STATE OF WISCONSIN
Department of Justice

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**ORDER ADOPTING EMERGENCY RULES**

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INTRODUCTORY CLAUSE

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

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ANALYSIS BY THE DEPARTMENT OF JUSTICE

DOJ proposes to re-create its emergency administrative rules relating to the implementation of DOJ's statutory responsibilities under 2011 Wis. Act 35 regarding licenses authorizing persons to carry concealed weapons, the certification of firearm safety and training instructors, the recognition by Wisconsin of concealed carry licenses issued by other states, and concealed carry certification cards for qualified former federal law enforcement officers. These emergency rules correspond to the emergency rules covering the same subjects that were published by DOJ and effective on March 21, 2012, and that are currently in effect through December 15, 2012.

The need for these new emergency rules arises out of the anticipated expiration of the existing emergency rules on December 15, 2012. Since November 1, 2011, DOJ has been processing concealed carry license applications pursuant to Wis. Stat. § 175.60 and is statutorily required to continue processing such applications on an ongoing basis. In order for DOJ to continue complying with the requirements of Wis. Stat. § 175.60 and related statutory requirements, it is important that it continuously has in effect administrative rules establishing the procedures and standards that govern the enforcement and administration of those requirements.

DOJ is in the process of promulgating permanent administrative rules for that purpose. On September 5, 2012, the final draft of the proposed permanent rules and accompanying reports were submitted for legislative review, pursuant to Wis. Stat. § 227.19(2). The permanent rulemaking process, however, will not be completed prior to the anticipated expiration of the existing emergency rules on December 15, 2012. The public welfare thus requires that additional emergency rules be promulgated, in order to ensure that there is no interruption in DOJ's ability to continue to carry out all of its statutory responsibilities in administering and enforcing the concealed carry licensing program. These rules will prevent such a discontinuity and ensure continuous and uniform operation of the concealed carry program through the completion of the permanent rulemaking process that is already under way.

**Statutes interpreted**: ss. 175.49(3)-(4) and 175.60, Stats.

**Statutory authority**: ss. 175.60(7), 175.60(14g), 175.60(15)(b), 227.11(2)(a), Stats.

**Explanation of statutory authority**:

A. Section 175.60(7), Stats.

Those portions of the proposed rules that will establish the amount of the fee to be charged for a concealed carry license are expressly and specifically authorized and required by s. 175.60(7), Stats., which provides:

> SUBMISSION OF APPLICATION. An individual may apply for a license under this section with the department by submitting, by mail or other means made available by the department, to the department all of the following:
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> ...
>
> (c) A license fee in an amount, as determined by the department by rule, that is equal to the cost of issuing the license but does not exceed $37. The department shall determine the costs of issuing a license by using a 5–year planning period.

B. Section 175.60(14g), Stats.

Those portions of the proposed rules that will establish procedures for the administrative review by DOJ of any denial, suspension, or revocation of a license are expressly and specifically authorized by s. 175.60(14g), Stats., which provides:

> DEPARTMENTAL REVIEW. The department shall promulgate rules providing for the review of any action by the department denying an application for, or suspending or revoking, a license under this section.

C. Section 175.60(15)(b), Stats.

Those portions of the proposed rules that will establish the amount of the fee to be charged for the renewal of a concealed carry license are expressly and specifically authorized by s. 175.60(15)(b), Stats., which provides:

The department shall renew the license if, no later than 90 days after the expiration date of the license, the licensee does all of the following:

...

4. Pays all of the following:

a. A renewal fee in an amount, as determined by the department by rule, that is equal to the cost of renewing the license but does not exceed $12. The department shall determine the costs of renewing a license by using a 5–year planning period.

D. Section 227.11(2)(a), Stats.

Those portions of the proposed rules that are not specifically authorized by ss. 175.60(7), (14g), and (15)(b), Stats., as described above, are authorized by s. 227.11(2)(a), Stats., which provides:

(2) 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.

This statute expressly confers on DOJ the general power to determine whether administrative rules interpreting those statutory provisions in 2011 Wis. Act 35 that are to be enforced or administered by DOJ are necessary to effectuate the purpose of those statutory provisions and, if such necessity is found, to promulgate such administrative rules, as long as those rules do not exceed the bounds of correct interpretation of the governing statutes.

DOJ finds that the rules here proposed are necessary to effectuate those portions of ss. 175.49 and 175.60 that require DOJ to establish and operate procedures governing:

- the issuance of concealed carry licenses to qualified applicants, including verification that each applicant has satisfied the applicable statutory training requirements, has passed the mandatory background check, and has met all of the other statutory eligibility requirements for a license;

- the issuance of concealed carry certification cards to qualified former federal law enforcement officers residing in Wisconsin, including verification that each applicant has satisfied the applicable firearms certification requirements, has passed the mandatory background check, and has met all of the other statutory eligibility requirements for certification;

- the administration of concealed carry licenses and certifications that have been issued by DOJ, including the maintenance and treatment of records; the receipt and processing of information from courts about individuals subject to a court-imposed disqualification from possessing a dangerous weapon; the renewal of licenses and certifications and the replacement of those that are lost, stolen, or destroyed; the processing of address changes or name changes for licenses and certifications; procedures and standards for revoking or suspending a license or certification; procedures for the administrative review by DOJ of any denial, suspension, or revocation of a license or certification; and procedures governing DOJ's cooperation with courts and law enforcement agencies in relation to emergency licenses issued by a court; and

- the qualification and certification of firearms instructors by DOJ and the identification of those firearms instructors who are certified by a national or state organization.

DOJ further finds that the rules here proposed:

- do not exceed the bounds of correct interpretation of ss. 175.49 or 175.60;

- are authorized by the statutes described above and are not based on authority derived from any other statutory or nonstatutory statements or declarations of legislative intent, purpose, findings, or policy;

- are authorized as necessary interpretations of the specific requirements of ss. 175.49 and 175.60 and are not based on authority derived from any other general powers or duties of DOJ; and

- do not impose any standards or requirements that are more restrictive than the standards and requirements contained in ss. 175.49 and 175.60.

For these reasons, those portions of the proposed rules that are not specifically authorized by ss. 175.60(7), (14g), and (15)(b), Stats., are authorized by s. 227.11(2)(a), Stats.

**Related statutes or rules**: Prior to the enactment of 2011 Wis. Act 35, Wisconsin statutes and administrative rules contained no provisions for licenses authorizing members of the general public to carry concealed weapons, no provisions for state certification of instructors to teach firearms safety and training to the general public, and no provisions for state issuance of firearm certification cards for qualified former federal law enforcement officers. The rules proposed in the present Order continue the standards for the licensing program that DOJ has been operating since November 1, 2011. There are no other related statutes or rules at the present time.

**Plain language analysis**: In 2011 Wisconsin Act 35, the state of Wisconsin established a system under which DOJ is required to issue licenses authorizing eligible Wisconsin residents to carry concealed weapons in Wisconsin and to certify firearms safety and training instructors. The legislation also authorizes DOJ to issue concealed carry certification cards to qualified former federal law enforcement officers who reside in Wisconsin. The proposed rules carry into effect the legislative directives set forth in Act 35. In a few areas, the proposed rules give substance to undefined statutory terms and supply standards needed to ensure that licenses and certification cards are issued only to eligible individuals and that all applicants and licensees are properly identified at all times. Such rules are specifically intended to carry out the legislative intent of Act 35.

