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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. **EmR0922** — Rule adopted revising **s. ATCP 21.17**, relating to the quarantines of Milwaukee County, Racine County and Waukesha County for emerald ash borer.

Finding of Emergency

On August 28, 2009, APHIS identified emerald ash borer in Milwaukee County, near the borders of Racine County and Waukesha County. Emerald ash borer is an exotic pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for emerald ash borer under ATCP 21.17. It is anticipated that APHIS will declare quarantines for Milwaukee County, Racine County and Waukesha County but that it will take up to six weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially emerald ash borer infested material out of the county to areas of Wisconsin or other states that are not infested with emerald ash borer.

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

Publication Date: September 14, 2009
Effective: September 14, 2009 through February 10, 2010
Hearing Date: October 15, 2009

2. **EmR1003** — Rule adopted revising **ss. ATCP 60.15 and 60.20**, relating to somatic cell standards for dairy goat milk.

Finding of Emergency

Recently, the National Conference of Interstate Milk Shippers voted to relax the standard for somatic cells in grade A goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml. The United States Food and Drug Administration accepted this change and will include it in the next edition of the Interstate Pasteurized Milk Ordinance. The United States Department of Agriculture is adopting the same standard for grade B goat milk, as part of its standards for "Milk for Manufacturing Purposes and its Production and Processing."

Wisconsin rules currently establish a limit of 1,000,000 somatic cells per ml in goat milk, which is more stringent than the new national standard of 1,500,000 per ml. The more stringent Wisconsin standard, if not modified to conform to the new national standard, will put Wisconsin dairy goat milk producers at a significant financial, operational, and competitive disadvantage compared to producers in other states.

This emergency rule modifies Wisconsin's current standard, and makes it consistent with the new national standard. The department of agriculture, trade and consumer protection (DATCP) is adopting this rule as a temporary emergency rule, pending rulemaking proceedings to modify the standard on a more "permanent" basis. "Permanent" rulemaking proceedings normally require over a year to complete. This emergency rule is needed to mitigate a potential hardship to Wisconsin producers of dairy goat milk, pending the adoption of "permanent" rules.

Publication Date: February 5, 2010
Effective: February 5, 2010 through July 4, 2010

Children and Families

Safety and Permanence, Chs. DCF 37–59

- EmR0937** — Rule adopted revising **Chapters DCF 56 and 58**, relating to foster care and kinship care.

Finding of Emergency

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

2009 Wisconsin Act 28 assumes that court-ordered kinship care relatives will be applying for a license to operate a foster home beginning after January 1, 2010, and continuing throughout 2010. This rule creates the first two levels of the new levels of care system for foster care. The newly-licensed kinship care relatives will be incorporated into the foster care program. Licensing these relatives will allow the state to claim an additional \$6.5 million in Title IV-E funds for 2010. Act 28 appropriates this \$6.5 million to be expended in 2011.

Publication Date: December 30, 2009
Effective: January 1, 2010 through
 May 30, 2010

Commerce

Fee Schedule, Ch. Comm 2

EmR0934 — Rule adopted revising **Chapter Comm 2**, 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. As of December 1, 2009, approximately 1,800 pool modifications have been submitted to the department for review and approval.
4. There are claims that the availability of parts to make the necessary modifications is limited.
5. 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.
6. The department believes that a 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.

Publication Date: January 1, 2010
Effective: January 1, 2010 through
 May 30, 2010
Hearing Date: January 21, 2010

Commerce

Uniform Dwelling, Chs. Comm 20–25

EmR0917 — Rule adopted revising **Ch. Comm 22**, relating to energy conservation.

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. Recently, chapter Comm 22, relating to energy conservation, was repealed and recreated to bring the Wisconsin requirements in line with the national model energy code. Effective April 1, 2009, chapter Comm 22 incorporates new prescriptive requirements that apply to individual components such as walls, windows, skylights, doors and ceilings. Within that subsection is section Comm 22.31 (2) (a), that allows the use of a “total dwelling thermal envelope” method, and (2) (b), that allows the use of REScheck software, version 4.1.0, or later, to calculate compliance with the Uniform Dwelling Code thermal envelope requirements.

