to adjust the location, time, and manner in which they set gill nets targeting whitefish so as to reduce harvest of non-target lake trout.

**Contact Person**

William Horns, Great Lakes Fisheries Specialist,  
608-266-8782.

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# Submittal of Proposed Rules to Legislative Council Clearinghouse

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

## **Natural Resources** *Fish, Game, etc., Chs. NR 1–* **CR 13–001**

(DNR # FH–19–12)

On January 2, 2013, the Department of Natural Resources submitted a proposed rule to Wisconsin Legislative Council Rules Clearinghouse.

The statement of scope for this rule, SS 058–12, was approved by the governor on July 25, 2012, published in Administrative Register No. 680, on August 14, 2012, and approved by the Natural Resources Board on September 26, 2012.

### **Analysis**

The purpose of this rule is to revise Chapters NR 19 to 23, 25 and 26 relating to housekeeping corrections, clarifications, and updates to outdated code for fishing in inland, outlying, and boundary waters.

### **Agency Procedure for Promulgation**

A public hearing is required and will be held on January 31, 2013, in Madison, Wisconsin.

### **Contact Person**

If you have any questions you may contact Kate Strom Hiorns, Bureau of Fisheries Management, (608) 266–0828; Linda Haddix, Bureau of Legal Services, (608) 266–1959.

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

On December 27, 2012, the Psychology Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 084–12, was approved by the governor on October 18, 2012, published in Register No. 683 on November 14, 2012 and approved by the Psychology Examining Board on November 27, 2012.

### **Analysis**

This proposed rule-making order revises Chapter Psy 2 and relates to applicant appearance.

### **Agency Procedure for Promulgation**

A public hearing is required and will be held on February 6, 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](mailto:Sharon.Henes@wisconsin.gov)

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## Rule-Making Notices

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### Notice of Hearing

#### Natural Resources

#### *Fish, Game, etc., Chs. NR 1—* CR 13-001

(DNR # FH-19-12)

NOTICE IS HEREBY GIVEN THAT pursuant to and interpreting ss. 29.014 (1), 29.041, 29.519 (1m) (b), and 29.733 (2) (f), Stats., the Department of Natural Resources will hold a public hearing on revisions to Chapters NR 19, 20, 21, 22, 23, 25, and 26, Wis. Adm. Code, in permanent rule Order FH-19-12 relating to housekeeping changes to Wisconsin fishing rules.

#### Hearing Information

**Date:** Thursday, January 31, 2013  
**Time:** 2:00 p.m.  
**Location:** Department of Natural Resources State Office Building  
 101 S. Webster Street  
 Room 413  
 Madison, WI 53707

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 Kate Strom Hiorns at (608) 266-0828 with specific information on your request at least 10 days before the date of the scheduled hearing.

#### Availability of Rules and Submitting Comments

The proposed rule supporting documents may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov>. 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](mailto:kathryn.stromhiorns@wisconsin.gov).

Written comments on the proposed rule may be submitted via U.S. mail or email to Kate Strom Hiorns at the addresses noted above. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. Comments may be submitted until January 31, 2013.

#### Analysis Prepared by the Department of Natural Resources

This rule is being proposed to make non-substantive housekeeping changes to sections of NR 19, 20, 21, 22, 23, 25, and 26, Wis. Adm. Code, relating to the regulation of fishing and harvest of turtles. The goal is to ensure the rule language that governs fishing in inland, outlying, and boundary waters is accurate and properly reflects the desired management of Wisconsin waters. The rule is in response to recent legislative changes and to the interests of the public and both Law

Enforcement and Fisheries Management staff. The objectives are to:

- add language to respond to newly created statutory language,
- remove sections of code that are outdated or have been replaced by other statute or code changes,
- correct errors that occurred during the drafting of rules, and
- add or repeal language to clarify intent of original rules.

Section 1 clarifies that setlines and set or bank poles are authorized methods for taking turtles. Another section of code lists the use of setlines and bank poles for taking turtles and these are already commonly used, accepted methods.

