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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 19-089

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

#### **2. Form, Style and Placement in Administrative Code**

a. The department should amend the introductory clause to conform to the treatment clauses for each section of the proposed rule, including any changes made in response to these comments. In particular, numerous provisions treated by the proposed rule are omitted from the introductory clause. Examples of changes to the introductory clause include the following:

(1) In the list of sections to repeal:

- (a) Add references to: ss. DCF 202.08 (8m) (a) 3.; 251.09 (1) (d) 1. and 2.; and 251.11 (10) (d).
- (b) Replace the reference to s. DCF 250.11 (4) (a) 3., with subd. 2.
- (c) Delete the current reference to s. DCF 251.06 in its entirety and replace with s. DCF 251.06 (1) (b) and (Note), (6) (b) 2. (Note), (8) and (9) (a) 6., (b) 6. (Note) and (e).
- (d) Replace the reference to s. DCF 251.07 (6) (i) 4. with reference to par. (h).
- (e) Delete the reference to s. DCF 252.44 (6) (f) 2., and the duplicative reference to s. DCF 252.44 (6) (a) 2. and (e) 1. d., 6., and 7.

(2) In the list of sections to amend:

- (a) Add references to: ss. DCF 202.02 (2) and (22); 202.08 (13); 250.03 (11) (b) and (17); 250.04 (2) (e) (intro.) and 10. (Note) and (f) and (8) (b) (Note 2);

250.06 (1) (b) 1. and 3.; 250.11 (4) (a) 3.; 251.03 (11g) (b) and (14g); 251.04 (8) (title); 251.07 (3) (a) (intro.); and 250.10 (1) and (2) (a), (b), and (c).

(b) Delete references to: ss. DCF 202.08 (4) (title) and (12) (c) and (i); 250.04 (3) (a) (Note); 250.06 (6) (b) (Note 2); 250.07 (6) (g) 1., 4., 6., and 7.; and 252.41 (4) (a) 4. (Note).

(c) Replace the reference to s. DCF 252.05 (1) (a) 2. with subd. 2m.

(3) In the list of sections to repeal and recreate:

(a) Add references to: ss. DCF 202.08 (2) (i), (j), (k), and (L) and (4) (title) and (f); 250.03 (1), (2), and (6); 250.04 (6) (a) 1. (Note), 2., and 4. and (7) (b) 1. a. and b.; 250.07 (6) (g); and 252.44 (6) (d) 1. and 3. (Note).

(b) Delete the references to: ss. DCF 250.04 (6) (a) 6m. (Note) and 8. and (c); and 251.04 (5) and (6) (g).

(c) Replace the reference to s. DCF 251.03 (11g) (b) and (14g) with reference to sub. (10m).

(d) In the reference to s. DCF 251.04 (7) (a) 6m. (Note) and 8. and (c), replace the reference to sub. (7) to sub. (6), consistent with the treatment clause in SECTION 244.

(4) In the list of sections to create:

(a) Replace the references to s. DCF 202.02 (2g) and (12m) with subs. (3g) and (21m), respectively.

(b) Add references to: ss. DCF 202.02 (3L); 250.03 (3m) and (5m); 250.04 (2) (bm) and (6) (a) 4m; 252.43 (5); and 252.44 (7) (b) 1m.

(c) Delete references to ss. DCF 250.04 (2) (e) (intro.) and 10. (Note) and (f) and 250.06 (2) (L) 1. and 2.

(d) Replace the reference to s. DCF 251.04 (6) (a) (Note) with reference to s. DCF 251.04 (8) (a) (Note).

b. The department should consider a more formal description than the term “streamlining” in the proposed rule’s relating clause.

c. The department should review use of the word “children” throughout the proposed rule and replace it with the singular form of the word to clarify whether the rule applies to each child, any child, at least one child, or more than one child. [s. 1.01 (9) (e), Manual.]

d. The department should review the proposed rule in its entirety and replace plural terms with the singular form of the word. [s. 1.01 (9) (e), Manual.]

e. It appears that in many places throughout the proposed rule, provisions “repeal” a provision, only to “create” the same provision – or an amended version of it – in a different section. It appears that the department is actually either “renumbering” or “renumbering and amending”. Repealing a provision and then creating it in a different section makes the rule longer and more

difficult to compare to the current provision. The department should review the treatment of the different provisions of the rule and consider “renumbering” or “renumbering and amending provisions”.

f. Throughout the proposed rule, references to websites use inconsistent formats. Some use the phrase “available at”, or “available on”, and other references simply use the term “website” followed by the web address. Some web addresses are underlined and others are not. The department should review its references to websites, pick a format, and use it consistently throughout the rule.

g. Throughout the proposed rule, different references to department forms are used. Some references are italicized and others are not. The department should pick a format and use it consistently throughout the rule.