2. The U.S. Department of Energy’s Building Energy Codes Program develops and distributes REScheck software. The software program simplifies and clarifies residential code compliance with the Model Energy Code (MEC) and the International Energy Conservation Code (IECC). REScheck software makes it easier for designers, builders, product manufacturers and code officials to comply with energy codes based on the IECC or ASHRAE/IESNA Standard 90.1 requirements. Also, REScheck can be tailored to meet state–specific codes.

3. The department included the REScheck software edition requirement in anticipation that Version 4.1.0 would be compatible with the current code. Working with Pacific Northwest Laboratories, who contracts with the U.S. Department of Energy to develop the REScheck software, the department developed state–specific energy calculations that were not incorporated into REScheck software until Version 4.2.2. The calculations that reflect the current code are identified in the software as “Wisconsin 2009.” Versions prior to 4.2.2 do not have the code choice “Wisconsin 2009.”

4. Previous versions of REScheck, including Version 4.1.0, do not meet nor support the requirements of Wisconsin’s current energy code. In fact, Version 4.1.0 includes other values, such as gross wall trade–offs and appliance credits that are not included in chapter Comm 22 that became effective April 1, 2009.

5. The department recognizes that without promulgating this emergency rule, there would be confusion and miscalculations surrounding the use of Version 4.1.0 and other previous and out–of–date versions of REScheck software to calculate compliance with Uniform Dwelling Code thermal envelope requirements.

Publication Date: September 5, 2009
Effective: September 5, 2009 through
 February 1, 2010
Hearing Date: October 21, 2009

Commerce (2)

Financial Resources for Businesses and Communities, Chs. Comm 104—

1. **EmR0910** — Rule adopted to create **Chapter Comm 100**, relating to tax benefits for job creation, capital investment, employee training, and corporate headquarters.

Exemption From Finding of Emergency

The Legislature, by section 9110 (4) in 2009 Wisconsin Act 2, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of the public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: June 30, 2009
Effective: June 30, 2009 through July 1, 2010 or the date permanent rules take effect, whichever is sooner
Hearing Date: September 15, 2009

- 2. **EmR0931** — Rule adopted creating Chapter Comm 136, relating to midwestern disaster area bonds.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of public welfare. The facts constituting the emergency are as follows.

Between June 14 and July 9, 2008, thirty Wisconsin counties were declared major disaster areas by the President as a result of severe storms, tornados or flooding in 2008 that caused extensive damage to communities, residents, businesses, the economy and critical infrastructure. Subsequently, the federal Heartland Disaster Tax Relief Act of 2008 was enacted, authorizing the Governor of Wisconsin to designate up to \$3,830,112,000 in Qualified Midwestern Disaster Area Bonds, which must be issued before January 1, 2013, for the purpose of encouraging economic development and recovery in the 30 counties.

To implement the provisions this federal Act, Governor Jim Doyle issued Executive Order #288, directing the Department to promulgate rules for allocating Wisconsin’s Qualified Midwestern Disaster Area Bonding Authority, and including the necessary provisions to ensure that bonds are allocated to eligible projects on the basis of providing assistance to areas in the order in which the assistance is most needed. This rule is the result of that directive.

Publication Date: November 9, 2009
Effective: November 9, 2009 through April 7, 2010
Hearing Date: January 25, 2010

Corrections (2)

- 1. **EmR0920** — Rule adopted revising s. DOC 309.466, relating to inmate release accounts.

Finding of Emergency

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

Under 2009 WI Act 28, an increased number of inmates are being considered for release. In addition, the department has developed a number of release initiatives to address an inmate’s successful transition from incarceration to community life. As part of those initiatives, there are costs associated with that transition, including acquiring housing, employment, and transportation. For example, an inmate must have a social security card, a driver’s license or state identification card, the first months rent and security deposit for an apartment, and civilian clothing.

Under the current rule, an inmate may only use release account funds for “adequate clothing for release” and for “out-of-state release transportation.” In addition, the rule limits the maximum amount of money which can be saved in the release account to \$500.00. The emergency rule

immediately permits the use of release account money for a wide variety of purchases, including fees associated with obtaining a driver’s license or state identification card, housing, and a mode of transportation (bus tickets, vehicle, bicycle, etc.). In the past the Department has borne some of these costs, despite an inmate having the money in his or her release account. Given the initiatives of reentry and release, an inmate should be responsible for these expenditures.