Sections 2 to 6 amend Subchapter III of Chapter NR 19, which regulates fish farms in natural waterbodies, in response to statutory changes in 2011 Wisconsin Act 207. Under those changes, natural waterbody permits now do not expire unless the department makes a finding that substantial public interest exists in the waterbody and that public or private rights in the waterbody will be damaged. A natural waterbody permit will not be required for someone wishing to use a natural waterbody for a fish farm if he or she was already issued a permit for changing the course of a stream, enlarging a waterway, or constructing a dam. In addition, the department is not required to hold a hearing or provide notice that it will not hold a hearing before issuing a permit, but it must post a notice of every permit application on its website.

Section 7 creates no possession limit for food distribution services — as defined in statute as programs that provide food or serve meals directly to individuals with low incomes or to elderly individuals, or that collect and distribute food to persons who provide food or serve meals directly to these individuals — that lawfully receive fish for purposes of redistribution. This clarifies in code the existing law enforcement policy on fish donations.

Sections 8, 11, 15, 50, and 53 revise code to match statutory changes that allow anyone to fish for rough fish with a crossbow under the same circumstances as with a bow and arrow and adding Asian carp to the definition of rough fish, in response to 2011 Wisconsin Act 180.

Section 9 clarifies in code that trolling is allowed as provided in s. 29.193(1m), Stats., which authorizes trolling approvals for disabled persons.

Sections 10, 44, 45, and 56 update Wisconsin-Michigan boundary water regulations. Section NR 23.01, Wis. Adm. Code, was amended in 2009 to include the language “The provisions of this chapter, *along with other applicable rules and statutes*, regulate fishing in WI-MI boundary waters.” which had the unintended result of applying some regulations in s. NR 20.20 to boundary waters. This rule will restore night fishing and remove a hook gap restriction on the Menominee River. In addition, rough fish spearing will be closed again on all WI-MI boundary waters. Specific language has been absent in ch. NR 23 regarding spearing, and, before 2009, regulation books stated that rough fish spearing was closed year round. This rule will specify that rough fish spearing is again closed in all WI-MI boundary waters and return

regulations to how administrative code was previously interpreted and enforced. Wisconsin's regulations will match Michigan regulations and are intended to improve public understanding of rule enforcement on these shared waters. Department of Natural Resources staff from both states met in 2011 and agreed to make night angling, hook size, and spearing changes for consistency between state regulations and for clarity within code.

Section 12 revises code to match statutory changes that allow 12- and 13-year olds to apply for a sturgeon spearing license in response to 2011 Wisconsin Act 168. Previously the lower age limit was 14 years of age.

Sections 13, 14, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 28, 29, 30, 33, 35, 36, 37, 38, 39, 41, 42, and 43 remove the unnecessary notations of a 40-inch size limit for muskellunge in ss. NR 20.20 (1) through (72) county regulations. A minimum size limit of 40 inches is the general inland waters size limit for muskellunge and is indicated in existing s. NR 20.20 (73) (g). This regulation was effective April 1, 2012.

Section 22 removes expired language for regulations on Twin Valley Lake in Iowa County.

Section 27 corrects mistakenly printed regulation language for largemouth and smallmouth bass in Langlade County. There is no change to the regulation.

Section 31 corrects language for bass regulations on the Minocqua Chain in Oneida County. The early catch and release season dates for largemouth and smallmouth bass were left out in error during rule changes in 2012.

Section 32 removes expired language for largemouth and smallmouth bass in Big Round Lake and Balsam Lake in Polk County.

Section 34 clarifies the boundaries for trout regulations on the East Fork of Raccoon Creek (also known as Paddock Creek) in Rock County. Original code language was unclear and resulted in enforcement issues. Trout have only been stocked in the East Fork of Raccoon Creek and the regulation applies only to that classified section of trout waters.

Section 40 adds sunset language for bass regulations on Sparkling Lake in Vilas County that was mistakenly excluded from rule printing in 2008.

Section 46 prevents overlapping start and end dates of differing regulations for walleye, sauger, and hybrids on the Fox River downstream from the DePere Dam. Currently, the early season regulation begins on March 2 while the alternate regulation ends on the first Sunday in March. These dates may overlap in certain years.

