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NOTICE TO SUBSCRIBERS

Printing of Administrative Code and Register Will End January 1, 2015

As required by 2013 Wisconsin Act 20, state-sponsored printing and distribution of the Wisconsin Administrative Code and Register will end January 1, 2015, and the Code and Register will become electronic-only publications.

Important points:

- The LRB will continue to publish the Code and Register at their present locations on the Legislature's and Legislative Reference Bureau's Internet sites.
- Publication of the Register will occur every Monday rather than the current practice of bimonthly publication.
- Updated and new Code chapters, with insertion and removal instructions, will still be published in the last Register of each month.

Code chapters will be published in the Register as PDF files in the exact format as they are currently printed, including page numbers.

Users can continue loose-leaf notebook use by printing chapters to 3-hole punch paper from any printer or by making arrangements with commercial printers. (Notebooks will no longer be available from the state and the notebook volume for insertion will no longer be designated for published chapters.)

- The format for Internet publication of the Code will not change. The Code will continue to be published in its entirety in both HTML and PDF formats and updated on the first day of each month to reflect changes published in the most recent end-of-month Register.
- An Email notice system is being developed to alert users to changes in only those rules and rulemaking notices that are of interest to the user. RSS feeds providing notice of new Registers and changes to the whole Code, Code chapters grouped by agency, and individual Code chapters are currently available. (For more information on RSS feeds see <https://docs.legis.wisconsin.gov/feed>.) Details on the email notice system will be published in future Registers prior to January 1, 2015.
- The cost of all subscriptions and renewals will be prorated to January 1, 2015 by DOA.

Direct questions on Internet publication to:

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Administration

EmR1309 — The Department of Administration hereby adopts an order to create **Chapter Adm 93**, relating to the community development block grant program.

The statement of scope for this rule, SS 041–13, was approved by the Governor on April 15, 2013, and published in Register No. 688 on April 30, 2013, and approved by the Department of Administration Secretary, Mike Huebsch, effective May 13, 2013. This emergency rule was approved by the Governor on June 19, 2013.

Finding of Emergency

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 of 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.

Filed with LRB: June 28, 2013
Publication Date: July 1, 2013
Effective Dates: July 1, 2013 through November 27, 2013
Hearing Date: November 18, 2013

Agriculture, Trade and Consumer Protection (3)

1. EmR1311 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (c)**, relating to the quarantine of Jefferson County for emerald ash borer.

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

The blanket statement of scope for this rule, SS 0088–12, 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 as required by s. 227.135 (2), Stats., on December 18, 2012.

Finding of Emergency

On June 25, 2013, the Wisconsin Department of Natural Resources positively identified Emerald Ash Borer (EAB) in Walworth County at the University of Wisconsin Whitewater Campus, about 750 meters from the Jefferson County line. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Jefferson County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

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

Filed with LRB: July 24, 2013
Publication Date: July 24, 2013
Effective Dates: July 24, 2013 through December 20, 2013
Hearing Date: September 26, 2013

2. EmR1312 — The state of Wisconsin Department of Agriculture, Trade and Consumer Protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (d)**, relating to the quarantine of Sauk County for emerald ash borer.

The blanket statement of scope for this rule, SS 08–12, 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 (as required by s. 227.135 (2), Stats.) on December 18, 2012.

This emergency rule was approved by the Governor on August 1, 2013.

Finding of Emergency

On July 11, 2013, the United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Sauk County at Mirror Lake State Park. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Sauk County but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

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

Filed with LRB: August 13, 2013
Publication Date: August 14, 2013
Effective Dates: August 14, 2013 through January 10, 2014
Hearing Date: September 26, 2013

3. EmR1315 — The state of Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **section ATCP 21.17 (1) (b)** and to create **section ATCP 21.17 (1) (e)**, relating to the quarantines of Dodge, Douglas, and Winnebago counties for emerald ash borer.

This emergency rule was approved by the Governor on August 29, 2013.

The blanket statement of scope for this rule, SS 0088–12, 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 & Consumer Protection (as required by s. 227.135 (2), Stats.) on December 18, 2012.

Finding of Emergency

The United States Department of Agriculture — Animal and Plant Health Inspection Service (“APHIS”) positively identified Emerald Ash Borer (“EAB”) in Watertown, Dodge County on August 1, 2013; in Black Wolf township, Winnebago County on August 6, 2013; and subsequently in Superior, Douglas County on August 13, 2013. EAB is an exotic, invasive pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for EAB under s. ATCP 21.17. It is anticipated that APHIS will declare a quarantine for Dodge, Douglas, and Winnebago counties but that it will take six to eight weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too

much time for businesses or individuals to move potentially EAB infested material out of these counties to areas of Wisconsin or other states that are not infested with EAB.

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

Filed with LRB: September 11, 2013
Publication Date: September 11, 2013
Effective Dates: September 11, 2013 through February 7, 2014
Hearing Date: October 11, 2013

Employment Relations Commission

EmR1310 — The Wisconsin Employment Relations Commission hereby creates **Chapters ERC 70, 71, and 80**, relating to annual certification elections.

This emergency rule was approved by the Governor July 3, 2013.

The statement of scope for this rule, SS 045–13, was approved by the Governor on April 19, 2013, published in Register 689, on May 14, 2013, and approved by the Wisconsin Employment Relations Commission on June 3, 2013.

Finding of Emergency

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules into effect so that the Wisconsin Employment Relations Commission can meet its obligation to conduct annual certification elections as required by ss. 111.70 (4) (d) 3. b. and 111.83 (3) (b), Stats.

Filed with LRB: July 15 2013
Publication Date: July 13, 2013
Effective Dates: July 13, 2013 through December 9, 2013

Insurance (2)

1. EmR1306 — The Commissioner of Insurance adopts an order to amend **sections Ins 17.01 (3) and 17.28 (3) (c)** and to repeal and recreate **section Ins 17.28 (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, and affecting small business.

This emergency rule was approved by the Governor on June 4, 2013.

The statement of scope for this rule, SS 042–13, was approved by the Governor on April 16, 2013, published in Register No. 688, on April 30, 2013, and approved by the Commissioner on May 10, 2013.

Finding of Emergency

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

These changes must be in place with an effective date prior to July 1, 2013, in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to

the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 19, 2012, and the mediation panel fees were established by the Board of Governors at the meeting held on March 20, 2013.

Filed with LRB: June 10, 2013
Publication Date: June 12, 2013
Effective Dates: June 12, 2013 through November 8, 2013
Hearing Date: July 23, 2013

2. EmR1314 — The Commissioner of Insurance proposes an order to create **Chapter Ins 6 subch. II, subch. II (title), and sections Ins 6.91 to 6.98**, relating to navigators, nonnavigator assisters, and related entities and affecting small business.

The statement of scope for this rule SS 078–13, was approved by the Governor on July 1, 2013, published in Register No. 691, on July 15, 2013, and approved by the Commissioner on July 26, 2013. This emergency rule was approved by the Governor on August 30, 2013.

Finding of Emergency

In accordance with s. 623.98, Stats., the commissioner may promulgate rules under ss. 227.24 (1) (a) and (3), Stats., without providing evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare and without a finding of emergency. The commissioner intends to publish the proposed rule sufficiently in advance of October 1, 2013 to permit proper licensing, certification, and training of navigators and nonnavigator assisters and to permit proper registration of navigator and nonnavigator assister entities. The commissioner intends to promulgate permanent rules close in time to the emergency rules so not to create a gap in requirements.

Filed with LRB: September 5, 2013
Publication Date: September 10, 2013
Effective Dates: September 10, 2013 through February 6, 2014
Hearing Date: September 27, 2013

Natural Resources (3)

Fish, Game, etc., Chs. NR 1—

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

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

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

Finding of Emergency

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

Filed with LRB: August 15, 2012
Publication Date: August 18, 2012
Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

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

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

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

Finding of Emergency

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

Filed with LRB: September 14, 2012
Publication Date: October 1, 2012
Effective Dates: October 1, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

3. EmR1313 (DNR # WMH–07–13(E)) — The Wisconsin Natural Resources Board proposes an order to repeal **section NR 10.06 (9) (b)**; to amend **section NR 10.01 (1) (v)**; to repeal and recreate **sections NR 10.01 (1) (b) to (u) and 10.12 (3) (c)**; and to create **section NR 10.12 (3) (e)**, relating to migratory bird hunting regulations.

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

The statement of scope for this rule, SS 018–13, was approved by the Governor on February 18, 2013, published in Register No. 687, on March 14, 2013, and approved by the Natural Resources Board on April 24, 2013.

Statutory Authority

The chapter on wild animals and plants, in s. 29.014, Stats., “rule making for this chapter”, establishes that the department shall maintain open and closed seasons for fish and game and any limits, rest days, and conditions for taking fish and game. This grant of rule–making authority allows the department to promulgate rules related to migratory game bird hunting. Additional statutory authority is found in ss. 23.11, 29.192 and 29.041, Stats. The emergency rule making process is established in s. 227.24, Stats.

Filed with LRB: September 4, 2013

Publication Date: September 6, 2013
Effective Dates: September 6, 2013 through February 2, 2014
Hearing Date: October 28, 2013

Safety and Professional Services (3)
Professional Services, Chs. SPS 1—299

1. 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
Hearing Date: April 30, 2013
Extension Through: November 9, 2013

2. EmR1307 — The Wisconsin Department of Safety and Professional Services adopts an order to repeal **section SPS 81.04 (1) (c) 3. and 4.**, and to amend **section SPS 81.04 (2)**, relating to reciprocity.

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

The statement of scope for this rule, SS 012–13, was approved by the Governor on January 28, 2013, published in Register No. 686 on February 14, 2013, and approved by the Department of Safety and Professional Services on February 28, 2013.

Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows:

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

Filed with LRB: June 12, 2013
Publication Date: June 18, 2013
Effective Dates: June 18, 2013 through November 14, 2013

3. EmR1308 — The Wisconsin Department of Safety and Professional Services adopts an order to create **section SPS 34.04 (2) (a) 4.**, relating to training of firearms instructors for private security personnel, private detectives, and private investigators or special investigators, and affecting small business.