In addition, the emergency rule raises the limit on release accounts from \$500.00 to \$5,000.00. Since the current limit was established, the cost of living in the community has risen. The department seeks this change to reflect the significant costs of housing, transportation, and food and other necessities.

If the rule is not created promptly and immediately, the department will not be able to use inmate release account funds to pay for items which inmates need in preparation for their release to the community. The purpose of the emergency rule is to permit inmates to use release account funds for a greater range of expenditures related to their release from incarceration and transition back into the community. 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 need to use inmate funds, not state funds, while permanent rules are being developed.

Publication Date: September 10, 2009
Effective: September 10, 2009 through February 6, 2010
Extension Through: April 7, 2010
Hearing Date: October 14, 2009

- 2. **EmR0939** — Rule adopted revising Chapter DOC 302, relating to sentence calculations and prison release and to administrative review of inmate classification decisions.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that emergency rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of facts constituting the emergency is:

Under 2009 Wisconsin Act 28, the legislature provides for the release of inmates from prison if certain criteria are met. The Department is responsible for implementing several of those procedures. Specifically, the department is responsible for implementing the early release programs under: (1) s PAT (2) ERP/CIP (3) CER (4) Risk reduction (5) 75%/85%. In addition, the department is revising section 302.18 to facilitate the review of inmates for purposes of early release.

If the rule is not created promptly and immediately, the Department will not be able to proceed in reviewing inmates under these various release procedures. This could result in significant delay in the implementation of the statutory provisions which will negatively impact the ability of the Department to manage the inmate population in a safe and effective manner. In addition, a delay will affect the management and control of inmate population levels of correctional facilities with the resources necessary to maintain public safety.

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary for a prompt implementation of the legislative mandates concerning the release of inmates meeting established criteria while the permanent rules are being developed.

Publication Date: December 31, 2009
Effective: December 31, 2009
through May 29, 2010
Hearing Date: February 25, 2010

Earned Release Review Commission

(Formerly Parole Commission)

EmR0940 — Rule adopted revising **Chapter PAC 1**, relating to the release of inmates through parole or other procedures.

Finding of Emergency

The Wisconsin Earned Release Review Commission finds that an emergency exists and that emergency rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of facts constituting the emergency is:

Under 2009 Wisconsin Act 28, the legislature provides for the release of inmates from prison if certain criteria are met. The Earned Release Review Commission (formerly the Parole Commission) is responsible for implementing several of those procedures. Specifically, the commission is responsible for considering the early release of inmates under: (1) section 304.06 (1) (bg)1. and 2., Stats., after the inmate has served the term of confinement of their bifurcated sentence less positive adjustment time, (2) section 304.06 (1) (bg) 3. and 4., Stats., after the inmate has served either 75 % or 85 % of their term of confinement, depending on the offense for which the inmate was sentenced, and (3) section 302.1135 (2) (a), (b), and (c), Stats., based on age or extraordinary health.

If the rule is not created promptly and immediately, the commission will not be able to proceed in reviewing inmates under these various release procedures. This could result in significant delay in the implementation of the statutory provisions which will negatively impact the ability of the department of corrections to manage the inmate population in a safe and effective manner. In addition, a delay will affect the management and control of inmate population levels of correctional facilities with the resources necessary to maintain public safety.

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. 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 to the legislatively recognized need to review inmates who meet the requirements under the statutes for potential release while the permanent rules are being developed.

Publication Date: December 31, 2009
Effective: December 31, 2009
through May 29, 2010
Hearing Date: February 23, 2010

Employee Trust Funds

EmR0938 — Rule adopted revising **Chapters ETF 10, 20 and 40**, relating to the implementation of benefit changes mandated in 2009 Wisconsin Act 28; specifically, domestic partner benefits and the expansion of health insurance coverage to adult dependents up to the age of 27 years.

Finding of Emergency

The Department of Employee Trust Funds finds that an emergency exists and that emergency rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

ETF cannot promulgate a permanent rule in compliance with the mandated changes by January 1, 2010, which is the effective date of the domestic partnership and the health insurance provisions of 2009 Wisconsin Act 28. Without an emergency rule in place, the ability of ETF to enroll and cover participants' domestic partners and to provide health insurance to adult dependents would be seriously impaired. ETF would be unable to provide health insurance and other benefits to domestic partners and adult dependents.