The proposed emergency rules cover five subject areas:

First, there are rules governing the issuance of concealed carry licenses to qualified applicants by DOJ pursuant to s. 175.60, Stats. These rules govern all aspects of the licensing process and describe the procedures and standards under which DOJ processes applications, sets and collects fees, and verifies that each license applicant meets all of the license eligibility requirements under s. 175.60(3), Stats., including procedures and standards for certifying that an applicant has satisfied the applicable statutory training requirements and procedures for conducting the statutorily required background check of each applicant to determine whether the applicant is prohibited from possessing a firearm under state or federal law.

Some of the standards supplied by these rules give substantive content to such undefined statutory terms as "firearms safety or training course" and "national or state organization that certifies firearms instructors." Such standards are necessary to carry out the legislative purposes of ensuring that all licensees have been trained in firearms and firearms safety and of ensuring that all certified firearms instructors have demonstrated the ability and knowledge required for providing training in firearms and firearms safety.

Similarly, these rules specify the types of information that must be included in a training certificate or affidavit in order for DOJ to find that certificate or affidavit to be sufficient to satisfy the training documentation requirements in s. 175.60(4)(a), Stats. Such specification is necessary to give substantive content to the statutory documentation requirements so as to carry out the legislative purpose of ensuring that every successful applicant for a concealed carry license has adequately demonstrated completion of at least one of the forms of statutorily required training.

Second, the rules govern the administration of concealed carry licenses that have been issued by DOJ. These rules cover: the maintenance and treatment of licensing records by DOJ; the receipt and processing by DOJ of information from courts regarding individuals subject to a court imposed disqualification from possessing a dangerous weapon; procedures for renewing a license and replacing a license that is lost, stolen, or destroyed; procedures for processing address changes or name changes by licensees; procedures and standards for revoking or suspending a license; procedures for the administrative review by DOJ of any denial, suspension, or revocation of a license; and procedures governing DOJ's cooperation with courts and law enforcement agencies in relation to emergency licenses issued by a court.

Third, the rules govern the procedures and standards for the qualification and certification of firearms instructors by DOJ under s. 175.60(4)(b), Stats., and provide a definition identifying those firearm instructors who are certified by a national or state organization, as provided in s. 175.60(4)(a), Stats.

Fourth, pursuant to s. 165.25(12m), Stats., the rules designate those states other than Wisconsin that issue a permit, license, approval, or other authorization to carry a concealed weapon that is entitled to recognition in Wisconsin under s. 175.60(1)(f), Stats., because the permit, license, approval, or other authorization requires, or designates that the holder chose to submit to, a background search that is comparable to the type of background check that DOJ is required to conduct for Wisconsin licensees under s. 175.60(9g), Stats.

Fifth, the rules govern the procedures and standards under which DOJ issues concealed carry certification cards to qualified former federal law enforcement officers pursuant to s. 175.49, Stats. These rules govern all aspects of the certification process for former federal officers who reside in Wisconsin and describe the procedures and standards under which DOJ processes applications, sets and collects fees, and verifies that each applicant meets all of the certification eligibility requirements under s. 175.49(3)(b), Stats., including procedures and standards for certifying that an applicant has satisfied the firearm qualification requirement under s. 175.49(3)(b)5., Stats., and procedures for conducting the statutorily required background check of each applicant to determine whether the applicant is prohibited from possessing a firearm under federal law. The rules also cover: the maintenance and treatment of certification records by DOJ; procedures for renewing a certification card and replacing a card that is lost, stolen, or destroyed; procedures for processing address changes or name changes by a certified former federal officer; procedures and standards for revoking or suspending a certification; and procedures for the administrative review by DOJ of any denial, suspension, or revocation of a certification.

**Summary of, and comparison with, existing or proposed federal regulation**: For persons other than current and former law enforcement officers, the regulation of the carrying of concealed weapons is primarily governed at the state level. Numerous federal statutes and regulations restrict the possession of weapons that have been shipped in interstate commerce, but there are no federal regulations that relate to the licensing of concealed carry by such persons, nor are there federal regulations governing the certification of firearms instructors for concealed carry purposes.

For qualified current and former law enforcement officers, state and local laws restricting the carrying of concealed firearms are federally preempted by 18 U.S.C. §§ 926B-926C (commonly referred to as "H.R. 218"). The provisions in 2011 Wis. Act 35 related to qualified current and former law enforcement officers are state-law codifications of the corresponding provisions in H.R. 218. Similarly, the rules proposed here governing procedures and standards for the issuance and administration of concealed carry certification cards for qualified former federal law enforcement officers also codify corresponding provisions in the federal law.

**Comparison with rules in adjacent states:**

A. Iowa

Iowa provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a nonprofessional permit to carry weapons. Iowa Code § 724.7(1). The information to be included on the application form is prescribed by statute. Iowa Code § 724.10(1).

Iowa statutes specify a variety of methods by which a license applicant may demonstrate the requisite knowledge of firearms safety. Iowa Code § 724.9(1). Satisfaction of any of these methods may be documented by submitting: (1) a copy of a certificate of completion or similar document for a course or class that meets the statutory requirements; (2) an affidavit from the instructor or organization conducting such a course or class that attests that the applicant has completed the course or class; or (3) a copy of any document indicating participation in a firearms shooting competition. Iowa's administrative rules give these requirements additional substantive content through definitions of "firearm training and documentation" and "firearm training program." Iowa Admin. Code § 661.91.1(724).

Upon receipt of a completed application, the commissioner of public safety is required to conduct a criminal background check to determine whether the applicant is statutorily eligible for a permit. Iowa Code § 724.10(2); Iowa Admin. Code § 661-91.5(724)(1). The commissioner must approve or deny a permit application within 30 days. Iowa Admin. Code § 661-91.5(724)(2). Denial decisions must be issued in writing, with reasons. Iowa Admin. Code § 661-91.5(724)(4). If a permit holder is arrested for a disqualifying offense, the commissioner may immediately suspend the permit and immediately notify the holder in writing. Iowa Admin. Code § 661-91.6(724)(1). If the arrest results in a disqualifying conviction, the permit is revoked. Iowa Adm. Code § 661-91.6(724)(4). If there is no conviction, the permit is reinstated. Iowa Adm. Code § 661-91.6(724)(3). Iowa's administrative rules provide an administrative hearing procedure for appealing the denial, suspension, or revocation of a *professional* weapons permit, but do not expressly provide an appeal procedure for a non-professional permit.

B. Minnesota

Minnesota provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a permit to carry a pistol. Minn.

Stat. § 624.714(2). Applications are made to the sheriff of the county in which the applicant resides. Minn. Stat. § 624.714(2). The information to be included on the application form is prescribed by statute. Minn. Stat. § 624.714(3). A permit applicant must have received training in the safe use of a pistol within one year prior to the application. Minn. Stat. § 624.714(2a)(a). To establish such training, an applicant must submit a copy of a certificate signed by the training instructor and attesting that the applicant attended and completed the training. Minn. Stat. § 624.714(3)(c)(2).

Upon receiving a permit application, the sheriff is required to conduct a criminal background check to determine whether the applicant is statutorily eligible for a permit. Minn. Stat. § 624.714(4). The sheriff must approve or deny a permit application within 30 days. Minn. Stat. § 624.714(6). A denied applicant is given the right to submit additional information and the sheriff then has 15 days to reconsider the denial. Minn. Stat. § 624.714(6)(b). All denial decisions must be issued in writing, with reasons, including the factual basis for the denial. Minn. Stat. § 624.714(6)(b). A permit is void any time the holder becomes legally prohibited from possessing a firearm. Minn. Stat. § 624.714(8)(a). If the sheriff has knowledge that a permit is void, the sheriff must give written notice to the holder, who must return the permit. Minn. Stat. § 624.714(8)(a). If a permit holder is convicted of a disqualifying offense, the convicting court must take possession of the permit and send it to the issuing sheriff. Minn. Stat. § 624.714(8)(b). A decision denying or revoking a permit may be appealed to the district court of the jurisdiction in which the permit application was submitted. The appeal is heard by the court de novo without a jury. Minn. Stat. § 624.714(12).