h. In its explanation of the proposed rule, the department describes the proposed rule as amending ch. DCF 12 to remove references to child care programs. In light of this intent, the department could consider whether the changes in SECTION 5 comport with this goal. If SECTION 5 remains as proposed, the department could consider amending s. DCF 12.02 (18) (c) for consistency.

i. In various sections amending notes throughout the proposed rule, remove the use of parentheses around the word “note” within the rule text. For example, in SECTION 8, the rule text should read “DCF 12.02 (18) Note:” or simply “Note:”.

j. In SECTION 11, the department could consider a title that better describes the substance of the subsection, such as “TIMELY DISCLOSURE”.

k. The treatment clause for SECTION 18 should include the renumbering of s. DCF 12.11 (1) (a) to (c) to s. DCF 12.11 (1) to (3).

l. In the treatment clause for SECTION 19, the word “and” should be inserted before “(5) (a)”.

m. The treatment clause for SECTION 20 should be amended to read “DCF 12.14 (1) (Note)”. The introductory clause and rule text should be amended accordingly.

n. In the proposed text for s. DCF 13.01 (Note), replace “subsection” with “section” because s. DCF 13.01 does not contain any subsections.

o. Under s. 48.686 (1) (aj), Stats., the definition of “child care program” includes a temporary employment agency that provides caregivers to another child care program. The department should consider whether to include this in the definition of “child care program” under s. DCF 13.02 (7).

p. In s. DCF 13.02 (24), the department could consider replacing “care” with “child care program”.

q. Because the proposed rule creates a definition of “role”, the department could consider deleting “job or caregiving” from s. DCF 13.05 (1) (c) 5.

r. Where the phrase “work or reside” is used throughout s. DCF 13.06, the department should consider amending that phrase to say “work as a caregiver or reside” to use the defined term under s. DCF 13.02 (2).

s. Instead of creating s. DCF 13.07 (3) (a) to (h), the department could consider cross-referencing to the list in s. DCF 13.07 (1) (a) to (h), as the lists are identical.

t. In s. DCF 13.13 (5) (c) (intro.), consider replacing “includes the following, as applicable” with “includes one of the following” to employ conventional drafting style.

u. In s. DCF 13.14 (1) (b) (Note), replace “his or her” with “the director’s”. [s. 1.01 (3), Manual.]

v. In s. DCF 202.01 (3) (a), the department could insert “to the requirements of this chapter” after the word “exception” to clarify the requirements from which an operator may seek the exception.

w. The department should review the proposed rule’s references to various age limits and refer to such ages uniformly. For example, instead of “age 10”, the department should state “age of 10 years” or “10 years of age”.

x. In s. DCF 202.02 (22), the department should consider removing the word “family” to create use of the defined term “certified child care home”, rather than “certified family child care home”, which is not defined.

y. In s. DCF 202.04 (3) (b) 4., insert “completed” before “background check request form” for consistency with the other subunits and the assumed intent.

z. In s. DCF 202.04 (3) (b) 12. b., the department could insert language clarifying individuals whose driving records must be reviewed. For example, in light of the language in s. DCF 202.08 (9) (d), insert the phrase “of each driver of a vehicle used to transport children in care” after “review each driving record”. Also, consider whether the cross-reference to s. DCF 202.08 (9) (h) should instead reference s. DCF 202.08 (9) (f).

aa. In s. DCF 202.04 (3) (c) 3., prior to the word “reason”, the department should insert a word, such as “the”, “a”, “any”, or “all”, depending on the department’s intent. If necessary, pluralize “reason”.

bb. In s. DCF 202.04 (4) (e), delete the word “either” as no alternative is provided. Also, the department could consider adding “in accordance with sub. (5)” at the end of the paragraph, if such an addition conforms with the department’s intent.

cc. SECTIONS 39, 115, 217, and 340 all define the term “Emergency” differently. The department should review the intent of each term and revise to define them consistently.

dd. In s. DCF 202.08 (1) (b) 3. b., consider inserting additional text at the end to clarify an equivalent course, rather than an equivalent department.

ee. In s. DCF 202.08 (1) (b) 4. a. and b., the phrase “child care” could be inserted prior to “certified operator” in each subdivision paragraph to employ the defined term in s. DCF 202.03 (3).

ff. In s. DCF 202.08 (1) (b) 4. d., consider restructuring this provision, in that the requirement to complete training specified in subds. 1. and 2. is a separate requirement, rather than an exception, to the requirements under subd. 3. For example, “a substitute shall complete training specified in subds. 1. and 2. but need not meet the requirements under subd. 3. until the substitute has worked for 240 cumulative hours”.