Publication Date: December 28, 2009
Effective: January 1, 2010
through May 30, 2010
Hearing Date: February 12, 2010

Health Services

*Medical Assistance, Chs. DHS 101—
Health, Chs. DHS 110—*

EmR0932 — Rule adopted revising **Chapters DHS 105, 106 and 133**, relating to personal care agencies and providers, and affecting small businesses.

Exemption From Finding of Emergency

The legislature by 2009 Wis. Act 28, Section 9122 (2), provides an exemption from a finding of emergency to adopt these emergency rules.

Publication Date: December 16, 2009
Effective: December 16, 2009 through
September 11, 2010
Hearing Date: February 3, 2010

Health Services

Health, Chs. DHS 110—

EmR0928 — Rule adopted to revise **Chapter DHS 163**, relating to requirements for conducting lead–safe renovation activities in pre–1978 housing and child–occupied facilities, and affecting small businesses.

Finding of Emergency

The Department of Health Services (department) finds that an emergency exists and that the adoption of an emergency rule is necessary for the continuity of regulations relating to lead hazard exposure in Wisconsin. The facts constituting the emergency are as follows:

Under ch. DHS 163, the department, as Wisconsin's public health agency, regulates lead hazard reduction and lead management activities in pre–1978 housing (target housing) and child–occupied facilities. The rules include standards for certification of individuals and companies conducting these activities, accreditation of lead training courses and approval of instructors, and work practices. In addition to the department's authority under chs. 250 and 254, Stats., to regulate lead hazards, the department has authorization from the Environmental Protection Agency (EPA) to regulate lead hazard reduction and management activities in lieu of the EPA administering federal regulations in Wisconsin.

On April 22, 2008, the EPA issued rules under 40 CFR 745 to establish requirements for training renovators, other

renovation workers, and dust sampling technicians; for certifying renovators, dust sampling technicians, and renovation firms; for accrediting providers of renovation and dust sampling technician training; and for renovation work practices (and associated recordkeeping requirements) that disturb paint in target housing and child–occupied facilities. Under the EPA regulations, beginning on April 22, 2010, persons who perform renovation activities for compensation, including repair and painting activities, that disturb paint in target housing and child–occupied facilities must be certified, properly trained, and follow specific work practices to prevent lead contamination. The EPA will begin accepting applications for certification from individuals and companies on October 22, 2009.

States that promulgate rules that conform to the EPA standards on or before October 22, 2009, may accept applications for certification in lieu of the EPA. Otherwise, on October 22, 2009, the EPA will begin accepting these applications and the associated fees from Wisconsin companies and individuals. Such an occurrence may cause confusion among the regulated community and property owners, and would impede the department’s ability to continue to administer a viable lead hazard reduction program if covered persons begin complying with the EPA certification requirements before state requirements are implemented. Promulgating rules before October 22, 2009, will help to avoid any unnecessary complexity for covered persons that may be caused by overlapping state and federal regulations that address lead–based paint hazards in target housing and child–occupied facilities.

Publication Date: October 16, 2009
Effective: October 19, 2009 through March 17, 2010
Hearing Date: November 18, 2009

Insurance (6)

1. **EmR0918** — Rule adopted to revise **Chapter Ins 6**, relating to exempting commercial umbrella and commercial liability policies covering only hired and non–owned autos from having to offer or include uninsured and underinsured motorist coverage.

Finding of Emergency

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

Act 28 (2009) modified the requirements for auto insurance in Wisconsin. Most of these new provisions go into effect on November 1, 2009. These modifications did not specifically address the issue of insurers who write commercial liability insurance and commercial umbrella policies which insure only hired and non–owned automobiles (“HNO”) under the policy but do not insure any automobiles owned by the insured.

If these new Act 28 requirements apply to commercial liability insurance and commercial umbrella policies which insure only hired and non–owned automobiles (“HNO”) under the policy, this creates a significant problem. Some of these insurers do not have authority to write auto insurance which is needed to write uninsured (“UM”) and underinsured coverage (“UIM”). Other insurers offering the commercial umbrella and commercial liability HNO have not ever written UM/UIM coverages because the current rules exempt them.