Sections 47, 49, 52, and 55 provide free fishing during the third weekend in January each year when no license is required to fish in inland, outlying, and boundary waters, in response to statutory changes in 2011 Wisconsin Act 168.

Section 48 removes perch in Vilas County from the list of detrimental fish under s. NR 20.38. There are and never were any contracts issued for removal of perch on those waters and abundant perch are no longer considered bad for the fishery.

Sections 51, 54, and 57 makes ice shelter labeling rules the same on boundary waters as on inland waters. Owners will not be required to post their names and addresses on fishing shelters that are occupied or otherwise in use.

Sections 58, 59, 60, 63, 64, and 68 make corrections to code or remove expired language within Chapter NR 25, rules governing commercial fishing in outlying waters.

Sections 61, 62, 65, 66, 67, 69, 70, and 71 delete references to minimum harvesting requirements for commercial fishing in the Great Lakes, in response to statutory changes in 2011 Wisconsin Act 177.

Section 72 adds the Old Stone Quarry to the list of secondary ports where fish are landed by commercial fishers. Commercial fishers need to call in a plan to the local warden each day that fish are being landed at a secondary port and this location is already being used as such. Law enforcement staff support this addition to code language.

Sections 73, 74, 75, 76, and 78 remove notations of expired fish refuges in Chapter NR 26.

Section 77 extends the boundary of an existing fish refuge on Wingra Creek in Dane County. The extension is necessary because a rebuilt and extended platform next to the refuge reduces protection for fish populations in this refuge area.

### **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 an economic impact analysis in consultation with businesses, business associations, local governmental units, and individuals. The Department determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state. The Department's Small Business Regulatory Coordinator may be contacted at [SmallBusiness@dnr.state.wi.us](mailto:SmallBusiness@dnr.state.wi.us) or by calling (608) 266-1959.

### **Environmental Analysis**

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**

Kate Strom Hiorns  
Department of Natural Resources  
P.O. Box 7921  
Madison, WI 53707-7921,  
(608) 266-0828  
[kathryn.stromhiorns@wisconsin.gov](mailto:kathryn.stromhiorns@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

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1. Type of Estimate and Analysis

Original       Updated     Corrected

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2. Administrative Rule Chapter, Title and Number

Sections of NR 19, 20, 21, 22, 23, 25, and 26 relating to the regulation of fishing

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3. Subject

Housekeeping changes to ensure the rule language that governs fishing in inland, outlying, and boundary waters is accurate and properly reflects the desired management of Wisconsin waters. The rule is in response to recent legislative changes and to the interests of the public and both Law Enforcement and Fisheries Management staff.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

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5. Chapter 20, Stats. Appropriations Affected

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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

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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)

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

Yes       No

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9. Policy Problem Addressed by the Rule

The objectives are to:

add language to respond to newly created statutory language,  
remove sections of code that are outdated or have been replaced by other statute or code changes,  
correct errors that occurred during the drafting of rules, and  
add or repeal language to clarify intent of original rules.

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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 have minimal impact on businesses and members of the public. As with any change in regulations, there will be a requirement for anglers to learn the new rules. However, a majority of this rule change clarifies code to reflect existing policies with which anglers must already comply. The Fisheries Management Bureau works to notify the public of new regulations via press releases, the internet, and fishing regulations pamphlets. The following organizations were contacted by the Department for economic impact comments: Wisconsin Conservation Congress, WI Wildlife Federation, Great Lakes Indian Fish & Wildlife Commission, WI Association of Lakes, WI Bow Hunters Association, WI Archery Alliance, WI Traditional Archers, WI Federation of Great Lakes Sport Fishing Clubs, WI Council of Sport Fishing Organizations, Federation of Fly Fishers – Wisconsin Council, Musky Clubs Alliance of Wisconsin, Inc., Salmon Unlimited, Trout Unlimited – WI Council, Walleyes for Tomorrow, WI Bass Federation, Izaak Walton League–Wisconsin Division, Lake Michigan Fisheries Forum, Wisconsin Aquaculture Association, American Fisheries Society–Wisconsin Chapter, Natural Resources Foundation of WI, Gathering Waters, River Alliance of Wisconsin, UW Sea Grant, League of WI Municipalities, WI Towns Association, WI Counties Association, Northeast WI Great Lakes Sport Fishermen, and Great Lakes Sport Fishermen of Milwaukee.

