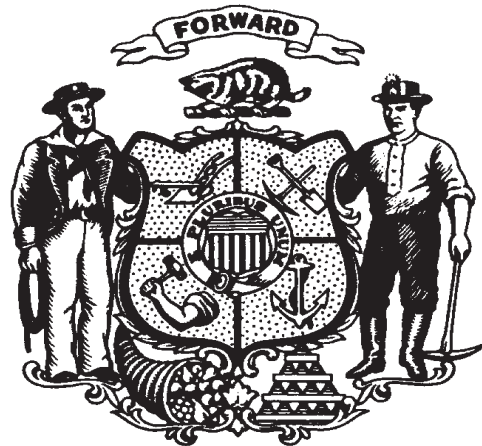


Wisconsin Administrative Register

No. 688



Publication Date: April 30, 2013

Effective Date: May 1, 2013



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



WISCONSIN ADMINISTRATIVE REGISTER

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

NOTICE TO READERS: Beginning with the Mid-March Register, No. 675, the Administrative Register will be posted on the Internet upon completion of the pre-printing preparation of the Register, approximately 10 to 12 days prior to the stated publication date. Administrative Code chapters inserted into the Administrative Code in end-of-month registers will be accessible from the Internet Register upon posting from the Administrative Code Chapters Inserted and Removed by this Register link of the first page of the Register. Administrative Code chapters will be inserted into the Administrative Code on, or shortly before, the publication date.

(Print Register only) The Internet address for the Administrative Register is: <http://legis.wisconsin.gov/rsb/regindex.htm>

Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590

email: bruce.hoesly@legis.wisconsin.gov

The Wisconsin Administrative Register and Administrative Code may be obtained from the:

Department of Administration

Office of Document Sales

(608) 266-3358

and may be accessed on the internet at:

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

Table of Contents

Emergency Rules Now in Effect.**Pages 4 to 7**

Administration:

Revises Chapter Adm 2, relating to facility use. **EmR1305**
[*First Appearance*]

Agriculture, Trade and Consumer Protection:

Revises Chapter ATCP 55, relating to allowing certain selected Wisconsin state-inspected meat establishments to sell meat and meat products in other states and thereby affecting small business. **EmR1213**Creates section 161.50 (3) (f) and subch VI of ch. ATCP 161, relating to the “grow Wisconsin dairy producer” grant and loan program. **EmR1301**

Children and Families:

Safety and Permanence, Chs. DCF 37–59Creates Chapter DCF 55, relating to subsidized guardianship. **EmR1212*****Early Care and Education, Chs. DCF 201–252***Creates 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. **EmR1216**

Justice:

Re-creates 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. **EmR1217**

Natural Resources:

Fish, Game, etc., Chs. NR 1—Revises Chapters NR 10, 12, and 19, relating to the wolf hunting and trapping season and regulations and a depredation program. **EmR1210*****Fish, Game, etc., Chs. NR 1—***Revises Chapters NR 20 and 25, relating to lake trout harvest limits in Lake Superior. **EmR1304**

Public Instruction:

Re-creates Chapter PI 47, relating to the equivalency process for approving alternative models to evaluate educator practice. **EmR1303**

Safety and Professional Services:

Professional Services, Chs. 1–299Amends Chapters SPS 60, 61, 62, and 65 and creates Chapter SPS 205, relating to barbers and to barbering and cosmetology schools and instructors. **EmR1302****Scope Statements.****Pages 8 to 15**

Administration:

Creates Chapter Adm 93, relating to the federal Community Development Block Grant Program (CDBG). **SS 041–13**

Insurance:

Revises sections Ins 17.01, 17.28 (1) (c) and (6), relating to Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013. **SS 042–13**

Natural Resources:	<i>Environmental Protection—General, Chs. 100—</i> Revises Chapter NR 162, relating to Clean Water Fund Program. SS 039–13
	<i>Environmental Protection—General, Chs. 100—</i> Revises Chapter NR 166, relating to Safe Drinking Water Loan Program. SS 040–13
Public Defender:	Revises sections PD 3.02 (1), 6.01, and 6.02 (1), relating to creation of a Felony Diversion case category. SS 043–13
Submittal of Proposed Rules to Legislative Council Clearinghouse.	Page 16
Employee Trust Funds:	Creates ch. ETF 52, relating to the Duty Disability Program. CR 13–029
Rule–Making Notices.	Pages 17 to 19
Employee Trust Funds:	Creates ch. ETF 52, relating to the Duty Disability Program. CR 13–029
Submittal of Proposed Rules to Legislature.	Page 20
Natural Resources:	<i>Fish, Game, etc., Chs. 1—</i> Revises ch. NR 18, relating to the sport of falconry. CR 13–005
Rule Orders Filed with the Legislative Reference Bureau.	Pages 21 to 22
Agriculture, Trade and Consumer Protection:	Revises Chapter ATCP 29, relating to pesticide use and control and affecting small business. CR 12–003
	Revises Chapter ATCP 17, relating to livestock premises registration. CR 12–024
	Creates s. ATCP 161.50 (3) (f) and subch. VI of ch. ATCP 161, relating to the “grow Wisconsin dairy producer” grant and loan program. CR 12–028
	Revises Chapter ATCP 75 Appendix, relating to retail food establishments and affecting small business. CR 12–033
	Revises Chapter ATCP 127, relating to telephone solicitations; no–call and no–text list. CR 12–036
	Revises Chapter ATCP 70, relating to regulation of Wisconsin’s food processing plants and shellfish shippers and processors and affecting small business. CR 12–037
	Revises Chapter ATCP 55, relating to allowing certain selected Wisconsin state–inspected meat establishments to sell meat and meat products in other states and affecting small business. CR 12–040
	Revises Chapter ATCP 1, relating to discretion in enforcement of rule violations by small businesses and affecting small business. CR 12–043
Employee Trust Funds:	Revises s. ETF 10.10 relating to elections to the Employee Trust Funds and Teachers Retirement Board. CR 12–020
Financial Institutions, Division of Banking:	Creates ch. DFI–Bkg 78, relating to auto title loans. CR 12–034

Revises ch. DFI–Bkg 75, relating to payday lending. **CR 12–035**

Health Services:

Health, Chs. 110–199

Creates s. DHS 115.05 (3), relating to a fee for screening newborns for congenital and metabolic disorders and other services. **CR 12–025**

Health, Chs. 110–199

Revises Chapter DHS 196 and Chapter DHS 196 Appendix, relating to restaurants and the Wisconsin Food Code, and affecting small businesses. **CR 12–038**

Justice:

Creates 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. **CR 12–030**

Natural Resources:

Fish, Game, etc., Chs. 1–

Creates s. NR 19.058, relating to requiring access to wire cutters when trolling in outlying waters. **CR 12–022**

Transportation:

Amends Trans 100.02(11m), (12m), and (13m), relating to mandatory minimum liability limits for insurance policies under safety responsibility, damage judgment and mandatory insurance laws. **CR 11–043**

Sections Affected.

Pages 23 to 25

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Administration

EmR1305 — The Department of Administration hereby adopts an order to repeal Adm 2.14 (2) (vr) c.; to renumber and amend Adm 2.14 (2) (vr) a. and b.; to amend Adm 2.02 (1) (a), 2.04 (1), 2.04 (2), (3), (5), and (7), 2.07 (2), 2.08 (1) and (1) (d), 2.11, 2.14 (2), (2) (v), (2) (vm) and (2) (vm) 5.; and to create Adm 2.03 (3m), (3r), and (6m), 2.04 (1m) and (1r), relating to facility use.

The statement of scope for this rule, SS 028–13, was approved by the Governor on March 15, 2013, and published in Register No. 687 on March 31, 2013. This emergency rule was approved by the Governor on April 11, 2013.