Insurers have also stated that obtaining reinsurance for this is a problem.

This issue was addressed in 1997 when an emergency rule was promulgated and modifications to Ins 6.77 were enacted in response to various court cases. In that process, commercial insurers who wrote liability policies that covered only HNO were exempted from the requirement to offer or include UM/UIM coverage. This emergency rule would continue this exemption so that the market for commercial liability insurance and commercial umbrella policies is not disrupted.

Publication Date: September 9, 2009
Effective: November 1, 2009 through March 30, 2010
Hearing Date: December 8, 2009

2. **EmR0923** — Rule adopted to create **section Ins 3.36**, Wis. Adm. Code, relating to treatment of autism spectrum disorders and affecting small business.

Exemption From Finding of Emergency

The Commissioner of Insurance pursuant to s. 632.895 (12m) (f) 2., Stats., need not find that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety or welfare.

Specifically, s. 632.895 (12m) (f), Wis. Stats., requires the commissioner to define “intensive–level services,” “nonintensive–level services,” “paraprofessional,” and “qualified” for purposes of providing services under this subsection. The statute further authorizes that the commissioner may promulgate rules governing the interpretation or administration of this subsection.

Publication Date: September 26, 2009
Effective: September 26, 2009 through February 22, 2010
Hearing Date: December 2, 2009

3. **EmR0925** — Rule adopted to create **section Ins 3.75**, relating to continuation of group health insurance policies.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 11, section 9126, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 11 reads as follows:

2009 Wisconsin Act 11, SECTION 9126. Nonstatutory provisions; Insurance.

(4) CONTINUATION COVERAGE RULES. (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2), and (3), the commissioner of insurance may promulgate rules establishing standards requiring insurers to provide continuation of coverage for any individual covered at any time under a group policy who is a state eligible individual to whom subsection (2) or (3) applies or an assistance eligible individual, as defined under section 3001 (a) (3) of the federal act, including rules governing election or extension of election periods, notice, rates, premiums, premium payment, application of preexisting condition exclusions, and election of alternative coverage.

(b) The commissioner may promulgate the rules under paragraph (a) as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph may remain in effect for one year and may be extended under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, **the commissioner is not required to provide evidence that promulgating a rule**

under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph. [Emphasis Added]

Publication Date: October 1, 2009
Effective: October 2, 2009 through October 1, 2010
Hearing Date: December 8, 2009

4. **EmR0927** — Rule adopted to create **Chapter Ins 57**, relating to care management organizations and affecting small business.

Finding of Emergency

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

Beginning January 1, 2010, care management organizations are required to obtain a permit from the commissioner to provide services under the Family Care program. In order to ensure no gap in services to enrollees, organizations and the office need to complete and accept applications for permits prior to January 1, 2010. Promulgation of this rule will permit the timely filing and review of permittees.

Publication Date: October 9, 2009
Effective: October 10, 2009 through March 10, 2010
Hearing Date: December 3, 2009

5. **EmR0930** — Rule adopted to create **section Ins 3.34**, relating to insurance coverage of dependents to age 27 and affecting small business.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows: the Commissioner is aware that insurers, employers and consumers are interpreting the state mandate inconsistently so without this rule consumers will not be treated similarly when the law becomes effective on January 1, 2010; the Commissioner has received numerous inquiries from insurers, consumers and employers seeking clarity of terms and guidance on interpretation and implementation of the law as many employers are entering open enrollment for the 2010 plan year.

These changes will be effective the day following publication in the official state newspaper and a permanent rule will start the permanent rule process to achieve uniformity in interpretation therefore protecting the public, informing employers, and guiding insurers in the state.

Publication Date: October 30, 2009
Effective: October 31, 2009 through March 29, 2010
Hearing Date: January 14, 2010

6. **EmR0945** — Rule adopted revising **section Ins 3.75**, relating to the continuation of group health insurance policies.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 11, section 9126, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 11 reads as follows:

2009 Wisconsin Act 11, SECTION 9126. Nonstatutory provisions; Insurance.

(4) CONTINUATION COVERAGE RULES (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2), and (3), the commissioner of insurance may promulgate rules establishing standards requiring insurers to provide continuation of coverage for any individual covered at any time under a group policy who is a state eligible individual to whom subsection (2) or (3) applies or an assistance eligible individual, as defined under section 3001 (a) (3) of the federal act, including rules governing election or extension of election periods, notice, rates, premiums, premium payment, application of preexisting condition exclusions, and election of alternative coverage.