This emergency rule was approved by the Governor on May 29, 2013.

The statement of scope for this rule, SS 080–12, was approved by the Governor on October 2, 2012, published in Register No. 682 on October 31, 2012, and approved by the Department of Safety and Professional Services on December 4, 2012.

Finding of Emergency

The Department of Safety and Professional Services (DSPS) finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is as follows.

Under section SPS 34.02 (1), private security personnel, private detectives, and private investigators or special investigators, who are seeking a firearms permit from the Department must obtain a certificate of firearms proficiency. Section SPS 34.02 (2) mandates that the certification be received from a Department–approved firearms–proficiency certifier pursuant to section SPS 34.04.

Section SPS 34.04 currently accepts only those certifier applicants who have received training as a police or security firearms instructor and who have either (1) current approval as a firearms instructor by the Wisconsin Law Enforcement Standards Board (LESB); (2) current certification as a law enforcement firearms instructor by the National Rifle Association, Inc., (NRA) or; (3) approval on or after January 1, 1995, as a firearms instructor by the LESB or NRA and have completed a refresher course presented by a regional training school approved by the LESB or the NRA.

Due to enactment of 2011 Wisconsin Act 35 (commonly referred to as the concealed carry law), which became

effective on November 1, 2011, there is a greater need for additional entities who can provide training and approve applicants as firearms proficiency certifiers. Section 175.60 (4) of the Statutes currently allows technical colleges, colleges, and universities to provide this training for concealed–carry purposes. No such provision is made as it relates to private security personnel, private detectives, and private investigators or special investigators, for carrying a weapon openly. Moreover, the training needed for DSPS firearms certifiers differs significantly from that needed and provided by the LESB curriculum and under 2011 Act 35. To that end, a new standard needs to be developed and implemented, separate and distinct from the LESB standards. Because the need to approve applicants for firearm proficiency certifiers is immediate and pressing, emergency rules are warranted.

Filed with LRB: June 13, 2013
Publication Date: June 13, 2013
Effective Dates: June 13, 2013 through November 9, 2013
Hearing Date: August 6, 2013

Safety and Professional Services — Controlled Substances Board

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

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

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

Finding of Emergency

The Controlled Substances Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

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

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

On May 16, 2013, the U.S. Department of Justice Drug Enforcement Administration emergency scheduled UR–144,

XLR11, and AKB48 as Schedule I, illegal drugs under the Controlled Substances Act.

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

Workforce Development

Unemployment Insurance, Chs. DWD 100–150

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

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

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

Finding of Emergency

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

- (1) In order to fulfill the new statutory directives to require claimants for unemployment insurance benefits to increase their number of weekly work search actions from two to at least four;
- (2) In order to simplify the process and compliance with respect to requirements for unemployment insurance claimants to register for work;
- (3) In order to execute the new statutory requirement to request additional information from claimants;
- (4) In order to improve the unemployment insurance trust fund balance and thereby relieve employers of the burden of additional taxation;
- (5) In order to better assist unemployment insurance benefit claimants to obtain gainful employment; and,
- (6) In order to promote the improvement in the Wisconsin economy as a result of the immediate implementation of legislative directives with respect to the unemployment insurance program contained in 2013 Wisconsin Act 20 and 2013 Wisconsin Act 36.

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

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

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

Hearing Date: November 4, 2013

Workforce Development

Employment and Training, Chs. DWD 805–830

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

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

The statement of scope for this rule, SS 109–13, was approved by the Governor on August 15, 2013, published in

Register No. 692 on August 31, 2013, and approved by the Department of Workforce Development on September 11, 2013.

Finding of Emergency

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

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

Filed with LRB: September 25, 2013

Publication Date: September 29, 2013

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

Hearing Date: November 5, 2013

Scope Statements

Agriculture, Trade and Consumer Protection

SS 140–13

This statement of scope was approved by the Governor on October 29, 2013.

Rule No.

Section ATCP 161.62, Wis. Adm. Code (existing).

Relating to

Dairy processor grants.

Statutory Authority

Sections 93.07 (1) and (12), 94.01, and 227.24, Stats.

Rule Type

Emergency and Permanent.

1. Description of the Objective of the Rule

The Department of Agriculture, Trade and Consumer Protection (DATCP) proposes an emergency and permanent rule that will establish criteria DATCP will use to make determinations for grants to dairy processors to promote and develop the dairy industry. The emergency and permanent rules are necessitated by the addition of authority and general purpose revenue funding appropriated to the Department as part of 2013 Wis. Act 20, the Biennial Budget.

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

History and background.

In 2013 Wis. Act 20, the budget act, Section 203 created the following appropriation:

20.115 (4) (dm) Dairy processor Plant Grant Program. The amounts in the schedule for promoting the growth in the dairy industry by providing grants to persons operating processing plants as defined in s. 97.20 (1) (h). The appropriation is an annual appropriation of \$200,000.

Nature of the Emergency

An emergency rule is necessary to ensure that funds are used to assist dairy processors during the first year of the annual appropriation as the legislation does not contain standards DATCP will use to make grant determinations and permanent rules cannot be adopted in time to provide the basis for grant determinations for that first year appropriation. The emergency rule is necessary for the welfare of those dairy processors who the Legislature has determined require assistance to maintain and expand their operations and for the welfare of the entire dairy industry. DATCP anticipates that the emergency and permanent rules will have the same provisions.

Policy Alternatives

Do nothing. If DATCP fails to adopt rules that contain the basis for grant determinations it will not be able to expend the

funds and provide the assistance to dairy processors that the Legislature directed in 2013 Act 20, the biennial budget.

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

Section 93.07 (1), Stats., directs DATCP to make such regulations as are necessary for the discharge of all the powers and duties of the department. While granting the authority to make grants to dairy processors, the budget language does not specify the bases for grant determinations. The agency considers it necessary to adopt rules to establish the bases for grant and loan determinations in order to effectuate the purposes of s. 20.114 (4) (dm), Stats.

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

DATCP estimates that it will use approximately 0.25 FTE staff to develop this rule. This includes time required for the investigation and analysis, financial assistance criteria, rule drafting, preparing related documents, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

5. Description of all Entities that may be Impacted by the Rule

This rule will enable dairy processors to obtain financial assistance to expand, modernize, or improve the efficiency or profitability of their operations or who seek product, market or production process opportunities.

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

The United States Department of Agriculture's Rural Development Agency Value Added Producer Grant Program offers funding for activities that expand markets or add value to agricultural products.

7. Anticipated Economic Impact

The proposed rule will enable DATCP to provide financial assistance to dairy processors who wish to expand, modernize, or improve the efficiency or profitability of their operations or who seek product, market or production process opportunities. DATCP expects the proposed rule to have a positive economic impact upon the dairy industry and to have no negative economic impact statewide and locally.

Contact Person

Mike Bandli, DATCP; Phone (608) 224–5136.

Agriculture, Trade and Consumer Protection

SS 141–13

This statement of scope was approved by the Governor on October 30, 2013.

The Department of Agriculture, Trade and Consumer Protection (DATCP) gives notice, pursuant to 227.135, Stats., that it proposes to adopt an emergency administrative rule.

Rule No.

Chapter ATCP 21, Wis. Adm. Code (existing).

Relating to

Exotic plant pests.

Rule Type

Emergency.

Preliminary Objectives

An emergency rule authorized by this statement of scope will create county or multi–county or township or multi–township quarantines for an exotic plant pest in counties and townships where the pest is detected. Any emergency rule authorized by this scope statement will be submitted to the Governor for approval pursuant to s. 227.24 (1) (e), 1g., Stats., each time the department finds that a quarantine area for an exotic plant pest is required. The authorization to draft an emergency rule creating a quarantine area pursuant to this statement of scope will expire on the first day following the twelfth month of publication of this statement of scope pursuant to s. 227.135 (3), Stats., and a new statement of scope must be approved and published pursuant to s. 227.135 (2) and (3), Stats., to continue the authorization of emergency rulemaking related to exotic pest quarantines.

A rule authorized by this statement of scope will do the following:

- Create county or multi–county or township or multi–township quarantines in which an exotic pest is detected. The quarantine will prohibit the movement of all articles potentially harboring the damaging pest. These regulated articles would likely include: firewood, nursery stock, green lumber, and other woody material living, dead, cut or fallen, including logs, stumps, roots, branches and composted and uncomposted chips in the cases of Emerald Ash Borer (EAB), Asian Longhorned Beetle (ALB), Hemlock Woolly Adelgid (HWA) or Thousand Cankers Disease (TCD), as examples.
- Provide an exemption for items that have been inspected and certified by a pest control official and are accompanied by a written certificate issued by the pest control official (some products, such as nursery stock, cannot be given an exemption).
- Provide an exemption for businesses that enter into a state or federal compliance agreement. The compliance agreement describes in detail what a company can and cannot do with regulated articles.

Preliminary Policy Analysis

DATCP has authority under s. 93.07 (12), Stats., to conduct surveys and inspections for the detection and control of pests injurious to plants, and to make, modify, and enforce reasonable rules needed to prevent the dissemination of pests. DATCP also has plant inspection and pest control authority under s. 94.01, Stats. DATCP may by rule impose restrictions on the importation or movement of serious plant pests, or items that may spread serious plant pests.

In recent years the rate of arrival of new exotic plant pests to the United States has increased significantly. Some of the exotic pests which have already invaded our country include Emerald Ash Borer (EAB), Asian Longhorned Beetle (ALB), Hemlock Woolly Adelgid (HWA), Thousand Cankers Disease (TCD) and Gypsy Moth (GM). The annual cost of these invasive forest insects to local governments is estimated

at more than \$2 billion; residential property value loss due to exotic forest pests averages \$1.5 billion per year nationally. To date, EAB and GM have infested Wisconsin. EAB is an exotic pest that endangers Wisconsin's 770 million ash trees and ash tree resources. This insect has the potential to destroy entire stands of ash, including up to 20% of Wisconsin's urban street trees (with an estimated cost of \$3 billion) and residential landscaping trees, and may result in substantial losses to forest ecosystems. The insect can cause great harm to state lands and to the state's tourism and timber industries. At this time, EAB has been identified in twenty–two states including Wisconsin, and two Canadian provinces. Twenty Wisconsin counties are currently quarantined to restrict the movement of ash wood in order to prevent the spread of EAB.