Finding of Emergency

The Legislature has vested management authority over various state buildings and grounds, including those of the Wisconsin State Capitol, in the Department of Administration since 1979. Section 16.84 (1), Wis. Stats. Since 1979 the Department has permitted the use of these buildings and grounds for the free discussion of public questions and other purposes, so long as such uses did not interfere with the prime uses of these facilities, or otherwise infringe on interests of the

state. Section 16.845, Wis. Stats., and s. Adm 2.04, Wis. Adm Code.

Beginning February 2011, groups of persons began to occupy the Wisconsin State Capitol Building without permits. This included appropriating rooms and hallways in the Capitol building for purposes such as camping and storage of bulk supplies. To restore order to the building and return the building to a point where the work of the Wisconsin State Legislature and the Supreme Court of Wisconsin could perform their constitutionally authorized functions without undue disruption, the Department expended funds in excess of \$7,400,000 for law enforcement personnel. The continuous occupation of the State Capitol was formally terminated in March of 2011.

Groups of persons continue to occupy rooms in the Wisconsin State Capitol building without permits, including the Capitol rotunda. These groups constitute an exception to the norm.

The Wisconsin State Capitol Police (WSCP) issue more than 400 permits annually for the use of various state facilities. Permits are used for a variety of purposes, whether political, non-political, charitable or commercial. Permits are issued regardless of political party, affiliation or content.

Occupation of the Capitol rotunda and other areas has caused disruptions to the properly permitted events and normal government activities, including but not limited to, a Red Cross blood drive, a high school science exhibit, school group tours, general public tours, and legislative committee meetings and sessions. The State does not refuse permits for the lawful and safe use of State facilities by any group or groups. Neither can the State allow any group to occupy the Capitol in disregard of the rights of permit holders, public employees or visitors. It is imperative that the Department continue to gain greater compliance from user groups in order to protect the public safety and welfare.

Filed with LRB: April 15, 2013

Publication Date: April 16, 2013

Effective Dates: April 16, 2013 through September 12, 2013

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: June 9, 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: May 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
Extension Through: June 12, 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 (2)

Fish, Game, etc., Chs. NR 1—

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

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

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

Finding of Emergency

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

Filed with LRB: August 15, 2012

Publication Date: August 18, 2012

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

2. EmR1304 (DNR # FH-23-12(E)) — The Wisconsin Natural Resources Board proposes an order to amend sections NR 20.20 (73) (n) 4., 25.06 (1) (a), and 25.09 (1) (am) 3. e., relating to lake trout harvest limits in Lake Superior.

The statement of scope for this rule, SS 097-12, was approved by the Governor on December 14, 2012, published in Register No. 684 on December 31, 2012, and approved by the Natural Resources Board on January 23, 2013.

Finding of Emergency

Pursuant to s. 227.24, Stats., the department finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The welfare of state-licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses is threatened by a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate the current reductions in order to ensure a sustainable lake trout fishery over the long-term. Lake trout harvest limits were negotiated in October 2012 among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes must be ordered through administrative code. This emergency rule is needed to preserve the public welfare.

Filed with LRB: March 9, 2013

Publication Date: March 27, 2013

Effective Dates: March 27, 2013 through August 23, 2013

Hearing Date: April 11, 2013

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

Administration

SS 041-13

This statement of scope was approved by the governor on April 15, 2013.

Rule No.

Creates chapter Adm 93.

Relating to

The federal Community Development Block Grant Program (CDBG).

Rule Type

Emergency and Permanent.

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

Each year the federal government makes funding available to the several states for economic and housing development through a program known as the Community Development Block Grant Program (CDBG). The CDBG is governed under 42 USC 5301 to 5319 and 24 CFR Part 570, and is administered by the US Department of Housing and Urban Development (HUD). Since the dissolution of the Wisconsin Department of Commerce, the Wisconsin Department of Administration (DOA) has received CDBG grants from HUD, and entered into agreements with the Wisconsin Economic Development Corporation (WEDC) for the administration of those funds. Under this arrangement, state administrative code Chapter Commerce 108 was unneeded, as WEDC operated under substantially similar internal policies. Recently, DOA and WEDC have mutually determined that the expertise of DOA is better suited to administration of CDBG funds, while the expertise of WEDC is best suited to consultation with localities and businesses seeking to access CDBG funds. The parties intend to formalize the transfer of administrative responsibility or CDBG funds to DOA shortly. Consequently, it is imperative for the welfare of the State of Wisconsin that administrative code provisions concerning the CDBG program be made.

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed chapter is to set forth the criteria the department will use to administer the CDBG program.

This proposed rule-making will do the following:

- A. Reconstitute many portions of the former ch. Comm 108.
- B. Decline to reconstitute portions of ch. Comm 108 which added unnecessary confusion by duplicating federal regulations where reference to such regulations will suffice, such as the former ss. Comm 108.04, 108.07, and 108.14 (1).

- C. Decline to reconstitute portions of ch. Comm 108 which could vary from year to year under, such as the table found in the former s. Comm 108.06.
- D. Decline to reconstitute portions of ch. Comm 108 that add complexity to the code without adding meaning, such as point ranges found in the former s. Comm 108.10.
- E. Such other changes as are necessary to comply with current HUD requirements, or which will otherwise increase the efficiency or effectiveness of the program and are allowed by HUD requirements.

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

Policies to be included in the rule will be derived from existing WEDC internal policies and historical interpretations of the former Chapter Comm 108.

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

DOA is empowered to enact rules necessary to receive CDBG funds under s. 16.309, Wis. Stats.

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

Excluding time spent reviewing existing rules, historical information, and other sources in the preparation of this scope statement, we estimate that completion of the Final Draft of this emergency rule will require an additional 8 hours of staff time.

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

All local governments and local businesses eligible for funding under the CDBG program.

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

The rules as contemplated will be derived from federal requirements.

8. Anticipated Economic Impact of Implementing the Rule. Also, Please Note if the Rule is Likely to have an Economic Impact on Small Businesses

None.

Contact Person

Lisa Marks, Lisa.Marks@wisconsin.gov.

Insurance

SS 042-13

This statement of scope was approved by the governor on April 16, 2013.

Rule No.

Revises ss. Ins 17.01 and 17.28 (1) (c) and (6), Wis. Admin. Code.

Relating to

Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013.

Rule Type

Permanent Rule and Emergency Rule.

1. Description of the Objective of the Rule

The office of the commissioner of insurance's objective is to establish the annual fees that participating health care providers must pay to fund the injured patients and families compensation fund ("fund") as required by s. 655.57 (3), Wis. Stat., and set the mediation panel fees for the fiscal year beginning July 1, 2013, as required by s. 655.61, Wis. Stat. The proposed rule will also amend the Insurance Services Office ("ISO") codes for the classification of health care provider specialties in accordance with s. 655.27 (3) (c), Wis. Stat.

2. 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

The policies as set forth in the statutes require the office of the commissioner of insurance to promulgate a rule to establish the amount of fees to be paid into the fund annually as approved by the board of governors of the fund ("board"). The fees included in the proposed rule will address both the annual assessments for the coverage provided to the participating health care providers, and the mediation fund fees which are collected by the fund and paid to the director of state courts for the operations of the medical mediation panels. In addition, the classification code modifications are the numerical designation for a health care provider's specialty and are used to classify the provider for assessment purposes consistent with s. 655.27 (3) (c), Wis. Stat.

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

The fund was established by and is operated as provided in ch. 655, Wis. Stat. The commissioner of insurance, with approval by the board, is required to annually set the fees for the fund and the medical mediation panel by administrative rule. Section 655.004, Wis. Stat., states that the director of state courts and the commissioner may promulgate such rules under ch. 227, Wis. Stat., as are necessary to enable them to perform their responsibilities under this chapter. Pursuant to s. 655.27 (3) (b), Wis. Stat., the commissioner, after approval by the board, shall by rule set the mediation panel fees, and s. 655.61, Wis. Stat., requires that the board, by rule to set fees that are charged to health care providers that are sufficient to provide the necessary revenue to fund the medical mediation panels. Pursuant to s. 655.27 (3) (a), Wis. Stat., the ISO codes set the classifications for the providers that aid in accurately classifying past and prospective loss and expense experience in different types of practice that establishes the classifications for fund fee assessment. Finally, s. 601.41 (3), Wis. Stat., provides that the Commissioner shall have rule-making authority under s. 227.11 (2), Wis. Stat.

