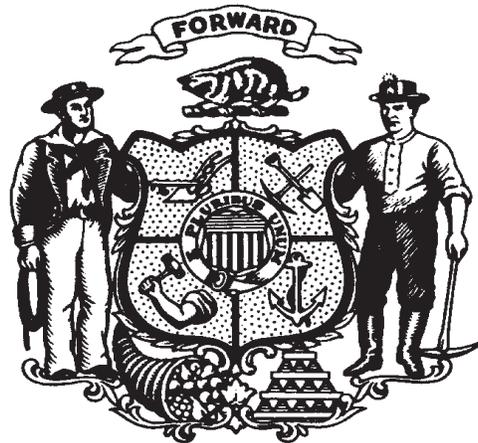


# Wisconsin Administrative Register

No. 639



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## Emergency Rules Now in Effect

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

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

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

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

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

*Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at [www.legis.state.wi.us/rsb/code](http://www.legis.state.wi.us/rsb/code).*

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

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### Commerce

#### Fee Schedule, Ch. Comm 2

**EmR0837** — Rule adopted revising **s. Comm 2.68**, relating to public swimming pool and water attraction plan review and inspection fees.

#### Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. Implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act necessitates most existing public swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets.

2. The Virginia Graeme Baker Pool and Spa Safety Act has a compliance date of December 19, 2008.

3. The department estimates that 3,700 existing pools and water attractions will need to be modified in order to comply with the federal act.

4. The current department plan review fees and inspection fees under s. Comm 2.68 reflect an estimated average time and cost to provide those services. For the types of pool and water attraction modifications necessary to comply with the Virginia Graeme Baker Pool and Spa Safety Act, the department believes that the time and cost to provide the service will be below the averages reflected under the current fee structure of section Comm 2.68.

5. The department believes that a temporary fee reduction to facilitate plan review and inspection relative to the Virginia Graeme Baker Pool and Spa Safety Act is in alignment with the direction provided under s. 101.19, Stats., of keeping fees consistent with the costs of providing service.

<b>Publication Date:</b>	<b>December 15, 2008</b>
<b>Effective:</b>	<b>December 15, 2008 through May 13, 2009</b>
<b>Hearing Date:</b>	<b>January 8, 2009</b>

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### Commerce

#### *Licenses, Certifications and Registrations, Ch. Comm 5 Wis. Commercial Building Code, Chs. Comm 60–66*

**EmR0904** — Rule adopted revising **ss. Comm 5.30 and 61.295**, relating to building contractor registration.

#### Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows:

1. Under Chapter 560 of the Statutes, the department of commerce is charged with facilitating the establishment and retention of business enterprises in Wisconsin, and with seeking closer cooperation and coordination between units of state government, so that the economy of the state may continue to develop fully and meet citizen and community needs.

2. Under Chapters 101 and 145 of the statutes, the department of commerce has oversight over the design, construction, alteration and maintenance of public buildings and places of employment, one- and two- family dwellings, public swimming pools and public water attractions in order to protect public safety, health and welfare and the waters of the state.

3. The department has proposed an administrative rule that would require the registration of various types of building contractors not already credentialed by the department under existing administrative rules. Under the proposed rules contractors must be registered with the department by January 1, 2010. A public hearing on that proposal was held on January 21, 2009.

4. The proposed rule has three main benefits to Wisconsin: first, it will enhance the department's ability to communicate with and educate building contractors throughout the state about their obligations to limit safety and health risks for the citizens of Wisconsin; second, it will enhance the ability of the department to cooperate and coordinate with the Department of Workforce Development relative to their administration of unemployment insurance and workers compensation insurance programs; and third, it will enhance the ability of

the department to cooperate and coordinate with the Department of Revenue relative to their administration of the state income tax program.

5. Due to the current economic circumstances, the department has determined that the implementation for building contractor registration should be July 1, 2009 in order for the benefits to be in effect for the 2009 building construction season.

**Publication Date:** March 2, 2009  
**Effective:** March 2, 2009 through July 29, 2009  
(except ss. Comm 5.30 (1) and 61.295 (2))  
**Effective:** July 1, 2009 through November 27, 2009  
**Hearing Date:** March 31, 2009

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## Commerce

### *Elevators, Escalators and Lift Devices, Ch. Comm 18*

**EmR0901**— Rule adopted repealing **s. Comm 18.1702 (8)**, relating to a wear and fatigue monitoring system and a device that protects against suspension loss for electric traction elevators that use smaller sized wire ropes.

#### **Finding of Emergency**

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. The recent revision of chapter Comm 18, Elevators, Escalators and Lift Devices, references and adopts the 2007 edition of the national standard ASME A17.1, developed by the American Society of Mechanical Engineers. Effective January 1, 2009, the regulations include a provision, s. Comm 18.1702 (8), that requires a wear and fatigue monitoring system and a device that protects against suspension loss for electric traction elevators using smaller sized wire ropes.

2. The department included the wear and fatigue monitoring system and protection device requirements in anticipation that the next edition of the national ASME A17.1 standard would incorporate a similar provision. The department developed s. Comm 18.1702 (8) based on code language being proposed by the national standard ASME A17.1 Committee.

3. The wear and fatigue monitoring system and the device to protect against suspension loss were not incorporated into the next version of the ASME A17.1. The ASME A17.1 Committee withdrew the section because of implementation concerns, and at this time it is unclear what the final section on suspension ropes and their connections in elevators will include.

4. Because the department adopts by reference the national standard ASME A17.1, it recognizes that without promulgating this emergency rule, there could be confusion in what constitutes recognized safe practices for a monitoring system and protection against suspension loss for electric traction elevators. The department believes that repealing s. Comm 18.1702 (8) will keep the Wisconsin code in alignment with the most current edition of ASME A17.1 and still promote safety.

**Publication Date:** February 5, 2009  
**Effective:** February 5, 2009 through July 4, 2009  
**Hearing Date:** March 2, 2009

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## Commerce

### *Uniform Dwelling, Chs. Comm 20–25 Wisconsin Commercial Building Code, Chs. Comm 60–66*

**EmR0826** — Rules adopted to renumber **s. Comm 66.0911**; to amend **s. Comm 20.24 (1) and (2)**; and to create **ss. Comm 21.095, 20.24 Table 20.24–14, 62.1200, 62.3500 (3) (e), 66.0911 (title) and (2)**, relating to carbon monoxide alarms and affecting small business.

#### **Exemption From Finding of Emergency**

Under the nonstatutory provisions of 2007 Wisconsin Act 205, the Department of Commerce is directed to issue emergency rules that implement provisions of the Act. The Act specifically states: “Notwithstanding section 227.24 (1) (a) and (3) of the statutes, neither the department of commerce or the department of health services is required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.”

The Act mandates the installation and maintenance of carbon monoxide alarms in buildings accommodating certain types of residential occupancies and within which fuel burning appliances are located. Residential occupancies include tourist rooming houses, bed and breakfast establishments, and any public building that is used for sleeping or lodging, such as, hotels, motels, condominiums, apartment buildings, dormitories, fraternities, sororities, convents, seminaries, community based residential facilities, home shelters, but not hospitals and nursing homes. The Act requires the installation of carbon monoxide alarms in new buildings as of October 1, 2008. The owners of existing buildings will have until April 1, 2010 to install the carbon monoxide alarms. The Act also provides for the omission of carbon monoxide alarms in certain instances which are further clarified by the administrative rules.

**Publication Date:** September 10, 2008  
**Effective:** October 1, 2008 through the date permanent rules become effective  
**Hearing Date:** October 14, 2008

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## Commerce

### *Financial Resources for Businesses and Communities, Chs. Comm 104–135*

**EmR0823** — Rules adopted amending **Comm Table 108.6–1, sections Comm 108.07 (5), 108.22 (1), and 154.06 (intro.)**, relating to emergency assistance grants in the community development block grant program, and affecting small businesses.

#### **Finding of Emergency**

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health,

safety, and welfare. The facts constituting the emergency are as follows.

Currently under sections Comm 108.06, 108.07, and 108.22 of the Wisconsin Administrative Code, as promulgated under sections 560.04, 560.045, and 560.9809 of the Statutes, the Department may annually use up to 5 percent of its federal Community Development Block Grant (CDBG) funds to repair or replace public infrastructure or facilities, or for emergency services necessitated by a natural disaster or catastrophic event. Also under sections Comm 108.07 and 108.22, the maximum amount of CDBG funds that the Department can award to any local government for a natural disaster or catastrophic event is \$500,000.

Currently under section Comm 154.06, as promulgated under sections 560.02 (4) and 560.9809 (2) of the Statutes, the Department may annually use up to \$2,000,000 of CDGB funds to address emergency housing needs caused by natural disasters or catastrophic events.

Because of the unprecedented levels of damage to public infrastructure and facilities from the severe storms and widespread flooding that occurred throughout the State in June 2008, the need for emergency assistance to communities far exceeds the \$1.35 Million of CDBG funding that results from the above 5-percent limit, and the need for emergency housing assistance for low and moderate income households far exceeds the above \$2,000,000. Communities and households in 28 of the 30 counties where the Governor has declared a state of emergency are eligible for this CDBG program assistance.

This emergency rule repeals the above limits of 5 percent, \$500,000 and \$2,000,000. This will enable the Department to (1) use any available CDBG funds for emergency assistance with repairing or replacing public infrastructure and facilities, and with repairing or replacing homes damaged by the severe storms and flooding; and (2) base the award amounts on the scope of the damages and destruction in the community and on the funds available.

**Publication Date:** July 16, 2008  
**Effective:** July 16, 2008 through December 12, 2008  
**Hearing Date:** August 27, 2008  
**Extension Through:** April 11, 2009

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### Corrections

**EmR0835** — Rules adopted creating s. DOC 332.20, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking.

#### Finding of Emergency

The department of corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

Under 2005 WI Act 431, section 8, the legislature requires certain persons who have been convicted of a serious child sex offense, who have been found not guilty of a serious child sex offense by reason of mental disease or mental defect, or who are the subject of notification under s. 301.46 (2m) (am), Stats., to be placed on lifetime tracking under a global positioning system (GPS) or a passive positioning system (PPS). The legislature also authorized the department to

establish a rule to require persons who are subject to GPS tracking or PPS tracking to pay the cost of tracking.

If the rule is not created promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of the tracking program, which could result in a lessening of tracking due to budget limitations.

The purpose of the emergency rule is to require all persons who are subject to tracking to pay the tracking fee which is used to offset the costs of the tracking program. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of tracking fees while permanent rules are being developed.

**Publication Date:** November 12, 2008  
**Effective:** November 12, 2008 through April 10, 2009  
**Hearing Date:** December 11, 2008

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### Financial Institutions — Securities

**EmR0829** — Rules adopted amending s. DFI–Sec 4.06 (2) (i) and to create ss. DFI–Sec 4.06 (1) (v), 5.06 (14) and Chapter DFI–Sec 10, relating to making it a dishonest or unethical practice for securities licensees to make use of misleading designations or certifications purporting to demonstrate special expertise in the financial or retirement needs of seniors.