Nature of the Emergency

This emergency rule is necessary to create a timely quarantine of the counties or townships, and possibly bordering counties or townships, with new exotic plant pest detections until a federal quarantine is enacted. The federal quarantine will take effect up to six months after a formal submission by the state plant regulatory official.

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

Sections 93.07 (1) and (12) and 94.01, Stats.

Section 93.07 (1), Stats., directs DATCP to make such regulations as are necessary for the discharge of all the powers and duties of the department. Section 93.07 (12), Stats., authorizes DATCP to conduct surveys and inspections for the detection and control of pests injurious to plants, and to make, modify, and enforce reasonable rules needed to prevent the dissemination of pests. DATCP also has plant inspection and pest control authority under s. 94.01, Stats.

Current and Proposed Federal Legislation and Comparison to Proposed Rule

In order to limit the spread of exotic plant pests, the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) has imposed quarantines for EAB in 20 states, ALB in 3 states, and GM in 18 states. Including Wisconsin, six states plus Canada have imposed an external quarantine for HWA, and sixteen states have done the same for TCD. DATCP rules currently prohibit movement of regulated plant articles from any federally quarantined area except under authorized conditions. This proposed rule is consistent with current state and federal rules.

Entities Affected

According to the American Forest and Paper Association (June 2011), Wisconsin is first in the nation in forestry jobs, employing over 56,000 workers and annually shipping forest industry products valued over \$16.2 billion. Each year the agricultural industry also produces \$1.38 billion of corn grain, and \$511 million in soybeans. Additionally, Wisconsin leads the nation in snap bean production (\$61 million annually) and ranks third in potato production (\$293 million annually). Wisconsin apple orchards produce an annual yield of \$28 million. This emergency rule could have an impact on persons or companies that deal in any agricultural crop or forest product from the quarantined counties or townships to locations outside of the quarantined counties.

The Wisconsin Department of Tourism reports that travelers to Wisconsin spent a total of \$9.9 billion in 2011. Tourism directly sustains an estimated 128,000 jobs, or 5.5% of total employment in the state. Should Wisconsin's forests, parks, recreational areas and community trees be significantly

damaged by an exotic plant pest, our tourism industry could also suffer substantially.

Nurseries, firewood producers/dealers, saw mills and farmers that sell or distribute articles potentially harboring the damaging exotic plant pest would all be impacted. In order to sell regulated products outside of a quarantined county, veneer mills and wood processors will have to enter into a compliance agreement with DATCP or APHIS. The agreement authorizes movement of products outside the quarantine only when there is assurance that the movement will not spread the plant pest to other locations. Licensed nursery growers will not be able to sell regulated nursery stock outside of the quarantined counties. Firewood dealers would need to be certified to sell firewood outside of the quarantined counties. Farmers would be required to treat with an approved treatment option, should one exist, before movement out of the quarantine. Grain elevators could enter into compliance agreements with DATCP or APHIS.

Policy Alternatives

If DATCP does nothing, potentially infested wood or agricultural products will be allowed to move freely and the department will not be able to regulate its movement. The department would have no regulatory authority in the counties with new exotic plant pest finds, raising the potential of a more rapid spread of an exotic invasive plant pest.

Statutory Alternatives

At this time there are no existing or proposed statutory alternatives.

Staff Time Required

DATCP estimates that it will use approximately 0.1 FTE staff time to develop these rules. This includes time required for investigation and analysis, rule drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

DATCP Board Authorization

DATCP may not begin drafting a rule until the Governor and the Board of Agriculture, Trade and Consumer Protection approves this scope statement. The Board may not approve this scope statement any sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. The scope statement may not be published in the administrative register until DATCP has received written approval of the scope statement from the Governor. Before the department may publish an emergency rule, it must receive written approval of the proposed emergency rule from the Governor.

Contact Person

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Corrections

SS 143–13

This statement of scope was approved by the Governor on October 31, 2013.

Rule No.

Section DOC 309.46 (amend).

Relating to

Delivering of money to inmates.

Rule Type

Emergency.

1. Description of the Objective of the Rule

The objective of the rule is to amend s. DOC 309.46 to limit the form in which funds are received by an institution for the benefit of an inmate.

2. Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

The current rule provision provides in pertinent part that “all money in any form delivered to any institution for the benefit of an inmate shall be delivered to the institution business manager.” The Department established a policy and procedure under this rule provision which restricted the form of the funds it would accept to money orders or cashier checks. The Department does not accept cash or personal checks.

A recent Dane County Circuit Court case determined that the Department by its own rule is prohibited from limiting the form of the funds it will accept. *State ex rel. White v. Hamblin*, Dane County Circuit Court 13CV0362 (8/19/13). The Department recognizes that the decision has limited precedential value. However, the Department will abide by the decision as it applies to the inmate who brought the action. But the Department believes it prudent to pursue a change to the rule provision to avoid additional lawsuits brought by other inmates.

The Department is in the process of reviewing all of ch. DOC 309, Resources for Inmates. However, the review of the entire chapter will not be completed for another year. The Department believes that this issue needs to be addressed more quickly.

3. Statutory Authority

Section 227.11 (2) (a) to (c): Rule–making authority is expressly conferred as follows:

- (a) Each 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.
 2. A statutory provision describing the agency’s general powers or duties does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature.
 3. A statutory provision containing a specific standard, requirement, or threshold does not confer

on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

- (b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.
- (c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 301.02: The department shall maintain and govern the state correctional institutions.

Section 301.03 (2): Supervise the custody and discipline of all prisoners and the maintenance of state correctional institutions and the prison industries under s. 303.01.

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

The Department estimates that it will take approximately 50 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

5. Description of All of the Entities that will be Affected by the Rule

This rule will affect all persons who are committed to adult correctional institutions and department staff.

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

There are no applicable federal regulations.

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

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

Contact Person

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Corrections

SS 144–13

This statement of scope was approved by the Governor on October 31, 2013.

Rule No.

Chapter DOC 300 (create).

Relating to

The general operations of the department of corrections.

Rule Type

Permanent.

1. Description of the Objective of the Rule

The objective of the rule is to create a rule chapter which addresses general operations of the department of corrections, including the requirement under s. 895.59, Stats., for the department to promulgate a rule relating to small businesses.

2. Description of Existing Policies and New Policies Included in the Proposed Rule and an Analysis of Policy Alternatives

Although the department of corrections has numerous rule chapters which address program areas relating to adult institutions, community corrections and juveniles, it does not currently have a rule chapter which addresses general operations. The department seeks to create a chapter which may be used for rule proposals which do not readily fit within one of the program areas. The department anticipates creating uniform definitions and operational language for inclusion in this chapter.

Although the nature of the department’s statutory charge does not normally impact on or regulate small businesses as that term is defined in s. 227.114 (1), Stats., the department is mandated under s. 895.59 (2), Stats., to promulgate a rule “which requires the agency to disclose in advance the discretion that the agency will follow in the enforcement of rules and guidelines against a small business...” The department intends on placing a rule section to address this statutory mandate in the new general operations chapter.

There are no policy alternatives to developing the rule.

3. Statutory Authority

Section 227.11 (2) (a) to (c), Stats.: Rule-making authority is expressly conferred as follows:

- (a) Each 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency’s rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 2. A statutory provision describing the agency’s general powers or duties does not confer rule-making authority on the agency or augment the agency’s rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
 3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more

restrictive than the standard, requirement, or threshold contained in the statutory provision.

- (b) Each agency may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.
- (c) Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating policies as rules which the agency shall follow until they are amended or repealed. A rule promulgated in accordance with this paragraph is valid only to the extent that the agency has discretion to base an individual decision on the policy expressed in the rule.

Section 895.59 (2), Stats.: Each agency shall promulgate a rule that requires the agency to disclose in advance the discretion that the agency will follow in the enforcement of rules and guidelines against a small business. The rule promulgated under this subsection shall include the reduction or waiver of penalties for a voluntary disclosure, by a small business, or actual or potential violations of rules or guidelines. The rule promulgated under this subsection may include the consideration of the violator's ability to pay when determining the amount of any monetary penalty, assessment, or surcharge. The rule promulgated under this subsection shall specify when the agency will not allow discretion in the enforcement of a rule or guideline against small businesses and shall include all of the following situations in which discretion is not allowed:

- (a) The agency discovers the violation before the small business discloses the violation.
- (b) The violation is disclosed after an agency audit or inspection of the small business has been scheduled.
- (c) The violation was identified as part of the monitoring or sampling requirements that are consistent with the requirements under an existing permit.
- (d) The violation results in a substantial economic advantage for the small business.
- (e) The small business has repeatedly violated the same rule or guideline.
- (f) The violation may result in an imminent endangerment to the environment, or to the public health or safety.

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

The Department estimates that it will take approximately 50 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

5. Description of all of the Entities that will be Affected by the Rule

This rule will affect department staff and small businesses.

6. Summary of and Preliminary Comparison with any Existing or Proposed Federal Regulation that is

Intended to Address the Activities to be Regulated by the Proposed Rule

There are no applicable federal regulations.

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

The department anticipates that the proposed rule will have minimal to no economic impact statewide or locally.

Contact Person

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Labor and Industry Review Commission

SS 137–13

This statement of scope was approved by the Governor on October 15, 2013.

Rule No.

Chapters LIRC 1 to 4 (revise) and Chapter LIRC 5 (create).

Relating to

Procedural rules for filing petitions for commission review and commission review of cases.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The commission analyzed its case review processes using the Value Stream Mapping (VSM) technique and identified ways to make its processes more efficient and lean. As a part of that process, the commission identified changes to its review process that require changes to the commission's rules. The commission's objective in revising its existing procedural rules is to increase the efficiencies in its processes and to reduce the time it takes to resolve cases petitioned by parties for commission review. The commission also examined its administrative rules governing procedures for continued applicability and necessity.