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

120 hours of time including the time of state employees and members of the board.

5. Description of all Entities that this Rule may have an Economic Impact on

All health care providers that are participants in the fund, as set forth in s. 655.002 (1), Wis. Stat., are required to pay annual assessments for payment of claims that arise in each given year consistent with the provisions of ch. 655, Wis. Stat. For the fiscal year beginning July 1, 2013 the board approved a 5% decrease in fees at the December 19, 2012 board meeting. At the March 20, 2013 board meeting the board approved a decrease in mediation panel fees to zero for the fiscal year beginning July 1, 2013. The reduction was based upon the request of the director of state courts as it will have a surplus and does not request additional funding for the fiscal year. In light of the fact that the fund fee and mediation panel fees are decreased, the economic impact is expected to be minimal. The ISO code amendments add clarity and correct errors that will be used to accurately assess the fund participating providers by their practice.

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

There is no existing or proposed federal regulation addressing any medical malpractice fund like the Wisconsin fund.

7. Statement of Scope for Permanent and Emergency Rule

The fund issues invoices for the following fiscal year in June of each year. In order for the invoices to correctly reflect the decreased assessment that was approved by the board, a rule must be promulgated and take effect prior to June 15, 2013. Due to the length of time that may be required to promulgate the rule, the scope is being submitted for both the permanent rule and an emergency rule to ensure that procedures are in place to promulgate the rule on an emergency basis to ensure that the invoices can be issued reflecting the decreased assessments approved by the board while the permanent rule can proceed without negative impact on the fund.

Contact Person:

Julie E. Walsh, Attorney, 608-264-8101.

Natural Resources***Environmental Protection—General, Chs. 100—***

SS 039-13

(DNR # CF-13-13)

This statement of scope was approved by the governor on April 3, 2013.

Rule No.

Revises chapter NR 162.

Relating to

Clean Water Fund Program.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

Chapter NR 162 is the administrative rule for the Clean Water Fund Program (CWFP), which provides loans to municipalities to finance wastewater infrastructure projects and urban runoff and storm water best management practices (BMPs). There are four objectives for revising ch. NR 162.

Objective 1: To update areas of ch. NR 162 that are either no longer in line with federal regulations or state statutes or need efficiency, accuracy, or clarity changes. At a minimum, the following topic areas need updating:

- Loan application.
- Cost eligibility.
- Financial assistance requirements.
- Requirements for a user charge system.
- Procurement including solicitation of disadvantaged businesses.
- Reimbursement and refinancing.
- Loan interest rates including median household income information.
- Financial assistance disbursements.
- Amendments to a financial assistance agreement.
- Eligibility for hardship financial assistance.
- Procedure for determining type and amount of hardship financial assistance.
- Operation, maintenance, and replacement cost estimates.

Objective 2: To separate the current Subchapter II into two or more subchapters. Topic areas to be covered in these separate subchapters are:

- Municipal wastewater projects.
- Projects for stormwater runoff treatment works and structural urban best management practices (BMPs) in permitted municipalities.
- Urban runoff treatment works and structural BMPs in non-permitted municipalities.
- Feasible and effective agricultural BMPs and other nonpoint source pollution prevention or treatment practices that are approved by the U.S. Environmental Protection Agency (EPA).

Objective 3: To thoroughly review the “interest rate subsidies for small loans” portion of ch. NR 162 and the subprogram itself for effectiveness and to determine its future. In the small loan program, loans awarded to municipalities by the State Trust Fund (the Board of Commissioners of Public Lands) have part of their interest rates subsidized under ch. NR 162 for eligible projects. In the past few years, we have seen a reduction in the use of this program.

Objective 4: To provide the Environmental Improvement Fund (EIF) — the umbrella fund for the CWFP and the Safe Drinking Water Loan Program — with flexibility to adapt quickly to changing environmental and regulatory priorities. The main areas of ch. NR 162 in which the CWFP needs flexibility are:

- Types of financial assistance available.
- Annual funding policy.

- Project and cost eligibility.

Additional areas of flexibility may be identified by the Advisory Committee that will be convened to assist the Bureau with revisions to ch. NR 162.

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

A. Existing Policies Relevant to the Rule:

Many of the existing policies relevant to ch. NR 162 (for example, the requirements for prioritizing projects receiving funds based on their ability to achieve water quality and compliance priorities for most types of point source pollution reduction and prevention) are based in federal requirements that have evolved over the years. Some existing policies are specified in the related state statutes. A significant portion of existing policies are already included in the current ch. NR 162, which serves the needs of the Clean Water Fund Program. Because the existing ch. NR 162 is very prescriptive and has not been revised since 2004, rule revisions are necessary to accommodate situations staff have encountered.

B. New Policies Proposed to be Included in the Rule:

While the existing rule is fairly apt at addressing the point source projects, the rule does not allow the DNR flexibility to fund more innovative options for municipalities to meet water quality standards or permit limits. By revising the CWFP rules to allow financing of non-traditional solutions to water pollution prevention and treatment, DNR will be able to help municipalities more effectively achieve compliance with water quality standards. Staff envision creating subchapters for nonpoint source projects, wastewater projects, and stormwater projects.

The rule-revision process will also assess whether some of Wisconsin’s CWFP policy changes are more effectively modified if they are included in the annual *Intended Use Plan (IUP)*. The IUP undergoes public review and comment prior to being submitted to the DNR Secretary and EPA for approval. Examples of policies that could be included in the IUP instead of ch. NR 162 include project scoring system priorities, “green project” reserve determinations, and additional subsidization requirements.

C. Analysis of Policy Alternatives:

- 1) Do Nothing — leave ch. NR 162 as it is.
 - a. Pros: This alternative would mean no rule revisions are necessary and staff resources will not be diverted from program implementation.
 - b. Cons: The absence of rule revisions will mean that ch. NR 162 is still out of compliance with Federal fund requirements. Our inability to revise the rule means we must continue issuing variances for portions of the program that are inconsistent with new federal requirements. Opportunities for streamlining processes will be lost.
- 2) Incorporate policy changes into ch. NR 162.
 - a. Pros: Many areas of ch. NR 162 can be improved or streamlined with fairly minor changes. Some of these changes are the result of federal requirements. In addition, incorporating changes that are discussed with DNR partner bureaus and external partners will help streamline the program, build better efficiencies for all, ensure consistency with federal requirements, and provide assurances to EPA that our program is meeting those requirements.

- b. Cons: Rule changes in general require a significant amount of staff resources, which could be used for other program implementation activities.

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

Section 281.58 (2), Wis. Stats., contains the statutory authority for the Department of Natural Resources to promulgate rules for administration of the CWFP.

Section 281.58 (2), Wis. Stats., reads as follows:

(2) RULES. The department shall promulgate rules that are necessary for the proper execution of its responsibilities under this section.

The EIF is administered cooperatively by the Wisconsin DNR and Department of Administration (DOA). Revisions to ch. NR 162 must also be coordinated with s. 281.59, Wis. Stats., to ensure consistency with DOA policies and procedures.

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

We estimate the following time needed by staff from the following Bureaus to revise ch. NR 162:

Community Financial Assistance	240 hours
Watershed Management	80 hours
Legal Services	40 hours
Management & Budget	4 hours
Science Services	<u>4 hours</u>
TOTAL:	368 hours

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

- Wisconsin municipalities (cities, towns, villages, sanitary districts, lake rehabilitation & protection districts, counties, tribes, Metropolitan Sewerage Districts) — CWFP applicants.
- Bond counsels — Hired by applicants to prepare municipal bond documents for CWFP loan closings.
- Consulting engineers — Hired by applicants to plan, design, conduct bidding process, oversee construction and coordinate various players — including financial assistance agencies — in the projects.
- Financial advisors — Hired by applicants to advise them on best financial options for interim financing and permanent project financing.
- Municipal attorneys — Hired by applicants to prepare statements required by the CWFP for proof of land ownership and to provide legal advice related to other loan related documents and issues.
- Construction contractors & subcontractors — Awarded bids by applicants to construct necessary infrastructure projects; must follow certain program requirements such as paying Davis–Bacon wage rates, and soliciting and reporting utilization of disadvantaged business enterprises.
- DNR Bureau of Watershed Management — Provides technical expertise on wastewater issues, and storm water and other nonpoint issues, cooperates with CWFP staff in setting overall program priorities, conducts environmental/historical/archaeological reviews, and reviews project plans and specifications and parallel cost estimates.