gg. The title of s. DCF 202.08 suggests that the section governs both family and in-home child care. That said, some, but not all, of the provisions created in SECTION 58 apply only to certified family child care operators, rather than in-home child care operators. Is this intentional? If so, consider reorganizing the subsection to group the requirements by those that apply to both types of operators, and those that apply only to particular types of child care operators.

hh. In s. DCF 202.08 (1m) (b) 6. (intro.), consider restructuring the text to conform to the formatting of other subunits. For example, use “Involvement by law enforcement in response...”.

ii. In ss. DCF 202.08 (2) (am) 1., and 250.06 (2) (L) 1., consider using the term “dwelling” or “dwelling unit” as those are the defined terms used in s. 101.647, Stats., to which the proposed rule refers. Also, for consistency, the department could consider matching the language in the two subdivisions, as the text is similar, but not identical in substance.

jj. In SECTION 62, the phrase “including any recalled products” is redundant in light of the definition of “hazard” as amended by SECTION 41. Also, insert a comma after the second use of the word “children”, similar to SECTION 149.

kk. In SECTION 73, replace “children in the children’s own home” with the singular form of the word. [s. 1.01 (9) (e), Manual.] Alternatively, consider using the defined term “certified in-home child care operator” for clarity and to shorten the provision. Also, the department should consider whether there are other provisions to include in the list of requirements that do not apply to certified in-home child care operators. For example, is it the department’s intent that a certified in-home child care operator is required to comply with s. DCF 202.08 (2) (e) 3.?

ll. In SECTION 74, the department could consider eliminating s. DCF 202.08 (4) (d) and instead amend s. DCF 202.08 (4) (a) 2. to say “2 years of age but who is not 5 years of age or older” similar to s. DCF 250.04 (6) (a) 4. b. in SECTION 136.

mm. In s. DCF 202.08 (4m) (c), consider using the defined term “emergency back-up provider” created in SECTION 40. For example, the paragraph could read: “An operator shall designate an emergency back-up provider. An emergency back-up provider must be at least 18 years of age and able to provide an acceptable level of child care.”.

nn. In s. DCF 202.08 (4m) (e), consider replacing “or” with “and” to make clear that the operator must provide the orientation to all of the persons listed, not just one of them. Also, delete the comma between “provider” and “receives”.

oo. In s. DCF 202.08 (5) (e), consider using the defined term “fit and qualified” created in SECTION 40.

pp. The department should consider placing the text of s. DCF 202.08 (7) (b) 4. (Note) directly in the subdivision’s text, rather than creating a note.

qq. In s. DCF 202.08 (9) (g) 1. c., consider replacing the word “center” with an applicable term in ch. DCF 202, such as “premises”.

rr. The department should consider whether it intentionally omitted a provision in s. DCF 202.08 (9) (k) that seat belts may not be shared, but included that restriction in ss. DCF 250.08 (6) (b) 3., 251.08 (6) (b) 3., and 252.09 (6) (b) 3.

ss. In light of the repeal of introductory text in SECTION 94, consider clarifying in SECTIONS 95 to 99 that the person, such as the operator, provider, or both, required to comply with the requirements of those sections. Alternatively, amend, rather than repeal, s. DCF 202.08 (10) (intro.).

tt. In SECTIONS 93 and 178, the term “driver license” is used. However, in SECTIONS 305 and 353, the term “driver’s license” is used. The department should pick one term and use it consistently throughout the rule.

uu. In SECTION 105, consider whether “child care business” is the appropriate term. Is there a defined term that would apply, such as “operator”?

vv. In SECTION 109, consider replacing “a child in his or her child care” with “a child in care” to use the term defined in s. DCF 202.02 (9g).

ww. In SECTION 117, consider replacing “child care services” with “care” to use the defined term created in SECTION 113.

xx. In SECTIONS 47 and 121, consider whether “supervision” should be defined identically in chs. DCF 202 and 250, other than the cross-references.

yy. Renumber s. DCF 250.04 (2) (e) 10. (Note) to s. DCF 250.04 (2) (e) 9. (Note), as the content relates to discrimination and not pets or other animals.

zz. SECTIONS 130, 235, and 363 use the phrase, “any inappropriate guidance” but does not define or explain what constitutes inappropriate guidance. The department should explain what this term means.

aaa. In SECTION 133, consider amending the Note to parallel the changes to s. DCF 202.08 (4) (k) 1. (Note) in SECTION 79.

bbb. In SECTIONS 145 and 248, consider defining “The Registry” and use lowercase text. [s. 1.01 (4), Manual.]

ccc. In s. DCF 250.05 (2) (a), remove “The provider shall” from the three subunits to avoid redundancy with par. (a) (intro.).