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

The open comment period was conducted during November 2012. No local governments commented or requested to participate in the development of the EIA.

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

The Department only received one comment during the EIA comment period and it was not related to an economic impact. The Milwaukee Great Lakes Sport Fishing Club stated it was in favor of amending rules to make it easier to donate fish to local charities in Milwaukee.

It is not expected that there will be any economic impact directly related to these rule changes on anglers or fishing-related businesses. 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.

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

The proposed rule will include non-substantive changes to administrative code that support existing policies and goals. 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 goal of fish management, as stated in s. NR 1.01(2), 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."

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14. Long Range Implications of Implementing the Rule

The goal is to ensure the rule language that governs fishing in inland, outlying, and boundary waters is accurate and properly reflects the desired management of Wisconsin waters.

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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.

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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.

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17. Contact Name  
Kate Strom Hiorns

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18. Contact Phone Number  
608-266-0828

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

## ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

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

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
-

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

5. Describe the Rule's Enforcement Provisions

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

Yes  No

**Notice of Hearing**  
**Safety and Professional Services —**  
**Psychology Examining Board**  
**CR 12-055**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Psychology Examining Board in sections 15.08 (5) (b) and 455.08, Wis. Stats., and interpreting section 455.04 (5), Wis. Stats., the Psychology Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal section Psy 2.12 (2); renumber section Psy 2.12 (3) and (4); and amend section Psy 2.09 (4) relating to applicant appearances.

**Hearing Information**

**Date:** Wednesday, February 6, 2013  
**Time:** 9:00 a.m.  
**Location:** 1400 East Washington Avenue  
 Room 121A  
 Madison, WI

**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 Submissions**

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](mailto:Sharon.Henes@wisconsin.gov). Comments must be received at or before the public hearing to be held at 9:00 a.m. on February 6, 2013 to be included in the record of rule-making proceedings.

**Copies of Proposed 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](mailto:Sharon.Henes@wisconsin.gov).

**Analysis Prepared by the Department of Safety and Professional Services**

**Statutes interpreted**

Section 455.04 (5), Wis. Stats.

**Statutory authority**

Sections 15.08 (5) (b) and 455.08, 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 profession. The Psychology Examining Board shall adopt such rules as are necessary under chapter 455, Wis. Stats.

**Related statutes or rules**

Section 455.04 (5), Wis. Stats.

**Plain language analysis**

Section 1 amends s. Psy 2.09(4) to reflect the statute provision which has a discretionary provision regarding appearances. Currently the rule requires every applicant to appear before the Board in person prior to licensure as a psychologist. The change will reduce the administrative burden of the resources of the Psychology Examining Board and the Department of Safety and Professional Services. It would also significantly reduce the time it takes an applicant to become licensed because they would no longer have to wait until a scheduled meeting to make an appearance.

Section 2 repeals the provision for licensure by reciprocity for applicants who are licensed in another state which is a signatory to the agreement of reciprocity of the Association of State Provincial Psychology Boards. The reciprocity agreement requires an appearance before the Board as part of the licensing process. Currently there are only seven other signatory states (Arkansas, Kentucky, Missouri, Nebraska, Nevada, Oklahoma and Texas). None of these states are neighboring states, therefore the change would not have a significant impact on applicants.

Section 3 renumbers s. Psy 2.12 (3) and (4) to s. Psy 2.12 (2) and (3).

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

None

**Comparison to rules in adjacent states**

*Illinois:*

Illinois does not require a personal appearance.

*Iowa:*

Iowa does not require a personal appearance.

*Michigan:*

Michigan does not require a personal appearance.

*Minnesota:*

Minnesota does not require a personal appearance.

**Summary of factual data and analytical methodologies**

The Psychology Examining Board conformed the rule to the statute. No additional factual data or analytical methodologies were used.

**Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis**

This rule creates a change which matches the statutory languages. The rule has a positive effect on applicants and does not have an effect on small business.

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 rules do not have an economic impact on small businesses.