In ch. LIRC 1, regarding general procedural rules, the proposed rule will clarify that commission review is a *de novo* review of the record made at the hearing before an administrative law judge and will describe the record used for commission review. The proposed rule will clarify how the commission may take administrative notice of records maintained by the Department of Workforce Development (department), how the commission may contact the department (such as to verify monetary amounts reflected in decisions and overpayments or to verify the adjudicative process leading to the department's determination), and how the commission may protect and seal confidential information in the record (such as social security numbers). The proposed rule will clarify and expand when the commission may use a transcript of a hearing in lieu of a synopsis of a hearing. (The

commission typically uses synopses of hearing testimony in its review but may use transcripts under certain circumstances.) The proposed rule will clarify how the commission may establish briefing schedules for parties in cases pending review. Finally, the proposed rule will clarify the process by which parties may request reconsideration or the setting aside of a commission decision.

In ch. LIRC 2, regarding procedural rules for filing petitions for commission review of unemployment insurance appeal tribunal decisions, the proposed rule will revise the manner in which petitions for commission review may be filed. Currently, petitions may be filed in several ways with several department offices as well as with the commission. The proposed rule will clarify that the petitions for commission review of unemployment insurance appeal tribunal decisions may be filed only on–line through the commission’s website. This will facilitate the desired automation of the commission’s processes, reduce errors, and improve efficiencies and timeliness.

In ch. LIRC 3 and 4, regarding procedural rules for filing petitions for commission review in worker’s compensation and equal rights cases, the proposed rule will update the locations at which petitions for commission review may be filed. The commission will investigate the possibility of requiring petitions for commission review in these cases to be filed on–line with the commission.

Chapter LIRC 5 will be created to explain the process for requesting review of an appeal tribunal decision regarding worker classification compliance by the commission pursuant to Wis. Stat. s.103.06 (6) (c). This statutory provision was created by 2009 Wisconsin Act 292. The commission must adopt rules to facilitate and explain the process for handling petitions for review under this new law.

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

The proposed rule does not alter or establish any policies. The proposed rule only implements the commission’s limited rulemaking authority to establish procedural rules under Wis. Stats. s. 103.04 (2).

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

Wisconsin Statutes s. 103.04 (2) authorizes the commission to promulgate rules of procedure. The commission is not authorized to promulgate any other rules.

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

State employees will spend approximately 160 hours developing the rule. No other resources are necessary to develop the rule.

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

The proposed rule will affect all parties with cases being reviewed by the commission uniformly. Parties include individuals with worker’s compensation, unemployment insurance, fair employment, public accommodation, or worker classification compliance claims; employers; worker’s compensation insurance carriers; and the department.

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

There are no existing or proposed federal regulations that address the procedures to be regulated by the proposed rule.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses)

The commission’s rules apply uniformly to all parties with cases being reviewed by the commission and do not establish regulatory standards, or compliance or reporting requirements for businesses. The proposed rules will have no economic impact locally or statewide.

Contact Person

Tracey L. Schwalbe, LIRC General Counsel, (608) 266–7728.

Public Instruction

SS 145–13

(Revises SS 093–13)

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

Rule No.

Chapter PI 5 (revise).

Relating to

High school equivalency diplomas and certificates of general educational development.

Rule Type

Emergency and Permanent.

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

The number of subtests and the passing scores for the General Educational Development (GED) Test will be changing in January 2014 when a new test is implemented by the GED Testing Service. Unless the rule is changed to reflect these new subtests and passing scores, the Department may be prevented from issuing credentials for test takers who pass the GED Test because the required passing scores will be incorrect.

2. Detailed Description of the Objective of the Proposed Rule

Chapter PI 5 governs the issuance of high school completion credentials by the State Superintendent, which includes the GED Test and the High School Equivalency Diploma (HSED). This rule change is designed to align the rule with changes in the GED Test. The current rule references the number of subtests and the passing scores for the GED, which will be changing in January 2014 when a new test is implemented by GED Testing Service. Additionally, technical changes are needed to align the rule with statute.

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

This rule change is designed to align the rule with changes in the GED Test and with current statute.

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

115.29 General powers. The state superintendent may:

(4) HIGH SCHOOL GRADUATION EQUIVALENCY. (a) Grant declarations of equivalency of high school graduation to persons, if in the state superintendent’s judgment they have presented satisfactory evidence of having completed a recognized high school course of study or its equivalent. The state superintendent may establish the standards by which high school graduation equivalency is determined. Such standards may consist of evidence of high school courses completed in high schools recognized by the proper authorities as accredited, results of examinations given by or at the request of the state superintendent, successful completion of correspondence study courses given by acceptable correspondence study schools, a general educational development certificate of high school equivalency issued by an agency of the U.S. government, course credits received in schools meeting the approval of the state superintendent or other standards established by the state superintendent.

(b) Promulgate rules establishing fees for issuing a declaration of equivalency of high school graduation or a general educational development certificate under par. (a). The rules may provide exemptions from the fees based on financial need.

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

The amount of time needed for rule development by department staff and the amount of other resources necessary are minimal.

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

Testing and preparation sites authorized by the state superintendent to administer the GED Test may be affected by the proposed rule, including technical colleges, community based organizations, correctional institutions and high schools throughout Wisconsin.

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

N/A.

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 rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Contact Person

Bureau For Policy And Budget
Attn: Katie Schumacher
267–9127 or katie.schumacher@dpi.wi.gov.

Public Instruction

SS 146–13
(Revises SS 112–13)

Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11–CV–4573, the Department

of Public Instruction is not required to obtain the Governor’s approval for this statement of scope.

Rule No.

Chapters PI 36, 40 (revise) and PI 50 (create).

Relating to

2013–15 budget changes to youth options and course options.

Rule Type

Emergency and Permanent.

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

The 2013–15 budget, 2013 Wisconsin Act 20, recreated the part–time open enrollment program into the course options program under s. 118.52, Stats. A rule is needed to govern the course options program since an application process must be in place for those students wishing to apply to take course options classes in the spring and fall of 2014. Unless a rule is in place, the Department may be prevented from efficiently implementing and administering the course options program.

2. Detailed Description of the Objective of the Proposed Rule

The objective of the proposed rulemaking is to create a separate rule chapter to reflect the course option structure that was created in the 2013–15 budget and delete the part–time open enrollment portion of ch. PI 36. Additionally, the youth options rule chapter may need to be updated to align with the changes in the course options rule chapter.

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

The 2013–15 budget, 2013 Wisconsin Act 20, made significant changes to the part–time open enrollment program. As a result, the rule chapters for the part–time open enrollment program and youth options program need to be revised to reflect those changes.

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

Under s. 227.11 (2) (a) (intro), Stats., “Each 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” A rule is necessary to effectively administer the course options program under s. 118.52, Stats.

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

The amount of time needed for rule development by department staff and the amount of other resources necessary are minimal.

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

School districts will be affected by this rule.

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

N/A.

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 rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Contact Person

Bureau For Policy And Budget
Attn: Katie Schumacher
267–9127 or katie.schumacher@dpi.wi.gov.

Safety and Professional Services

Professional Services, Chs. SPS 1—299

SS 142–13

This statement of scope was approved by the Governor on October 31, 2013.

Rule No.

Chapters SPS 1, 1 Appendix I, 1 Appendix II, 2, 2 Appendix I, 3, 3 Appendix I, 4, 6, 7, 8 Appendix I, 9, and 500 (revise).

Relating to

Administrative procedures and small business enforcement discretion.

Rule Type

Permanent.

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

N/A

2. Detailed Description of the Objective of the Proposed Rule

The proposed rulemaking project is intended to review and update Department administrative procedures and incorporate rule changes to ch. SPS 500, Wis. Adm. Code, as affected by the enactment of 2011 Wisconsin Act 46.

The Department is evaluating a number of modifications to SPS chapters. Modifications include:

1. Clarifying procedures for summary judgment motions.
2. Eliminating references to former Division titles.
3. Modifying deadlines associated with the assessment of costs in s. SPS 2.18, Wis. Adm. Code.
4. Updating the reference to the “complainant’s attorney” in ch. SPS 2 Appendix I, Wis. Adm. Code.
5. Improving the efficiency of the procedures for the Department’s filing of papers with disciplinary authorities.
6. Adding pertinent rule authority references to ch. SPS 4, Wis. Adm. Code.
7. Amending s. SPS 6.11, Wis. Adm. Code, to allow an administrative law judge from the Department of Administration to preside over show cause hearings.

8. Revising the definition of “first occurrence” in ch. SPS 8, Wis. Adm. Code, to more closely align with s. 440.205, Wis. Stats.
9. Incorporating rule changes to ch. SPS 500, Wis. Adm. Code, as affected by the enactment of 2011 Wisconsin Act 46.

The rules are also to be reviewed for clarity, consistency and format which may result in non–substantive revisions.

The objectives of this rule project may be incorporated into more than one rule package, and may include revisions to other chapters affected by the proposal.

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

Existing rules for Department administrative procedures reflect previously used practices and policies. Proposed modifications would update the rules to reflect current practices, align rules more closely with statute, and incorporate technological efficiencies. The alternative to updating and modernizing Department administrative procedures is to continue with current rules that reflect outdated practices and create inefficiencies and uncertainties.

2011 Wisconsin Act 46 requires that each agency establish, by rule, reduced fines and alternative enforcement mechanisms for minor violations of administrative rules made by small businesses. These rules must include a definition of “minor violation”. Chapter SPS 500 outlines the discretion that may be exercised by the Department in enforcement actions undertaken to obtain compliance with Department rules and guidelines, by a small business. This chapter, however, does not include a definition of “minor violation”. The proposed rule change would incorporate a definition of “minor violation” to ch. SPS 500 as required by 2011 Wisconsin Act 46.

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

Section 227.04 (2) (b), Wis. Stats. Consistent with the requirements under s. 895.59 and, to the extent possible, each agency shall do all of the following: Establish, by rule, reduced fines and alternative enforcement mechanisms for minor violations of administrative rules made by small businesses. The rules promulgated under this paragraph shall include a definition of “minor violation”.