ddd. In s. DCF 250.05 (2) (f) and (3) (c) 1., replace “A licensee or a provider” with “The licensee and all providers” or other similar language. The current text could be interpreted to allow either the licensee or the provider to meet the requirement.

eee. In s. DCF 250.05 (3) (c) 4., replace “his or her” with “the provider’s”. [s. 1.01 (3), Manual.]

fff. In s. DCF 150.06 (2) (Note), consider amending the Note to conform to the definition of “premises” in s. DCF 250.03 (26).

ggg. The treatment clause for SECTION 156, as well as the introductory clause, should reflect the creation of s. DCF 250.06 (7) (a) 6. d.

hhh. SECTIONS 153 and 154, as well as SECTIONS 175 and 176, should be combined into one section, as two or more provisions of the same rule section are affected by the same treatment. [s. 1.04 (2) (a) 4., Manual.]

iii. In SECTION 154, consider placing the Note after par. (h), rather than par. (i).

jjj. In SECTION 165, consider defining “time-out” for purposes of the paragraph, similar to s. DCF 202.08 (7) (e).

kkk. In SECTIONS 173, 296, and 393, the phrase “nor may” should be replaced with “and ... may not”. [s. 1.01 (2), Manual.]

lll. In s. DCF 250.07 (6) (g) 1., replace “an animal” with “pets or other animals” similar to other provisions in the department’s administrative code chapters.

mmm. In s. DCF 250.08 (2) (a), replace “parent or guardian’s” with “parent’s” because guardians are included in the definition of “parent” under s. DCF 250.03 (22).

nnn. Consider whether s. DCF 250.08 (5) (c) should also require the licensee to maintain proof of insurance and make such information available to the licensing representative upon request, similar to s. DCF 202.08 (9) (i).

ooo. SECTION 220 amends s. DCF 251.03 (17), (19), and (26). However, SECTION 221 repeals sub. (18m), which comes before subs. (19) and (26). The department should remove the treatment of subs. (19) and (26) from SECTION 220 and amend them after it repeals sub. (18m). [s. 1.04 (2) (a) 4., Manual.]

ppp. In SECTION 248:

(1) The term “subd. 3. a.” should be replaced with “this subdivision”.

(2) In s. DCF 251.05 (2) (e) 3. d. and 4. d., references to “Table 251.0A” and “Table 251.0B” are incorrect and should be amended to read “Table 251.05A” and “Table 251.05B”.

qqq. In SECTIONS 272, 275, and 383, it appears that the phrase “manufacturer instructions” is grammatically incorrect and inconsistent with other parts of the rule that reference “the manufacturer’s specifications”. The phrase “manufacturer instructions” should be replaced with the phrase, “the manufacturer’s instructions” for purposes of consistency.

rrr. In SECTION 301, s. DCF 251.07 (6) (i) 3. is amended to insert a space in the phrase “not be”. However, this space should be deleted as there is already a space between these two words.

sss. In SECTION 309, the term “pre-service” is used. However, elsewhere in the rule, the term is written as “preservice”. The department should pick the form of this word and use it consistently throughout the rule.

ttt. In SECTION 367, the current s. DCF 252.41 (4) (a) 4. ends with a semicolon. The semicolon should be included with a strike-through and the period at the end of the sentence should

be underscored. Similarly, s. DCF 252.41 (4) (a) 5., should also be amended to strike-through the semicolon at the end of the sentence and a period should be added in underscore.

uuu. SECTION 370 repeals s. DCF 252.41 (4) (a) 6m. Is the Note also being repealed? If so, it should be included in the treatment clause.

vvv. In SECTION 371, s. DCF 252.41 (5) (a) 2. does not form a complete sentence when read in combination with par. (a) (intro.). The department should review the phrasing of subd. 2., and rewrite it to form a complete sentence when read with the introductory material. [s. 1.03 (3), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. Several definitions in s. DCF 13.02 are identical to the statutory definitions in s. 48.686 (1), Stats. The department should consider referencing statutory definitions.

b. In SECTION 60, the department could consider a cross-reference to s. 101.145, Stats., similar to the approach in SECTION 59.

c. Citations to the C.F.R. in SECTIONS 101, 102, 169, and 279 all reference entire parts and should be amended accordingly. For example, the citation in SECTION 279 should be amended to read “16 C.F.R. Part 1219 or 1220”.

d. In SECTION 351, the definition of child abuse is cited in s. 48.02 (1), Stats. While neglect is included in this definition of child abuse, it appears that the definition of neglect in s. 48.02 (12g), Stats., should also be cited. Also, it is unclear why s. 48.981 (1), Stats., is cited as it does not contain a definition of child abuse or neglect. The department should review its intent and revise the citations accordingly.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In SECTION 19, delete the extra space in the reference to s. DCF 12.13 (1) in the rule text.