- DNR Bureau of Legal Services — Provides legal counsel on proposed rule revisions and for CWFP interpretations or actions related to unclear issues.
- DOA Capital Finance Office — Administers the CWFP in cooperation with DNR.
- DOA Community Development Block Grant (CDBG) Program — Works cooperatively with the CWFP to provide special funding packages for municipalities that need assistance from more than one funding agency on a project.
- Wisconsin DOT Regional Offices and Division of Transportation System Development — Provide bidding and contract documentation to the CWFP for projects let by DOT.
- U.S. Bureau of the Census — Provides income and other data needed for decision–making related to hardship financial assistance eligibility and amount of subsidy municipalities receive.
- USDA Rural Development Wisconsin — Works cooperatively with the CWFP to provide special funding packages for municipalities that need assistance from more than one funding agency on a project.
- Wisconsin Rural Water Association — Provides training and assistance for wastewater operators and municipal officials; carries out contract work related to the Clean Water Act goals; works cooperatively with the CWFP and other funding agencies to help its members finance their wastewater infrastructure projects.

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

Clean water state revolving fund (CWSRF) programs in each state must comply with the Clean Water Act, federal regulations under *40 CFR Part 35*, EPA Guidelines and grant conditions specific to each annual capitalization grant the state receives. In addition, in recent years, additional requirements have been added through appropriations bills. The existing rule was developed to comply with the federal regulations that were in place at that time. However, since the rule has not been revised for 10 years, there are inconsistencies that need to be corrected. The following federal requirements will be addressed as ch. NR 162 is revised:

- Loan recipient consistency with all federal cross–cutting authorities, including laws and executive orders such as the Davis–Bacon Act, Archaeological and Historic Preservation Act, Endangered Species Act, National Historic Preservation Act, Wild and Scenic Rivers Act, the Debarment and Suspension Executive Order 12549, Uniform Relocation and Real Property Acquisition Policies Act, and the Equal Employment Opportunity Executive Order 11246.
- Need for annual *Intended Use Plan* and public time for review and comment before submitting it to EPA for approval.
- Requirement to expend all funds in the SRF in an expeditious and timely manner.
- Financing for land acquisition only if the land is integral to the treatment process.
- Need for environmental reviews of sites where projects will occur.

- Requirement for 20% Wisconsin match to the Federal capitalization grant each year.

Revisions to ch. NR 162 will better refine how the CWFP complies with federal regulations, EPA guidelines, and conditions of the CWFP's annual federal capitalization grant. Over the years of operating the program, CWFP staff have found that a number of areas in ch. NR 162 could be improved and streamlined by fairly (minimal) changes, by updating sections that may currently include cumbersome procedures that impact the design engineering and construction industry, and by aligning various sections with federal regulations and guidelines that have been modified over time. For example, Congress included in recent annual appropriations bills that Davis–Bacon wages must be paid to workers. Ch. NR 162 will need to accommodate these types of changes now and in the future.

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

Revisions to ch. NR 162 will likely have a positive impact on small businesses. It would keep municipal infrastructure projects moving, which would mean more engineering and construction jobs available. It would also remove some uncertainty regarding requirements that must be followed for the engineering and construction companies involved in CWFP projects; DNR would be able to relay Congressional changes to these businesses more quickly each year.

Contact Person

Jeanne Cargill, 608–267–7587.

Natural Resources

Environmental Protection—General, Chs. 100—

SS 040–13

(DNR # CF–12–13)

This statement of scope was approved by the governor on April 3, 2013.

Rule No.

Revises chapter NR 166.

Relating to

Safe Drinking Water Loan Program.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

Chapter NR 166 is the administrative rule for the Safe Drinking Water Loan Program (SDWLP), which provides loans to local units of government to finance drinking water infrastructure projects.

The main objectives of ch. NR 166 revisions are:

- To update areas of the code that are no longer in line with federal regulations or state statutes, including but not limited to the following:

- Procurement including solicitation of disadvantaged businesses.

- Types of assistance available.
- Project and cost eligibility.

- To provide needed efficiency, accuracy or clarity changes, including but not limited to the following:
 - Engineering report.
 - Loan application.
 - Financial assistance requirements.
 - Loan interest rates including median household income information.
 - Amendments to a financial assistance agreement, and
 - Flexibility with respect to the types of financial assistance available, annual funding policy, and project and cost eligibility.

Additional improvements to ch. NR 166 may be identified by the Advisory Committee that will be convened to assist in the rule revision process.

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

A. Existing Policies Relevant to the Rule:

The current ch. NR 166 includes many policies that will not be changed. Many of these policies are based in federal requirements that have evolved over the years. Some existing policies are specified in the related state statutes. The current ch. NR 166 is relatively prescriptive in nature. We expect that discussions with the Advisory Committee will yield recommendations for retaining many existing policies, eliminating some archaic policies, and including new policies so that the SDWLP is in compliance with Federal requirements. Revisions to ch. NR 166 must maintain compliance with the following federal requirements:

- 1) Use at least 15% of the funds available each year to provide loan assistance to small systems that serve fewer than 10,000 persons.
- 2) Finance only infrastructure projects of community or nonprofit non–community water systems needed to achieve or maintain compliance with Safe Drinking Water Act requirements or to significantly further the health protection objectives of the Act.
- 3) Comply with all federal cross–cutting authorities and require loan recipients to comply with crosscutters. Crosscutting authorities include laws and Executive Orders such as the Davis–Bacon Act, Archaeological and Historic Preservation Act, Clean Water Act, Endangered Species Act, National Historic Preservation Act, Wild and Scenic Rivers Act, the Debarment and Suspension Executive Order 12549, Uniform Relocation and Real Property Acquisition Policies Act, and the Equal Employment Opportunity Executive Order 11246.
- 4) Prioritize projects each year giving top priority to projects that: (a) address the most serious risks to human health; (b) are necessary to ensure compliance with the requirements of the Safe Drinking Water Act; and (c) assist systems most in need, on a per household basis.
- 5) Provide financing for land acquisition only if the land is integral to the project and is purchased from a willing seller.

- 6) Provide financing for a system only if the owner has (or will have with appropriate changes in operation) the technical, managerial, and financial capability to keep the system in compliance with the Safe Drinking Water Act.
- 7) Deny assistance for any system that is in significant noncompliance with any national drinking water regulation unless the state determines the project will enable the system to return to and be able to maintain compliance.
- 8) Determine the primary purpose of each project, and deny assistance for any project for which the primary purpose is fire protection or expansion for future growth.
- 9) Conduct environmental reviews of the sites on which projects will take place.

B. New Policies Proposed to be Included in the Revised Rule:

Through discussions with our partners, customers, and the Advisory Committee, new policies will be identified for inclusion into ch. NR 166, including some federal requirements that are specified as part of annual federal appropriation bills.

For example, it may be recommended that SDWLP policy changes are more efficiently modified if they are included in the annual *Intended Use Plan (IUP)*. The IUP undergoes public review and comment prior to being submitted to the DNR Secretary and EPA for approval. Examples of policies that could be included in the IUP instead of ch. NR 166 include project scoring system priorities, “green project” reserve determinations, and additional subsidization requirements.