C. Michigan

Michigan provides by statute that any person who meets specified eligibility and training requirements and who files a proper application shall be issued a license to carry a concealed pistol. Mich. Comp. Laws § 28.425b(7). Applications are made to the concealed weapon licensing board of the county in which the applicant resides. Mich. Comp. Laws § 28.425b(1). The information to be included on the application form is prescribed by statute. Mich. Comp. Laws § 28.425b(1).

A license applicant must demonstrate knowledge and training in the safe use and handling of a pistol by successfully completing a pistol safety training program that meets statutorily prescribed requirements. Mich. Comp. Laws § 28.425b(7)(c). The training program must consist of at least eight hours of instruction, must cover specified subject areas, must include at least three hours on a firing range, must require firing at least 30 rounds of ammunition, and must be taught by an instructor certified by the state or by a national organization. Mich. Comp. Laws § 28.425j(1). The training program must provide an instructor-signed certificate indicating that the program meets the statutory requirements and was successfully completed by the license applicant and the applicant must include a copy of that certificate with the license application. Mich. Comp. Laws §§ 28.425b(1)(j) and 28.425j(1)(c).

After submitting an application, an applicant is statutorily required to submit a fingerprint card to the state police. Mich. Comp. Laws § 28.425b(9)-(10). The fingerprints are sent to the FBI and checked against state police records. Mich. Comp. Laws § 28.425b(10). Within 10

days after receiving fingerprint comparison results from the FBI, the state police must provide a fingerprint report to the appropriate county concealed weapon licensing board. Mich. Comp. Laws § 28.425b(10). The licensing board must grant or deny a license within 45 days after receiving the fingerprint report, except that if the state police do not send a fingerprint report to the licensing board within 60 days after results are received from the FBI, then the licensing board shall issue the applicant a temporary license which is valid for 180 days. Mich. Comp. Laws § 28.425b(13)-(14).

License denial decisions must be issued in writing with reasons and supporting facts. Mich. Comp. Laws § 28.425b(13). Denial decisions may be appealed to the circuit court of the jurisdiction in which the applicant resides. Mich. Comp. Laws § 28.425d(1). Court review is based on the written record of the application proceeding, except in cases in which a determination has been made that the applicant is a safety risk, in which case there is a hearing de novo before the court. Mich. Comp. Laws § 28.425d(1).

If a license holder is charged with a disqualifying criminal offense, the prosecuting attorney must promptly notify the county licensing board. Mich. Comp. Laws § 28.425m. The prosecutor must also notify the board of the subsequent disposition of the charge. Mich. Comp. Laws § 28.425m. Upon receiving notice that a licensee has been charged with a disqualifying offense, a licensing board must immediately suspend the person's license until there is a final disposition of the charge. Mich. Comp. Laws § 28.428(3). The licensee must be given written notice of the suspension and may request a prompt administrative hearing on the suspension. Mich. Comp. Laws § 28.428(3). If the licensing board determines that a licensee is no longer eligible for a license, the license shall be revoked. Mich. Comp. Laws § 28.428(4).

D. Illinois

Illinois does not issue licenses for the carrying of concealed weapons.

**Summary of factual data and analytical methodologies**: The proposed rules are predicated on legal analysis by DOJ staff of the language and requirements of Act 35. Based on that analysis, DOJ has determined that the proposed rules are necessary for DOJ to carry out its responsibilities under Act 35.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report**: The proposed rules do not impose any financial or compliance burdens that will have a significant effect on small businesses or a significant economic impact. Accordingly, DOJ has determined that the gathering and analysis of additional data regarding any such effects or impact is unnecessary.

**Effect on small business**: The proposed rules do not have a significant effect on small business.

**Agency contact person**: Assistant Attorney General Thomas C. Bellavia, Wisconsin Department of Justice, 17 West Main Street, P.O. Box 7857, Madison, Wisconsin 53707-7857; phone: (608) 266-8690; email: bellaviatc@doj.state.wi.us.

**Place where comments are to be submitted and deadline for submission**: Comments may be submitted to the contact person shown above no later than one week after the public hearing on these emergency rules is conducted. Information as to the date, location, and time of the public hearing will be published in the Wisconsin Administrative Register.

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FINDING OF EMERGENCY

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

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

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

Any such lack of continuity in the operation of the licensing program would be confusing and disruptive both for license applicants and for DOJ staff administering the program.

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

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

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

## TEXT OF THE PROPOSED RULES

SECTION 1. Chapter Jus 17 is created and titled:

CHAPTER JUS 17: LICENSES TO CARRY CONCEALED WEAPONS

**Jus 17.01 Purpose.** The purpose of this chapter is to establish standards and procedures, as required under s. 175.60, Stats., for the issuance and administration of licenses authorizing persons to carry concealed weapons, the review of licensing decisions by the department, and the certification of firearms safety and training instructors.

**Jus 17.02 Applicability.**

**(1)** Except as provided in sub. (2), this chapter applies to the issuance and administration of all licenses to carry concealed weapons issued by the department pursuant to s. 175.60, Stats.

**(2)** This chapter does not apply to any of the following:

**(a)** Certification of former law enforcement officers to carry concealed weapons pursuant to s. 175.49(2), Stats.

**(b)** Certification of former federal law enforcement officers to carry concealed weapons pursuant to s. 175.49(3), Stats.

**(c)** The carrying of concealed weapons by active law enforcement officers.

**Jus 17.03 Definitions.** In this chapter:

**(1)** "Applicant" means an individual applying for a license to carry a concealed weapon pursuant to s. 175.60, Stats., and to whom no license has yet been issued.

**(2)** "Approval number" means the unique number the department assigns to an applicant pursuant to s. 175.60(9g)(a)3.b., Stats., when a completed background check on the applicant indicates that s. 175.60(3)(b), (c), (d), and (e), Stats., do not apply to the applicant.

**(3)** "Background check" means the review of an applicant's record conducted by the department pursuant to s. 175.60(9g), Stats., for the purpose of determining whether s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant.

**(4)** "Confirmation number" means the unique number the department issues pursuant to s. 175.60(9g)(a)1., Stats., to identify every accepted application for a license to carry a concealed weapon.

**(5)** "Current and valid" means that a driver's license or state identification card is not expired, cancelled, denied, surrendered, or voided and the holder is currently a resident of Wisconsin. A driver's license is current and valid even if the holder's motor vehicle operating privilege is revoked, suspended, or disqualified, as long as the card is not expired, cancelled, denied, surrendered, or voided, and the holder is a resident of Wisconsin.

**(6)** "Department" means the Wisconsin department of justice.

**(7)** "FBI" means the federal bureau of investigation.

**(8)** "Firearms safety or training course" means a course that is reasonably calculated to instruct and practice the student's comprehension and application of firearm safety rules and safe firearm handling, that includes instructor-led training, and that provides a certificate or affidavit of successful completion that satisfies the content requirements of s. Jus 17.05(2).

**(9)** "Instructor-led" means training that is conducted face-to-face in which instructors actively guide students through each lesson, answer questions, facilitate discussion, and provide feedback on activities and/or assignments. Learner-led or self-directed learning—the delivery of

learning experiences to independent learners who lead and manage their own experience, delivered via web pages, multimedia presentations, computer applications, online presentations, or similar methods—is not instructor-led.