(b) The commissioner may promulgate the rules under paragraph (a) as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph may remain in effect for one year and may be extended under section 227.24 (2) of the statutes Notwithstanding section 227.24 (1) (a) and (3) of the statutes, **the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.** [Emphasis Added]

Publication Date: January 7, 2010
Effective: January 8, 2010 through June 6, 2010

Natural Resources

Fish, Game, etc., Chs. NR 1—

- EmR0914** — Rule adopted to revise **Chapter NR 10**, relating to hunting and the 2009 migratory game bird seasons and waterfowl hunting zones.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: August 22, 2009
Effective: September 1, 2009 through January 28, 2010
Hearing Date: November 4, 2009

Natural Resources

Environmental Protection — Water Regulation, Chs. NR 300—

EmR0915 — A rule adopted revising **Chapters NR 335 and 336**, relating to grants for dam maintenance, repair, modification, or abandonment and removal.

Finding of Emergency

The substantial increase in bonding for the dam grant programs is a strong message from the legislature that concern for public welfare from unsafe dams is growing, as well as the desire to help dam owners, including the owners of the many dams damaged during the flooding in 2007 and 2008. In order to protect the public and provide this financial assistance, these additional funds should be put to work as soon as possible. The timeline for permanent rule promulgation will impede the Department's ability to accept applications and commit funding to dam safety projects until at least June 2010, which would delay most projects until late 2010 or 2011. The emergency rules will allow immediate implementation of modifications that will allow a grant application cycle to be conducted yet this fall and allow most projects to be constructed during the 2010 construction season or before.

Publication Date: August 28, 2009
Effective: August 28, 2009 through
 January 24, 2010
Extension Through: March 25, 2010

Public Defender Board

EmR0926 — Rule adopted to create **Chapter PD 8**, Discovery Payments, relating to the maximum fees that the state public defender may pay for copies of discovery materials in criminal proceedings, proceedings under Chapter 980, Wis. Stats., and other proceedings in which the state public defender provides legal representation.

Finding of Emergency

These rules are promulgated under s. 227.24 (1) (a), Stats., because the magnitude of the shortfall in the state public defender's appropriation for transcripts, discovery, and interpreters in both years of the current biennium constitutes an emergency that requires implementation of a rule earlier than a permanent rule could take effect if the agency were to comply with the applicable notice, hearing, legislative-review, and publication requirements.

The state public defender was initially provided a base budget of \$60,000 in 1995 for discovery payments, which at that time consisted mostly of photocopies and some photographs. In the 1999–2001 budget act, this appropriation was increased to \$150,000, based on a presumptive rate for photocopies of \$0.20 per page. In the 2001–2003 biennial budget act, this appropriation was subjected to a five percent funding reduction, leaving a base budget for discovery payments of \$142,500.

The public defender received discovery bills totaling \$717,000 for the fiscal year that ended June 30, 2009. Although discovery costs are caseload driven, this represents a nearly five-fold increase since 2001 and is due primarily to two factors. First, in the past many counties and municipalities did not bill the state public defender for copies of discovery materials. Because local budgets have come under increasing pressure, most now do so. Second, 2005

Wisconsin Act 60 resulted in more widespread use of audio and video recordings of interrogations by law enforcement, copies of which must be provided to the defense.

The public defender board's requests for cost-to-continue budget increases for discovery payments in 2007–2009 and in 2009–2011 were not funded. Instead, the FY 2009–2011 budget act reduced this appropriation by 1%, leaving a base budget of \$141,100, and directed the board to promulgate rules to address the funding shortfall.

Publication Date: October 3, 2009
Effective: October 3, 2009 through
 March 1, 2010
Hearing Date: November 16, 2009

Public Instruction (4)

1. **EmR0916** — A rule adopted revising **ss. PI 35.03 and 35.05**, relating to establishing a fee under the Milwaukee Parental Choice Program.