C. Analysis of Policy Alternatives:

- 1) Do Nothing — leave ch. NR 166 as it is.
 - a. Pros: This alternative would mean no rule revisions are necessary and staff resources will not be diverted from program implementation.
 - b. Cons: The absence of rule revisions will mean that ch. NR 166 is still out of compliance with Federal fund requirements. Our inability to revise the rule means we must continue issuing variances for portions of the program that are inconsistent with new federal requirements.
- 2) Incorporate policy changes into ch. NR 166.
 - a. Pros: Many areas of ch. NR 166 can be improved or streamlined with fairly minor changes. Some of these changes are the result of federal requirements. In addition, incorporating changes that are discussed with DNR partner bureaus and external partners will help streamline the program, build better efficiencies for all, ensure consistency with federal requirements, and provide assurances to EPA that our program is meeting those requirements.
 - b. Cons: Rule changes in general require a significant amount of staff resources, which could be used for other program implementation activities.

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

Sections 281.61 (12) (a) and (b), Wis. Stats., contain the statutory authority for the Department of Natural Resources to promulgate rules for administration of the SDWLP and read as follows:

- (12) DUTIES OF THE DEPARTMENT. The department shall do all of the following:
 - (a) Promulgate rules establishing eligibility criteria for applicants and projects under this section.
 - (b) Promulgate rules that are necessary for the execution of its responsibilities under the safe drinking water loan program.

The Environmental Improvement Fund, which includes the SDWLP, is administered cooperatively by the Wisconsin DNR and Department of Administration (DOA). Revisions to ch. NR 166 must also be coordinated with s. 281.59, Wis. Stats., in order to avoid conflict with the statutes.

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

The following estimates of staff time needed to complete the rule revision process include:

Bureau of Community Financial Assistance	240 hours
Bureau of Drinking Water & Groundwater	120 hours
Legal Services	40 hours
Management & Budget and Science Services	<u>4 hours</u>
Total estimated time for this rule revision	404 hours

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

- Wisconsin local governmental units (cities, towns, villages, sanitary districts, lake rehab & protection districts, water authorities, counties) — SDWLP applicants.
- Bond counsels — Hired by applicants to prepare municipal bond documents for SDWLP loan closings.
- Consulting engineers — Hired by applicants to plan, design, conduct bidding process, oversee construction and coordinate various players — including financial assistance agencies — in the projects.
- Financial advisors — Hired by applicants to advise them on best financial options for interim financing and permanent project financing.
- Municipal attorneys — Hired by applicants to prepare statements required by SDWLP for proof of land ownership and to provide legal advice related to other loan related documents and issues.
- Construction contractors & subcontractors — Awarded bids by applicants to construct necessary infrastructure projects; must follow certain program requirements such as paying Davis–Bacon wage rates, and soliciting and reporting utilization of disadvantaged business enterprises.
- DNR Bureau of Drinking Water & Groundwater — Provides technical expertise on drinking water issues, cooperates with SDWLP staff in setting overall program priorities, determines annual project priority scores, and reviews project plans and specifications.
- DNR Bureau of Endangered Resources — Conducts environmental reviews for SDWLP projects and shares findings with SDWLP staff.
- DNR Bureau of Facilities & Lands — Conducts review of project areas to determine impacts to historical/archaeological sites and shares findings with SDWLP staff.
- DNR Bureau of Legal Services — Provides legal counsel on proposed rule revisions and for SDWLP interpretations or actions related to unclear issues.

- DOA Capital Finance Office — Administers the SDWLP in cooperation with DNR.
- DOA Community Development Block Grant (CDBG) Program — Works cooperatively with the SDWLP to provide special funding packages for local governmental units that need assistance from more than one funding agency on a project.
- Wisconsin Historical Society (SHPO) — Provides expertise in historical/archaeological issues related to project sites.
- Wisconsin DOT Regional Offices and Division of Transportation System Development — Provide bidding and contract documentation to the SDWLP for projects let by DOT.
- Wisconsin Public Service Commission — Sets rates for applicant municipalities' water systems; works cooperatively with the SDWLP to assure applicants will be able to collect enough user fees to make scheduled payments on the SDWLP loan.
- U.S. Bureau of the Census — Provides income and other data needed for decision-making related to project priority scores and amount of subsidy municipalities receive.
- USDA Rural Development Wisconsin — Works cooperatively with the SDWLP to provide special funding packages for local governmental units that need assistance from more than one funding agency on a project.
- Wisconsin Rural Water Association — Provides training and assistance for water operators and municipal officials; carries out contract work related to the Safe Drinking Water Act goals; works cooperatively with the SDWLP and other funding agencies to help its members finance their water infrastructure projects.

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

Drinking water state revolving loan programs in each state must comply with the Safe Drinking Water Act and Amendments, federal regulations under *40 CFR Parts 9 and 35*, EPA Guidelines, and grant conditions specific to each annual capitalization grant the state receives. Our current statutes already include the major requirements for drinking water state revolving funds, as identified in Section 3. A. above.

Additional requirements have been imposed by the federal government through the federal appropriation process in recent years. For example, one of the federal regulations that impacts small businesses performing construction work is the requirement that Davis-Bacon wages must be paid to workers. Another example is the requirement to award additional subsidization.

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

The proposed rule would likely have a positive impact on small businesses. It will help streamline processes and enhance the efficiency of funding municipal infrastructure projects. Construction of infrastructure projects has a direct link to engineering and construction jobs and helps local and state economies. The proposed rule would also remove some

uncertainty regarding requirements that engineering and construction companies involved in SDWLP projects must follow, as DNR would be able to relay more quickly to businesses what Congress requires each year.

Contact Person

Jeanne Cargill, 608-267-7587.

Public Defender

SS 043-13

This Statement of Scope was approved by the governor in writing on April 15, 2013.

Rule No.

Revises sections PD 3.02 (1), 6.01, and 6.02 (1).

Relating to

Creation of a Felony Diversion case category.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

This proposed rule will revise three sections of the PD administrative code to include a new "felony diversion" case category. This proposed case category will apply to cases in which the SPD and the prosecutor negotiate felony diversion agreements as an alternative to the filing of formal criminal charges.

SPD case categories reflect the anticipated cost of retained counsel and set the required payment amounts for legal representation. The proposed rule adds the felony diversion case category to three schedules: cost of retained counsel, s. PD 3.02 (1); payment for legal representation, s. PD 6.01; and discount option, s. PD 6.02 (1). The SPD currently provides representation in diversion cases within the case category of "special proceedings." The SPD's data for felony diversion cases show that the attorney time required to handle these matters generally exceeds the time required to provide representation in other special proceedings. This new felony diversion case category will more accurately reflect the amount of time attorneys spend when representing clients in felony diversion cases.

The proposed rule will change neither the number nor the nature of cases in which the SPD appoints attorneys.

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

Policies relevant to this rule are consistent with existing policies regarding the cost of retained counsel and payment for legal representation. The anticipated cost of counsel reflects the likely cost for a prospective client to hire a private attorney. The SPD includes this amount in its determination of an applicant's financial eligibility for SPD services. The required payment for legal representation reflects the average attorney costs for the SPD in the respective case categories.

The anticipated cost of retaining counsel in special proceedings is \$750, which reflects the expectation that these case categories are less time-intensive than most other cases.

A felony diversion case category will reflect the greater time generally required to provide representation in the diversion of potential felony charges. The anticipated cost of retaining counsel for this new case category will be \$1,500, which is a lower cost than the \$2,200 to \$17,500 for other felonies, but more than the \$750 for special proceedings. s. PD 3.02 (1).

The payment for legal representation in felony cases is \$480 to \$7,500, and for special proceedings it is \$120; the payment for Felony Diversion cases will be \$240. The discount payment for felony diversion cases will be \$60, which is the same as other felony cases. ss. PD 6.01 and 6.02 (1).

The SPD role in these felony diversion cases encompasses initial review with the client of the potential charges, negotiations leading to a diversion agreement, and follow-up with the client to assist the client in meeting the conditions of the agreement. The follow-up includes encouraging client participation in treatment and other programming, documenting client compliance, and reporting the client's progress to the District Attorney's office.