**(10)** "Law enforcement agency" has the meaning given in s. 165.83(1), Stats.

**(11)** "License number" means the unique identification number the department assigns to a licensee pursuant to s. 175.60(2m)(b)6., Stats., when it issues a license.

**(12)** "Licensee" means a person who has been issued a license to carry a concealed weapon under s. 175.60, Stats.

**(13)** "National or state organization that certifies firearms instructors" means any association, partnership, corporation, or limited liability company that is registered, certified, or has an appointed agent on file with the department of financial institutions or has equivalent legal recognition in another state; and that requires instructors to demonstrate the ability and knowledge required for providing firearms safety and training.

**(14)** "NICS" means the National Instant Criminal Background Check System of the FBI.

**(15)** "Non-approval number" means the unique number the department assigns to an applicant pursuant to s. 175.60(9g)(a)3.a., Stats., when a completed background check on the applicant indicates that s. 175.60(b), (c), (d), or (e), Stats., applies to the applicant.

**(16)** "Record" means the records associated with a licensee or applicant that are available for the department to search when conducting a background check pursuant to s. 175.60(9g), Stats., including court records, state criminal history records, and national criminal history records maintained by the FBI, including but not limited to NICS records.

**(17)** "Search" means a systematic inspection by the department of the record of an applicant or licensee.

**(18)** "Weapon" has the meaning given in s. 175.60(1)(j), Stats.

**Jus 17.04 Application procedures for concealed weapon licenses.**

**(1)** When the department receives an application for a license to carry concealed weapons under s. 175.60(7), Stats., the department shall do the following in the sequence listed:

**(a)** Review the application for completeness. An application is complete when the department has received all of the items, including fees, listed in s. 175.60(7)(a)-(e), Stats. If an application is complete, the department shall proceed under par. (b). If an application is incomplete, the department shall reject it and shall send written notice of the rejection to the applicant at the residence address provided by the applicant in the application form. The notice of rejection shall explain why the application was found to be incomplete and what must be submitted to complete the application.

**(b)** Confirm that the state identification card number submitted by the applicant corresponds to a driver's license or state identification card that is current and valid, as defined in s. Jus 17.03(5). If the applicant's driver's license or state identification card is current and valid, the department shall proceed under par. (c). If the applicant's driver's license or state identification card is not current and valid, the department shall deny the application and proceed under sub. (2).

**(c)** Review the application for eligibility under s. 175.60(3)(a) and (f), Stats. If the applicant is at least 21 years of age and is a Wisconsin resident, the department shall proceed under par. (d). If the applicant is less than 21 years of age or is not a Wisconsin resident, the department shall deny the application and proceed under sub. (2).

**(d)** Review the proof of training submitted by the applicant for compliance with the requirements of s. 175.60(4)(a), Stats., and s. Jus 17.05. If the proof of training meets all of those requirements, the department shall proceed under par. (e). If the proof of training fails to meet any of those requirements, the department shall deny the application and proceed under sub. (2).

**(e)** Enter the application data into the department's license record keeping system, assign the applicant a confirmation number, and proceed under par. (f).

**(f)** Conduct a background check of the applicant pursuant to s. 175.60(9g), Stats., for the purpose of determining whether issuance of a license to the applicant is prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats. If issuance of a license is not prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats., the department shall issue the license, assign a license number to the licensee, and promptly send the license document to the licensee by 1st class mail. If issuance of a license is prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats., the department shall deny the application and proceed under sub. (2).

**(2)** If an application is denied under sub. (1)(b), (c), (d), or (f), the department shall inform the applicant in writing of the denial. The notice of denial shall state the reasons and factual basis for the denial decision and shall be accompanied by a copy of any background check records supporting the denial. The notice of denial shall also advise the applicant of the right to seek administrative review of the denial decision under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats. The notice of denial shall be sent to the applicant by a method of shipment that provides confirmation of delivery, including the date of delivery.

**Jus 17.05 Training and documentation requirements.**

**(1)** The following forms of documentation shall be accepted by the department as adequate proof of training sufficient to satisfy the training requirements of s. 175.60(4)(a), Stats., and of this section:

**(a)** A certificate or affidavit documenting that the applicant has successfully completed the department of natural resources' hunter education program or a substantially similar program that is established by another state, country, or province and is recognized by the department of natural resources.

**(b)** A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course conducted by a national or state organization that certifies firearms instructors. The certificate or affidavit must satisfy the content requirements of sub. (2) and must affirm that the organization that conducted the course is an organization that certifies firearms instructors.

**(c)** A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course that is available to the public and offered by a law enforcement agency. The certificate or affidavit must satisfy the content requirements of sub. (2) and must affirm that the course is one that is available to the public.

**(d)** A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course that is available to the public and offered by a technical college, college, university, private or public institution or organization, or firearms training school. The certificate or affidavit must satisfy the content requirements of sub. (2), must affirm that the course was taught by an instructor who is certified either by the department

or by a national or state organization that certifies firearms instructors, and must identify the certifying organization by name.

**(e)** A certificate or affidavit documenting that the applicant has successfully completed a firearms training course that is offered to law enforcement officers and is certified by the law enforcement standards board or a certificate from an agency of another state documenting that the applicant has successfully completed substantially equivalent training. The certificate or affidavit must satisfy the content requirements of sub. (2) except that, notwithstanding the requirements of sub. (2), a copy of an educational transcript of the applicant showing successful completion of the requisite training shall suffice to satisfy this requirement.

**(f)** A certificate or affidavit documenting that the applicant has successfully completed a firearms training course that is offered to owners and employees of private detective and security agencies licensed by the department of safety and professional services under s. 440.26, Stats., or a certificate from an agency of another state documenting that the applicant has successfully completed substantially equivalent training. The certificate or affidavit must satisfy the content requirements of sub. (2).

**(g)** A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course that is conducted by an instructor who is certified either by the department or by a national or state organization that certifies firearms instructors. The certificate or affidavit must satisfy the content requirements of sub. (2), must affirm that the instructor is certified either by the department or by a national or state organization that certifies firearms instructors, and must identify the certifying organization by name.

**(h)** A copy of a current or expired license held by the applicant indicating that the applicant is or has been licensed to carry a firearm in this state, in another state, or in a county or

municipality of this state or of another state, provided that the current or expired license has not been revoked for cause. The copy of the current or expired license must be accompanied by the applicant's signed affirmation that the current or expired license has not been revoked for cause. This affirmation shall be submitted on an affirmation form that shall be prepared by the department and made available to the public on the department's Internet site.

**(i)** A copy of a DD Form 214, "Certificate of Release or Discharge from Active Duty," issued by the United States Department of Defense, showing that the applicant has received an honorable discharge or a general discharge under honorable conditions from the United States armed forces, reserves, or national guard after completion of basic training or a certificate of completion of basic training with a service record of successful completion of small arms training and certification.

**(2)** Except as otherwise provided in sub. (1), for purposes of satisfying the requirements of sub. (1)(b), (c), (d), (e), (f), or (g), a certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course must include all of the following information:

**(a)** The applicant's name.

**(b)** The name of the firearms safety or training course.

**(d)** The date on which the applicant completed the firearms safety or training course.

**(g)** The name of the instructor who taught the firearms safety or training course to the applicant and the name of the agency or organization that certified the instructor.

**(3)** The department shall prepare and make available to the public on its Internet site a model training certificate that provides for the information required under sub. (2).