Section 227.11 (2) (a), Wis. Stats. Rule–making authority is expressly conferred as follows: (a) Each 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency: 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature. 2. A statutory provision describing the agency’s general powers or duties does not confer rule–making authority on the agency or augment the agency’s rule–making authority beyond the rule–making authority that is explicitly conferred on the agency by the legislature. 3. A statutory provision containing a specific standard, requirement, or threshold does not confer

on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

Section 440.03 (1), Wis. Stats. The department may promulgate rules defining uniform procedures to be used by the department, the real estate appraisers board, and all examining boards and affiliated credentialing boards, attached to the department or an examining board, for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings.

Section 440.03 (13) (am), Wis. Stats. A person holding a credential under chs. 440 to 480 who is convicted of a felony or misdemeanor anywhere shall send a notice of the conviction by 1st class mail to the department within 48 hours after the entry of the judgment of conviction. The department shall by rule determine what information and documentation the person holding the credential shall include with the written notice.

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

75 hours.

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

All Department credential holders

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

None.

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

The Department believes that the proposed revisions will have minimal to no economic impact.

The Department believes that the proposed revisions will have minimal to no impact on small businesses.

Contact Person

Kathleen Paff, Program and Policy Analyst,
kathleen.paff@wisconsin.gov, (608) 261–4472

Safety and Professional Services

Uniform Dwelling Code, Chs. SPS 320—325

SS 138–13

This statement of scope was approved by the Governor on October 29, 2013.

Rule No.

Chapters SPS 320 to 325 (revise).

Relating to

One– and two–family dwellings.

Rule Type

Permanent.

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

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

The objective of this rulemaking is to update and clarify Wisconsin’s Uniform Dwelling Code (UDC), as contained in chs. SPS 320 to 325. This Code establishes statewide construction and inspection standards for one– and two–family dwellings, including modular homes. This update and clarification should make this Code consistent with contemporary construction practices, products, and materials; model standards and codes; and regulatory practices — in order to protect the health, safety, and welfare of the occupants and owners of these dwellings. These rule changes may be incorporated into more than one rule package and may include revisions to other chapters affected by the proposal.

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

The Uniform Dwelling Code establishes statewide, uniform construction and inspection standards; includes references to many national standards and codes; and reflects national building and energy–efficiency trends. The most recent update of this Code began in 2005 and became effective on April 1, 2009. The Wisconsin Statutes require the Department to review this Code every three years, and authorize the Department to revise the rules after consulting with the Governor–appointed Uniform Dwelling Code Council.

Working with the UDC Council, the Department plans to correct code–clarity problems; incorporate code interpretations that have been developed since the last code–change cycle; update currently adopted standards; incorporate new construction practices, products, standards, or materials; and incorporate any needed new requirements.

The alternative of not updating the Code would result in it not being current with nationally recognized construction and inspection practices and standards. Continuing to use the Code as it exists now may create confusion among designers, builders, and local inspectors about how newer materials and standards should be used, regulated, or applied. Not updating the Code could also jeopardize the health, safety, or welfare of the occupants and owners of one– and two–family dwellings.

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

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Section 101.63 (1), Stats., requires the Department to establish standards for the construction and inspection of one– and two–family dwellings and components thereof. Where feasible, the standards used must be nationally recognized. No set of rules may be adopted that has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. Section 101.64 (3), Stats., authorizes the Department to revise these rules after consultation with the Uniform Dwelling Code Council.

Section 101.64 (6), Stats., authorizes the Department to adopt rules prescribing procedures for approving new building materials, methods, and equipment.

Section 101.653 (2), Stats., requires the Department to promulgate rules that establish standards for practices to prevent soil erosion related to the construction of one- and two-family dwellings at sites which have a land-disturbance area of less than one acre. Section 101.653 (2m), Stats., requires the Department to promulgate rules for the administration of this erosion control, by counties, cities, villages, and towns, including provisions regarding the issuance of building permits and the collection and distribution of fees.

Section 101.73 (1), Stats., requires the Department to adopt rules that establish standards for the use of building materials, methods, and equipment in the manufacture and installation of modular homes for use as dwellings. Section 101.74 (3), Stats., authorizes the Department to revise these rules after consultation with the Uniform Dwelling Code Council.

Section 101.74 (6), Stats., requires the Department to adopt rules prescribing procedures for approving new building materials, devices, and methods for the manufacture or installation of modular homes as dwellings.

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

800 hours.

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

This rulemaking may affect any entity that is involved in the construction, remodeling, or inspection of one- and two-family dwellings, including modular homes.

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

Title 16, Part 1201 of the *Code of Federal Regulations* contains safety requirements for glazing materials in storm doors or combination doors, doors, bathtub doors and enclosures, shower doors and enclosures, and sliding-glass doors. Any rule changes that are advanced under this scope statement are not expected to infringe on these federal requirements. No other current or proposed federal regulations were found relating to this rulemaking.

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

The rule changes contemplated in this project are not expected to have any negative economic impacts on any of the entities listed above.

Contact Person

Sam Rockweiler, Rules Coordinator, sam.rockweiler@wi.gov, (608) 266-0797.

Safety and Professional Services

Uniform Dwelling Code, Chs. SPS 320—325

SS 139-13

This statement of scope was approved by the Governor on October 28, 2013.

Rule No.

Chapters SPS 320 to 325 (revise).

Relating to

Wall bracing.

Rule Type

Permanent and Emergency.

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

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

2. Detailed Description of the Objective of the Proposed Rule

The objective of the rulemaking project is to revise and simplify wall bracing provisions under the Uniform Dwelling Code, chs. SPS 320 to 325.

The objective of the rule is to have a clearly understood rule that enhances compliance with regard to design, construction, and inspection.

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

Chapters SPS 320 to 325, the Uniform Dwelling Code, establishes statewide, uniform construction, energy efficiency, and inspection rules for one- and 2-family dwellings. Under the construction standards of ch. SPS 321, dwellings are required to meet structural performance provisions to support the actual dead load, live loads and wind loads acting upon it. The minimum wind load is specified at 20 pounds per square foot acting over the surface area of the dwelling. Code provisions also include various prescriptive specifications and alternative provisions that are recognized to address the wind load requirements.

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

The statutory authority for the Uniform Dwelling Code is under section 101.63 (intro.) and (1) (intro.) of the Statutes, which reads as follows:

“The department shall:

(1) Adopt rules which establish standards for the construction and inspection of one- and 2-family dwellings and components thereof. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. Rules promulgated under this subsection do not apply to a bed and breakfast establishment, as defined under s. 254.61 (1), except that the rules apply to all of the following:”

In addition, under section 101.63 (5) of the Statutes, the department shall “Review the rules adopted under this subchapter once every 3 years.”

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

The staff time needed to develop the rule is expected to be about 200 hours. This time includes research, drafting rules, consulting and meeting with the UDC Code Council, and processing the rules through public hearings, legislative review and adoption. There are no other resources necessary to develop the rules.

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

The rulemaking project may affect any entity that is involved in the construction, remodeling and inspection of one- and 2-family dwellings, including designers, contractors, and inspectors.

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

An Internet–based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to the activities to be regulated for one- and 2-family dwellings. However, CFR Title 24, Part 3280 contains construction and safety standards for manufactured homes.

8. Anticipated Economic Impact of Implementing the Rule

It is anticipated that the potential impact of implementing these rules may include reducing dwelling–construction costs.

Contact Person

Sam Rockweiler, Rules Coordinator, sam.rockweiler@wi.gov, (608) 266–0797.

Submittal of Proposed Rules to Legislative Council Clearinghouse

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

Safety and Professional Services — Marriage & Family Therapy, Professional Counseling & Social Work Examining Board CR 13–094

On November 1, 2013, the Marriage & Family Therapy, Professional Counseling and Social Work Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 049–13, was approved by the Governor on April 29, 2013, published in Register No. 689 on May 15, 2013 and approved by Marriage & Family Therapy, Professional Counseling and Social Work Examining Board on June 11, 2013.

Analysis

Statutory Authority: s. 15.08 (5) (b), Wis. Stats.

This proposed rule-making order revises s. MPSW 3.11 (5) and relates to temporary credentials.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 3, 2013 at 1400 East Washington Avenue, Room 121C, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

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

Transportation CR 13–093

On October 25, 2013, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 091–12, was approved by the Governor on November 13, 2012, published in Wis. Admin. Register No. 683 on November 30, 2012, and

approved by the Department of Transportation on December 12, 2012.

Analysis

This proposed rule-making order repeals ss. Trans 254.10 (5) (title), (a), and (b), 255.03 (2) (b) (note) and 255.10 (5) (title), (a), and (b); amends ss. Trans 254.03 (2) (a) and (c), (3) (note), 254.11 (1), (2) (intro.) and (a) to (d), (3) (intro.) and (b), (4) (b), 254.12 (2), 254.16 (1) and (2), 255.03 (2) (a), 255.11(1), (2) (intro.) and (a) to (d), (3) (intro.) and (b), (4) (intro.) and (b), and 255.12 (2); and creates ss. Trans 254.02 (2) (c) and (note), 254.03 (1m), 254.11 (2) (d) (note) and (4a) (note), 254.15 (5) and (note), 255.02 (2) (c) and (note), 255.03 (1m), (2) (c), and (note), 255.11 (2) (d) (note), (4a) (note), and 255.15 (5) and (5) (note), relating to single and multiple trip permits for oversize or overweight vehicles or loads and affecting small businesses.

Agency Procedure for Promulgation

A public hearing is required. The Department of Transportation will hold 2 public hearings on the following dates and times:

Date: **Thursday, January 9, 2014**

Time: 9:00 a.m. to 1:30 p.m.

Hearing starts: 9:30 a.m.

Location: Wisconsin Department of Transportation

DTSD — Milwaukee Field Office

Wisconsin Room — 2nd Floor

1001 West St. Paul Avenue

Milwaukee, WI 53233

Date: **Thursday, January 23, 2014**

Time: 9:00 a.m. to 1:30 p.m.

Hearing starts: 9:30 a.m.