#### Finding of Emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

The Division is taking immediate, emergency–rule action to protect seniors in Wisconsin from being misled through the use by securities licensees of designations and credentials that imply or represent that a person has special expertise, certification, or training in financial planning for seniors, but where such designations and/or credentials are either non–existent or do not involve significant education, testing, training or experience, and in reality are marketing ploys.

**Publication Date:** September 18, 2008  
**Effective:** September 18, 2008 through February 14, 2009  
**Extension Through:** April 15, 2009

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### Government Accountability Board

**EmR0902** — Rule adopted amending s. GAB 6.05, relating to filing campaign finance reports in electronic format.

#### Finding of Emergency

The Government Accountability Board amends s. GAB 6.05, Wis. Adm. Code, relating to filing campaign finance statements in electronic format. The amended rule creates a uniform requirement and restricts registrants to an “electronic format” compatible with the Board’s electronic filing system for filing campaign finance reports.

Pursuant to s. 227.24, Stats., the Government Accountability Board finds an emergency exists because the Board’s January 18, 2008 decision to implement the use of a

new electronic filing system, and the technical requirements thereof, conflicts with the technical electronic format filing permitted by the previous rule. In effect, the current electronic filing system cannot work without a uniform and restricted electronic format that is compatible with the new electronic filing system.

The Board adopts the legislature's policy findings of s. 11.001, Stats., emphasizing that one of the most important sources of information to voters about candidates is available through the campaign finance reporting system. The Board further finds that it is necessary to codify a uniform electronic format filing requirement to ensure the proper operation of the current electronic filing system so that the campaign finance information is available to voters. The amended rule, GAB 6.05, must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

**Publication Date:** February 5, 2009  
**Effective:** February 5, 2009 through July 4, 2009  
**Hearing Date:** March 20, 2009

### Health Services (2)

(Formerly Health and Family Services)

*Management & Technology & Strategic Finance,  
Chs. HFS (DHS) 1—*

1. **EmR0832** — Rule adopted to repeal s. HFS (DHS) 12.03 (15) and to create ss. HFS (DHS) 12.03 (20m), 12.115 and Table HFS (DHS) 12.115, relating to background checks of individuals who provide personal care services, and affecting small businesses.

#### Finding of Emergency

The Department of Health Services finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. The facts constituting the emergency are as follows:

2007 Wisconsin Act 172 requires the department to specify by rule, the crimes, a conviction of which an entity must disclose to a client or a client's guardian before the caregiver provides the client with personal care services in the client's home. Act 172 also requires the department to define the term "substitute caregiver". Under s. 50.065 (2m) (d), Stats., as created by 2007 Wisconsin Act 172, the department created a list of crimes required and also as required defined the term "substitute caregiver".

Effective November 1, 2008, entities, including home health agencies and temporary employment agencies, are required under s. 50.065 (2m) (d), Stats., to disclose to the client or the client's guardian, the assigned caregiver's convictions of crimes specified by the department by rule.

**Publication Date:** October 20, 2008  
**Effective:** November 1, 2008 through March 30, 2009  
**Hearing Date:** January 6, 2009

2. **EmR0834** — Rules adopted amending s. HFS (DHS) 10.23 (2) (d) 2., relating to confidentiality requirements of the Family Care program that prohibit benefit specialists from disclosing personally identifying information about a client without the client's informed consent, unless required by law.

#### Finding of Emergency

The Department of Health Services finds that an emergency exists and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. The facts constituting the emergency are as follows:

Chapter HFS 10 is the department's rule that guides the implementation of the department's Family Care program. Included in these provisions are standards for confidentiality which prohibit disability benefit specialists from disclosing personally identifying information about a client without the client's consent unless required by law. Because disability benefit specialists are permissive reporters, and thus not required to report abuse, neglect, or financial exploitation of elder adults and adults at risk under ss. 46.90 (4) (ar) and 55.043 (1m) (br), Stats., s. HFS 10.23 (2) (d) 2., effectively prevents disability benefits specialists from making such disclosures.

Amending s. HFS 10.23 (2) (d) 2., to allow disability benefit specialists to report abuse, neglect, or financial exploitation under ss. 46.90 (4) (ar) and 55.043 (1m) (br), Stats., would help to ensure that elder adults and adults-at-risk who may have been abused, neglected, or financially exploited are brought to the attention of the abuse, neglect and exploitation response systems outlined under ss. 46.90 and 55.043, Stats.

**Publication Date:** November 3, 2008  
**Effective:** November 3, 2008 through April 1, 2009  
**Hearing Date:** January 27, 2009

### Health Services

(Formerly Health and Family Services)

*Health, Chs. HFS 110—*

**EmR0825** — Rule adopted creating Chapter HFS 119, to require emergency medical technicians, first responders, and individuals who provide instruction to emergency medical technicians and first responders to complete training on the use of automated external defibrillators and to specify the content of the training, qualifications of providers, and frequency with which training is to be completed, and affecting small businesses.

#### Exemption From Finding of Emergency

The legislature by 2007 Act 104 provides the department with an exemption from a finding of emergency to adopt these emergency rules.

**Publication Date:** August 29, 2008  
**Effective:** September 1, 2008 through January 28, 2009  
**Hearing Date:** December 11, 2008  
**Extension Through:** March 29, 2009

### Military Affairs — Wisconsin Emergency Management

**EmR0836** — Rule adopted revising Chapter WEM 1, relating to fee revisions to facilities housing hazardous chemicals, hazardous substances, and extremely hazardous substances as defined in s. WEM 1.02 (5).

#### Finding of Emergency

The Wisconsin Division of Emergency Management (WEM)/State Emergency Response Commission finds that

an emergency exists and that a rule revision is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting an emergency is as follows:

Emergency response to and planning for accidental or purposeful releases of dangerous chemicals will be compromised by a significant reduction of money available to fund emergency management activities at the county level. County emergency management agencies will be unable to fully comply with state and federal laws. Wisconsin Emergency Management would also experience substantial reductions in capabilities to assist local units of government with their state and federally required responsibilities. Sufficient funding of the county grant program and WEM activities is necessary to protect and defend the citizens of Wisconsin from accidental releases and releases caused by terrorist actions.

**Publication Date:** December 1, 2008  
**Effective:** December 1, 2008 through April 29, 2009  
**Hearing Dates:** December 18 and 19, 2008

**Natural Resources**

*Environmental Protection – General, Chs. NR 100—*

**EmR0809** — Rule adopted to repeal s. NR 198.15 (2), to renumber s. NR 198.12 (6) to (10), to amend ss. NR 198.11, 198.14 (1) (e) and (f) 2., 198.23 (5) to (7), 198.33 (5), and 198.44 (5) and to create ss. NR 198.12 (6) and (7), 198.33 (6) and subch. V of ch. NR 198, relating to grants for the control of aquatic invasive species.

**Finding of Emergency**

The substantial increase in grant funding is a strong message from the Legislature that concern over the welfare of our public waters is growing, along with the expectation that these additional funds be put to work as soon as possible. The appropriation from which these funds are spent is a biennial appropriation, meaning that any unspent funds at the end of the biennium automatically lapse back to the Water Resources Account of the Conservation Fund. The timeline for permanent rule promulgation and the lack of staff to provide support to eligible sponsors may impede the Department’s ability to fully and responsibly invest the authorized spending by the end of the biennium because of the current rule’s limitations. An emergency rule will help to minimize or eliminate the amount of funds that are lapsed.

**Publication Date:** April 7, 2008  
**Effective:** July 1, 2008 through November 27, 2008  
**Hearing Dates:** July 22 to August 5, 2008  
**Extension Through:** March 27, 2009

**Pharmacy Examining Board**

**EmR0903** — A rule adopted repealing s. Phar 4.02 (2), relating to the practical examination.

**Finding of Emergency**

The Pharmacy Examining Board finds that, under s. 227.24 (1), Stats., the repeal of s. Phar 4.02 (2) is required for the preservation of the public peace, health, safety and welfare.

Currently, under s. Phar 4.02 (2), the board administers a practical examination to determine an applicant’s competence in compounding and dispensing medications, which includes consultation of patients. The board has determined that this examination is no longer needed because the competencies tested in the examination are also tested in two other national examinations that applicants are required to take in order to obtain a license in Wisconsin. The board has also determined that the practical examination requirement may contribute to the shortage of pharmacists in Wisconsin.

First, under s. Phar 4.02 (1) and (3), an applicant is required to take and pass the Multi–State Pharmacy Jurisprudence Examination (MPJE) and the North American Pharmacist Licensure Examination (NAPLEX). Both of these examinations test competencies that relate to subject areas that are also tested in the practical examination. As a result, applicants are required to take an additional examination, and pay an additional examination fee. In some instances, this step may also result in a delay in the processing of applications for licensure.

Second, in reference to the shortage of pharmacists in Wisconsin, the board has found that populations in rural areas and in certain city neighborhoods are underserved. The board believes that, because of its practical examination requirement, potential applicants from other states are declining to seek licensure in Wisconsin. Wisconsin is one of only four states that require a practical examination. None of the states that border Wisconsin have a practical examination requirement.

**Publication Date:** February 28, 2009  
**Effective:** February 28, 2009 through July 27, 2009  
**Hearing Dates:** April 8, 2009

**Regulation and Licensing (3)**

- EmR0819** — A rule adopted revising s. RL 161.04, relating to examinations for substance abuse professionals.

**Finding of Emergency**

The department has made a finding of emergency. The current rules require an applicant for a clinical substance abuse counselor credential to pass an oral examination. The company that produced that examination is not giving that examination after June 1, 2008. This emergency rule creates a time period for a transition to enable a category of applicants to get a clinical substance abuse counselor credential. Persons holding a clinical substance abuse counselor credential can apply for a supervisory credential. There is a strong need for more supervisors in this field because services can only be provided under supervision. This rule will enable more applicants to receive a supervisor credential and is therefore necessary to maintain the health, safety and welfare of the public.

**Publication Date:** June 18, 2008  
**Effective:** June 18, 2008 through November 14, 2008  
**Hearing Date:** November 11, 2008  
**Extension Through:** March 14, 2009

- EmR0827** — Rule adopted creating s. RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

### Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

**Publication Date:** September 10, 2008  
**Effective:** September 10, 2008  
 through the date on which  
 the final rules take effect  
**Hearing Dates:** November 26, 2008  
 April 13, 2009

(See the Notice in this Register)

3. **EmR0828** — Rules adopted to amend s. **RL 181.01 (2) (c); and to create ss. RL 180.02 (1m), (3m) and (11), 181.01 (1) (d), (2) (c) 1. and 2.**, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

### Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

**Publication Date:** September 10, 2008  
**Effective:** September 10, 2008  
 through the date on which  
 the final rules take effect  
**Hearing Date:** November 26, 2008

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### Revenue

**EmR0820** — Rule adopted creating ss. **Tax 8.03 and 8.05**, relating to the registration of wine collectors, establishing standards of eligibility for registration as a wine collector, specifying the form and manner of notice required prior to the sale of wine by a wine collector, and the creation and organization of small winery cooperative wholesalers.

### Exemption From Finding of Emergency

The legislature by Section 50 of 2007 Wisconsin Act 85 provides an exemption from a finding of emergency for the adoption of the rule.

**Publication Date:** June 26, 2008  
**Effective:** June 26, 2008 through  
 July 1, 2010 or the date on  
 which permanent rules  
 take effect, whichever is  
 sooner.