b. In the proposed definition of “background check request form” in s. DCF 13.02 (2), the department could consider identifying the purpose for the form. For example, the department could parallel the approach taken in s. DCF 12.02 (2) by inserting “for purposes of a child care background check” at the end of the definition, which in turn employs the term “child care background check” defined in s. DCF 13.02 (6).

c. In s. DCF 13.02 (17), the department should avoid use of the defined term within its own definition. Alternatively, the definition could read: “an agency process under which a person who has a bar that is eligible under s. 48.686 (5), Stats., may seek approval...” or parallel the language in s. DCF 12.02 (22) (intro.).

d. In s. DCF 13.09 (2) (b), replace “on” with “of” in the first clause.

e. The department should consider amending the definition of “reside” in s. DCF 13.02 (18) to clarify the scope of a person’s presence. For example, a person could arguably “reside” at a child care program under this definition if the person is present at a child care program by virtue of picking up or dropping off the person’s child for care each day. Such “presence” likely does not



meet the intent of the department's requirement to conduct a background check for nonclient residency.

f. For clarity and grammatical consistency, the definition of "role" in s. DCF 13.02 (19) could be amended to read: "'Role' means a person's job as a caregiver or a person's status as a nonclient resident at a child care program."

g. The department should amend the definition of "substantially related" in s. DCF 13.02 (22), as the defined term is not a noun, yet the definition contemplates a noun, and therefore results in a circular reading when used in context, such as in s. DCF 13.05 (1) and (2). Alternatively, the department could consider the necessity of defining this term when it is used only twice and instead could parallel the approach in s. DCF 12.06.

h. In s. DCF 13.09 (4) (b), the department should consider replacing "a designee" with "the secretary's designee" to clarify that the secretary possesses the authority to delegate the function.

i. In s. DCF 13.09 (5), replace "on" with "of".

j. In the title of s. DCF 13.13 (3), the department should consider whether to use "requestor" or "requester" as used in s. DCF 12.13 (3), for consistency.

k. Remove the extra space between "given" and "an" in s. DCF 13.13 (3).

l. In s. DCF 13.14 (1) (a), the department should consider adding "by the secretary or the secretary's designee" after "for review of the decision" and before "under s. 48.686 (5c), Stats.". While reference to the corresponding statute identifies the authority conducting the review, it may enhance clarity of the rule to identify the reviewing authority in the rule's text.

m. To be concise and improve grammar, the department should consider amending the structure of s. DCF 40.04 (3) (c) 3. (Note) to read, for example, "Chapter DCF 12 contains information on the rehabilitation review process under s. 48.685, Stats.".

n. In s. DCF 202.02 (3), remove the hyphen immediately preceding "includes".

o. In s. DCF 202.02 (3L), change "parent" to "parents" to achieve subject-verb agreement.

p. In s. DCF 202.02 (9g), the department should consider restructuring the definition for better clarity and to match the grammatical nature of the defined term. For example: "'In care' means the circumstance in which a child care provider is responsible for the supervision, safety, and the developmental needs of children, on and off the premises, including during transportation provided by the operator under s. DCF 202.08 (9). For purposes of this paragraph, 'children' includes children under 7 years of age who reside in the certified child care home."

q. In s. DCF 202.02 (13), insert a space after the reference to s. 48.02 (13), Stats.

r. In s. DCF 202.04 (3) (b) 9., insert a comma after the second use of the term "care".

s. In ss. DCF 202.04 (5) and 202.08 (1) (b) 4., remove capitalization of the terms "provisional" and "regular" unless used as the first word of a sentence. [s. 1.01 (4), Manual.]

t. In s. DCF 202.08 (1) (b) 2., remove the first "and" and insert the necessary commas.