**(4)** The department shall prepare a training curriculum for a firearms safety or training course, as that term is defined in s. Jus 17.03(8), and shall make that curriculum available for the use of firearms instructors who are certified by the department pursuant to s. Jus 17.06. Instructors who are not certified by the department may use that curriculum in preparing and conducting their own courses, but they shall not represent themselves or their courses as certified or approved by the department.

**Jus 17.06 Firearms instructors certified by the department.**

**(1)** An individual shall be certified by the department as a firearms instructor for purposes of s. 175.60(4)(b)1., Stats., if the individual is certified as a law enforcement firearms instructor by the law enforcement standards board and the individual is eligible to carry a concealed weapon under s. 175.60(3), Stats. The individual's certification by the department under s. 175.60(4)(b)1., Stats., shall be in effect only when the individual's certification by the law enforcement standards board is in effect. Renewal of an individual's instructor certification by the law enforcement standards board shall automatically renew the individual's certification under this section.

**(2)** If a firearms instructor certified by the department under sub. (1) at any time becomes ineligible to carry a concealed weapon under s. 175.60(3), Stats., the instructor shall, within 48 hours, notify the department's training and standards bureau of the circumstances giving rise to the ineligibility. The training and standards bureau shall immediately suspend the instructor's certification under sub. (1) and shall provide notice of that suspension to the department's crime information bureau. The suspension shall remain in effect for as long as the individual remains ineligible to carry a concealed weapon under s. 175.60(3), Stats.

**(3)** A firearms instructor certified by the department under sub. (1), when teaching a firearms safety or training course under the authority of that certification, shall use the training curriculum provided by the department pursuant to s. Jus 17.05(4) and a training certificate in a form approved and supplied by the department.

**Jus 17.07 License revocation or suspension.**

**(1)** Upon receiving a notice about an individual pursuant to s. 175.60(11)(a), Stats., the department shall immediately check its computerized license records to determine if the individual who is the subject of the notice is a licensee. If the individual is found to be a licensee, the department shall determine whether revocation or suspension of the individual's license is required under s. 175.60(14)(a) or (am), Stats., and shall revoke or suspend the license as required.

**(2)(a)** If the department at any time revokes or suspends a license under s. 175.60(14)(a) or (am), Stats., the department, within one day, shall send to the individual written notice of the revocation or suspension. The notice shall include a statement of the reasons and factual basis for the revocation or suspension and shall be accompanied by a copy of any pertinent records supporting the revocation or suspension. The notice shall also advise the individual of the right to seek administrative review of the revocation or suspension under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats. The notice shall be sent to the individual by a method of shipment that provides confirmation of delivery, including the date of delivery.

**(b)** Any notice of a suspension of a license pursuant to s. 175.60(14)(am), Stats., shall also include a statement that if the licensee, at any time, ceases to be subject to the prohibition underlying the suspension, the licensee may submit to the department authenticated documentation establishing that fact.

**(3)** Any notice of revocation or suspension issued by the department under sub. (2) shall instruct the individual whose license has been revoked or suspended to do one of the following within 7 days:

**(a)** Deliver the revoked or suspended license document to the department either personally or by certified mail.

**(b)** Mail to the department a signed statement indicating that the individual no longer has possession of the revoked or suspended license document and explaining the reasons why he or she no longer has possession.

**(4)** Any suspension or revocation of a license under s. 175.60(14)(a) or (am), Stats., shall take effect on the date when the individual whose license has been revoked or suspended receives the notice of revocation or suspension under sub. (2).

**(5)** If the department receives information, pursuant to sub. (2)(b) or by other means, establishing that an individual whose license has been suspended under s. 175.60(14)(am) is no longer subject to the prohibition underlying that suspension, the department shall, within 5 business days of receiving that information, do the following in the sequence listed:

**(a)** Determine whether the suspended license has expired under s. 175.60(15)(a), Stats. If the suspended license has not expired, the department shall proceed under par. (b). If the suspended license has expired, the department shall notify the individual that the suspended license cannot be reinstated unless the individual first complies with the license renewal requirements of s. 175.60(15), Stats.

**(b)** Conduct a background check of the individual for the purpose of determining whether reinstatement of the suspended license is prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats. If reinstatement of the suspended license is not prohibited, the department shall

proceed under par. (c). If reinstatement of the suspended license is prohibited, the department shall notify the individual in writing of the reason why the suspended license cannot be reinstated and shall include a copy of any background check records supporting the denial of reinstatement. Notice of a denial of reinstatement shall also advise the applicant of the right to seek administrative review under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats., and shall be sent to the applicant by a method of shipment that provides confirmation of delivery, including the date of delivery.

**(c)** Reinstate the suspended license and mail to the individual written notification of that reinstatement. If the individual has previously delivered the suspended license document to the department pursuant to sub. (3)(a), the department shall also promptly return the reinstated license document to the individual by 1st class mail.

**(6)** If an individual whose concealed carry license has been properly revoked by the department pursuant to s. 175.60(14)(a), Stats., wishes to again carry a concealed weapon pursuant to s. 175.60, Stats., the individual must apply for a new license pursuant to s. Jus 17.04 and must satisfy all requirements of that section, including the payment of all applicable fees.

**Jus 17.08 Changes or updates to licenses.**

**(1)** CHANGE OF ADDRESS. Upon receiving notice of a change of address from a licensee pursuant to s. 175.60(11)(b)1., Stats., the department shall update its license records with the new information. At the request of a licensee whose address has changed, the department shall issue the licensee a new license document containing the new address.

**(2)** NAME CHANGE. No later than 30 days after legally changing his or her name, a licensee shall provide the department with written notification of the name change and shall apply for a new license under the new name. The new license application must satisfy the

requirements of s. Jus 17.04 and shall be processed by the department as a new application under that section. In the course of processing the new application, if the department determines that s. 175.60(3)(b), (c), (d), (e), (f), or (g) applies to the licensee, the department shall revoke the licensee's previous license under s. 175.60(14)(a). If the licensee receives a new license from the department under this section, the licensee shall immediately deliver his or her previous license to the department either personally or by certified mail.

**(3)** FEES.

**(a)** For any license document issued under this section, the department shall charge the replacement fee provided in s. Jus 17.12(3).

**(b)** For any background check conducted under this section, the department shall charge the background check fee provided in s. Jus 17.12(2).

**Jus 17.09 Administrative review after denial, suspension, or revocation.**

**(1)(a)** After receiving written notice of denial of a license application under s. Jus 17.04(2), written notice of a license revocation or suspension under s. Jus 17.07(2), or written notice of denial of reinstatement of a license under s. Jus 17.07(5)(b), an applicant or licensee may submit to the department a written petition for administrative review of the denial, revocation, or suspension decision. Such a petition for administrative review must be received by the department within 30 days after the date on which the denial, revocation, or suspension decision was mailed to the applicant or licensee. There is no fee for administrative review of the denial, revocation, or suspension of a license.

**(b)** 1. A petition for administrative review under par. (a) shall specifically identify any alleged errors in the decision to be reviewed and shall be accompanied by a copy of the

decision to be reviewed and by authenticated copies of all supporting documentation that the applicant or licensee wishes the department to consider when conducting the review.

2. If a petition for administrative review alleges that the department has incorrectly determined that s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant or licensee, the supporting materials submitted with the petition shall include proof of the identity of the applicant or licensee. Satisfactory proof of identity shall include a set of rolled-ink fingerprints of the applicant or licensee prepared by a law enforcement agency on a state or FBI fingerprint card. Fingerprints are not required if the petition for administrative review does not allege that the department has incorrectly determined that s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant or licensee.