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### Transportation

**EmR0833** — Rule adopted revising **Chs. Trans 325, 326 and 327**, relating to motor carrier safety, and hazardous material transportation safety.

### Finding of Emergency

The Department of Transportation finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. Recently enacted commercial motor carrier safety regulations apply to drivers and carriers transporting property and passengers by commercial vehicles in interstate commerce and enhance highway safety. It is imperative the industry operates under a single set of safety regulations to minimize confusion that could result in inadvertent noncompliance or application of an outdated safety standard. Also pursuant to 49 CFR 350.331(d), States are required to adopt compatible laws or rules to remain eligible for Motor Carrier Safety Assistance Program funding. Currently, Wisconsin receives approximately \$4 million in such funding, which is used to administer various highway safety programs, and that funding and the safety programs it supports will be in jeopardy if Wisconsin does not implement these changes immediately. The Motor Carriers Association has urged the Department to implement these changes as it will help ensure uniformity and increased highway safety.

**Publication Date:** November 5, 2008  
**Effective:** November 5, 2008 through  
 April 3, 2009  
**Hearing Date:** December 2, 2008

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### Workforce Development

#### *Public Works Construction Contracts, Chs. DWD 290–294*

**EmR0838** – Rules adopted revising s. **DWD 290.155 (1)**, relating to the adjustment of thresholds for application of prevailing wage rates.

### Finding of Emergency

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

Adjusting the thresholds for application of the prevailing wage rate requirements by emergency rule ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and applicability of the prevailing wage law is determined. The adjustment avoids imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process.

**Publication Date:** December 29, 2008  
**Effective:** January 1, 2009 through  
 May 30, 2009  
**Hearing Date:** February 12, 2009

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## Scope Statements

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### Dentistry Examining Board

#### Subject

Revises Chapter DE 2, relating to continuing education requirements for dentists and dental hygienists in Wisconsin.

#### Objective of the Rule

To provide clarification and additional guidance regarding the statute changes enacted by 2005 Wisconsin Act 318 and 2007 Wisconsin Act 31, relating to continuing education for dentists and dental hygienists.

#### Policy Analysis

The statute provides an outline of the continuing education requirement. Rules are needed to provide more specific guidance as to compliance with the law.

#### Statutory Authority

Sections 15.08 (5) (b) and 227.11 (2), Stats., and chapter 447, Stats.

#### Comparison with Federal Regulations

None.

#### Entities Affected by the Rule

The Dentistry Examining Board, the Wisconsin Department of Regulation and Licensing, dentists, dental hygienists and continuing education providers.

#### Estimate of Time Needed to Develop the Rule

It is estimated that 100 hours will be needed to promulgate the rule.

### Natural Resources

#### *Environmental Protection — Air Pollution Control, Chs. NR 400—*

#### Subject

Revises Chapters NR 404 and 438, relating to the new National Ambient Air Quality Standards for ozone and lead.

#### Objective of the Rule

Under the federal Clean Air Act, the US Environmental Protection Agency (EPA) has responsibility for promulgating National Ambient Air Quality Standards (NAAQS) which are designated to protect public health (primary standards) and public welfare (secondary standards). Under state law, if EPA promulgates a NAAQS, the Department is required to promulgate a similar, but no more restrictive standard. The EPA has recently promulgated new NAAQS for ozone and lead. In order to reflect current air quality health science and to maintain consistency with EPA-promulgated NAAQS, the Department is proposing to adopt EPA's newly promulgated NAAQS for ozone and lead into ch. NR 404, Wis. Adm. Code, and to incorporate the revised lead reporting requirements into ch. 438, Wis. Adm. Code.

#### Policy Analysis

The Clean Air Act requires EPA to review the latest scientific information and standards every five years. Based on its conclusion that the more restrictive 8-hour ozone standard provides greater protection of public health, the EPA promulgated an 8-hour ozone NAAQS in 1997. In 2008, EPA significantly strengthened the 8-hour ozone NAAQS for ground-level ozone. The Department is now proposing to adopt the 2008 8-hour ozone NAAQS. The 2008 ozone standard provides even greater public health protection than did the 1997 ozone standard.

Based on its review of the air quality criteria and NAAQS for lead, EPA has revised the primary and secondary NAAQS for lead to provide requisite protection of public health and welfare respectively. By adopting the revised lead NAAQS, Wisconsin's air quality standards will be consistent with EPA's NAAQS.

As required by s. 285.21 (1) (a), Stats., Wisconsin must promulgate ambient air quality standards similar to the NAAQS for the protection of public health and welfare. Consequently, there are no apparent policy alternatives to this proposed action.

#### Statutory Authority

Sections 285.11 (1) and (6) and 285.21 (1) (a), Stats.

#### Comparison with Federal Regulations

A major purpose of this proposed rules package is to amend Wisconsin's ambient air quality standards in order to be consistent with the NAAQS, which are contained in Title 40, Part 50 of the Code of Federal Regulations (40 CFR part 50). This consistency is required under s. 285.21 (1) (a), Stats.

#### Entities Affected by the Rule

Sources are not directly affected by adopting the NAAQS. They however may be affected if control programs are necessary to attain the NAAQS in the future. Due to a change in the reporting requirements, lead sources may have to report lead emissions that some have not previously reported.

#### Estimate of Time Needed to Develop the Rule

Approximately 382 hours of agency staff time is being budgeted to this proposed rule action.

#### Contact Information

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WI DNR Bureau of Air Management  
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Madison, WI 53707  
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Email: Muhammed.islam@wisconsin.gov

### Natural Resources

#### *Environmental Protection — Air Pollution Control, Chs. NR 400—*

#### Subject

Revises Chapter NR 422, relating to updating reasonably available control technology for volatile organic compound

emissions from miscellaneous metal and plastic parts coating, industrial adhesives, and automobile and light-duty truck assembly coating.

### Objective of the Rule

Section 182(b)(2) of Clean Air Act requires implementation of reasonably available control technology (RACT) for sources of volatile organic compound (VOC) emissions in moderate and worse ozone nonattainment areas, for which the US EPA has published a Control Techniques Guideline (CTG) document. In October of 2008, the US EPA published several new CTG documents ([http://www.epa.gov/ttn/naaqs/ozone/ctg\\_act/index.htm](http://www.epa.gov/ttn/naaqs/ozone/ctg_act/index.htm)). DNR must revise ch. NR 422 to set VOC RACT requirements consistent with the new CTG documents in Wisconsin's ozone nonattainment areas. The rule revisions are necessary to avoid potential federal sanctions, including withholding of federal highway funds, and implementation of a federal plan instead of State rules. Amendments to other chapters may also be necessary to accomplish the purpose of the RACT rule.

### Policy Analysis

The source categories for which the US EPA has published a CTG document and for which Wisconsin needs to update VOC RACT rules are:

1. Miscellaneous Metal and Plastic Parts Coatings.
2. Miscellaneous Industrial Adhesives.
3. Automobile and Light-Duty Truck Assembly Coatings.

Since the Bureau of Air Management anticipates proposing rules substantially consistent with US EPA guidelines, it does not expect to encounter major policy decisions. Some minor deviations from the recommendations in the US EPA's guidelines may be necessary to improve implementation in Wisconsin.

### Statutory Authority

Section 285.11 (6), Wis. Stats., requires DNR to develop a plan for the prevention, abatement and control of air pollution. With limited exceptions, the rules or control strategies for ozone control must conform to the federal Clean Air Act.

### Comparison with Federal Regulations

To guide the states' VOC RACT rule development, the US EPA has developed CTG documents for use in establishing applicability criteria and emission limits for RACT rules. DNR's rule development will be based on and consistent with the US EPA guidance documents, but some minor changes from the US EPA's guidelines may be necessary to improve implementation in Wisconsin.

### Entities Affected by the Rule

Affected parties include industrial sources in the various identified categories. Since the emissions applicability threshold recommended by the US EPA is well below that of the major source level, small businesses in the miscellaneous metal and plastic parts coatings and miscellaneous industrial adhesives categories may be affected. It is not likely that small businesses are in the automobile and light-duty truck assembly coatings category.

### Estimate of Time Needed to Develop the Rule

A total of about 485 hours is needed for drafting and internal review.

### Contact Information

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Email: [Jonathan.loftus@wisconsin.gov](mailto:Jonathan.loftus@wisconsin.gov)

### Natural Resources

#### *Environmental Protection — Air Pollution Control, Chs. NR 400—*

### Subject

Revises Chapter NR 424, relating to establishing reasonably available control technology for volatile organic compound emissions from fiberglass boat manufacturing.

### Objective of the Rule

Section 182(b)(2) of Clean Air Act requires implementation of reasonably available control technology (RACT) for sources of volatile organic compound (VOC) emissions in moderate and worse ozone nonattainment areas, for which the US EPA has published a Control Techniques Guideline (CTG) document. In October of 2008, US EPA published a new CTG document for fiberglass boat manufacturing ([http://www.epa.gov/ttn/naaqs/ozone/ctg\\_act/index.htm](http://www.epa.gov/ttn/naaqs/ozone/ctg_act/index.htm)). DNR proposes to revise ch. NR 424 to set VOC RACT requirements consistent with the new CTG document in Wisconsin's ozone nonattainment areas. The rule revisions are necessary to avoid potential federal sanctions, including withholding of federal highway funds, and implementation of a federal plan instead of State rules. Amendments to other chapters may also be necessary to accomplish the purpose of the RACT rule.

### Policy Analysis

Since the Bureau of Air Management anticipates proposing rules substantially consistent with US EPA guidelines, it does not expect to encounter major policy decisions. Some minor changes to US EPA's guidelines may be necessary to improve implementation in Wisconsin.

### Statutory Authority

Section 285.11 (6), Wis. Stats., requires DNR to develop a plan for the prevention, abatement and control of air pollution. With limited exceptions, the rules or control strategies for ozone control must conform to the federal Clean Air Act.

### Comparison with Federal Regulations

To guide the states' VOC RACT rule development, the US EPA has developed CTG documents for use in establishing applicability criteria and emission limits for RACT rules. DNR's rule development will be based on and consistent with the US EPA guidance document, but some minor changes from the US EPA's guidelines may be necessary to improve implementation in Wisconsin.

### Entities Affected by the Rule

Affected parties include industrial sources in the identified category. There appears to be six facilities involved in boat manufacturing. The department has identified two of these six facilities that may be small businesses. However, boat manufacturing is only a small part of overall operations at these two facilities. Therefore, it is uncertain at this time if any small business will be affected.

**Estimate of Time Needed to Develop the Rule**

A total of about 485 hours is needed for drafting and internal review.

**Contact Information**

Jon Loftus  
Wisconsin Department of Natural Resources  
101 S. Webster Street, AM/7  
Madison, WI 53707-7921  
Phone: 608-264-8868  
Email: Jonathan.loftus@wisconsin.gov

**Regulation and Licensing****Subject**

Revises Chapters RL 160 through 168, relating to certified substance abuse treatment professionals including substance abuse counselors, clinical supervisors, and prevention specialists.