As part of the trend toward adopting evidence-based practices within the justice system, some counties have significantly expanded the use of pre-charging diversion agreements. These agreements generally occur after an arrest and after negotiations between the defense attorney and the prosecutor. Although diversion has historically been more prevalent in misdemeanor case, Milwaukee County has in recent years successfully diverted hundreds of potential non-violent felony charges. The SPD anticipates that other counties will follow this example and expand diversion of potential felony cases.

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

The state public defender provides legal services for indigent individuals involved in the criminal justice system under ch. 977, Wis. Stats. This chapter requires the state public defender board to consider the anticipated costs of effective representation for the case category in which the person seeks representation and to promulgate rules for payments to the state public defender for that representation.

Section 977.02 (3) (a), Stats., requires the public defender board to consider the anticipated costs of effective representation for the type of case in which the person seeks representation.

Section 977.02 (4m), Stats., requires the state public defender board to promulgate rules for payments to the state public defender under s. 977.075, Stats.

Section 977.075, Stats., requires the state public defender board to establish by rule a fee schedule that sets the amount that a client responsible for payment shall pay for the cost of the legal representation if the client does not pay the applicable discount fee. The schedule must establish a fee for a given type of case, and the fee for a given type of case must be based on the average cost, as determined by the board, for representation for that type of case.

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

The proposed rule will require minimal state employee time. The proposed rule adds the felony diversion case category to three schedules: the cost of retained counsel, s. PD 3.02 (1); payment for legal representation, s. PD 6.01; and discount option, s. PD 6.02 (1).

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

This rule is applicable only to individual SPD clients. The rule will require individuals who are represented in felony diversion cases to pay \$240 toward the cost of their representation, which is lower than for other felony cases. This increased cost reflects the significant time attorneys invest in felony diversion cases. Clients also have the option to pay a lower discount amount of \$60 as provided in s. PD 6.02 (1).

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

The SPD is not aware of any existing or proposed federal regulation that addresses the case categories of the Wisconsin SPD.

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

As this rule would impact only individual clients of the SPD, there is no anticipated economic impact of implementing the rule. There is no likelihood of a significant economic impact on small businesses.

Contact Person

Devon M. Lee, Legal Counsel, 315 N. Henry Street, 2nd Floor, Madison, WI 53703. (608) 261-0633. leede@opd.wi.gov.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Employee Trust Funds CR 13-029

On April 18, 2013, the Wisconsin Department of Employee Trust Funds referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to ss. 227.14 (4m) and 227.17, Stats.

This rule is not subject to s. 227.135 (2), as affected by 2011 Wis. Act 21. The statement of scope for this rule was published in Register No. 654 on June 30, 2010, and effective July 1, 2010, prior to the effective date of Act 21.

Analysis

The proposed rule creates ch. ETF 52, relating to the Duty

Disability Program.

Agency Procedure for Promulgation

A public hearing is required for this rule. A public hearing has been scheduled for May 15, 2013 at 11 a.m. in Conference Room GB at the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin.

Contact Person

The department's Office of Policy, Privacy and Compliance is primarily responsible for the promulgation of this rule. If you have questions regarding this rule, you may contact Mary Alice McGreevy, Compliance Officer at maryalice.mcgreevy@etf.wi.gov or (608) 224-4928.

Rule–Making Notices

Notice of Hearing

Employee Trust Funds

CR 13–029

The Wisconsin Department of Employee Trust Funds (ETF) announces that it will hold public hearings on a proposed rule revising Chapter ETF 52 relating to the Duty Disability Program.

Hearing Information

Date: Wednesday, May 15, 2013
Time: 11:00 a.m.
Location: Conference Room GB
 Department of Employee Trust Funds
 801 West Badger Road
 Madison, WI 53713

Persons wishing to attend should come to the reception desk up the stairs (or by elevator) from the main entrance to the building.

The hearing site is fully accessible to people with disabilities. If you are hearing impaired, do not speak English, or have circumstances that might make communication at a hearing difficult, you require an interpreter or a non-English large print or taped version of the proposed rules; contact the person at the address or telephone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Place Where Comments are to be Submitted and Deadline for Submissions

Comments may be submitted to the contact person no later than 4:30 p.m., Wednesday, May 29. The public hearing will be held at 11 a.m. on Wednesday, May 15, 2013, in conference room GB of the Wisconsin Employee Trust Fund building at 801 W. Badger Rd, Madison, WI 53713.

Free Copies of Proposed Rule

Copies of the proposed rule are available without cost from the Office of the Secretary, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707–7931. The telephone number is: (608) 266–1071.

Analysis Prepared by the Department of Employee Trust Funds

Statutes interpreted

Sections 40.65, 891.45, 891.453, and 891.455, Stats., relating to the Duty Disability Program.

Statutory authority

Section 40.65, Stats.

Explanation of agency authority

By statute, the ETF Secretary is expressly authorized, with appropriate board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin statutes. Also, each state 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.

This rule is intended to clarify the existing rule regarding the administration of the Duty Disability Program and streamline the process of applying for and making determinations regarding the Duty Disability benefit. The chapter was promulgated in its entirety in 1998, and has not been amended since.

This rule is not subject to s. 227.135 (2), as affected by 2011 Wis. Act 21. The scope statement for this rule, SS 10–37, was published in Register No. 654 on June 30, 2010, prior to the effective date of Act 21.

Related statute or rule

Sections 40.65, 891.45, 891.453, and 891.455, Stats.

Plain language analysis

Definitions

ETF 52.02 (2) — “light duty” is amended to clarify that either an employer or physician may determine the limiting of a participant’s job duties.

ETF 52.02 (4m) — “fire fighter” is amended to not conflict with s. 40.02 (48), Stats., that an employer determines principal duties for the protective classification.

ETF 52.04 (4) is amended to include payments to spouse, domestic partner, or adjudicated guardian.

ETF 52.06 (3) (b) is amended to clarify that either an employer or physician assigns an employee to light duty irrespective of the availability of such a position.

ETF 52.06 (3) (c), (d), and (e) are amended to remove “merely” from the phrase “merely temporary” and clarify when written rules, ordinances, policies, or agreements are necessary.

ETF 52.06 (5) (a) is amended to clarify that medical reports for applicants are paid for by the applicant, and one must be from a specialist, and the Department does not approve or certify specialists.

ETF 52.06 (5) (Note) is amended to fix the mailing address of the Department.

ETF 52.06 (6) (a) is amended to clarify when an applicant may withdraw an application for duty disability benefits.

ETF 52.06 (7) (a) is amended to clarify language.

ETF 52.06 (7) (b) is amended to clarify requirements for submitting certain duty disability applications under presumption statutes for heart, lung disease and certain cancers.

ETF 52.06 (7) (b) 1. and 2. are amended to clarify that service need not have been continuous and the current employer of a fire fighter may verify and certify past qualifying service.

ETF 52.06 (7) (b) 3. is amended to clarify how an employer certifies a fire fighter’s qualifying medical examination.

ETF 52.06 (7) (bm) is created section to clarify requirements for employer certification when applying for duty disability benefits pursuant to s. 891.453, Stats.

ETF 52.06 (7) (c) is clarified regarding the use of evidence when the Department determines eligibility for duty disability benefits based on certain presumptive diseases.

ETF 52.07 (3) (b) is amended to clarify that the employer assigns the applicant to light duty even if a light duty position isn't available.

ETF 52.07 (3) (c) and (d) are amended to clarify what constitutes a reduction in pay for purposes of duty disability benefits administration.

ETF 52.07 (4) is amended to clarify and remove "merely" from the phrase "merely temporary."

ETF 52.08 (3) is amended to clarify that an employer or a physician may characterize a disability as temporary and then amend that determination.

ETF 52.12 (1) (a) 1., (1) (b), and (1) (c) are amended to clarify what is included in "monthly salary" for the purpose of administering duty disability benefits.

ETF 52.15 is created section to clarify how duty disability benefits are reduced based on years of service.