Location: Wisconsin Department of Transportation

Hill Farms State Transportation Building

4802 Sheboygan Avenue

Room 364

Madison, WI 53707

Contact Person

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

Rule–Making Notices

Notice of Hearings

Safety and Professional Services — Marriage & Family Therapy, Professional Counseling & Social Work Examining Board CR 13–094

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board in s.15.08 (5) (b), Wis. Stats., and interpreting s.457.14 (2), Wis. Stats., the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. MPSW 3.11 (5), relating to temporary credentials.

Hearing Information

Date: Tuesday, December 3, 2013
Time: 11:00 a.m.
Location: 1400 East Washington Avenue
Room 121C
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Sharon Henes, Administrative Rules Coordinator at the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule–making proceedings.

Place where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received before the public hearing to be held at 11:00 a.m. on December 3, 2013 to be included in the record of rule–making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Sharon.Henes@wisconsin.gov.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 457.14 (2), Wis. Stats.

Statutory authority

Section 15.08 (5) (b), Wis. Stats.

Explanation of agency authority

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

Related statute or rule

Section 457.14 (2), Wis. Stats.

Plain language analysis

The Social Worker Section issues a temporary certificate or license when all the licensure requirements are met with the exception of the examination. The statute states that a temporary certificate or license may be renewed once by that section of the examining board. This amendment will bring the rule into conformity with the statute.

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

None.

Comparison with rules in adjacent states

Illinois: Illinois no longer issues a temporary social worker credential.

Iowa: Iowa does not have a temporary social worker credential.

Michigan: Michigan grants a two year limited license to engage in the 2 year post degree experience to those who have completed the educational requirements for licensure. A limited license is renewable for not more than 6 years. Mich. Comp. Laws § 333.18509(2).

Minnesota: Minnesota may grant a temporary license to practice social work to applicants who have completed the education and examination to those unlicensed or to applicants in emergency situations if licensed in another jurisdiction. This temporary license expires after six months. Minnesota also may grant a temporary license to an applicant who completed education from a program in candidacy status with an accrediting body or for an applicant to teach social work at an academic institution in Minnesota. These temporary licenses expire after 12 months. There is no provision indicating a renewal of the temporary license. Minn. Stat. § 148E.060

Summary of factual data and analytical methodologies

The factual data and methodology was to change the rule to be consistent with the statute.

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

This rule merely conforms the rule to the statute and there is no effect on small business.

This rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary

These proposed rules do not have an economic impact on

small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266–8608.

Agency Contact Person

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608–261–2377; email at Sharon.Henes@wisconsin.gov.

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

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

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

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

MPSW 3

3. Subject

Temporary credential

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

The statute states that a temporary credential may be renewed once by the Social Work section and the rule states it can’t be renewed.

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

None

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

None

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

There is no economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units. In preparation of the EIA, the rule was posted for economic comments for a period of at least 14 days and received no comments.

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

The benefit of implement the rule is to have conformity with the statute.

14. Long Range Implications of Implementing the Rule

The benefit of implement the rule is to have conformity with the statute.

15. Compare With Approaches Being Used by Federal Government

None

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

Illinois and Iowa do not have temporary social worker credentials. Michigan grants a two year limited license to engage in post degree experience and this limited license is renewable for not more than six years. Minnesota may grant a temporary license to practice social to applicants who have completed the education and exam to those unlicensed or to applicants in emergency situations if licensed in another jurisdiction and this temporary license expires after six months. Minnesota may also grant a temporary license to teach social work at an academic institution in Minnesota and this license expire after 12 months and there is no provision indicating a renewal.

17. Contact Name

Sharon Henes

18. Contact Phone Number

(608) 261–2377

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

Notice of Hearing

Transportation CR 13–093

NOTICE IS HEREBY GIVEN That pursuant to ss. 85.16, 227.11 (2), 348.25 (3), 348.26 (2), and 348.27 (2), Stats., the Department of Transportation will hold a public hearing to consider the an order to repeal ss. Trans254.10 (5) (title), (a) and (b), 255.03 (2) (b) (note) and 255.10 (5) (title), (a), and (b); to amend ss. Trans 254.03 (2) (a) and (c), (3) (note), 254.11 (1), (2) (intro.) and (a) to (d), (3) (intro.) and (b), (4) (b), 254.12 (2), 254.16 (1) and (2), 255.03 (2) (a), 255.11(1), (2) (intro.) and (a) to (d), (3) (intro.) and (b), (4) (intro.) and (b), and 255.12 (2); and to create ss. Trans 254.02 (2) (c) and (note), 254.03 (1m), 254.11 (2) (d) (note), (4a) (note), 254.15 (5) and (note), 255.02 (2) (c) and (note), 255.03 (1m), (2) (c), and (note), 255.11 (2) (d) (note), (4a) (note), and 255.15 (5) and (5) (note), relating to single and multiple trip permits for oversize or overweight vehicles or loads and affecting small businesses.

Hearing Information

Date: **Thursday, January 9, 2014**
Time: 9:00 a.m. to 1:30 p.m.
 Hearing starts: 9:30 a.m.
Location: Wisconsin Department of Transportation
 DTSD — Milwaukee Field Office
 Wisconsin Room — 2nd floor
 1001 West St. Paul Avenue
 Milwaukee, WI 53233
Date: **Thursday, January 23, 2014**
Time: 9:00 a.m. to 1:30 p.m.
 Hearing starts: 9:30 a.m.

Location:

Wisconsin Department of Transportation
 Hill Farms State Transportation Building
 4802 Sheboygan Avenue
 Room 364
 Madison, WI 53707

Accessibility

English

DOT is an equal opportunity employer and service provider. If you need accommodations because of a disability or need an interpreter or translator, or if you need this material in another language or in an alternate format, you may request assistance to participate by contacting Kathleen Nichols at 608–261–2574. You must make your request at least 7 days before the activity.

Spanish

El PUNTO es patrón de la oportunidad igual y abastecedor de servicio. Si usted necesita comodidades debido a una inhabilidad o necesita a un intérprete o a traductor, o si usted necesita este material en otra lengua o en un formato alterno, usted puede solicitar ayuda de participar entrando en contacto con a Kathleen Nichols en 608–261–2574. You debe hacer su petición por lo menos 7 días antes de la actividad.

Hmong

DOT yog ib cov chaw ua hauj lwm vaj huam sib luag thiab muab kev pab. Yog hais tias koj xav tau kev kho kom haum vim yog muaj mob xiam oob qhab los yog xav tau ib tug neeg txhais lus los txhais, los yog hais tias koj xav tau qhov koom ntawd rau lwm hom lus los yog txhais ua lwm hom ntawv, koj yuav thov kev pab mus xamphaj Kathleen Nichols ntawm 608–261–2574. yuav tsum ua koj txoj kev thov txog li 7 hnub ua ntej qhov kev ua.

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

Copies of Proposed Rule and Fiscal Estimate – Economic Impact Analysis

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

Kathleen Nichols
Motor Carrier Services Section, Division of Motor Vehicles
Wisconsin Department of Transportation
4802 Sheboygan Avenue, Room 151
P.O. Box 7980
Madison, WI 53707–7980

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Kathleen Nichols via e–mail or U.S. mail, or to the Wisconsin Administrative Rules Website at www.adminrules.wisconsin.gov until Friday, January 17, 2014, at 4:30 p.m.

Impact on Small Business

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

Environmental Impact

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

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted

Sections 85.16, 227.11, 348.02, 348.05, 348.06, 348.07, 348.09, 348.10 (1), 348.11, 348.15, 348.17, 348.18, 349.16, 348.25, 348.26, and 348.27, Stats.

Statutory authority

Sections 85.16, 227.11 (2), 348.25 (3), 348.26 (2), and 348.27 (2), Stats.

Explanation of agency authority

Under s. 85.16, Stats., the Department of Transportation (WisDOT) has the authority to make reasonable and uniform rules for the discharge of its powers, duties and functions. Section 227.11 (2), Stats., identifies areas where rule–making authority is expressly conferred upon agencies, including where necessary to effectuate the purpose of a statute, to prescribe forms and procedures, and to formalize general policies in deciding individual cases.

Sections 348.05 (1), 348.06 (1), 348.07 (1), 348.09 (1), 348.10 (1), 348.15 (3), and 348.17 (1), Stats., prohibit the operation of vehicles exceeding certain size and weight limits on highways without a permit. Under ss. 348.26 (2) and

348.27 (2), Stats., the Department is authorized to issue permits for single and multiple trip vehicle loads exceeding these limits. Section 348.25 (3), Stats., requires the Department to prescribe forms for such permits. Chapters Trans 254 and 255 effectuate the purposes of these statutes, prescribe forms and procedures, and formalize general policies in issuing single and multiple trip permits for the operation of oversize or overweight vehicles on highways under WisDOT’s jurisdiction.

Related statute or rule

Chapter 348, Stats., establishes restrictions on the operation of vehicles without a permit, based on vehicle size, weight and load. Chapters Trans 250 to 253, 254 (affected by this order), 255 (affected by this order), 256 to 263, and 269 establish standards and procedures for various permits under ch. 348, Stats.

Plain language analysis

This rulemaking modifies regulations related to the transportation of oversize and overweight (OS/OW) vehicles and loads on Wisconsin highways. It is almost impossible to briefly summarize all the various rules and exceptions to rules governing the transportation of OS/OW loads. In general, trucks and their loads should be 8’–6” or narrower, 13’–6” or shorter, and less than 75’ in length. Length requirements, in particular, are highly variable and range from 45’ to 75’ depending on the configuration of the truck hauling the load. Generally speaking, weight limits depend on the vehicle configuration, the class of highway and the time of year.

Special permission and precautions must be taken to insure that vehicles exceeding size and weight limits do not damage the highway facility or endanger other travelers. In order to operate a vehicle exceeding size and weight limits, state law requires the truck operator to first obtain a permit from the appropriate authority. On state highways, WisDOT is that authority. WisDOT issues OS/OW permits through the Division of Motor Vehicles (DMV) Motor Carrier Services Section, working in coordination with traffic and safety engineers from the Freight Operations Office of the Division of Transportation System Development (DTSD).