**Objective of the Rule**

Amendments will be made for purposes of redrafting for consistency, readability and organization, adding or updating definitions common to the profession, restructuring chapter content, and removal of redundant language. In addition, the Department may address policy issues through additional changes to the administrative rules governing certification requirements, reciprocity, scope of practice and applicability, examinations required for certification, education approval and continuing education.

**Policy Analysis**

The current rules as established are the result of the initial, large-scale rule-writing effort. Since the promulgation, a number of areas within the rules have been identified as redundant, confusing and/or overly complex.

In addition to redrafting for readability and consistency, the Department may wish to consider addressing scope of practice issues, including when a person is required to hold a credential, what services they may provide without a credential, clarification on usage of title, and what services are considered the scope and practice of a certified substance abuse counselor. Such changes are under the purview of s. 440.88, Wis. Stats. For certification by reciprocity, the current rules allow those with IC&RC reciprocal credentials to transfer into Wisconsin; consequently, the rules appear to limit the Department's acceptance of those applying with non-ICRC credentials, which may have equivalent or greater training and experience. For examinations required for certification, the Department adheres to IC&RC standards, and as such, exclusively requires IC&RC practice competency examinations for the prevention specialist, clinical supervisor and substance abuse counselor certifications. If the Department is testing for minimum competency necessary for safe practice, there may be additional testing instruments available and worthy of consideration.

**Statutory Authority**

Section 227.11 (2), Stats., and subchapter VII of Chapter 440, Stats.

**Comparison with Federal Regulations**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**Entities Affected by the Rule**

Those certified, or attempting to obtain certification under s. 440.88, Stats., as any level of prevention specialist, substance abuse counselor, or clinical supervisor.

**Estimate of Time Needed to Develop the Rule**

Total hours: 400.

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# Submittal of Rules to Legislative Council Clearinghouse

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

## **Agriculture, Trade and Consumer Protection** **CR 09–023**

On March 12, 2009, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapter ATCP 149, relating to a potato marketing order.

### **Agency Procedure for Promulgation**

Public hearings will be held on April 14 and 15, 2009. The Department's Office of Legal Counsel is primarily responsible for this rule.

### **Contact Information**

Noel Favia  
Phone: 608–224–5140

## **Commerce**

### *Licenses, Certifications and Registrations, Ch. Comm 5* **CR 09–021**

On March 11, 2009, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises section Comm 5.12, relating to administrative forfeitures for POWTS governmental unit employees.

### **Agency Procedure for Promulgation**

A public hearing will be held on April 15, 2009. The Division of Safety and Buildings is responsible for promulgation of the rules.

### **Contact Information**

Jim Quast  
Program Manager  
Phone: 608–266–9292  
Email: Jim.Quast@wisconsin.gov

## **Insurance** **CR 09–022**

On March 11, 2009, the Office of the Commissioner of Insurance submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapters Ins 2, 5, 6, 26, and 28, relating to licensing, preclicensing, and continuing education for insurance agents and affecting small business.

## **Agency Procedure for Promulgation**

A public hearing will be held on April 13, 2009.

### **Contact Information**

A copy of the proposed rule may be obtained from the website at: <http://oci.wi.gov/ocirules.htm> or by contacting:

Inger Williams  
Public Information and Communications  
Phone: 608–264–8110

For additional information, please contact:

Robert Luck, Legal Unit  
Phone: 608–266–0082  
Email: robert.luck@wisconsin.gov

## **Natural Resources**

### *Fish, Game, etc., Chs. NR 1–* **CR 09–024**

On March 16, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapters NR 10 and 19, relating to housekeeping rule changes relating to hunting, trapping and wildlife rehabilitation.

### **Agency Procedure for Promulgation**

A public hearing will be held on May 11, 2009. The Bureau of Wildlife Management is responsible for promulgation of the rules.

### **Contact Information**

Scott Loomans  
Phone: 608–267–2452

## **Natural Resources**

### *Environmental Protection — Air Pollution Control,* *Chs. NR 400–* **CR 09–020**

On March 6, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapters NR 406, 407, 419, 439, and 484, relating to federal hazardous air pollutant regulations, biodiesel fuel, incorporation of statutory changes, and air pollution control permit applications.

### **Agency Procedure for Promulgation**

A public hearing will be held on April 16, 2009

### **Contact Information**

Robert Eckdale  
Bureau of Air Management  
Phone: 608–266–2856

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## Rule–Making Notices

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### Notice of Hearing

#### Agriculture, Trade and Consumer Protection

##### CR 09–023

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on proposed amendments to Chapter ATCP 149, Wis. Adm. Code, relating to the Potato Marketing Order.

#### Hearing Information

##### Antigo

**Tuesday, April 14, 2009**

1:00 p.m. to 2:30 p.m.

Langlade County, UW Extension Office

837 Clermont Street

Antigo, WI 54409

##### Stevens Point

**Wednesday, April 15, 2009**

1:00 p.m. – 2:30 p.m.

Portage County, UW Extension

County Annex Building, Rm 2

1462 Strongs Avenue

Stevens Point, WI 54481

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by April 8, 2009, by writing to Noel Favia, Division of Agricultural Development, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–5140. Alternatively, you may contact the DATCP TDD at (608) 224–5058. Handicap access is available at the hearings.

#### Appearances at the Hearing and Submission of Written Comments

DATCP will hold two public hearings at the times and places shown above. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until Thursday, April 30, 2009, for additional written comments. Comments may be sent to the Division of Agricultural Development at the address below or by e-mail to [noel.favia@wisconsin.gov](mailto:noel.favia@wisconsin.gov).

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator Keeley Moll at the address above, by emailing to [Keeley.Moll@wi.gov](mailto:Keeley.Moll@wi.gov) or by telephone at (608) 224–5039.

#### Copies of Proposed Rule

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Development, Marketing Order Program, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–5140 or emailing [noel.favia@wi.gov](mailto:noel.favia@wi.gov).

Copies will also be available at the hearings. To view the proposed rule online, go to:

<http://adminrules.wisconsin.gov>

#### Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

The Department of Agriculture, Trade and Consumer Protection (DATCP) has adopted a potato marketing order (ch. 149, Wis. Adm Code), pursuant to ch. 96, Stats. (Wisconsin agricultural marketing act). A potato industry board, elected by potato producers, administers the marketing order. The potato industry board collects assessments from potato producers, and spends assessment revenues for potato market development, research and education.

This rule changes the election and membership of the potato industry board, and authorizes the board to charge higher assessments to potato producers. This rule must be approved in a referendum of affected producers, as provided in s. 96.08 (1) (b) 3., Stats., before it can take effect.

#### *Statutes interpreted*

Chapter 96, Stats.

#### *Statutory authority*

Sections 93.07 (1) and 96.15, Stats.

#### *Explanation of agency authority*

DATCP has general authority, under s. 93.07(1), Stats., to adopt rules interpreting statutes under its jurisdiction. DATCP is specifically authorized, under s. 96.15, Stats., to adopt rules to administer the marketing order program under ch. 96, Stats.

#### *Related statutes and rules*

DATCP has adopted general rules under ch. ATCP 140, Wis. Adm. Code, to govern the creation and operation of marketing orders, including the operation of marketing boards.

#### *Background*

DATCP administers Wisconsin's agricultural marketing order program under ch. 96, Stats. DATCP may adopt marketing orders for Wisconsin agricultural commodities, with the approval of affected commodity producers. DATCP has adopted marketing orders for cherries, cranberries, corn, milk, mint, soybeans, ginseng and potatoes.

Each marketing order, including the potato marketing order, provides for assessments on commodity producers. Affected producers elect a marketing board that establishes assessment levels within limits specified by the marketing order, and spends assessment revenues for purposes identified in the marketing order. The current potato industry board (potato marketing board) includes 10 members elected from 5 geographic districts for staggered 3–year terms. DATCP monitors marketing board activities for compliance with applicable law, including the marketing order.

Under the current potato marketing order, the potato industry board is authorized to collect potato marketing assessments of up to 6 cents per hundredweight. The board has implemented an actual assessment rate of 5 cents per hundredweight – one cent per hundredweight below the maximum assessment currently allowed. Assessments may be used to finance market development, research and education, subject to the terms of the marketing order.

DATCP has adopted general rules under ch. ATCP 140, Wis. Adm. Code, to govern the operation of marketing orders and marketing boards. DATCP must adopt marketing orders

as rules. Affected producers must approve (by referendum) the adoption, amendment or repeal of a marketing order.

#### **Summary of rule**

This rule modifies the current potato marketing order (ATCP 149) to do all of the following:

- Increase the maximum assessment that the potato industry board is authorized to charge to producers. This rule changes the maximum assessment rate from 6 cents to 10 cents per hundredweight on potatoes sold into commercial channels.
- Change the election and membership of the potato industry board. This rule reduces the number of election districts from 5 to 3, and reduces the number of board members from 10 to 9. Eight of the 9 members of the modified board will be elected by producers from districts identified in this rule, and one board member will be chosen by all potato producers in a statewide “at large” election. Under this rule, all board members will be elected for 3-year terms.
- Provide for a gradual changeover to the new board membership. Current board members will continue to hold office until their current terms expire.

Under this rule, potato industry board election districts will be as follows:

- **District 1** will be represented by 3 board members and will include Ashland, Barron, Bayfield, Brown, Burnett, Chippewa, Clark, Door, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Vilas, and Washburn counties.
- **District 2** will be represented by 3 board members and will include Marathon, Outagamie, Portage, Shawano, Waupaca and Waushara counties.
- **District 3** will be represented by 2 board members and will include Adams, Buffalo, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, LaCrosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Trempealeau, Vernon, Walworth, Washington, Waukesha, Winnebago and Wood counties.

The changes to the current election districts, and the election of one “at large” representative, will address changes in the geographic distribution of potato production in the state. The increase in the maximum authorized marketing order assessment will facilitate additional funding for market development and research, including University of Wisconsin research related to new potato varieties and pesticide and chemical management.

#### **Comparison with federal regulations**

The United States department of agriculture (USDA) administers an agricultural marketing order program, under which USDA has broad authority to regulate prices and production, as well as to charge assessments for market development, promotion, research and education. USDA has adopted marketing orders for some of the same commodities covered by Wisconsin marketing orders (including potatoes). However, the state marketing orders do not directly duplicate or conflict with the federal marketing orders.

#### **Comparison with rules in adjacent states**

Michigan and Minnesota have marketing assessments for potatoes produced within those states. Minnesota’s current

assessment is 3 cents per hundredweight and Michigan’s assessment is 5 cents per hundredweight (the same as Wisconsin’s current assessment).

#### **Factual data and analytical methods**

DATCP keeps an updated list of potato producers for the purpose of determining eligible voters in marketing order referenda and marketing board elections. Changes in that list reflect significant changes in the geographic distribution of potato producers in the state. DATCP has worked with affected producers and the potato marketing board to obtain information related to assessment revenues and revenue needs.

#### **Small Business Impact**

##### **Summary**

The current potato marketing order is designed to improve the production and marketing of potatoes in this state, for the benefit of potato producers. This rule, initiated at the request of potato producers, is intended to improve the current potato marketing order. This rule must be approved in a referendum of affected producers before it can take effect. Many of the affected producers are “small businesses.”

This rule will change the composition and election of the current potato industry board. The changes reflect changes in the geographic distribution of the Wisconsin potato industry. The changes will have little, if any, impact on affected producers.