- u. In s. DCF 202.08 (1m) (b) (intro.), remove the asterisk.
- v. In s. DCF 202.08 (1m) (e), modify the sentence to employ the intended clause.
- w. In SECTIONS 66 and 161, insert commas after “structures” and “lumber”.
- x. In ss. DCF 202.08 (2) (e) 6., and 250.055 (1) (n), consider replacing the phrase “with water in it” with “containing water”.
- y. In SECTION 70, use “6” rather than “six”. The department should review the proposed rule in its entirety for conformance with this issue. [s. 1.01 (5), Manual.]
- z. In s. DCF 202.08 (4) (o), change “providers” to the singular form.
  - aa. In SECTIONS 81, 149, 252, and 378, the proposed rule deletes the requirement that specified emergency contact telephone numbers must be posted near each telephone and instead requires that the numbers be “in a clearly visible location”. It is unclear what this means or what constitutes a “clearly visible location”. It appears that the rule has been satisfied as long as someone can see the telephone numbers somewhere in the facility, regardless of its proximity to a telephone. The department should review the intent of this language and revise accordingly.
  - bb. In s. DCF 250.04 (6) (a) 1. (Note), insert “office” after “regional”.
  - cc. In s. DCF 250.04 (6) (a) 2., delete “for” because the section is repealing and recreating, rather than amending, the affected provision.
  - dd. In SECTIONS 93, 178, 305, and 353:
    - (1) The phrase: “The requirements related to vehicle child safety alarms in...” should be amended to clarify whether or not it is referring to all of the requirements listed elsewhere in the rule. Also, the phrases used in these SECTIONS are slightly inconsistent and should be revised to be consistent with one another.
    - (2) These SECTIONS require a child care operator or licensee to determine whether a driver poses a threat to children and must consider the following four factors, in any combination: (a) the seriousness of any accidents or violations; (b) how much time has passed since an accident or violation occurred; (c) the number of accidents or violations; and (d) the likelihood that a similar incident will occur. The rule, however, is vague and provides no guidance on how to view these facts and make a decision. Is there a point at which the person is presumed to be a threat to children? The department should review this provision and revise to provide clearer guidance to operators and licensees.
    - (3) The term “other wireless telecommunication device” is used but is undefined. The department should review the intent of this term and create a definition.
    - (4) The term “navigation device” should be defined. Also, it is unclear what the phrase “the device is programmed to a destination when the vehicle is out of traffic and not in operation” means. Does it mean that the device must be programmed while the vehicle is in park and before the driver starts to drive? What if the driver manipulates it while operating the vehicle? The department should review the intent of this provision and revise accordingly.

- (5) What does it mean for a vehicle to be “enclosed”? It appears that it means in anything other than the back of a truck. May a window be open? The department should review the intent of this provision and revise accordingly.

ee. In SECTIONS 92, 177, 305, and 353, the applicability provision lists that the rule applies to: (1) the operator or licensee owns or leases the vehicle; (2) the licensee contracts with another individual or organization that owns or leases the vehicle; or (3) employees, parents, or volunteers are transporting children at the direction, request, or on behalf of the operator or licensee. However, the rule does not clarify that there is a relationship between the vehicle and the transportation of children in care. For example, does the rule apply if the licensee owns or leases a vehicle that the licensee uses to drive to work, but is not used to transport children in care? The department should clarify that the rule is applicable when one of these three situations listed above is used to transport at least one child in care.

ff. In SECTION 137, insert a space in the citation to s. 252.04, Stats.

gg. In s. DCF 250.05 (3) (c), delete the text after the first colon in subd. 1., assuming that meets the department’s intent, and delete the extra period at the end of subd. 3.

hh. Insert periods at the end of s. DCF 250.08 (1) (b) 1., and at the end of the first sentence of s. DCF 250.09 (4) (b).

ii. In SECTION 198, the reference to s. 49.155, Stats., should read “49.155 (7m) (a) 3., Stats.”.

jj. In SECTION 200, remove the extra space in the reference to s. 48.715 (3) (a), Stats.

kk. Throughout ch. DCF 250 Appendix, use the title “Ho-Chunk”.

ll. In SECTION 211, it is unclear what the phrase “completes required information” means. Does it mean that the person fills out the form in the entirety? The department should review the intent of this phrase and revise accordingly.

mm. The term “Child care background check” in SECTION 214 appears to be a verb, but in amending the definition, the rule defined it as a noun. The department should review the intent of this term and consider retaining the phrase “the retrieval of information” if the term is in fact a verb.

nn. In SECTION 223, inserting the word “at” before the reference to s. 106.52 (3), Stats., is grammatically incorrect and should be removed.

oo. In SECTION 225, it is unclear what the phrase “not less than \$25,000 for each person and \$75,000 for each occurrence” means. Does the phrase “not less than” apply to both dollar amounts? The department should review the intent of this phrase and revise to clarify to which dollar amounts the phrase “not less than” applies.

pp. In SECTION 229:

- (1) The terms “compliance” and “noncompliance statement” should be defined to clarify what these terms mean.