Exemption From Finding of Emergency

Pursuant to Section 9139 (3) of the nonstatutory provisions of 2009 Wisconsin Act 28, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Publication Date: September 1, 2009
Effective: September 1, 2009 through
 January 28, 2010
Extension Through: March 29, 2010

(Except Section 1)

Effective: October 1, 2009 through
 February 27, 2010
Hearing Date: October 26, 2009

2. **EmR0921** — Rule adopted to create **Chapter PI 15**, relating to revenue limit exemptions for energy efficiencies.

Exemption From Finding of Emergency

Pursuant to Section 9139 (2x) of the nonstatutory provisions of 2009 Wisconsin Act 28, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Publication Date: September 4, 2009
Effective: September 4, 2009 through
 January 31, 2010
Extension Through: April 1, 2010
Hearing Date: November 9, 2009

3. **EmR0933** — Rule adopted to create **Chapter PI 39**, relating to grants for tribal language revitalization.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

The tribal language revitalization grant program under s. 115.745, Stats., was created under 2009 Wisconsin Act 28.

The Act became effective June 30, 2009, and appropriated \$247,500 annually beginning in the 2009–10 school year. In order for school districts to develop applications and for the department to review the applications and grant awards in time for the program to operate in the second semester of the school year, rules must be in place as soon as possible to establish application criteria and procedures.

Publication Date: December 15, 2009
Effective: December 15, 2009
 through May 13, 2010
Hearing Date: January 15, 2010

4. **EmR0936** — Rule adopted to create **section PI 8.01 (4)**, relating to waiver of school hours.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and an emergency rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

2009 Wisconsin Act 42 requires the department to promulgate rules establishing criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified under s. 121.02 (1) (f) 2. if school is closed for a reason specified in s. 115.01 (10) (a) 2. or 3. The Act became effective October 21, 2009. Therefore, rules must be in place as soon as possible to establish the waiver procedure and criteria for the current school year.

Publication Date: December 21, 2009
Effective: December 21, 2009
 through May 19, 2010
Hearing Date: February 1, 2010

Public Service Commission

EmR0919 — Rule adopted to create **Chapter PSC 172**, relating to the police and fire protection fee created under 2009 Wisconsin Act 28.

Finding of Emergency

The Commission finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The police and fire protection fee, which must go into effect September 1, 2009, (2009 Wisconsin Act 28 section 9441) will be used to replace shared revenue payments for such services. To ensure the public peace, health, safety, and welfare of the citizens of Wisconsin, it is vital for funding of police and fire protection services to continue smoothly, quickly, and unimpeded. Thus, it is necessary for the rule administering the fee to be implemented as soon as possible.

Publication Date: September 11, 2009
Effective: September 11, 2009
 through February 7, 2010
Extension Through: April 18, 2010
Hearing Date: December 2, 2009

Regulation and Licensing (2)

1. **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

2. **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

Revenue (6)

1. **EmR0924** — Rule adopted revising **Chapter Tax 11**, relating to sale and use tax.

Finding of Emergency

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

The changes made by the emergency rule must be effective October 1, 2009, to be in conformity with the Streamlined

Sales and Use Tax Agreement. In order to meet this deadline, it is necessary to promulgate this rule as an emergency rule.

Publication Date: September 30, 2009
Effective: October 1, 2009 through February 27, 2010
Hearing Dates: December 1 and 15, 2009

2. **EmR0929** — Rule adopted to create sections **Tax 2.85 and 11.90**, relating to failure to produce records.

Finding of Emergency

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the adoption of penalties for failure to produce records.

It is necessary to promulgate this rule order to provide guidance so that the penalties can be administered in a fair and consistent manner.

Publication Date: October 19, 2009
Effective: October 19, 2009 through March 17, 2010
Hearing Dates: December 10 and 21, 2009

3. **EmR0935** — Rule adopted to create **section Tax 1.16**, relating to the financial record matching program.

Finding of Emergency

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of the financial record matching program.

It is necessary to promulgate this rule order to provide procedures so that the program can be administered in a fair and consistent manner.

Publication Date: December 22, 2009
Effective: December 22, 2009 through May 20, 2010
Hearing Date: February 11, 2010

4. **EmR0943** — Rule adopted to revise **Chapter Tax 2**, relating to apportionment and nexus.