3. If any alleged error identified in a petition for administrative review is based on the existence or disposition of an apparent criminal arrest or conviction, the petition shall specifically identify any error in any pertinent background check records and shall be accompanied by authenticated copies of any court documents establishing the alleged error.

4. If a petition for administrative review claims that the department has erroneously suspended a license pursuant to s. 175.60(14)(am), Stats., the supporting materials submitted with the petition shall include authenticated copies of any pertinent court records or other pertinent records.

5. If any alleged error identified under subd. 1. is based on a claim that the applicant or licensee has received a pardon or has obtained relief under s. 941.29, s. 51.20(13)(cv)1m., s. 51.45(13)(i)2., s. 54.10(3)(f)2., or s. 55.12(10)(b), Stats., the petition shall be accompanied by authenticated copies of the pardon or court documents establishing any such relief.

**(c)** 1. If the department receives a timely petition for administrative review, a review proceeding shall be conducted by the attorney general or the attorney general's designee. The review shall be based on consideration of all records in the department's possession related to the decision under review, including: the written notice of denial, revocation, or suspension under review; the petition for administrative review and any supporting documentation submitted by the applicant or licensee; and any other records in the department's possession related to the decision under review.

2. If in the course of a review proceeding under subd. 1., the department determines that additional supporting documentation is needed from the applicant or licensee, the department shall send the applicant or licensee a written request for the additional documentation. While any such request is pending, the time for the department to complete the review proceeding under par. (d) shall be tolled and shall not begin to run again until the applicant or licensee has provided the requested documentation.

**(d)** 1. No later than 30 days after receiving a petition for administrative review and supporting documentation, the attorney general or the attorney general's designee shall complete the review under par. (c) and shall issue a written decision on behalf of the department either affirming or reversing the denial, revocation, or suspension under review. The written decision shall include the reasons and factual basis for the department's decision and shall advise the applicant or licensee of the right to seek judicial review under s. 175.60(14m), Stats. The written decision shall be sent to the applicant or licensee by a method of shipment that provides confirmation of delivery, including the date of delivery.

2. If the written decision issued under subd. 1. affirms the denial of a license application, the written decision shall include notification to the applicant that any non-approval number previously issued remains in effect.

3. If the written decision issued under subd. 1. affirms the revocation or suspension of a license, the written decision shall include notification to the licensee that the previously imposed revocation or suspension remains in effect.

4. If the written decision issued under subd. 1. reverses the denial of a license application, the department shall withdraw any previously issued non-approval number and shall issue the license, assign a license number to the licensee, and promptly send the license document to the licensee by 1st class mail. If the department has previously received a set of fingerprints from the applicant, the department shall return those fingerprints to the applicant.

5. If the written decision issued under subd. 1. reverses the revocation or suspension of a license, the department shall reinstate the revoked or suspended license and the written decision shall include notification to the licensee of such reinstatement. If the licensee has previously delivered the revoked or suspended license document to the department pursuant to s. Jus 17.07(3)(a), the department shall promptly return the reinstated license document to the licensee by 1st class mail. If the department has previously received a set of fingerprints from the licensee, the department shall return those fingerprints to the licensee.

6. If the written decision issued under subd. 1. includes a finding that any pertinent background check record is erroneous or incomplete, the department shall take appropriate steps to correct that record.

**(e)** If the written decision under par. (d)1. affirms the denial, revocation, or suspension of a license and the applicant or licensee does not file a timely petition for judicial

review under s. 175.60(14m), Stats., the department shall return to the applicant or licensee any set of fingerprints previously submitted to the department by the applicant or licensee.

**Jus 17.10 Emergency Licenses.**

**(1)** A court that is considering a petition for an emergency concealed carry license pursuant to s. 175.60(9r), Stats., or a court that has issued such an emergency license may ask the department to conduct a background check for the purpose of determining whether s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the person requesting or holding the emergency license. Upon receiving such a request, the department shall conduct the background check as soon as reasonably practicable and shall report the results to the requesting court.

**(2)** Any information that the department receives from a court regarding the issuance or revocation of an emergency concealed carry license under s. 175.60(9r), Stats., shall be entered by the department into its computerized license records and shall be available to law enforcement as provided in s. 175.60(12) and (12g), Stats.

**Jus 17.11 Records.**

**(1)** The department shall create and keep the following records related to the issuance and administration of concealed carry licenses under s. 175.60, Stats., the review of licensing decisions by the department, and the certification of firearms safety and training instructors:

**(a)** All of the information submitted to the department by applicants pursuant to s. 175.60(7), Stats., and notes related to that information.

**(b)** A record of each rejected application and the reasons for rejection and a count of the number of rejected applications.

**(c)** The confirmation number for each applicant.

**(d)** The approval or non-approval number for each applicant on whom the department has conducted a background check.

**(e)** The license number for each licensee to whom the department has issued a concealed carry license.

**(f)** A log of each record search of the department's computerized license records, including the date or dates of the search and any confirmation number, license, number, or approval or non-approval number associated with the search.

**(g)** Records of the cost to the department of issuing concealed carry licenses under s. 175.60, Stats., and this chapter.

**(h)** All records that the department is required to keep by applicable state or federal laws.

**(2)** The department may create and keep any other records reasonably necessary for the department to perform its responsibilities under s. 175.60, Stats., and this chapter.

**Jus 17.12 Fees.**

**(1)** LICENSE FEE. The license fee charged by the department pursuant to s. 175.60(7)(c), Stats., shall be $37.

**(2)** BACKGROUND CHECK FEE. The fee for any background check conducted by the department pursuant to s. Jus 17.04(1)(f) or s. Jus 17.07(5)(b) shall be $13.

**(3)** REPLACEMENT FEE. The fee charged by the department for replacing a lost or destroyed license pursuant to s. 175.60(13), Stats., shall be $12.

**Jus 17.13 Recognition of out-of-state licenses**

**(1)** DEFINITIONS. In this section:

**(a)** "Concealed carry license" means a permit, license, approval, or other authorization to carry a concealed weapon that is issued by a state other than Wisconsin.

**(b)** "State" has the meaning given in s. 990.01(40), Stats.

**(2)** The following states issue a concealed carry license that requires a background search that is comparable to a background check as defined in s. 175.60(1)(ac), Stats.:

**(a)** Each state that by statute or administrative rule expressly requires a background check that includes a NICS search as a prerequisite for obtaining a concealed carry license.

**(b)** Each state that, through the office of its attorney general or another appropriate state agency or official, has informed the department that the state, as a matter of policy, requires a background check that includes a NICS search as a prerequisite for obtaining a concealed carry license.

**(3)** If a state is not covered by sub. (2), but issues concealed carry licenses which designate if the holder chose to voluntarily submit to a background check, that voluntary background check is comparable to a background check as defined in s. 175.60(1)(ac), Stats., if that state, through the office of its attorney general or another appropriate state agency or official, has informed the department that the background check includes a NICS search.

**(4)(a)** A concealed carry license issued by any of the states to which sub. (2)(a) or (b) applies is an out-of-state license as defined in s. 175.60(1)(f), Stats. A person who has been issued such an out-of-state license, who is 21 years of age or over, and who is not a Wisconsin resident is an out-of-state licensee as defined in s. 175.60(1)(g), Stats.

**(b)** A concealed carry license issued by any of the states to which sub. (3) applies is an out-of-state license as defined in s. 175.60(1)(f), Stats., if the license indicates that the holder of that license has chosen to submit to a background check. A person who has been issued such an out-of-state license, who is 21 years of age or over, and who is not a Wisconsin resident is an out-of-state licensee as defined in s. 175.60(1)(g), Stats.