- (2) The department should consider creating a note listing the department's business days in order to clarify what the "department's next business day" is.

qq. In SECTION 240, the phrase "center program" is grammatically incorrect and should be amended to read, "center's program".

rr. In SECTION 244, it is unclear what the phrase "subject to the following" means. Does it mean "any of the following" or "all of the following"? The department should review the intent of this phrase and revise accordingly.

ss. In SECTION 246, it is unclear why failure of the licensee to report child abuse or neglect does not lessen the legal duty of a child care employee. The department should review the intent of this Note and revise accordingly.

tt. In SECTION 248:

- (1) In s. DCF 251.05 (1) (a) 2., there is a period missing in the citation to "ch. DCF 13."
- (2) The phrase "compensated from sources other than the center, and student teachers", is grammatically incorrect. Also, it is unclear what "compensated from sources other than the center" means. For example, does it mean that the adult is compensated for some or all of their work at the center by another source? Does it apply if the adult has a second job? The department should review the intent of this phrase and revise accordingly.
- (3) It is unclear what the phrase "one credit or non-credit department-approved course" means. The department should consider defining these terms and then replacing this phrase with the defined terms.
- (4) Section DCF 251.05 (2) (f) 3. b. Note does not explain where the forms are available. The department should amend the Note to clarify where they may be obtained.
- (5) In s. DCF 251.05 (2) (j) 3., it is unclear what the phrase "A volunteer who is not used to meet the required staff-to-child ratios" means. The department should review the intent of this phrase and revise accordingly.

uu. In SECTION 249:

- (1) It is unclear what the terms "pro rata basis" and "pro rata requirement" in s. DCF 251.055 (1) (c) and (e), mean. The department should amend the rule by either defining the term and then use the term consistently throughout the rule.
- (2) It is unclear in s. DCF 251.055 (1) (d) what it means to "provide care to children". Does it mean that the child care worker may not provide direct care? Does it mean that the worker may not work at the center for more than 12 hours in any 24-hour period? The department should review the intent of this phrase and revise accordingly.
- (3) It is unclear in s. DCF 251.055 (1) (h) what it means for an adult to be "available within 5 minutes for emergencies". Does it mean that the adult needs to be able to

come to the center within five minutes? The department should review the intent of the rule and revise accordingly.

vv. In SECTION 257, s. 251.06 (3) (a) (intro.), it appears that the phrase “include all of the following” should be replaced with “procedures for all of the following”. The department should review the intent of this phrase and revise accordingly.

ww. In SECTION 296:

- (1) It is unclear what the term “provider” is referring to in s. DCF 251.07 (6) (dm) 3. Is it referring to a child care teacher or child care worker? The department should review the intent of this term and revise accordingly.
- (2) In s. DCF 251.07 (6) (dm) 3. a., it is unclear what the phrase “received in or out of the care of the center” means. In other parts of the administrative code, the phrase “in the care of the center” is used. The department should review the intent of this phrase and revise accordingly.
- (3) In s. DCF 251.07 (6) (dm) 4., it is unclear who can designate the designee. Is the designee the “director’s designee”? The department should review the intent of this term and revise accordingly.

xx. In SECTION 299:

- (1) The phrase “As appropriate” in s. DCF 251.07 (6) (g) 3. is unclear. Who decides what is appropriate? What standard is used to determine the appropriateness? The department should review this standard and revise to clarify its intent.
- (2) The phrase “universal precautions” in s. DCF 251.07 (6) (g) 5. is unclear. Do the precautions have to be universal to the center? The department should review the intent of this phrase and revise accordingly.

yy. It is unclear what the phrase “update the orientation” means. This phrase is used in s. DCF 251.08 (4) (b), in SECTION 305, and in s. DCF 252.09 (4) (b), SECTION 353. Also, SECTION 353 uses the terms “training” and “orientation”. Is it a training or orientation? Does it mean that each driver must review the orientation that he or she received? Does it mean that the licensee should update the orientation and provide the updated orientation to each driver? The department should review the intent of the phrase and terms used, and revise accordingly.

zz. In SECTION 307, it is unclear who approves the self-contained room or area for the care of an infant or toddler. The department should clarify who approves the room or area.

aaa. In SECTION 312, s. DCF 251.09 (3) (a) 2., as amended, is grammatically incorrect. The department should review the intent of this rule and revise accordingly.

bbb. In SECTION 322, it is unclear why the provisions in s. DCF 251.095 (4) (c), related to afterschool care provisions such as rest and quiet areas, recreational activities, and freedom to select and plan their own activities, are repealed by the rule. The department should explain why these provisions are repealed.

ccc. In SECTION 324, there should be a comma after the phrase, “if applicable”.

ddd. In SECTION 326, s. DCF 251.11 (3) (b):

- (1) The phrase “minimum requirements for license” should be amended to read “minimum requirements for a license”.
- (2) There should be a comma after the phrase “this chapter”.
- (3) It is unclear what it means for regular licenses to be “reviewed and continued for a 2-year period”. Does this mean that the licenses are valid for two years? Are they reviewed every two years to determine whether they should be revoked or suspended? This provision appears to belong in the following subsection, s. DCF 251.11 (4). This phrase is also used in other parts of the rule. The department should review the intent of this provision and revise accordingly.