This rule also authorizes the potato industry board to increase the current potato marketing assessment from a maximum of 6 cents per hundredweight to a maximum of 10 cents per hundredweight of potatoes sold in commercial channels. The board may not increase the actual assessment rate by more than one cent per year.

While the authorized increase may eventually add expense for producers, the added expense will be small. Wisconsin has over 150 farms that produce nearly 23 million hundredweight of potatoes annually. The current marketing assessment is 5 cents per hundredweight. With potatoes currently selling at nearly \$25 per hundredweight, the current assessment represents only 2/10ths of 1% of the current market value of potatoes. Even if the potato industry board were to increase the assessment (over a period of at least 5 years) to the maximum 10 cents per hundredweight allowed by this rule, the assessment would still amount to only 4/10 of 1% of potato market value.

##### **Steps to assist small business**

Most of the businesses affected by this rule are “small businesses.” The rule allows for an increased maximum assessment rate to meet expenses related to operation of the marketing order board. Those expenses are indirectly paid by producers through their assessments. The effect of the increased maximum assessment rate will be to enable the board to have sufficient income to continue research, marketing and education necessary for the business of those affected producers.

##### **Conclusion**

This rule will have a minimal impact on individual potato producer expenses or incomes and will generally benefit those producers most of which are small businesses by providing the ability to fund research, marketing and education necessary to the industry. This rule will not have a significant adverse effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22 (2) (e), Stats.

**Fiscal Estimate****Summary**

This rule will have no significant fiscal impact on DATCP or local government.

**State fiscal effect**

None

**Local government fiscal effect**

None

**Long-range fiscal implications**

Ability to raise the assessment in order to provide the necessary research and market development.

**Agency Contact Person**

Questions and comments on this rule may be directed to:

Noel Favia, DATCP

PO Box 8911

Madison, WI 53708- 8911

Phone: 608-224-5140

Email: [noel.favia@datcp.state.wi.us](mailto:noel.favia@datcp.state.wi.us).

**Notice of Hearing****Commerce****Licenses, Certifications and Registrations, Ch. Comm 5  
CR 09-021**

NOTICE IS HEREBY GIVEN that pursuant to ss. 145.12 (5) (a) and 145.20 (6) Stats., as affected by 2007 Wisconsin Act 197, the Department of Commerce will hold a public hearing on proposed rules under section Comm 5.12 establishing a schedule of forfeitures for POWTS Governmental Unit Employees.

**Hearing Information**

The public hearing will be held as follows:

<b>Date and Time:</b>	<b>Location:</b>
<b>April 15, 2009</b> Wednesday 10:00 AM	Conference Room 3B Thompson Commerce Center 201 West Washington Avenue Madison

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or contact through Relay at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

**Appearances at the Hearing and Submission of Written Comments**

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until 4:30 p.m., Thursday, April 23, 2009, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the

Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at [jim.quast@wisconsin.gov](mailto:jim.quast@wisconsin.gov).

**Copies of Proposed Rules**

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at [www.commerce.wi.gov/SB/](http://www.commerce.wi.gov/SB/). Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at [roberta.ward@wisconsin.gov](mailto:roberta.ward@wisconsin.gov), or at telephone (608) 266-8741 or contact through Relay. Copies also will be available at the public hearing.

**Analysis Prepared by Department of Commerce****Statutes interpreted**

Sections 145.12 (5) (a) and 145.20 (6), Stats., as affected by 2007 Wisconsin Act 197

**Statutory authority**

Sections 145.12 (5) (a) and 145.20 (6), Stats., as affected by 2007 Wisconsin Act 197

**Related statute or rule**

None

**Explanation of agency authority**

Section 145.02, Stats., grants the Department of Commerce general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective standards for Private Onsite Wastewater Treatment Systems (POWTS) including the licensing of individuals to inspect POWTS. Section 145.20, Stats., delineates the responsibilities and duties of governmental units administering and enforcing the laws and rules pertaining to POWTS. Section 145.12 (5) (a), Stats., as affected by 2007 Wisconsin Act 197, authorizes the Department to directly assess forfeitures to governmental unit employees who violate the limitations under s. 145.20, Stats., for POWTS employees that perform work outside of the scope of their governmental unit responsibilities.

**Summary of proposed rules**

The proposed rules under chapter Comm 5 delineate the procedures for implementing the forfeiture assessments for POWTS governmental unit employees violating the outside employment limitations established under 2007 Wisconsin Act 197. The proposed rules establish a schedule for forfeitures based upon various situations and/or activities. Current rules delineate a process for appealing a forfeiture assessment.

**Comparison with federal regulations**

There are no known federal regulations or proposed federal regulations that could be compared to the direct forfeiture provision.

**Comparison with rules in adjacent states**

A search of the rules in adjacent states found that Minnesota, Iowa, Illinois, and Michigan do not have any regulations regarding conflict of interest related to their onsite sewage program governmental unit employees. The comparisons were completed via a web search.

**Summary of factual data and analytical methodologies**

The proposed rules were developed by reviewing the provisions under ss. 145.12 (5) (a) and 145.20 (6), Stats., as created by 2007 Wisconsin Act 197, as well as existing administrative rules for administrative forfeitures administered by the Department of Commerce.

**Analysis and supporting documents used to determine effect on small business**

The 2007 Wisconsin Act 197 affects governmental unit employees who administer and enforce regulations pertaining to design, installation and maintenance of POWTS by limiting the activities that such employees may undertake outside of their governmental employment. The proposed rules implement administrative forfeitures authorized under 2007 Wisconsin Act 197 for violations of these limitations.

**Small Business Impact**

The department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the Act.

An economic impact report has not been required pursuant to s. 227.137, Stats.

**Initial regulatory flexibility analysis**

*Types of small businesses that will be affected by the rules:*

The 2007 Wisconsin Act 197 affects governmental unit employees who administer and enforce regulations pertaining to design, installation and maintenance of POWTS by limiting the activities that such employees may undertake outside of their governmental employment relative to the design, installation and maintenance of POWTS. The proposed rules implement administrative forfeitures authorized under 2007 Wisconsin Act 197 for violations of these limitations. The proposed rules may to a degree affect POWTS design and/or contract businesses.

*Reporting, bookkeeping and other procedures required for compliance with the rules:*

There are no reporting or bookkeeping procedures required for compliance with the rules.

*Types of professional skills necessary for compliance with the rules:*

There are no new types of professional skills necessary for compliance with the rules.

*Rules have a significant economic impact on small businesses?*

No.

**Small business regulatory coordinator**

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at carol.dunn@wisconsin.gov.

**Environmental Impact**

The Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

**Fiscal Estimate****State fiscal effect**

None.

**Local government fiscal effect**

None.

**Long-range fiscal effect**

No long-range fiscal implications are anticipated.

**Agency Contact**

James Quast  
Program Manager  
Phone: (608) 266-9292  
Email: jim.quast@wisconsin.gov

**Notice of Hearing****Insurance  
CR 09-022**

NOTICE IS HEREBY GIVEN That pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in s. 227.18, Stats., the Office of the Commissioner of Insurance will hold a public hearing to consider the adoption of rules revising Chapters Ins 2, 5, 6, 26 and 28, Wis. Adm. Code, relating to licensing, prelicensing, and continuing education for insurance agents, and affecting small business.

**Hearing Information**

**Date:** April 13, 2009  
**Time:** 10:00 a.m., or as soon thereafter as the matter may be reached  
**Place:** OCI, Room 227 (2<sup>nd</sup> Floor)  
125 South Webster Street  
Madison, WI

**Copy of Proposed Rule**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110  
Email: inger.williams@wisconsin.gov  
Address: 125 South Webster St – 2<sup>nd</sup> Floor,  
Madison WI 53703-3474  
Mail: PO Box 7873, Madison, WI 53707-7873

**Submission of Written Comments**

Written comments can be mailed to:

Robert Luck  
Legal Unit – OCI Rule Comment for Rule Ins 6  
Office of the Commissioner of Insurance  
PO Box 7873  
Madison WI 53707-7873

Written comments can be hand delivered to:

Robert Luck  
Legal Unit – OCI Rule Comment for Rule Ins 6  
Office of the Commissioner of Insurance  
125 South Webster St – 2<sup>nd</sup> Floor  
Madison WI 53703-3474

Comments can be emailed to:

Robert Luck  
robert.luck@wisconsin.gov

Comments submitted through the Wis. Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in this Notice of Hearing.

## **Analysis Prepared by the Office of the Commissioner of Insurance (OCI)**

### ***Statutes interpreted***

Sections 600.01, 628.04, 628.34 (12), Stats.

### ***Statutory authority***

Sections 600.01 (2), 601.41 (3), 601.42, 628.04, 628.04 (1c), 628.34 (12), Stats.

### ***Explanation of agency authority***

OCI has authority to set the initial licensing procedures and renewal requirements for insurance agents in the state of Wisconsin. These changes modify the existing requirements to conform to NAIC model requirements for agents in all states.

### ***Related statutes or rules***

None.

### ***Plain language analysis***

This rule changes the agent licensing requirements to conform to the NAIC model requirements for licensing and regulation of insurance agents. Three new lines of authority, variable life, crop and surety are created to bring Wisconsin in conformance with the lines in the NAIC model. For the variable line, there will be a 6 month transition period where an agent can solicit under either the current licensing requirements or the new ones. After that period, the agent would only be able to solicit under the new requirements.

These proposals will now allow online, self study and correspondence course credits to satisfy the existing prelicensing education requirements. This conforms Wisconsin to requirements under the NAIC model.

The NAIC model requires that the state of residence use fingerprint identification for crime checks. There are 16 States that now require fingerprinting of their resident insurance agent applicants including AK, AZ, CA, CT, FL, ID, MT, NJ, NV, PA, OH, OR, TN, UT, WA and WV. Wisconsin statutes permit the commissioner to require fingerprints for this purpose (see 628.04(1c), Stats.) Currently, resident agent applicant's criminal records are checked using only the Department of Justice, Crime Information Bureau ("CIB"). The CIB database contains no information about federal convictions or convictions in other states. The CIB matches are currently done using a name match and can result in inaccurate matches. A fingerprint match is the only method that the CIB match can be verified. Thus a person who applies for a Wisconsin insurance license could fail to disclose significant convictions under federal law, in other states or even Wisconsin and OCI would have no method to catch the falsehood. OCI would license the person not knowing that the public may be at significant risk. The FBI requires fingerprint in order to provide criminal records to the Commissioner. Other Wisconsin agencies currently require fingerprint crime checks with the FBI including those holding securities licenses, teachers, private detectives, and health professionals. The current testing vendor contracted with OCI holds the current statewide contract for fingerprinting, and provides those services for the licenses identified above. Pursuant to the current contract, the fingerprints collected would be used only to do an FBI and CIB crime check and then destroyed.

Another change proposed is to raise the application fee for the initial licensing of insurance agents. Currently, the fees OCI collects from insurance agent applicants are less than what OCI pays to have the licensing examination administered. As with most state contracts, the contract for the

administration of the licensing examination was recently rebid with the new contract effective July 1, 2009. This new contract contains higher charges for examination and processing and makes the current fee structure even more inadequate. Unless the initial licensing fees are raised, OCI will not be able to administer the licensing program without incurring substantial debt.