**(5)** The department shall create and maintain a list of the names of all the states to which sub. (2)(a) or (b) applies or to which sub. (3) applies and shall make the list available to the public on the department's Internet site.

**(6)(a)** If the department determines that a state whose name is not included in the list created under sub. (5) is a state to which sub. (2)(a) or (b) or sub. (3) applies, the department shall add that state to the list.

**(b)** If the department determines that a state whose name is included in the list created under sub. (5) is a state to which sub. (2)(a) or (b) or sub. (3) does not apply, the department shall remove that state from the list.

**(c)** Any person possessing information indicating that the list created under sub. (5) is not accurate may submit that information to the department. Upon receiving such information, the department will take reasonably necessary and appropriate steps to review the accuracy of the list and correct any inaccuracies.

SECTION 2. Chapter Jus 18 is created and titled:

CHAPTER JUS 18: CERTIFICATION OF FORMER FEDERAL LAW ENFORCEMENT OFFICERS.

**Jus 18.01 Purpose.** The purpose of this chapter is to establish standards and procedures for the issuance and administration of concealed carry certification cards to qualified

former federal law enforcement officers pursuant to s. 175.49(3), Stats., and the review of certification decisions by the department.

**Jus 18.02 Applicability.**

**(1)** Except as provided in sub. (2), this chapter applies to the issuance and administration of all concealed carry certification cards issued by the department to former federal law enforcement officers pursuant to s. 175.49(3), Stats.

**(2)** This chapter does not apply to any of the following:

**(a)** Issuance or administration of a license to carry concealed weapons pursuant to s. 175.60, Stats.

**(b)** Certification of former state or local law enforcement officers to carry concealed weapons pursuant to s. 175.49(2), Stats.

**(c)** The carrying of concealed weapons by active law enforcement officers.

**Jus 18.03 Definitions.** In this chapter:

**(1)** "Applicant" means an individual applying for a concealed carry certification card pursuant to s. 175.49(3), Stats., and to whom no card has yet been issued.

**(2)** "Approval number" means the unique number the department assigns to an applicant when a completed background check on the applicant indicates that the applicant is not prohibited under federal law from possessing a firearm.

**(3)** "Background check" means the review of an applicant's record conducted by the department pursuant to s. 175.49(3)(b)4., Stats., for the purpose of determining whether the applicant is prohibited under federal law from possessing a firearm.

**(4)** "Certification card number" means the unique identification number the department assigns to a certification card issued under s. 175.49(3), Stats.

**(5)** "Confirmation number" means the unique number the department issues to identify every accepted application for a concealed carry certification card pursuant to s. 175.49(3), Stats.

**(6)** "Current and valid" means that a driver's license or state identification card is not expired, cancelled, denied, surrendered, or voided and the holder is currently a resident of Wisconsin. A driver's license is current and valid even if the holder's motor vehicle operating privilege is revoked, suspended, or disqualified, as long as the card is not expired, cancelled, denied, surrendered, or voided, and the holder is a resident of Wisconsin.

**(7)** "Department" means the Wisconsin department of justice.

**(8)** "FBI" means the federal bureau of investigation.

**(9)** "Non-approval number" means the unique number the department assigns to an applicant when a completed background check on the applicant indicates that the applicant is prohibited under federal law from possessing a firearm.

**(10)** "Record" means the records associated with an applicant or holder of a certification card that are available for the department to search when conducting a background check pursuant to s. 175.49(3)(b)4., Stats., including court records, state criminal history records, and national criminal history records maintained by the FBI.

**(11)** "Search" means a systematic inspection by the department of the record of an applicant or holder of a certification card.

**(12)** "Weapon" has the meaning given in s. 175.60(1)(j), Stats.

**Jus 18.04 Application procedures for concealed carry certification cards.**

**(1)** When the department receives an application for a concealed carry certification card for a former federal law enforcement officer pursuant to s. 175.49(3), Stats., the department shall do the following in the sequence listed:

**(a)** 1. Review the application for completeness. An application is complete when the department has received the following:

a. A signed and fully completed application form, DJ-LE-286.

b. Acceptable proof of firearms qualification, as provided in s. Jus 18.05.

c. The application fee required under s. Jus 18.10.

d. A current photograph meeting the content and format requirements set forth in the instructions of the application form, DJ-LE-286.

e. A written statement from the federal law enforcement agency from which the applicant separated from service affirming that the applicant meets the requirements of s. 175.49(3)(b)1., 2., and 3., Stats. The department shall prepare and make available on its Internet site a statement form that may be used for this purpose.

2. If an application is complete, the department shall proceed under par. (b). If an application is incomplete, the department shall reject it and shall send written notice of the rejection to the applicant at the residence address provided by the applicant in the application form. The notice of rejection shall explain why the application was found to be incomplete and what must be submitted to complete the application.

**(b)** Confirm that the state identification card number submitted by the applicant corresponds to a driver's license or state identification card that is current and valid, as defined in s. Jus 18.03(6). If the applicant's driver's license or state identification card is current and valid,

the department shall proceed under par. (c). If the applicant's driver's license or state identification card is not current and valid, the department shall deny the application and proceed under sub. (2).

**(c)** Review the written affirmation from the federal law enforcement agency from which the applicant separated from service to determine whether the applicant meets the requirements of s. 175.49(3)(b)1., 2., and 3., Stats. If the applicant meets the requirements of s. 175.49(3)(b)1., 2., and 3., Stats., the department shall proceed under par. (d). If the applicant does not meet the requirements of s. 175.49(3)(b)1., 2., and 3., Stats., the department shall deny the application and proceed under sub. (2).

**(d)** Review the proof of firearms qualification submitted by the applicant for compliance with the requirements of s. 175.49(3)(b)5., Stats., and s. Jus 18.05. If the proof of firearms qualification meets those requirements, the department shall proceed under par. (e). If the proof of firearms qualification does not meet those requirements, the department shall deny the application and proceed under sub. (2).

**(e)** Enter the application data into the department's record keeping system and assign the applicant a confirmation number.

**(f)** Conduct a background check of the applicant pursuant to s. 175.49(3)(b)4., Stats., for the purpose of determining whether the applicant is prohibited under federal law from possessing a firearm. If the applicant is not prohibited by federal law from possessing a firearm, the department shall issue a certification card to the applicant, assign a certification card number, and promptly send the certification card to the applicant by 1st class mail. If the applicant is prohibited by federal law from possessing a firearm, the department shall deny the application and proceed under sub. (2).

**(2)** If an application is denied under sub. (1), the department shall inform the applicant in writing of the denial, stating the reasons and factual basis for the denial decision. The written notice of denial shall be accompanied by a copy of any background check records that are pertinent to the denial decision. The written notice of denial shall also advise the applicant of the right to seek administrative review of the denial decision under s. Jus 18.08.

**Jus 18.05 Proof of firearms qualification.**

Acceptable proof that an applicant has satisfied the firearms qualification requirement of s. 175.49(3)(b)5., Stats., shall consist of a certificate that is signed by a law enforcement firearms instructor who is certified by the law enforcement standards board. The certificate shall be in a form approved and supplied by the department and shall contain all of the following:

**(1)** The applicant's name.

**(2)** The full name, address, and telephone number of the certified law enforcement firearms instructor.

**(3)** An affirmation by the certified law enforcement firearms instructor that he or she has found the applicant to meet the qualification standards established by the state of Wisconsin or by a law enforcement agency in Wisconsin for an active law enforcement officer to carry a firearm of the type specified in the application form submitted by the applicant under s. Jus 18.04.