The proposed revisions to chs. Trans 254 and Trans 255 increase the hours OS/OW vehicles may operate on state highways, relax route limitations to reflect improvements to the Milwaukee County Freeway System, eliminate outdated requirements based on federal laws that have been repealed, update permit application provisions to reflect WisDOT’s current practices, and require permittees to check WisDOT’s 511 traffic information system.

Hours of operation. One important consideration when issuing an oversize permit is the intended hours of operation (permitted *overweight* vehicles may normally operate 24 hours a day). Restricting oversize vehicle travel during a highway’s busiest hours increases highway safety. Under current law, oversize vehicles are prohibited from operating throughout the state during what was once considered peak operating times. However, modern data collection tools used by DTSD and DMV make it possible for WisDOT to adopt more specific restrictions on travel times.

These revisions reduce the duration of weekend and holiday evening travel time restrictions. WisDOT also proposes to make these restrictions only applicable in certain counties, lifting evening oversize restrictions in other parts of the state. The results are summarized in the table below.

Current Law:	This Order:
• <i>Trans 254/Trans 255 permitted oversize vehicles may not travel:</i>	
Between 4:00 p.m. and 11:00 p.m. on Sunday.	Between 3:30 p.m. and 8:00 p.m. on Sunday.
Current Law:	This Order:
Between 4:00 p.m. and 11:00 p.m. on Friday between the 4th Friday in May and Labor Day.	Between 3:30 p.m. and 8:00 p.m. on Friday between the 4th Friday in May and November 1.
Between 4:00 p.m. and 11:00 p.m. on any holiday, or, when Independence Day falls on Sunday, on the following Monday; and,	Between 3:30 p.m. and 11:00 p.m. on any “restricted–travel holiday.” (see definition below)
Between 4:00 p.m. and 11:00 p.m. on the day before any holiday, except that this restriction does not apply to Independence Day when it falls on a Sunday.	Between 3:30 p.m. and 11:00 p.m. on the day before any “restricted–travel holiday.” (see definition below)
These restrictions apply throughout Wisconsin.	These restrictions apply only in Brown, Columbia, Dane, Eau Claire, Milwaukee, Rock and Waukesha Counties.
• <i>On the Milwaukee County Expressway System:</i>	
Oversize vehicles may not operate between 3:30 p.m. and 11:00 p.m. Friday and Sunday.	Oversize vehicles may not operate between 3:30 p.m. and 8:00 p.m. Friday and Sunday.

Vehicles that are exceptionally large (that is, vehicles wider than 12’, taller than 13’–6”, or longer than 100’) will continue to be restricted to operating during daylight hours and may not travel on “restricted–travel holidays” from 12:00 noon of the day before the holiday until sunrise of the day after the holiday.

“*Restricted–travel holidays.*” The proposed revisions to chs. Trans 254 and Trans 255 define a new term, “restricted–travel holidays.” The definition reflects that not every legal holiday, as defined in Wis. Stat. s. 995.20, is associated with an increase in traffic that would necessitate oversize travel restrictions. Instead, WisDOT will issue a list of restricted–travel holidays for each following year. In the event no list is issued, default restricted–travel holidays are designated. As clarified in the added note, WisDOT’s list will typically include the default restricted–travel holidays, as well as peak travel times associated with gun deer hunting season.

Route Limitations. Under current law, an oversize vehicle may not operate on the Milwaukee County Expressway System if the vehicle is wider than 11’, taller than 13’–6”, or longer than 100’. Since the current rule was adopted, the geometry of the Expressway System has been improved. The proposed revisions adopt restrictions that more accurately reflect the current geometrical restraints: vehicles may not be wider than 14’, taller than 14’–6”, or longer than 125’.

Outdated Federal Requirements. Under current law, oversized vehicle permittees may be required to fasten certain reflective black and white or black and yellow hazard markers to their loads. This provision incorporated federal regulations that have since been repealed. WisDOT does not currently require hazard markers under this provision and other load–marking requirements adequately protect the public safety. The proposed revisions to chs. Trans 254 and Trans 255 eliminate the hazard marker provision.

WisDOT’s 511 System. WisDOT has developed a free, publicly–available, online traffic information system. Other private systems that report real–time traffic conditions may also be available. Timely use of such systems alerts drivers to potential hazards that could jeopardize safe transport of the load. The proposed revisions to chs. Trans 254 and Trans 255 require that permittees check either WisDOT’s 511 website or an equivalent website prior to departure.

Permit Procedure Updates and Non–Substantive Revisions. Several areas of the current Trans 254 and Trans

255 list steps or procedures that are no longer used by WisDOT when processing single and multiple trip OS/OW permits. Generally speaking, WisDOT procedures have been centralized and made electronic to the extent feasible. The proposed revisions to Trans 254 and Trans 255 reflect the current application process.

Additionally, this revision incorporates a change to language involving escort vehicles. Under current law, s. Trans 254.16 indicates that the permittee may “be required...to provide...2 escorts...” [Trans 254.16 (1).] Additionally, loads 16’ or wider “shall have 2 properly equipped escorts.” [Trans 254.16 (2).] However, these provisions are inconsistent with WisDOT’s authority and current practice. WisDOT has the authority to impose reasonable conditions on OS/OW permits under s. 348.25 (3), Stats. Section Trans 252.03 (1) authorizes WisDOT or a local authority to require the use of one or more escort vehicles as a reasonable condition of any OS/OW permit. Under current practice, WisDOT routinely requires permittees to provide the number of escort vehicles necessary, which may or may not be 2 escorts. The proposed revisions to s. Trans 254.16 indicate that “at least” or “a minimum of” 2 escorts will be required in certain circumstances. These revisions more closely resemble the language of the rule with s. Trans 252, s. 348.25 (3), Stats., and other laws, as well as with current practice, resulting in no measureable or meaningful change. [Wis. Stat. s. 227.135 (4).]

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

A good discussion of federal vehicle size limits may be found online at: http://ops.fhwa.dot.gov/freight/publications/size_regs_final_rpt/index.htm.

The Federal Government first enacted size regulations for commercial motor vehicles (“CMVs”) with the passage of the Federal–Aid Highway Act of 1956. This Act provided a maximum vehicle width of 96 inches (8 feet or 2.44 meters) on the Interstate Highway System. Subsequently, the Federal–Aid Highway Act of 1976 increased the allowable width for buses to 102 inches (8.5 feet or 2.6 meters). The Surface Transportation Assistance Act of 1982 extended the same bus width requirement of 102 inches to commercial trucks. At the same time, the Surface Transportation Assistance Act of 1982 expanded the highway network (on which the Federal width provision applied) from the Interstate to the National Network of highways.

Loads exceeding these dimensions may only be transported on the National Network with an oversize permit.

The Surface Transportation Assistance Act of 1982 also regulated the length of CMV's. In 1982, Congress established minimum length standards for most commercial truck tractor–semitrailers and for twin trailers pulled behind a truck tractor. Congressional involvement in vehicle length reflected the desire to standardize the enforcement of length along the National Network. This standardization sought to eliminate administrative or operating confusion caused by varying State provisions governing commercial vehicle length.

Wisconsin complies with these federal requirements. This rule governs vehicles much larger than the minimum dimensions for which permits are required for operation under federal law.

There is no Federal vehicle height requirement or restriction for commercial motor vehicles. Thus, States may set their own height restrictions. Most state height limits range from 13'–6" (4.11 meters) to 14' (4.27 meters), with exceptions granted for lower clearance on particular roads.

Federal standards for construction of interstate highways set minimum vertical clearance under overhead structures (including over paved shoulders) at 16' (4.88 meters) in rural areas, and at 14' (4.27 meters) in urban areas, with allowance for extra layers of pavement. In urban areas, at least one route should have 16' (4.88–meter) clearances. Sign supports and pedestrian overpasses must be at least 17' (5.18 meters) above the road, with exceptions for some urban routes.

Not all freeways and interstate highways in Wisconsin meet these standards. Milwaukee County, in particular, has a concentration of overhead structure clearances that fail to meet these standards.

Comparison with rules in the following states

Michigan. The Michigan Department of Transportation (MDOT) permits OS/OW vehicles under single and “extended” or annual permits. OS/OW vehicles are generally permitted to operate throughout the weekend, except on Sunday evenings past 3:00 p.m. MDOT processes permit applications electronically. MDOT also maintains an online bulletin of active permit restrictions, detailing limitations on different routes due to conditions. More information on MDOT's OS/OW vehicle permitting program is available at: http://www.michigan.gov/mdot/0,1607,7-151-9623_26662_26679_27267_48606-182174--,00.html

Minnesota. The Minnesota Department of Transportation (MnDOT) issues OS/OW permits for travel over interstate highways and state trunk highways in Minnesota. MnDOT issues both single trip permits and seasonal or annual permits; like Wisconsin, Minnesota offers specific permits for types of loads, including the transport of root vegetable harvests and forest products. MnDOT OS/OW permits may be obtained online, by fax, or at MnDOT's St. Paul Central Office.

Except in the Twin Cities and Duluth and during summer weekends, loads generally do not face hours–of–operation restrictions unless noted on the permit. In these metro areas, larger oversize vehicles are not allowed to travel during morning or evening rush hours. From Memorial Day to Labor Day, no oversize vehicles may travel after 2 p.m. on Fridays and Sundays. MnDOT maintains a list of holidays with more specific travel restrictions on its website. For larger loads, MnDOT requires permit applicants to perform a pre–survey of the intended route by physically driving the route. MnDOT also maintains a traffic condition website,

<http://www.511mn.org/>. More information on MnDOT's OS/OW permit program is available at: <http://www.dot.state.mn.us/cvo/oversize/oversize.html>.

Illinois. The Illinois Department of Transportation (IDOT) is authorized by 625 ILCS 5/12 – 301 (the Illinois Vehicle Code) and 92 Ill. Admin. Code 554 to issue OS/OW permits on IDOT highways. In general, oversize vehicles may operate from a half hour before sunrise to a half hour after sunset, 7 days a week. Larger oversize vehicles may only operate Monday through Friday and until noon on Saturday. Hours of operation are further restricted during specific holidays and holiday weekends. Additional restrictions also apply within the City of Chicago and in Cook County. Operation on Illinois Toll Roads requires the permission of the Illinois Toll Authority.