A similar situation exists with the agent renewal fees. The cost of continuing regulation of agents after they are licensed has increased and the current fee is inadequate.

### ***Comparison with federal regulations***

None.

### ***Comparison of rules in adjacent states***

All states are modifying their procedures regarding continuing education, prelicensing education and lines of authority to conform to the NAIC models as Wisconsin is doing in this revision. There are 16 States that now require fingerprinting of their residents insurance agent applicants including AK, AZ, CA, CT, FL, ID, MT, NJ, NV, PA, OH, OR, TN, UT, WA and WV.

Fees do vary by state and are as follows for Wisconsin's 4 adjacent states. (Wisconsin includes the testing fee in the current and proposed fees.)

#### ***Illinois:***

Resident Application: . . . \$180 plus testing fee of \$103/line  
 Nonresident Application: \$250  
 Resident Renewal: . . . Biennial fee of \$180/line of authority  
 Nonresident Renewal: . . Biennial fee of \$250

#### ***Iowa:***

Resident Application: . . . \$50 plus testing fee of \$71/line  
 Nonresident Application: \$50  
 Resident Renewal: . . . . Biennial fee of \$50  
 Nonresident Renewal: . . Biennial fee of \$50

#### ***Michigan:***

Resident Application: . . . \$10 plus testing fee of \$51/line  
 Nonresident Application: \$10  
 Resident Renewal: . . . . Biennial fee of \$10  
 Nonresident Renewal: . . No Renewal Fees

#### ***Minnesota:***

Resident Application: . . . \$40 plus \$50/line plus testing fee of \$51/line  
 Nonresident Application: \$40 plus \$50/line of authority  
 Resident Renewal: . . . . Biennial fee of \$40 plus \$50/line  
 Nonresident Renewal: . . Biennial fee of \$40 plus \$50/line

### ***Factual data and analytical methodologies***

NAIC Model Agent Licensing laws

### ***Analysis and supporting documentation used to determine effect on small businesses***

The fee increases are minimal.

### ***Small Business Impact***

This rule may have an effect on small businesses.

Raising the application fees will affect the cost for new agents and agents seeking to expand their authority. It would be a one time fee at the time of licensing and thus have minimal impact. The fee increase is needed to cover the increased costs of testing for that line of authority and in issuing new licenses.

The biennial renewal fee increases would increase the costs for currently licensed agents every 2 two years when the fee is due. The increases are very minimal — \$5 per year for resident agents and \$10 per year for non resident agents.

Other changes would allow agents to take continuing education credits online, by correspondence course or by self study, thus giving agents more choices in how to gain the required credits. This probably would reduce costs for agents and would not require the agents to physically attend the continuing education classes.

#### **Initial regulatory flexibility analysis**

*Types of small businesses affected:* Insurance agents and agencies.

*Description of reporting and bookkeeping procedures required:* None beyond those currently required.

*Description of professional skills required:* None beyond those currently required.

#### **Small business regulatory coordinator**

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address [eileen.mallow@wisconsin.gov](mailto:eileen.mallow@wisconsin.gov)

#### **Fiscal Estimate**

##### **Summary**

This rule change will have no significant effect on the private sector regulated by OCI.

The Office of the Commissioner of Insurance (OCI) currently has a contract with a vendor to provide resident agent licensing exams and tracking of continuing education credits for insurance agents. The cost of the contract to provide these services to resident agents is currently more than the revenues that OCI brings in from the resident agents. This increase in fees will bring the costs and revenues more into alignment.

OCI projects issuing a total of 19,257 resident and nonresident agent licenses each year. The increased revenue from the increase in agent license fees is projected to be \$1,109,300 per year with \$110,900 of the revenue going to GPR-Earned and \$998,400 being retained by OCI.

OCI projects a total of 56,007 resident and nonresident agent biennial renewals each year. The increased revenue from the increase in the biennial renewal fee is projected to be \$908,800 per year with \$90,900 going to GPR-Earned and \$817,900 being retained by OCI.

Total GPR-Earned	\$201,800
Total PR	<u>\$1,816,300</u>
Total Revenue	\$2,018,100

##### **State fiscal effect**

Increase existing revenues.

##### **Local government fiscal effect**

None.

##### **Long-range fiscal implications**

OCI will no longer be paying its vendor more per resident agent licensing examination than it receives in revenues from these resident agents.

#### **Agency Contact Person**

Inger Williams, OCI Services Section, at:  
 Phone: (608) 264-8110  
 Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)  
 Address: 125 South Webster St – 2<sup>nd</sup> Floor,  
 Madison WI 53703-3474  
 Mail: PO Box 7873, Madison, WI 53707-7873

## **Notice of Hearing**

### **Natural Resources**

#### ***Environmental Protection — Air Pollution Control, Chs. NR 400— CR 09-020***

NOTICE IS HEREBY GIVEN That pursuant to ss. 227.11 (2) (a), 285.11 (1) and (16), 285.60 (6), and 285.67, Stats., the Department of Natural Resources, hereinafter the DNR, will hold a public hearing to consider proposed rule revisions to Chapters NR 406, 407, 419, 439, and 484, relating to federal hazardous air pollutant regulations, biodiesel fuel, incorporation of statutory changes, and air permit applications.

The proposed revisions relate to issues for State Implementation Plan approvability, and the State Implementation Plan developed under s. 285.11 (6), Stats., will be revised.

#### **Hearing Information**

##### **Date and Time:**

**April 16, 2009**  
11:00 a.m. – 12:30 p.m.

##### **Location:**

Dept. of Natural Resources Bldg.  
(GEF 2)— Room 613  
101 South Webster Street  
Madison, WI 53703

The public hearing site is accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult, please contact Robert Eckdale in writing at the DNR, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707; by E-mail to [robert.eckdale@wisconsin.gov](mailto:robert.eckdale@wisconsin.gov); or by calling (608) 266-2856. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

#### **Copies of Proposed Rule**

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link provided on the Proposed Air Pollution Control Rules Calendar at <http://www.dnr.state.wi.us/air/rules/calendar.htm>. If you do not have Internet access, a personal copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Robert Eckdale, Bureau of Air Management Rules Coordinator, by e-mail at [robert.eckdale@wisconsin.gov](mailto:robert.eckdale@wisconsin.gov) or by calling 608-266-2856.

#### **Submission of Written Comments**

Comments on the proposed rule must be received on or before **April 24, 2009**. Written comments may be submitted by mail, fax, E-mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to:

Joseph Brehm

Department of Natural Resources

Bureau of Air Management (AM/7)

101 S Webster St, Madison, WI 53703

Phone: 608-267-7541

Fax: 608-267-0560

E-mail: [joseph.brehm@wisconsin.gov](mailto:joseph.brehm@wisconsin.gov)

Internet: Use the Administrative Rules System Web site accessible through the link provided on the Proposed Air Pollution Control Rules Calendar at <http://www.dnr.state.wi.us/air/rules/calendar.htm>

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

### ***Statutes interpreted***

Sections 227.11 (2) (a), 285.11 (1) and (6), Stats.

### ***Statutory authority***

Sections 227.11 (2) (a), 285.11 (1) and (16), 285.60 (6), and 285.67, Stats.

### ***Explanation of agency authority***

Section 227.11 (2) (a), Stats., gives state agencies general rulemaking authority. Section 285.11 (1), Stats., gives the Department authority to promulgate rules consistent with ch. 285, Stats. Section 285.11 (6), Stats., gives the Department the authority to develop a state implementation plan for the control of air pollution. Section 285.11 (16), Stats., requires the Department to promulgate rules, consistent with but no more restrictive than the federal clean air act, that specify the amounts of emissions that result in a stationary source being classified as a major source. Section 285.60 (6) Stats., allows the Department to promulgate rules to exempt types of stationary sources from the requirement to get a construction permit, if the potential emissions from the sources do not present a significant hazard to public health, safety, welfare or to the environment. Section 285.67, Stats., requires the Department to promulgate rules establishing criteria and procedures for revising air pollution control permits.

### ***Related statute or rule***

These rules relate directly to the permitting of activities that result in air emissions. The consent of the Attorney General will be requested for the incorporation by reference of an ASTM test method, in ch. NR 484.

### ***Plain language analysis***

The main objective of the proposed rule is to update permit language in chs. NR 406 and 407 regarding federal Generally Available Control Technology (GACT) rules for hazardous air pollutants. The current state rules do not exempt certain source categories from the need to obtain a construction or operation permit as is done on the federal level. Sources in Wisconsin potentially affected by this rule are bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities (gas stations), pipeline facilities and wood preserving facilities.

Rules are also proposed that add biodiesel fuel, by definition, as an alternative clean fuel. Currently a permit modification for existing sources, or a construction permit for new sources, is required in order to burn it.

This proposal would also amend the time frame for submittal of operation permit renewal applications. Current rules require the application be submitted 12–18 months prior to the expiration of the operation permit. The Department proposes to change this deadline to no later than six months prior to the expiration of the operation permit to reflect updated statutory requirements in s. 285.66(3)(a), Stats.

Currently only selected portions of our rules require submittal of two copies of permit applications and related materials. The proposed rule would correct this inconsistency so that two copies are required in all cases. Additionally, language will be added to allow for electronic copies. Two copies are required as one is retained by the central office and one copy is sent to the appropriate regional office.

Other non–substantive changes are being proposed for consistency, to update outdated rule language and to provide clarification where needed.

### ***Comparison with federal regulations***

The changes to chs. NR 406 and 407, Wis. Adm. Code, are incorporating updates from federal rules, as referenced in Section 5. Chapter NR 407 is being changed as a result of a statutory change on the timeframe for the submittal of an operation permit renewal application. Other changes, to chs. 406, 407, 419 and 439 provide consistency within the rules by updating outdated language and providing clarification where appropriate. Chapter 484 is being amended to add an ASTM method for the testing of bio–diesel fuels

### ***Comparison with similar rules in adjacent states***

All the states (Illinois, Iowa, Michigan and Minnesota) manage an air construction and operation permit program. Comparisons between programs are difficult due to the varying ways sources may be exempt and how programs are funded.

The federal rules are effective nation–wide and the rules being proposed by the Department are essentially identical to the federal rules so the portions of the proposed rules dealing with the GACT standard should be similar or identical to rules in effect in adjacent states that have similar programs.

### ***Summary of factual data and analytical methodologies***

Since the Department is proposing rules consistent with federal regulations, and making consistency and clarification changes, the Department did not, with one exception, make use of any factual data or analytical methodologies in the rule development. That exception is the proposed amendment to ch. NR 484.

The only exception is the adding of biodiesel as a clean fuel. Based on emission information developed by EPA in “A Comprehensive Analysis of Biodiesel Impacts on Exhaust Emissions” (October 2002, <http://www.epa.gov/OMS/models/biodsl.htm>), emissions from the burning of biodiesel are less than those of distillate fuels, except for Nitrogen Oxides (NO<sub>x</sub>). NO<sub>x</sub> emissions are approximately, 10% higher for a 20% blend of biodiesel and distillate fuels. Normally, biodiesel is not burned independently from other fuel types. By blending the fuels, existing burner design and fuel feed systems do not need to be altered. Emissions of hydrocarbons (21.1), particulate matter (10.1) and carbon monoxide (11.0) were all reduced with a 20% by the amounts shown in the parentheses. Carbon dioxide remained approximately the same.