**Agency Contact Person**

Please direct any questions 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, Wisconsin 53708; telephone 608-261-2377; email at [Sharon.Henes@wisconsin.gov](mailto:Sharon.Henes@wisconsin.gov).

**Text of Rule**

SECTION 1. Psy 2.09 (4) is amended to read:

Psy 2.09 (4) APPEARANCE BEFORE THE BOARD. The applicant shall may be required to appear before the board in person prior to licensure to allow the board to make such inquiry of them as to qualifications and other matters as it considers proper.

SECTION 2. Psy 2.12 (2) is repealed.

SECTION 3. Psy 2.12 (3) and (4) are renumbered to Psy 2.12 (2) and (3).

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)	
<b>ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS</b>	
Type of Estimate and Analysis	
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	
Administrative Rule Chapter, Title and Number	
Psy 2	
Subject	
Applicant Appearances	
Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	
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 type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input checked="" 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	
This amendment will bring the rule in line with the statutes which has a discretionary provision regarding applicant appearances rather than the current rule which is mandatory. The rule also repeals the reciprocity provision because the Agreement of Reciprocity of the Association of State and Provincial Psychology Boards requires a personal appearance before the Board.	
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)	
There is no economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.	

<b>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</b>
The benefit to rule will reduce the administrative burden of the resources of the Psychology Examining Board and the Department of Safety and Professional Services. It would also significantly reduce the time it takes an applicant to become licensed because they would no longer have to wait until a scheduled meeting. The repeal of the provision regarding the Agreement of Reciprocity of the Association of State and Provincial Psychology Boards would have minimal impact due to there only being seven other signatory states and none are neighboring states.
The alternative to rule change would be to continue requiring every applicant to appear before the Board prior to obtaining a license.
<b>Long Range Implications of Implementing the Rule</b>
The long range implication would be streamlined application process.
<b>Compare With Approaches Being Used by Federal Government</b>
None
<b>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</b>
None of our neighboring states require a personal appearance before the Board prior to issuance of a license.
<b>Name and Phone Number of Contact Person</b>
Sharon Henes (608) 261-2377

**Notice of Hearing**  
**Safety and Professional Services —**  
**Veterinary Examining Board**  
**CR 12-051**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Veterinary Examining Board in sections 15.08 (5) (b) and 453.03 (1), Wis. Stats., and interpreting section 453.02 (4s), Wis. Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal section VE 1.02 (8); and to amend section VE 1.02 (7) relating to the definitions of patient and prescription legend animal drugs.

**Hearing Information**

**Date:** Wednesday, January 30, 2013  
**Time:** 9:00 a.m.  
**Location:** 1400 East Washington Avenue  
Room 121A  
Madison, WI

**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 Board Services, 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.

**Copies of Proposed Rule**

Copies of this proposed rule are available upon request to Shancethea Leatherwood, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov).

**Place Where Comments Are to be Submitted and Deadline For Submissions**

Comments may be submitted to Shancethea Leatherwood, 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 [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov). Comments must be received at or before the public hearing to be held on January 30, 2013 to be included in the record of rule-making proceedings.

**Analysis Prepared by the Department of Safety and Professional Services**

*Statutes interpreted*

Section 453.02 (4s), Wis. Stats.

*Statutory authority*

Sections 15.08 (5) (b) and 453.03 (1), Wis. Stats.

*Explanation of agency authority*

An examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains. The Board may promulgate rules establishing the scope of practice.

*Related statute or rule*

Section 453.02 (4s), Wis. Stats.

*Plain language analysis*

Section 1 is amended in order for the definition of “patient” in the rule to match the definition in the statute.

Section 2 is repealed due to “Prescription legend animal drugs” no longer being referenced in the VE Code.

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

None.

*Comparison to rules in adjacent states*

*Illinois:*

Illinois Veterinary Medicine and Surgery Practice Act of 2004 defines patient as “an animal that is examined or treated by a veterinarian.” 225 Ill. Comp. Stat § 115/3. The Rules do not have a separate definition.



*Iowa:*

Iowa statutes and administrative code do not define patient; only animal.

*Michigan:*

Michigan statutes and administrative code do not define patient; only animal.