ETF 52.16 (4) (a) and (4) (c) are amended to clarify how worker's compensation benefits payable to a participant affect the participant's duty disability benefit.

ETF 52.22 (3) is created to clarify the limitations of applying for duty disability benefits based on certain presumptive diseases.

ETF 52.28 (2) (a) is amended to include certain determinations for duty disability benefits under presumptive disease statute 891.453, Stats., among appealable determinations.

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

None.

Comparison with rules in adjacent states

Please see attached Fiscal and Economic Impact Analysis.

Summary of factual data and analytical methodologies

The proposed rule is intended to clarify ETF's rules regarding the Duty Disability Program.

Accuracy, integrity, objectivity and consistency of data

The present rule changes were a result of examination of the Duty Disability Program, as administered, by the Disability Bureau of ETF. ETF conducted analysis with integrity in an accurate, objective, and consistent manner in accordance with its fiduciary responsibilities to its members.

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

The rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System.

Effect on small business

There is no effect on small business.

Fiscal estimate

The rule will not have any fiscal effect on the administration of the Wisconsin Retirement System, nor will it have any fiscal effect on the private sector, the state or on any county, city, village, town, school district, technical college district, or sewerage districts.

Agency contact person

Mary Alice McGreevy, Compliance Officer, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707. Phone: (608) 267-2354. E-mail: maryalice.mcgreevy@etf.wi.gov.

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		
Amend ETF 52 regarding the administration of the Duty Disability Program under s. 40.65, Stats.		
Subject		
Duty Disability Program.		
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"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget
<input type="checkbox"/> Decrease Costs		
The Rule Will Impact the Following (Check All That Apply)		
<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors	
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	

<p>Would Implementation and Compliance Costs Be Greater Than \$20 million?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Policy Problem Addressed by the Rule</p> <p>The proposed rule would amend definitions in ETF s. 50.02 to clarify how terms are used by the Disability Bureau of ETF. The department has determined that other provisions should be amended to incorporate the procedures for administering the benefit that the department has developed since the chapter was promulgated in its entirety in 1998.</p>
<p>Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)</p> <p>There is no economic and fiscal impact on small business, business sectors, public utility rate payers, local governmental units and the state's economy as a whole. The rule changes update the rules to reflect procedural adjustments in administering the Duty Disability program.</p>
<p>Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</p> <p>The rule language more accurately reflects the procedures used by the agency in administering the Duty Disability program. The agency does not see alternatives to achieving the policy goal of the rule amendments.</p>
<p>Long Range Implications of Implementing the Rule</p> <p>There are no long range economic or fiscal impacts of the rule.</p>
<p>Compare With Approaches Being Used by Federal Government</p> <p>The proposed rule amendments do not have federal corollaries although approximately 38 states do have laws regarding presumptive diseases contracted or developed by fire fighters.</p>
<p>Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)</p> <p>Illinois — Similar provisions regarding presumptive diseases at 40 ILCS 5 et seq. Iowa — Similar provisions regarding presumptive diseases at Iowa Code ss. 411 (1) and 411.6 Michigan — Similar provisions in Mich. Comp. Laws ss. 418.401 to 418.441 regarding presumptive diseases. Minnesota — Similar provisions in chapter 176 of the Minnesota Statutes. Minn. Stat. s. 176.011 et seq.</p>

Submittal of Proposed Rules to Legislature

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

Natural Resources
Fish, Game, etc., Chs. 1—
CR 13-005

(DNR # ER-19-10)

On April 4, 2013, the Department of Natural Resources submitted final draft rules to the presiding office of each house

of the legislature. The proposed rule revises ch. NR 18, relating to the sport of falconry.

This rule is not subject to s. 227.135 (2), Stats., as affected by 2011 Wis. Act 21. The scope statement for this rule, published in Register No 652, was sent to LRB prior to June 8, 2011, the effective date of Act 21.

Rule Orders Filed with the Legislative Reference Bureau

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266-7590 for updated information on the effective dates for the listed rule orders.

Agriculture, Trade and Consumer Protection CR 12-003

(DATCP # 08-R-08)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 29, relating to pesticide use and control and affecting small business. Effective 6-1-13.

Agriculture, Trade and Consumer Protection CR 12-024

(DATCP # 11-R-07)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 17, relating to livestock premises registration. Effective 6-1-13.

Agriculture, Trade and Consumer Protection CR 12-028

(DATCP # 11-R-12)

A rule of the Department of Agriculture, Trade and Consumer Protection to create s. ATCP 161.50 (3) (f) and subch. VI of ch. ATCP 161, relating to the "grow Wisconsin dairy producer" grant and loan program. Effective 6-1-13.

Agriculture, Trade and Consumer Protection CR 12-033

(DATCP # 09-R-01)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 75 Appendix, relating to retail food establishments and affecting small business. Effective 9-1-13.

Agriculture, Trade and Consumer Protection CR 12-036

(DATCP # 12-R-04)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 127, relating to telephone solicitations; no-call and no-text list. Effective 6-1-13.

Agriculture, Trade and Consumer Protection CR 12-037

(DATCP # 11-R-05)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 70, relating to regulation of Wisconsin's food processing plants and shellfish shippers and processors and affecting small business. Effective 6-1-13.

Agriculture, Trade and Consumer Protection CR 12-040

(DATCP # 11-R-10)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 55, relating to allowing certain selected Wisconsin state-inspected meat establishments to sell meat and meat products in other states and affecting small business. Effective 6-1-13.

Agriculture, Trade and Consumer Protection CR 12-043

(DATCP # 12-R-03)

A rule of the Department of Agriculture, Trade and Consumer Protection to revise Chapter ATCP 1, relating to discretion in enforcement of rule violations by small businesses and affecting small business. Effective 6-1-13.

Employee Trust Funds CR 12-020

A rule of the Department of Employee Trust Funds to revise s. ETF 10.10 relating to elections to the Employee Trust Funds and Teachers Retirement Board. Effective 6-1-13.

Financial Institutions, Division of Banking CR 12-034

A rule of the Department of Financial Institutions, Division of Banking to create Chapter DFI-Bkg 78, relating to auto title loans. Effective 6-1-13.

Financial Institutions, Division of Banking**CR 12-035**

A rule of the Department of Financial Institutions, Division of Banking to revise Chapter DFI-Bkg 75, relating to payday lending.
Effective 6-1-13.

Health Services**Health, Chs. 110-199****CR 12-025**

A rule of the Department of Health Services to create s. DHS 115.05 (3), relating to a fee for screening newborns for congenital and metabolic disorders and other services.
Effective 6-1-13.

Health Services**Health, Chs. 110-199****CR 12-038**

A rule of the Department of Health Services to revise Chapter DHS 196 and Chapter DHS 196 Appendix, relating to restaurants and the Wisconsin Food Code, and affecting small businesses.
Effective 9-1-13.

Justice**CR 12-030**

A rule of the Department of Justice to 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.
Effective 6-1-13.

Natural Resources**Fish, Game, etc., Chs. 1-****CR 12-022**

(DNR # FH-21-11)

A rule of the Department of Natural Resources to create s. NR 19.058, relating to requiring access to wire cutters when trolling in outlying waters.
Effective 6-1-13.

Transportation**CR 11-043**

The Wisconsin Department of Transportation adopts an order to amend Trans 100.02 (11m), (12m), and (13m), relating to mandatory minimum liability limits for insurance policies under safety responsibility, damage judgment and mandatory insurance laws.
Effective 6-1-13.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **April 2013**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

Revisions

Children and Families

Ch. DCF 201

DCF 201.08 (1) (Note), Table

Editorial Corrections

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

Administration

Ch. Adm 48

Adm 48.02 (4) (Note)
Adm 48.03 (2) (b) (Note)
Adm 48.07 (4) (Note)
Adm 48.08 (1) (Note)
Adm 48.09 (4) (a) (Note)

Agriculture, Trade and Consumer Protection

Ch. ATCP 10

ATCP 10.03 (1) (2)
ATCP 10.04 (4)
ATCP 10.61 (1) (b) (Note)
ATCP 10.66 (1) (b)
ATCP 10.92 (18)

Ch. ATCP 31

ATCP 31.06 (2) (Note)

Ch. ATCP 48

ATCP 48.08 (1) (Note)
ATCP 48.20 (1) (c) 2., 3.
ATCP 48.36 (1) (h) 1. to 3.