### ***Analysis and supporting documents used to determine the effect on small business***

An analysis of the effect of the proposed rules on small business was not performed since most of the changes are identical requirements that are already in effect at a federal level, and the Department is required by statute to adopt federal regulations or to develop similar standards. Preparation of an economic impact report has not been requested. The proposed changes not based on federal regulations, were clarification in nature or updating of old or outdated language in the rules.

### ***Small Business Impact***

Because the proposed GACT rule changes for permitting sources of hazardous air pollutants may result in a limited number of sources becoming subject to federal operation permit requirements, some small businesses may be required to report their compliance status semi–annually instead of annually.

The proposed rule is not expected to have a significant economic impact on small businesses nor have a significant economic effect on any entity.

**Fiscal Estimate****Summary**

It is assumed there will be no direct fiscal effect with these rule changes. The proposed changes are intended to clarify the current rules and update permit requirements for hazardous air pollutants. These changes will result in clarifications and some permit exemptions, but not in substantial dollar savings or expenditures.

The DNR does not believe the proposed rule changes will have a significant effect on the private sector or on state and local governments. Minor savings may result from a proposed reduction in reporting requirements from semi-annual to annual, affecting both private and government owned facilities. In addition, minor savings could result from a proposed change to consider a switch to burning bio-fuels as a permit revision, and not a permit modification. Where the DNR charges a fee for a permit modification, there are no fees associated with a permit revision.

**State fiscal effect**

None

**Local government fiscal effect**

None

**Long-range fiscal implications**

NA

**Environmental Impact**

The DNR has made a preliminary determination that adoption of the proposed rules would not involve significant adverse environmental effects and would not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the DNR may prepare an environmental analysis before proceeding. This analysis would summarize the DNR's consideration of the impacts of the proposal and any reasonable alternatives.

**Agency Contact Person**

Robert Eckdale, Bureau of Air Management  
P.O. Box 7921  
Madison, WI 53707  
E-mail: robert.eckdale@wisconsin.gov  
Phone: (608) 266-2856.

**Notice of Hearing**  
**Regulation and Licensing**  
**EmR0827**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in s. 227.11 (2), Stats., and s. 460.04 (2), Stats., 2007 Wisconsin Act 104, the Department of Regulation and Licensing will hold a public hearing on an order adopting emergency rules to create section RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

**Hearing Information**

**Date:** April 13, 2009  
**Time:** 9:00 A.M.  
**Location:** 1400 East Washington Avenue  
(Enter at 55 North Dickinson Street)  
Room 121A  
Madison, Wisconsin

**Appearances at the Hearing and Submission of Written Comments**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us). Written comments must be received by April 13, 2009, to be included in the record of rule-making proceedings.

**Analysis Prepared by the Department of Regulation and Licensing****Statutes interpreted**

Section 460.04 (2), Stats.

**Statutory authority**

Section 227.11 (2), Stats., and s. 460.04 (2), Stats., 2007 Wisconsin Act 104.

**Explanation of agency authority**

2007 Wisconsin Act 104 amends ch. 460, Stats., which regulates the profession of massage therapy and bodywork. The effect of the Act requires the Department of Regulation and Licensing to amend administrative rules for application for certification as a massage therapist or bodyworker. As required by 2007 Wisconsin Act 104, the rule creates the requirement for applicants to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification.

**Related statutes or rules**

Section RL 91.01, Wis. Adm. Code.

**Plain language analysis**

The massage therapy and bodywork statutes and administrative rules regarding application for certification, reciprocal certification and renewal do not have a requirement for training and proficiency in the use of an AED. This rule implements a provision of 2007 Wisconsin Act 104, requiring applicants for a credential to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification.

SECTION 1 creates a requirement for applicants for a credential to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification.

**Comparison with federal regulations**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**Comparison with rules in adjacent states****Minnesota:**

Minnesota does not have regulations or state requirements for massage therapy.

**Michigan:**

Michigan does not have regulations or state requirements for massage therapy.

*Iowa:*

Laws and rules for Iowa do not require automated external defibrillator (AED) training. One of the requirements for Iowa licensure is proof of current CPR and First Aid cards, Chapter 131, 131.2(6) states: The applicant shall submit proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross, by the American Heart Association, or by the National Safety Council. One of the following shall be required:

- a. Official transcript documenting completion of a CPR class and a first-aid class within one year prior to submitting the application for licensure; or
- b. Copy of the current certification card(s) or renewal card(s).

*Illinois:*

Illinois does not appear to require proficiency and training in the use of AEDs as a requirement for licensure and renewal of massage therapists. Massage Therapists are licensed under Title 68: Professions & Occupations: Chap. VII, Dept. of Financial and Professional Regulation, Subchapter B, Professions and Occupations Part 1284 Massage Licensing Act, ss. 1284.30 Application for Licensure and 1284.60 Renewals

***Summary of factual data and analytical methodologies***

2007 Wisconsin Act 104 created a requirement for applicants for a credential as a massage therapy or bodyworker to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification. This requirement of the Act has been set forth in the newly created rule provision, as directed by the legislature.

***Analysis and supporting documents used to determine effect on small business***

Training for certification and renewal of certification may vary. The Madison Wisconsin Chapter of the American Red Cross (Badger Chapter) offers AED/CPR initial certification for \$80.00 and \$52.00 for review. Both trainings are valid for one year. Based on these figures, AED certification costs for a certified massage therapist could cost approximately \$132.00 for the certification biennium and less so in subsequent bienniums (initial biennium in which AED certification was achieved: \$132.00 initial certification plus \$52.00 for review).

As of July 2008, there were 3,162 massage therapists and bodyworkers with active certifications.

**Small Business Impact**

This emergency rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

**Fiscal Estimate**

The department estimates that this rule will require staff time in the Office of Legal Counsel, Division of Management Services, Office of Exams, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$3,032.

***Anticipated costs incurred by private sector***

The department finds that this rule has no significant fiscal effect on the private sector.

**Agency Contact Person**

Pamela Haack, Paralegal  
Department of Regulation and Licensing  
Office of Legal Counsel — Room 152  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, Wisconsin 53708  
Telephone: 608-266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us).

**Text of Emergency Rule**

SECTION 1. RL 91.01 (3) (k) is created to read:

RL 91.01 (3) (k) Has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

**Finding of Emergency**

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

This emergency rule was effective on September 10, 2008.

**Notice of Hearing  
Regulation and Licensing  
CR 08-086**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in s. 227.11 (2), Stats., and s. 460.04 (2), Stats., 2007 Wisconsin Act 104, the Department of Regulation and Licensing will hold a public hearing to consider an order to create section RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

**Hearing Information**

**Date:** April 13, 2009  
**Time:** 10:00 A.M.  
**Location:** 1400 East Washington Avenue  
(Enter at 55 North Dickinson Street)  
Room 121A  
Madison, Wisconsin

**Appearances at the Hearing and Submission of Written Comments**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us). Written comments must be

received by April 13, 2009, to be included in the record of rule-making proceedings.

### **Analysis Prepared by the Department of Regulation and Licensing**

#### ***Statutes interpreted***

Section 460.04 (2), Stats.

#### ***Statutory authority***

Section 227.11 (2), Stats., and s. 460.04 (2), Stats., 2007 Wisconsin Act 104.

#### ***Explanation of agency authority***

2007 Wisconsin Act 104 amends ch. 460, Stats., which regulates the profession of massage therapy and bodywork. The effect of the Act requires the Department of Regulation and Licensing to amend administrative rules for application for certification as a massage therapist or bodyworker. As required by 2007 Wisconsin Act 104, the proposed rule creates the requirement for applicants to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification.

#### ***Related statutes or rules***

Section 91.01, Wis. Admin. Code.

#### ***Plain language analysis***

The massage therapy and bodywork statutes and administrative rules regarding application for certification, reciprocal certification and renewal do not have a requirement for training and proficiency in the use of an AED. This proposed rule-making implements a provision of 2007 Wisconsin Act 104, requiring applicants for a credential to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification.

SECTION 1 creates a requirement for applicants for a credential to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification.

#### ***Comparison with federal regulations***

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

#### ***Comparison with rules in adjacent states***

##### ***Minnesota:***

Minnesota does not have regulations or state requirements for massage therapy.

##### ***Michigan:***

Michigan does not have regulations or state requirements for massage therapy.

##### ***Iowa:***

Laws and rules for Iowa do not require automated external defibrillator (AED) training. One of the requirements for Iowa licensure is proof of current CPR and First Aid cards, Chapter 131, 131.2(6) states: The applicant shall submit proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross, by the American Heart Association, or by the National Safety Council. One of the following shall be required:

a. Official transcript documenting completion of a CPR class and a first-aid class within one year prior to submitting the application for licensure; or

b. Copy of the current certification card(s) or renewal card(s).

##### ***Illinois:***

Illinois does not appear to require proficiency and training in the use of AEDs as a requirement for licensure and renewal of massage therapists. Massage Therapists are licensed under Title 68: Professions & Occupations: Chap. VII, Dept. of Financial and Professional Regulation, Subchapter B, Professions and Occupations Part 1284 Massage Licensing Act, ss. 1284.30 Application for Licensure and 1284.60 Renewals

#### ***Summary of factual data and analytical methodologies***

2007 Wisconsin Act 104 created a requirement for applicants for a credential as a massage therapist or bodyworker to be proficient in the use of automated external defibrillators (AEDs) through the completion of an approved instruction program prior to initial certification. This requirement of the Act has been set forth in the newly created rule provision, as directed by the legislature.

#### ***Analysis and supporting documents used to determine effect on small business***

Training for certification and renewal of certification may vary. The Madison Wisconsin Chapter of the American Red Cross (Badger Chapter) offers AED/CPR initial certification for \$80.00 and \$52.00 for review. Both trainings are valid for one year. Based on these figures, AED certification costs for a certified massage therapist could cost approximately \$132.00 for the certification biennium and less so in subsequent bienniums (initial biennium in which AED certification was achieved: \$132.00 initial certification plus \$52.00 for review).

As of July 2008, there were 3,162 massage therapists and bodyworkers with active certifications.

#### ***Small Business Impact***

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

#### ***Fiscal Estimate***

The department estimates that this rule will require staff time in the Office of Legal Counsel, Division of Management Services, Office of Exams, and the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$3,032.

#### ***Anticipated costs incurred by private sector***

The department finds that this rule has no significant fiscal effect on the private sector.

#### ***Text of Proposed Permanent Rule***

SECTION 1. RL 91.01 (3) (k) is created to read:

RL 91.01 (3) (k) Has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38), Stats., to provide the instruction.

#### ***Agency Contact Person***

Pamela Haack, Paralegal  
 Department of Regulation and Licensing  
 Office of Legal Counsel — Room 152  
 1400 East Washington Avenue  
 P.O. Box 8935  
 Madison, Wisconsin 53708  
 Telephone: 608-266-0495  
 Email: pamela.haack@drl.state.wi.us.