**(4)** The date on which the finding under sub. (3) was made.

**Jus 18.06 Revocation of a concealed carry certification card.**

**(1)** If the department at any time obtains information establishing that an individual who holds a concealed carry certification card under this chapter is prohibited by federal law from possessing a firearm, the department shall revoke the certification card and shall send the

individual written notice of revocation. The notice shall include a statement of the reasons and factual basis for the revocation and shall be accompanied by a copy of any pertinent records supporting the revocation. The notice shall also advise the individual of the right to seek administrative review of the revocation pursuant to s. Jus 18.08.

**(2)** Any notice of revocation issued by the department under sub. (1) shall instruct the individual whose certification card has been revoked to do one of the following within 7 days:

**(a)** Deliver the revoked certification card to the department either personally or by certified mail.

**(b)** Mail to the department a signed statement indicating that the individual no longer has possession of the revoked certification card and explaining the reasons why he or she no longer has possession.

**(3)** Any revocation of a certification card under this section shall take effect on the date on which the notice of revocation is issued by the department.

**(4)** If an individual whose concealed carry certification card has been properly revoked by the department pursuant to this section wishes to again obtain a concealed carry certification card pursuant to s. 175.49(3), Stats., the individual must apply for a new certification card pursuant to s. Jus 18.04 and must satisfy all requirements of that section, including the payment of all applicable fees.

**Jus 18.07 Changes or updates to certification cards.**

**(1)** CHANGE OF ADDRESS. Any individual who holds a concealed carry certification card under this chapter shall provide the department with written notification of any change in his or her address within 30 days of the address change. Upon receiving such notice, the department shall update its records with the new information. At the request of the individual

whose address has changed, the department shall issue the individual a new certification card containing the new address.

**(2)** NAME CHANGE. No later than 30 days after legally changing his or her name, an individual who holds a concealed carry certification card under this chapter shall provide the department with written notification of the name change and shall apply for a new certification card under the new name. The new application must satisfy the requirements of s. Jus 18.04 and shall be processed by the department as a new application under that section. In the course of processing the new application, if the department determines that the individual is prohibited under federal law from possessing a firearm, the department shall revoke the individual's previous certification card under s. Jus 18.06(1). If an individual receives a new certification card from the department under this section, the individual shall immediately deliver his or her previous certification card to the department either personally or by certified mail.

**(3)** FEES.

**(a)** For any license document issued under this section, the department shall charge the replacement fee provided in s. Jus 18.10.

**(b)** For any background check conducted under this section, the department shall charge the background check fee provided in s. Jus 18.10.

**Jus 18.08 Administrative review after denial or revocation of a concealed carry certification card.**

**(1)(a)** After receiving written notice of denial of an application for a concealed carry certification card under s. Jus 18.04 or written notice of a revocation of a certification card under s. Jus 18.06, an individual may submit to the department a written petition for administrative review of the denial or revocation. Such a petition for administrative review must be received by

the department within 30 days after the date on which the written notice of denial or revocation was mailed to the individual by the department.

**(b)** 1. A petition for administrative review under par. (a) shall specifically identify any alleged errors in the decision to be reviewed and shall be accompanied by a copy of the decision to be reviewed and by properly authenticated copies of all supporting documentation that the petitioner wishes the department to consider when conducting the review.

2. If a petition for review challenges a finding by the department that the petitioner is prohibited by federal law from possessing a firearm, the supporting documentation submitted by the petitioner shall include proof of the petitioner's identity. Satisfactory proof of identity shall include a set of rolled-ink fingerprints of the petitioner prepared by a law enforcement agency on a state or FBI fingerprint card.

**(c)** If the department receives a timely petition for administrative review, a review proceeding shall be conducted by the attorney general or the attorney general's designee. The review shall be based on consideration of all records in the department's possession related to the decision under review, including: the written notice of denial or revocation under review; the petition for administrative review; any supporting documentation submitted by the petitioner; and any other records in the department's possession related to the decision under review.

**(d)** 1. Upon completing the review under par. (c), the attorney general or the attorney general's designee shall issue a written decision on behalf of the department either affirming or reversing the denial or revocation under review. The written decision shall include the reasons and factual basis for the department's decision and shall advise the petitioner of the right to seek judicial review under ch. 227, Stats. The written decision shall be sent to the applicant or

licensee by a method of shipment that provides confirmation of delivery, including the date of delivery.

2. If the written decision issued under subd. 1. affirms the denial or revocation of a certification card, the written decision shall include notification to the petitioner that the previously imposed denial or revocation, including any non-approval number, remains in effect.

3. If the written decision issued under subd. 1. reverses the denial of an application for a certification card, the department shall withdraw any previously issued non-approval number and shall issue a certification card to the petitioner, assign a certification card number, and promptly send the certification card to the petitioner by 1st class mail. If the department has previously received a set of fingerprints from the petitioner, the department shall return those fingerprints to the petitioner.

4. If the written decision issued under subd. 1. reverses the revocation of a certification card, the department shall reinstate the revoked certification and the written decision shall include notification to the petitioner of such reinstatement. If the petitioner has previously delivered the revoked certification card to the department pursuant to s. Jus 18.06(2)(a), the department shall promptly return the reinstated certification card to the petitioner by 1st class mail. If the department has previously received a set of fingerprints from the petitioner, the department shall return those fingerprints to the petitioner.

**(e)** If the written decision under par. (d)1. affirms the denial or revocation of a certification card and the petitioner does not file a timely petition for judicial review under s. 227.53, Stats., the department shall return to the petitioner any set of fingerprints previously submitted to the department by the petitioner.

**Jus 18.09 Records.**

**(1)** The department shall create and keep the following records related to the issuance and administration of concealed carry certification cards pursuant to s. 175.49(3) and (4), Stats., and the review of certification decisions by the department:

**(a)** All of the information submitted to the department by applicants pursuant to s. Jus 18.04 and notes related to that information.

**(b)** A record of each rejected application and the reasons for rejection and a count of the number of rejected applications.

**(c)** The confirmation number for each applicant.

**(d)** The approval or non-approval number for each applicant on whom the department has conducted a background check.

**(e)** The certification card number for each certification card issued by the department.

**(f)** A log of each record search of the department's computerized records related to concealed carry certifications, including the date or dates of the search and any confirmation number, certification card number, or approval or non-approval number associated with the search.

**(g)** Records of the cost to the department of issuing certification cards under s. 175.49, Stats., and this chapter.

**(h)** All records that the department is required to keep by applicable state or federal laws.

**(2)** The department may create and keep any other records reasonably necessary for the department to perform its responsibilities under s. 175.49, Stats., and this chapter.

**Jus 18.10 Fees.**

**(1)** APPLICATION FEE.

**(a)** The certification card application fee charged by the department pursuant to s. Jus 18.04(1)(a)1.c. shall be $12.

**(b)** The department shall annually review the cost of issuing certification cards under s. 175.49, Stats., and this chapter. If the cost of issuing a certification card is less than the current application fee, the department shall reduce the application fee to equal the cost of issuing a certification card.

**(2)** BACKGROUND CHECK FEE. The fee for any background check conducted by the department pursuant to this chapter shall be $13.

**(3)** RENEWAL OR REPLACEMENT FEE. The fee charged by the department for renewing a certification card or for replacing a lost or destroyed certification card shall be $12.

Dated this 3rd day of December, 2012.

WISCONSIN DEPARTMENT OF JUSTICE

By: J.B. Van Hollen

J.B. Van Hollen, Attorney General

These emergency rules were approved in writing by the governor on _____, pursuant to Wis. Stat. § 227.24(1)(e)1g.