Ch. ATCP 53

ATCP 53 (Note)

Ch. ATCP 105

ATCP 105.007 (1) (b) (Note)

Ch. ATCP 123

ATCP 123.12 (1) (a), (b)

Children and Families

Ch. DCF 150

DCF 150 Appendix C
DCF 150 Appendix D

Law Enforcement Standards Board

Ch. LES 1

LES 1.03 (16)

Ch. LES 4

LES 4.03 (1) (b)

Natural Resources

Ch. NR 6

NR 6.08 (4) (c), (5), (c)
NR 6.43 (note)

Ch. NR 50

NR 50.21 (3) (a)

Ch. NR 60

NR 60.03 (3) (b)

Ch. NR 64

NR 64.07 (4) (c)
NR 64.11 (2)

Ch. NR 162

NR 162.003 (23)
NR 162.12 (1) (L) (note)

Ch. NR 216

NR 216.41

Ch. NR 221

NR 221.05 (2)

Ch. NR 225

NR 225.05 (4)

Ch. NR 228

NR 228.05 (3)

Ch. NR 231

NR 231.05 (4)

Ch. NR 236

NR 236.05 (4)

Ch. NR 239

NR 239.05 (4)

Ch. NR 240

NR 240.05 (3)

Ch. NR 243

NR 243.06 (2) (Note)
NR 243.07 (1), (2) (intro.), (Note)
NR 243.14 (7) (e) (Note)

Ch. NR 245

NR 245.05 (2)

Ch. NR 247

NR 247.03 (7)
NR 247.05 (2)

Ch. NR 250

NR 250.05 (4)

Ch. NR 255

NR 255.11 (1)
NR 255.12 (1)
NR 255.14 (1)
NR 255.31 (1)
NR 255.32 (1)
NR 255.34 (1)
NR 255.44 (1)
NR 255.64 (1)
NR 255.71 (1)
NR 255.72 (1)
NR 255.74 (1)

Ch. NR 258

NR 258.03 (15)
NR 258.05 (2)

Ch. NR 260

NR 260.03 (Note)

Ch. NR 261

NR 261.03 (Note)
NR 261.14 (Note)

Ch. NR 268

NR 268.05 (4)

Ch. NR 269

NR 269.05 (4)

Ch. NR 275

NR 275.05 (4)

Ch. NR 276

NR 276 (2)

Ch. NR 277

NR 277.05 (4)

Ch. NR 279

NR 279.13 (2) (Note)

Ch. NR 280

NR 280.05 (3)

Ch. NR 281

NR 281.05 (4)

Ch. NR 284

NR 284.03 (Note)
NR 284.13 (Note)

Ch. NR 286

NR 286.05 (2)

Ch. NR 290

NR 290.03 (Note)
NR 290.13 (Note)

Ch. NR 294

NR 294.03 (3)
NR 294.05 (3)

Ch. NR 295

NR 295.05 (2)

Ch. NR 296

NR 296. (3)

Ch. NR 299

NR 299.04 (1) (b) 7.

Ch. NR 492

NR 492.01 (1), (2)

Ch. NR 502

NR 502.07 (2F)

Ch. NR 503

NR 503.10 (3) (e) 6. (Note), (4) (d) (Note), (4) (j) 6.
(Note)

Ch. NR 504

NR 504.04 (4) (f) (Note)
NR 504.075 (11) (b) (Note)

Ch. NR 506

NR 506.095 (3) (a) (Note)

Ch. NR 507

NR 507.02 (1)
NR 507.06 (1) (intro.)
NR 507.14 (5) (intro.)
NR 507.17 (4), (5)
NR 507.17 (5)
NR 507.18 (1) (a), (2) (a), (3) (a)
NR 507.18 (2), (3)
NR 507.20 (1) (b)
NOR 507.21 (1), (2)
NR 507.26 (3) (b) 1., 4.
NR 507.27 (1)
NR 507 Appendix I to V

Ch. NR 508

NR 508.02 (1)

Ch. NR 509

NR 509.02 (2) (c)

Ch. NR 510

NR 510.02 (1)

Ch. NR 520

NR 520.14 (2), (3) (c) 6. (Note)

Ch. NR 524

NR 524.02 (1)

Ch. NR 526

NR 526.02 (3), (6)
NR 526.05 (3)
NR 526.055 (2) (b) (Note), (3) (b)
NR 526.09 (2) (d)
NR 526.10 (2) (f)
NR 526.19 (2) (b)

Ch. NR 538

NR 538.08 (1) to (5), (6) (a) to (c)
NR 538.22 (4) (Note)
NR 538 Appendix I

Ch. NR 679

NR 679

Public Service Commission**Ch. PSC 112**

PSC 112 (1) (Note)

Ch. PSC 113

PSC 113.0301 (1m) (g)
PSC 113.0704 (Note)

PSC 113.0918 (2)

Veterans Affairs
Ch. VA 18
VA 18

Public Notices

Children and Families

Child Care Development Fund Plan

Public Hearing: On Thursday, May 23, 2013, from 1:00 to 4:00 PM, the Wisconsin Department of Children and Families (DCF), will hold a Public Hearing on Wisconsin's Plan for Providing Child Care Services under the 2013–2015 Child Care and Development Fund (CCDF) Draft Plan. The Public Hearing will take place in Conference Room D203 at the GEF 1 State Office Building, 201 East Washington Avenue, Madison, WI 53703. Visitors to GEF 1 must use the main entrance at 201 East Washington Avenue and register at the customer service desk in the lobby.

Background: The purpose of the Public Hearing is to solicit verbal or written comments from the public on Wisconsin's proposed plan for the use of federal CCDF dollars for the period of 10/01/13 through 09/30/15.

Every two years, DCF must submit a plan to the Administration for Children and Families for the use of CCDF funds over the next two years. This is an important source of funding for financing child care subsidy in Wisconsin and related programs as well as quality improvement initiatives in early care and education. Broadly speaking, the purpose of CCDF is to:

- Help low income families through offsetting the costs of child care when they are working or preparing for work;
- Support child care for participants in the Wisconsin Works (W-2) program;
- Support ongoing fraud detection efforts; and,
- To provide support that improves the quality of child care programs and services.

In the area of improving quality, funding is used to pay for the YoungStar Quality Rating Improvement System, scholarships and support for child care workers, licensing staff, to support child care resource and referral services, and to support technical assistance for child care providers. In Wisconsin, the legislative process provides direction and decisions for the use of this fund, and the DCF/Division of Early Care and Education (DECE) is responsible for its administration.

Opportunity for Public Comment: Interested parties can access the 2013–2015 CCDF Draft Plan on the Department of Children and Families Child Care web page under the heading, Other Child Care Resources, at <http://dcf.wisconsin.gov/childcare/default.htm>.

Individuals who plan to testify about the CCDF Draft Plan on May 23, 2013, should submit a copy of the text of their comments to ensure clarity in the recording of comments. Staff will also receive other written comments at the hearing or through the mail for inclusion in the public comment summary document. Written comments will receive equal consideration to the testimony given at the hearing.

Contact Person: Please send your comments about the 2013–2015 State CCDF Draft Plan or any questions about the web page location to Jane Penner–Hoppe by e–mail at jane.pennerhoppe@wisconsin.gov or contact her at: Division of Early Care and Education, Department of Children and Families, PO Box 8916, Madison, WI 53708–8916, (608) 261–6725. All comments must be received no later than 5/22/13. Specific accommodation requests for the Public Hearing must be made to Jane Penner–Hoppe by May 10, 2013.

The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
4622 University Avenue
Madison, Wisconsin 53705-2156



First Class Mail

Dated Material. Please Do Not Delay!