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## Submittal of Proposed Rules to the Legislature

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

### **Administration**

#### **CR 08-084**

A rule-making order to create Chapter Adm 70, relating to electronic recording of documents in the County Register of Deeds Offices in Wisconsin.

### **Health Services**

#### ***Management and Technology and Strategic Finance, Chs. DHS 1—***

#### **CR 08-109**

A rule-making order revising Chapter DHS 10, relating to confidentiality requirements of the Family Care program that prohibit benefit specialists from disclosing personally identifying information about a client without the client's informed consent, unless required by law.

### **Health Services**

#### ***Medical Assistance, Chs. DHS 101—***

#### **CR 08-108**

A rule-making order revising Chapter DHS 105, relating to MA certification of federally recognized American Indian tribes and bands of Wisconsin as personal care providers.

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## Rule Orders Filed with the Legislative Reference Bureau

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

### **Agriculture, Trade and Consumer Protection**

#### **CR 08-075**

Revises Chapters ATCP 3, 12, 21, 29, 30, 31, 33, 40, 42, 50, 51, 55, 57, 60, 70, 75, 92, 103, 118, 123, 124, 136 and 160, relating to minor and technical rule changes.  
Effective 5-1-09.

### **Employee Trust Funds**

#### **CR 08-079**

Repeals and recreates section ETF 40.01, relating to continued group health insurance coverage of an insured dependent after the death of the insured employee or annuitant.  
Effective 5-1-09.

### **Military Affairs — Wisconsin Emergency Management**

#### **CR 08-106**

Amends sections WEM 1.03 and 1.04, relating to fees.  
Effective 5-1-09.

### **Natural Resources**

#### ***Fish, Game, etc., Chs. NR 1—***

#### **CR 06-108**

Revises section NR 20.40, relating to regulation of fishing tournaments in inland, outlying, and boundary waters of Wisconsin.  
Effective 5-1-09.

### **Natural Resources**

#### ***Fish, Game, etc., Chs. NR 1—***

#### **CR 08-046**

Revises section NR 47.70, relating to the county forest administration grant program.  
Effective 5-1-09.

### **Regulation and Licensing**

#### **CR 08-094**

Revises section RL 161.04, relating to examinations for substance abuse professionals.  
Effective 5-1-09.

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## Rules Published with this Register and Final Regulatory Flexibility Analyses

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*The following administrative rule orders have been adopted and published in the **March 31, 2009**, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

*For subscription information, contact Document Sales at (608) 266-3358.*

### **Agriculture, Trade and Consumer Protection** **CR 08-090**

Revises the Appendix to Chapter ATCP 30, relating to pesticide product restrictions. Effective 4-1-09.

#### **Summary of Final Regulatory Flexibility Analysis**

Atrazine is a widely used agricultural herbicide that has been found in groundwater throughout the state. Current DATCP rules under ch. ATCP 30, Wis. Adm. Code, limit atrazine application rates throughout the state to ½ the current federal label rate. The current rules also *prohibit* the use of atrazine where atrazine contamination of groundwater has attained or exceeded the state groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 102 designated areas, including major prohibition areas in the lower Wisconsin River Valley and much of Dane and Columbia counties.

Based on new groundwater sampling data, this rule expands and joins 2 current atrazine prohibition areas in Columbia County. The expansion will increase the total statewide acreage of atrazine prohibition areas by approximately 1,830 acres. By joining 2 prohibition areas, this rule will reduce the total number of prohibition areas from 102 to 101. This rule includes maps describing the revised prohibition areas.

The changes to ch. ATCP 30, Wis. Adm. Code, will affect small businesses, as defined by s. 227.114 (1) (a), Stats., in Wisconsin. The greatest small business impact will be on farmers, in the expanded prohibition areas, who currently use atrazine to control weeds in corn. Between 4 and 5 farmers will be affected, depending on their corn acreage and their reliance on atrazine products. Those farmers will no longer be able to use atrazine, however other effective weed control products are available.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require some assistance. In the past, this type of assistance has been provided by University of Wisconsin Extension personnel and farm chemical dealers. Also, many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. DATCP anticipates that these three groups will continue to be the primary sources of information about areas where atrazine cannot be used and the best alternatives for each situation.

### **Summary of Comments by Legislative Review Committees**

On January 5, 2009, DATCP transmitted the rule for legislative review. The rule was assigned to the Senate Committee on Agriculture and Higher Education and to the Assembly Committee on Agriculture. The Senate Committee on Agriculture and Higher Education did not hold a hearing and took no action. The Assembly Committee on Agriculture did not hold a hearing and took no action. The legislative review period expired on February 19, 2009.

### **Commerce**

#### ***Uniform Dwelling, Chs. Comm 20 to 25*** **CR 08-043**

Revises Chapters Comm 20 to 25, relating to the uniform dwelling code. Effective 4-1-09

#### **Summary of Final Regulatory Flexibility Analysis**

Pursuant to s. 227.19 (3m), Stats., the Department of Commerce has determined that the rules will not have a significant impact on a substantial number of small businesses.

### **Summary of Comments by Legislative Review Committees**

No comments were received.

### **Financial Institutions — Securities** **CR 08-095**

Revises Chapters DFI-Sec 4 and 5, and creates Chapter DFI-Sec 10, relating to making it a dishonest or unethical practice for securities licensees to make use of misleading designations or certifications purporting to demonstrate special expertise in the financial or retirement needs of seniors. Effective 4-1-09.

#### **Summary of Final Regulatory Flexibility Analysis**

No final regulatory flexibility analysis is required to be included on the basis that the Division of Securities has determined, after complying with s. 227.114, Wis. Stats., that the rules will not have a significant economic impact on a substantial number of small businesses.

### **Summary of Comments by Legislative Review Committees**

There was no public hearing testimony provided nor comment letters received that made recommendations for

modifications to the rules. Therefore, no rule modifications were done as a result of the public hearing testimony or comment letters.

**Insurance**  
**CR 07-108**

Revises section Ins 2.19, relating to sales of life insurance and annuities to the military and affecting small business. Effective 4-1-09.

**Summary of Final Regulatory Flexibility Analysis**

The Office of the Commissioner of Insurance has

determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

**Summary of Comments by Legislative Review Committees**

The legislative standing committees had no comments on this rule.

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## Sections Affected by Rule Revisions and Corrections

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The following administrative code sections had rule revisions and corrections take place in **March 2009**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

### Revisions

#### Agriculture, Trade and Consumer Protection

##### Ch. ATCP 30

ATCP 30 Appendix A

#### Children and Families

##### Ch. DCF 150

DCF 150 Appendix D Table

##### Ch. DCF 201

Table DCF 201.08

#### Commerce

##### Ch. Comm 20

Comm 20.02 (1), (2) (e)

Comm 20.04 (2), (5), (6)

Comm 20.05 (4) to (9)

Comm 20.065

Comm 20.07 (5m), (18), (29m), (34s), (52), (53f), (77f)

Comm 20.09

Comm 20.10

Comm 20.13 (2)

Comm 20.14 (1), (2) (a), (b)

Comm 20.21 (1) (intro.)

Comm 20.24 Tables 1 to 13

##### Ch. Comm 21

Comm 21.02 (1) (c), (3)

Comm 21.03 (title), (1) (b), (3), (6) (e), (7) to (12)

Comm 21.035

Comm 21.04 (1), (2) (c), (e), (g), (3) (a), (c)

Comm 21.045

Comm 21.05 (title), (3) to (5)

Comm 21.08 (1) (intro.), (a), (c), (d), (2), Table 21.08

Comm 21.09 (1) (b), (3), (6)

Comm 21.095

Comm 21.10 (1), (2), (4), (5)

Comm 21.15

Comm 21.16

Comm 21.17 (1) (a), (b), (3) (d)

Comm 21.18 (1) (d), (2) (a), (b), (3) (a), (4), Tables 21.18-C to F

Comm 21.22 (1), (1m), (3), (8) (b), Table 21.22-C

Comm 21.24 (2), (3) (c), (d), (4)

Comm 21.25 (1), (6) (a), (7) to (9), Table 21.25-A

Comm 21.26 (1), (3), (4) (b), (5) (a), (c), (7) (a), (c), (8), (12), Tables 21.26-B, B1

Comm 21.27

Comm 21.28

Comm 21.40 (2) (b)

##### Ch. Comm 22 (Entire Chapter)

##### Ch. Comm 23

Comm 23.02 (1), (3) (a), (d)

Comm 23.04

Comm 23.045 (2) (b)

Comm 23.08 (7), Table 23.08-B

Comm 23.09 (1)

##### Ch. Comm 20-25 Appendix and Index

#### Financial Institutions — Securities

##### Ch. DFI-Sec 4

DFI-Sec 4.06 (1) (w), (2) (i)

##### Ch. DFI-Sec 5

DFI-Sec 5.06 (24)

##### Ch. DFI-Sec 10 (Entire Chapter)

#### Insurance

##### Ch. Ins 2

Ins. 2.19

### Editorial Corrections

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

#### Commerce

##### Ch. Comm 20

Comm 20.01 (1)

Comm 20.02 (2) (a)

Comm 20.05 (8)

Comm 20.08 (1)

Comm 20.10 (3) (i)

Comm 20.12

Comm 20.13 (1)

Comm 20.14 (2) (a), (b), (6) (d)

Comm 20.15

Comm 20.17

Comm 20.21 (4) (a)

**Ch. Comm 21**

Comm 21.03 (2) (a)

Comm 21.08 Table

Comm 21.10 (2) (a)

Comm 21.25 (9) (b) Figure E

**Ch. Comm 23**

Comm 23.04 (6) (c)

Comm 23.06 (2) (a)

Comm 23.08 (2) (b)

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## Sections Affected by Corrections Not Published

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**Corrections under s. 13.92 (4) (b), Stats., identified in this Wis. Adm. Register.**

**Subscriber's note:** Please make corrections (manually) in your printed code. The affected sections are shown as corrected on the Legislative Reference Bureau Internet site, [Http://www.legis.state.wi.us/rsb/](http://www.legis.state.wi.us/rsb/), and on the WisLaw® CD-ROM. Printed code will be shown as corrected in its next printing.

<b>Location of Agency Reference and/or Cross-Reference</b>	<b>Outdated Agency Reference / Invalid Cross-Reference</b>	<b>Correction</b>
Tax 2.49 (1), (3) (intro.)	71.25 (5) (b) 1., Stats.	71.25 (5) (b), Stats.
Tax 2.495 (1), (3) (intro.)	71.25 (5) (b) 1., Stats.	71.25 (5) (b), Stats.
Tax 2.50 (1), (3) (intro.)	71.25 (5) (b) 1., Stats.	71.25 (5) (b), Stats.
Tax 2.502 (1), (3)	71.25 (5) (b) 1., Stats.	71.25 (5) (b), Stats.

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## Executive Orders

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**The following are recent Executive Orders issued by the Governor.**

**Executive Order 274.** Relating to the Creation of the Wisconsin Office of Recovery and Reinvestment.

**Executive Order 275.** Relating to Issuance of General Obligation Bonds for the Veterans Home Loan Program and Appointment of Hearing Officer.

**Executive Order 276.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Sergeant Daniel Thompson of the United States Army Who Lost His Life While Serving His Country in Operation Enduring Freedom.

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