To order an OS/OW permit, applicants are directed to use IDOT's “ITAP” online permitting system. Illinois also maintains an online map system that shows obstructions and permit restrictions throughout the states. More information on IDOT's OS/OW permit program is available at: <https://truckpermits.dot.illinois.gov/>. IDOT's mapping system is available at <http://www.gettingaroundillinois.com/gai.htm?mt=tp>.

Iowa. The Iowa Department of Transportation issues OS/OW load permits for travel over interstate highways and state trunk highways. Single trip and annual permits are available, with different limitations on their use. State, county and city oversize load permits must be obtained separately. Except for a state issued All–Systems Permit authorized by a participating county or city, state–issued permits are not valid on county and city highways. County and city permits are also not valid on state highways.

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

See Fiscal Estimate.

Analysis and supporting documentation used to determine effect on small businesses

See Fiscal Estimate.

Effect on Small Business

Positive.

Fiscal Effect

None for government.

Anticipated Costs Incurred by Private Sector

None.

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

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to:

Kathleen Nichols

Motor Carrier Services Section, Division of Motor Vehicles

Wisconsin Department of Transportation

4802 Sheboygan Avenue, Room 151

P. O. Box 7980,

Madison, WI 53707–7980.

Phone: (608) 261–2574

E–mail: Kathleen.Nichols@dot.wi.gov

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

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

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Ch. Trans 254 Single Trip Permits for Oversize or Overweight Vehicles or Loads
Ch. Trans 255 Multiple Trip Permits for Oversize or Overweight Vehicles or Loads

3. Subject

Credential authorizing vehicles exceeding legal size and weight limits

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG–S

5. Chapter 20, Stats. Appropriations Affected

N/A

6. Fiscal Effect of Implementing the Rule

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

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

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

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

Yes No, implementation costs will be outreach efforts.

9. Policy Problem Addressed by the Rule

Current rule impedes motor carriers ability to meet contractual obligations.

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

WI AGC, Milwaukee AGC, WI Motor Carriers Assn., WI Manufacturers, Commerce, WI Transportation Builders

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

City of Milwaukee; Brown, Columbia, Dane, Eau Claire, Milwaukee, and Waukesha Counties

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

No negative impact expected to business or local governments. It is an effort to remove outdated restrictions that are no longer needed to maintain roadway safety for other users of the state and local roads.

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

Improving transport efficiency; reducing construction costs; responding to industry request to continue with over-ride practices.

14. Long Range Implications of Implementing the Rule

Improving cross-border motor carrier regulation; Commerce should be more cost efficient.

15. Compare With Approaches Being Used by Federal Government

N/A

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

Bringing WI operating hours closer to those of Iowa, Illinois, and Minnesota

17. Contact Name

Kathleen Nichols, Permit Chief

18. Contact Phone Number

608–261–2572

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

ATTACHMENT A

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

The economic and fiscal assessment activity done by the Department after the Scope Statement was published shows that that there will be no negative economic or fiscal impact on small business. Businesses will experience significant relief from costs arising from route and time of operation limits in the current language of Chapter Trans 254 and 255. Polled companies estimate that current rule language results in a \$5 per mile additional transport cost, especially for companies that are located in or near Milwaukee County. In addition, delay in delivery that may arise from current rule provisions can result in \$2,000 to \$5,000 per hour additional costs arising from idle cranes, workers, and liquidated damages.

Small businesses should experience no new costs to comply with Chapter Trans 254 or 255 as a result of amendments as proposed for this rule-making. The Department will be required to re-print a number of documents, and that cost will be absorbed within the agency's budget.

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

The Division of Transportation System Development of at the DOT contracted with CMQue, a sub-contractor of Cambridge Systematics, Inc., to interview selected small businesses likely to be affected by the amendment of Chapter Trans 254 and 255. The firms selected were companies that rent or lease heavy specialized equipment or manufacture goods of a size or weight that will require an oversize/overweight permit and a Wisconsin-based specialized motor carrier that frequently orders trucking permits from the Department.

In addition, staff of the Department polled the motor carrier members of the Motor Carrier Advisory Committee – OSOW Subcommittee, most of the members of which are small businesses.

Finally, the interest groups identified earlier in this submission, which represent small businesses, were asked to evaluate the likely effect of the proposed changes. All support the direction of these proposed amendments to Chapter Trans 254 and 255.

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

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

Other, describe:

Since it is anticipated that the impact on Small Businesses will be positive, these methods were not considered.

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

The proposed amendments will increase the number of hours and days during which oversize/overweight goods may be transported in Wisconsin, and will bring Wisconsin into closer conformity with Minnesota and Iowa travel hours and days. The modest increases in vehicle size that will be allowed on the Milwaukee Expressway will reduce miles travelled and congestion caused by very large and heavy vehicles operating on surface streets.

5. Describe the Rule's Enforcement Provisions

No change in enforcement of the permits issued under the auspices of Chapter Trans 254 or 255 is anticipated. Wisconsin State Patrol, the primary enforcement agency for commercial motor carriage will apprise its personnel after promulgation of the amended rules. The Motor Carrier Services Section of the Division of Motor Vehicle will widely promote the new, less–restrictive, rules.

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

Yes No

Submittal of Proposed Rules to Legislature

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

Agriculture, Trade and Consumer Protection **CR 13–016**

(DATCP Docket #: 11–R–01)

On October 21, 2013, the Department of Agriculture, Trade and Consumer Protection submitted for legislative committee review, pursuant to s. 227.19, Stats., a rule to revise Chapter ATCP 50, relating to the Soil and Water Resource Management Program.

This rule was approved by the Governor on September 24, 2013.

Agriculture, Trade and Consumer Protection **CR 13–043**

(DATCP Docket #: 12–R–11)

On October 2, 2013, the Department of Agriculture, Trade and Consumer Protection submitted a rule for legislative committee review, pursuant to s. 227.19, Stats., to revise Chapters ATCP 90, 91, 92, 113, and 136, relating to fair packaging and labeling; selling commodities by weight, measure or count; weights and measures; gasoline advertising; and mobile air conditioners, reclaiming or recycling refrigerant.

The rule was approved by the Governor on October 2, 2013.

Safety and Professional Services **Plumbing, Chs. SPS 381–387** **CR 13–062**

On October 30, 2013, the Department of Safety and Professional Services submitted to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats., a rule-making order to amend ss. SPS 381.01 (141), 381.20 Table 381.20–11 (partial) line 6., 384.20 (2) (b) (Note), 384.30 (4) (intro.), and 384.40 (8) (a) and (d); and create ss. SPS 381.01 (141) (c) (Note), 381.20 Table 381.20–11 (partial) line 7., relating to U.S. EPA lead reduction rule, Safe Drinking Water Act amendments of 2011.

The Governor approved the rule under s. 227.185, Stats., on October 29, 2013.

Safety and Professional Services — **Examining Board of Architects, Landscape** **Architects, Professional Engineers, Designers** **and Land Surveyors** **CR 13–064**

On November 1, 2013, Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats., a copy of a

rule-making order revising ss. A–E 13.08 (d) and A–E 13.09, relating to comity renewal requirements.

The Governor approved the rule under s. 227.185, Stats on October 24, 2013.

Safety and Professional Services — **Massage Therapy and Bodywork Therapy** **Affiliated Credentialing Board** **CR 13–055**

On October 30, 2013, Massage Therapy and Bodywork Therapy Affiliated Credentialing Board submitted to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats., a rule-making order revising massage therapy rules to repeal s. MTBT 2.05 and (Note); to amend ss. MTBT 1.01, 2.01 (title), 2.03 (title), (1) (a) and (c), 3.01 (1), (5) (b), 4.01 (title) (intro.), 4.02 (title), (intro.), (1) and (3), 4.03, 4.04 (1)(a) and (c), (2) (a) and (b), 5.01 (9), (16), (17), (18), (19), (20), (27), (28), and (32), 5.02 (1), (2) (b) and (c), (3), and (4); to repeal and recreate s. MTBT 1.02; and to create s. MTBT 4.02 (5) and chs. MTBT 6 and 7, relating to temporary licensure and continuing education.

The Governor approved the rule under s. 227.185, Stats., on October 18, 2013.

Safety and Professional Services — **Pharmacy Examining Board** **CR 13–065**

On October 30, 2013, the Pharmacy Examining Board submitted to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats., a copy of a rule-making order to repeal ss. Phar 18.02 (22), 18.06 (4) to (6) and (9), 18.06 (4) to (6) and (9); renumber s. Phar 18.06 (7) and (8) to 18.06 (4) and (5); amend ss. Phar 18.02 (7), (16), and (17), 18.03 (intro.), 18.04 (1) (b) and (e) and (3) (b), (d), (i), and (k), 18.05 (2), 18.06 (1) to (3) (intro.), and (4); and create s. Phar 18.02 (3m) and (13e), relating to the prescription drug monitoring program (PDMP) and the exclusion of veterinarians from reporting.

The Governor approved the rule under s. 227.185, Stats., on October 24, 2013.

Safety and Professional Services — **Podiatry Affiliated Credentialing Board** **CR 12–047**

On October 30, 2013, the Podiatry Affiliated Credentialing Board submitted to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats., a rule-making order revising s. Pod 1.05 (5) and creating ss. Pod 3.02 (4) and 3.03 (3), relating to temporary educational licenses and continuing education.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule was published in Register No. 656 on August 31, 2010, and was sent to the LRB prior to the effective date of 2011 Wis. 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.

Health Services

Health, Chs. DHS 110—

CR 13–028

A rule to revise Chapter DHS 132, relating to the establishment of rules to guide the actions of the quality assurance and improvement committee to review proposals and award moneys for innovative projects in regard to nursing homes.

Effective 1–1–14.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 13–010

(DNR # ER–27–11)

An order to revise Chapter NR 27, relating to revising Wisconsin’s endangered and threatened species list.
Effective 1–1–14.

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