*Minnesota:*

Minnesota statutes define patient” as an animal for which a veterinary prescription drug is used or intended to be used. Minn. Stat. § 156.16.

**Summary of factual data and analytical methodologies**

Veterinary Examining Board ensured the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

**Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis**

This rule updates a definition to match the statutory definition and repeals a definition no longer used, therefore there is no economic impact. 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**

There is no effect on small businesses.

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at [Greg.Gasper@wisconsin.gov](mailto:Greg.Gasper@wisconsin.gov), or by calling (608) 266-8608.

**Agency Contact Person**

Shancethea Leatherwood, 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 608-261-4438; email at [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov).

**Text of Rule**

SECTION 1. VE 1.02 (7) is amended to read:

(7) “Patient” means ~~the~~ an animal being that is examined or treated by a veterinarian.

SECTION 2. VE 1.02 (8) is repealed.

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)		
<b>ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS</b>		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
VE 1.02		
Subject		
Definitions		
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 will amend the definition of “patient” to match the definition in the statute and repeal the definition of “prescription legend animal drugs” due to no longer being used in the rule.		

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)
No economic or fiscal impact to business, organization or the economy as a whole.
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit is creating consistency with rule and statute in defining “patient” in order to create clarity.
Long Range Implications of Implementing the Rule
There are no long range implications.
Compare With Approaches Being Used by Federal Government
N/A
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Illinois defines patient as “an animal that is examined or treated by a veterinarian”. Iowa and Michigan do not define patient; only animal. Minnesota defines patient as “an animal for which a veterinary prescription drug is used or intended to be used”.
Name and Phone Number of Contact Person
Sharon Henes (608) 261–2377

**Notice of Hearing**  
**Safety and Professional Services —**  
**Veterinary Examining Board**  
**CR 12–052**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Veterinary Examining Board in sections 15.08 (5) (b) and 453.03 (2), Wis. Stats., and interpreting section 453.03 (2), Wis. Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal section VE 7.06 (22) (c), (d), (e) and (Note), section VE 9.05 (12) (c), (d), (e) and (Note), sections VE 10.02 (1) (a) 1., VE 10.02 (2) (a) 1., and VE 10.04; and amend sections VE 7.06 (22) and VE 9.05 (12) relating to continuing education and training in the use of pesticides by veterinarians and certified veterinary technicians.

**Hearing Information**

**Date:** Wednesday, January 30, 2013  
**Time:** 9:05 a.m.  
**Location:** 1400 East Washington Avenue  
Room 121A  
Madison, WI

**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 Board Services, 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 Submissions**

Comments may be submitted to Shancethea Leatherwood, 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 [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov). Comments must be received at or before the public hearing to be held on January 30, 2013 to be included in the record of rule–making proceedings.

**Copies of Proposed Rule**

Copies of this proposed rule are available upon request to Shancethea Leatherwood, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov).

**Analysis Prepared by the Department of Safety and Professional Services**

**Statutes interpreted**

Section 453.03 (2), Wis. Stats.

**Statutory authority**

Sections 15.08 (5) (b) and 453.03 (2), Wis. Stats.

**Explanation of agency authority**

An examining board shall promulgate rules for its own guidance and for the guidance of the profession to which it pertains. The Veterinary Examining Board may not require training or continuing education concerning the use, handling, distribution, and disposal of pesticides other than for disciplinary purposes.

**Related statute or rule**

Section 453.03 (2), Wis. Stats.

**Plain language analysis**

The passage of 2009 Wisconsin Act 139 amended s. 453.03 (2), Wis. Stats., to create an exception to the promulgation of

rules requiring training and continuing education sufficient to assure the competency of veterinarians and certified veterinary technicians in the practice of veterinarians and certified veterinary technicians in the practice of veterinary medicine. Per the statutory amendment, the Board may not require training or continuing education concerning the use, handling, distribution, and disposal of pesticides other than for disciplinary purposes.

Currently s. VE 10.04 requires a certification on the renewal application that veterinarians and certified veterinary technicians have taken one credit of continuing education in the use, handling, distribution and disposal of pesticides during the two years prior to the renewal. Section 6 repeals this requirement.