eee. In SECTION 330, the rule repeals provisions related to the Division of Hearings and Appeals review process, but it is not explained in the Summary of the Proposed Rules section of the rule. The department should explain why this provision is repealed in the Summary.

fff. In SECTION 341, there should be a comma before the phrase “including during camp-provided transportation”.

ggg. In SECTION 344:

- (1) In s. DCF 252.05 (1) (a) 3., the phrase “if applicable” at the end of the subdivision appears to be redundant. The department should review the intent of this provision and strike this phrase.
- (2) In s. DCF 252.05 (1) (a) 10., the word “only” is unnecessary and should be deleted.

hhh. In SECTION 345, the phrase “license under s. 48.65, Stats., or a child care certification under s. 48.651, Stats.,” in s. DCF 252.05 (1) (j), is missing verbs. Are the licenses or certifications issued or authorized under those statutes? The department should review the intent of this phrase and insert the proper verbs.

iii. In SECTION 347, it is unclear to what exactly the licensing representative must have unrestricted access. For example, it is unclear what the phrase “the license where temporary or permanent” means. It also is unclear what the phrase “any other materials or individuals with information on the camp’s compliance” means. Do all individuals with information have to be present on the day of inspection? The department should review the phrasing of this SECTION and revise accordingly.

jjj. In SECTION 356, s. DCF 252.41 (1) (f) 6., there is a comma missing after the word “Transportation”.

kkk. SECTION 360 amends s. DCF 252.41 (2) (a) and (Note). The department should also review the grammar in sub. (2) (intro.), as there are incomplete sentences and is grammatically incorrect.

III. In SECTION 372:

- (1) In s. DCF 252.41 (5) (c), the phrase “shall be posted or available” should be rewritten to read “shall be posted or be made available”.

- (2) In s. DCF 252.41 (5) (d), it is unclear with what documents the personnel policies need not be included. Do they not need to be included with the copies of child care policies made available to parents?

mmm. In SECTION 373:

- (1) In s. DCF 252.42 (2) (a) and (d), and other parts of the rule, it is unclear what the difference is between an unpaid counselor and a volunteer. The department should review the intent of these terms and consider defining the term “unpaid counselor”.
- (2) It is unclear what the purpose of s. DCF 252.42 (2) (e), is. Does the similarly qualified staff member or substitute need to be on the premises where the regular staff member was supposed to be? Is the similarly qualified staff member or substitute supposed to replace the regular staff member? What is a substitute? The department should review the intent of this provision and revise accordingly.
- (3) In s. DCF 252.42 (3) (c) (intro.), the phrase “parents serving as counselors and volunteers” is unclear. Is the intent that par. (c) apply to either a parent or a volunteer? What if a parent is a volunteer? The department should review the intent of to whom par. (c) applies and revise accordingly.
- (4) Does s. DCF 252.42 (3) (e) apply to the camp director and all counselors? If so, the department should amend the phrase “including the camp director and counselors” to read “including the camp director and any counselor”.

nnn. In SECTION 374, s. DCF 252.425 (1) (h) 1. a., it is unclear whether the camp must be completely absent of children because they are all on the field trip with the director. The department should review the intent of this provision and revise to clarify accordingly.

ooo. In SECTION 377, s. DCF 252.43 (1) (m), it is unclear what it means for control measures to be used in a safe manner. The department should clarify what “safe manner” means.

ppp. In SECTION 378:

- (1) In s. DCF 252.43 (3) (a) 1., it is unclear what the term “shelter-in-place” means. The department should amend the rule to clarify this term.
- (2) In s. DCF 252.43 (3) (c), it is unclear who a “qualified person” is, who determines when a person is qualified, or for what purpose the qualification is. The department should review the intent of this term and revise accordingly.

qqq. In SECTION 379:

- (1) In s. DCF 252.43 (3m), there should be parentheses around subpar. i. Also, the department should clarify what the starting point is for the 36 hours or six months to be calculated. For example, does the department intend the starting point to be the time that the food is prepared or stored?
- (2) In s. DCF 252.43 (4) (b) 1., it is unclear to what the phrase “and at least 2 weeks prior to the camp opening” is intended to apply. The department should review the intent of this phrase and clarify how it applies.

- (3) In s. DCF 252.43 (4) (b) 2., the phrase “If the water test under subd. 1. results” is grammatically incorrect and should be rewritten.
- (4) In s. DCF 252.43 (5) (e), it is unclear what the terms “plumbed toilets” or “outdoor toilets” mean. The department should define these terms.

rrr. In SECTION 386, s. 252.44 (5) (f) is written with both singular and plural terms. If only one parent is providing food, is the camp required to provide all parents with information about the requirements for food groups and quantities? The department should review the intent of this provision and rephrase using singular terms. [s. 1.01 (9) (e), Manual.]