Sections 1–5 amends or repeals portions of the Administrative Code to remove all references to s. VE 10.04.

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

None.

**Comparison to rules in adjacent states**

*Illinois:*

Illinois does not require continuing education in the use, handling, distribution and disposal of pesticides.

*Iowa:*

Iowa does not require continuing education in the use, handling, distribution and disposal of pesticides.

*Michigan:*

Michigan does not require any continuing education for veterinarians or veterinary technicians.

*Minnesota:*

Minnesota does not require continuing education in the use, handling, distribution and disposal of pesticides.

**Summary of factual data and analytical methodologies**

Veterinary Examining Board ensured the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

**Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis**

Per 2009 Act 139, the Board may not require training or continuing education concerning pesticides and this rule will repeal the requirements currently in place. 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**

There is no effect on small businesses.

**Agency Contact Person**

Shancethea Leatherwood, 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 608–261–4438; email at [Shancethea.L Leatherwood@wisconsin.gov](mailto:Shancethea.L Leatherwood@wisconsin.gov).

**Text of Rule**

SECTION 1. VE 7.06 (22) is amended to read:

VE 7.06 (22) Falsely certifying to the board under s. VE 10.02 (6) ~~or 10.04 (1)~~ that the veterinarian:

SECTION 2. VE 7.06 (22) (c), (d), (e), and Note are repealed.

SECTION 3. VE 9.05 (12) is amended to read:

VE 9.05 (12) Falsely certifying to the board under s. VE 10.02 (6) ~~or 10.04 (1)~~ that the veterinary technician:

SECTION 4. VE 9.05 (12) (c), (d), (e) and Note are repealed.

SECTION 5. VE 10.02 (1) (a) 1. and 10.02 (2) (a) 1. are repealed.

SECTION 6. VE 10.04 is repealed

STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION DOA 2049 (R 07/2011)	
<b>ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS</b>	
Type of Estimate and Analysis	
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	
Administrative Rule Chapter, Title and Number	
VE 7, 9, 10	
Subject	
Continuing education and training in the use of pesticides	
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	

<b>Fiscal Effect of Implementing the Rule</b>		
<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
<b>The Rule Will Impact the Following (Check All That Apply)</b>		
<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		
<b>Policy Problem Addressed by the Rule</b>		
Per 2009 Act 139, the Board may not require training or continuing education concerning the use, handling, distribution, and disposal of pesticides other than for disciplinary purposes. This rule will repeal the requirements currently in place requiring continuing education in this area.		
<b>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)</b>		
No economic or fiscal impact to business, organization or the economy as a whole.		
<b>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</b>		
The benefit is the rule will be in line with the statutory authority regarding continuing education.		
<b>Long Range Implications of Implementing the Rule</b>		
N/A		
<b>Compare With Approaches Being Used by Federal Government</b>		
None		
<b>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</b>		
Our neighboring states do not require continuing education in the use, handling, distribution and disposal of pesticides.		
<b>Name and Phone Number of Contact Person</b>		
Sharon Henes (608) 261-2377		

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## Submittal of Proposed Rules to Legislature

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

### **Agriculture, Trade and Consumer Protection CR 12-040**

**(DATCP Docket # 11-R-10)**

The Department of Agriculture, Trade and Consumer Protection announces that it is submitting a rule for legislative committee review, pursuant to s. 227.19, Stats. The proposed rule revises Chapter ATCP 55, relating to meat and meat food products.

The statement of scope for this rule was approved by the Governor on November 30, 2012.

### **Agriculture, Trade and Consumer Protection CR 12-003**

**(DATCP Docket # 08-R-08)**

The Department of Agriculture, Trade and Consumer Protection announces that it is submitting a rule for legislative committee review, pursuant to s. 227.19, Stats. The proposed rule revises Chapter ATCP 29, relating to pesticide use and control.

This rule is not subject to s. 227.135 (2), as affected by 2011 Wis. Act 21. The statement of scope for this rule, published in Administrative Register No. 635 on November 15, 2008, was sent to the Legislative Reference Bureau prior to the effective date of 2011 Wis. Act 21.



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