Finding of Emergency

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

In 2009, the Wisconsin Legislature enacted Acts 2 and 28, both of which contained substantial changes to Wisconsin's corporation franchise and income tax laws. Most of these changes are effective retroactively to taxable years beginning on or after January 1, 2009. Emergency rules are needed to add certainty about the scope and application of the newly enacted statutes as soon as possible so that taxpayers can file their returns accordingly.

Publication Date: December 31, 2009
Effective: December 31, 2009 through May 29, 2010
Hearing Date: February 25, 2010

5. **EmR1001** — Rule adopted revising **Chapter Tax 2**, relating to combined reporting for corporation franchise and income tax purposes.

Finding of Emergency

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

The function of the Wisconsin Department of Revenue is to administer the Wisconsin tax laws. These laws, and tax policy for raising revenue, are determined by the State Legislature. The State Legislature recently enacted numerous items of tax legislation, affecting individuals and businesses alike. Some of these apply retroactively to January 1, 2009. Emergency rules are needed, not only to address the risk of revenue loss, but to add more clarity and certainty about the scope and application of the newly enacted statutes.

Publication Date: January 15, 2010
Effective: January 15, 2010 through June 13, 2010
Hearing Date: February 25, 2010

6. **EmR1002** — Rule adopted to create **section Tax 1.17**, relating to the ambulatory surgical center assessment.

Exemption From Finding of Emergency

The legislature by Section 9143 (4u) of 2009 Wisconsin Act 28 provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: January 19, 2010
Effective: January 19, 2010 through October 15, 2010
Hearing Date: February 11, 2010

Veterans Affairs (2)

1. **EmR0911** — Rule adopted to revise section VA 2.01, relating to the assistance to needy veterans grant program.

Finding of Emergency

The Wisconsin Department of Veterans Affairs 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 facts constituting the emergency is: The economic recession in effect for the last fiscal year has adversely affected the veteran population. Many veterans have lost their employment or had their scope of employment reduced. In addition to losing employment, many veterans have seen their health care reduced or eliminated. In order to serve the largest population of veterans and ensure minimal health care for that population, the department is requesting emergency rules to define "vision care and to limit the eligibility, by available funding, for "dental care", "hearing care", and "vision care". These eligibility limitations, which address the cost, type and frequency of care available under the program, will allow more veterans in need to access the limited resources of this program.

Publication Date: July 1, 2009
Effective: July 1, 2009 through November 27, 2009
Extension Through: March 27, 2010
Hearing Date: August 14, 2009

2. **EmR0944** — Rule adopted to amend **section VA 2.02 (2)**, relating to the veterans tuition reimbursement program.

Finding of Emergency

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

The removal of the existing deadline for completing and receiving an application for the tuition fee reimbursement program has left the department unable to budget the available resources for this program to ensure maximum coverage for eligible veterans throughout the fiscal year. The department is requesting emergency rules to ensure applications can be processed in a responsive manner and to allow the department to properly manage the program's biennial budget and ensure the welfare of all eligible veterans. The emergency rule will address the need for an application deadline while the department completes the promulgation for a permanent rule for the program.

Publication Date: January 4, 2010
Effective: January 4, 2010 through June 2, 2010
Hearing Date: March 10, 2010

(See the Notice in this Register)

Workforce Development (2) *Public Works Construction Contracts, Chs. DWD 290–294*

1. **EmR0941** — Rule adopted to create **section DWD 290.20**, relating to the thresholds for the requirement of prevailing wage rates.

Finding of Emergency

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

The most recent state budget legislation, 2009 Wisconsin Act 28, contained amendments to the state laws which require the payment of prevailing wage rates for work done on projects of public works and, in a new statute, for work done on private projects which receive more than \$1,000,000 of public direct financial assistance. The new provisions become effective on January 1, 2010.

The prevailing wage laws require that when a state agency or local governmental unit contracts for the erection,

construction, remodeling, repairing, or demolition of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with the wage rates established by the determination. Under the law as it existed before the enactment of 2009 Act 28, a prevailing wage rate determination was required for any project with an estimated cost of at least \$48,000 (for a single-trade project) or \$234,000 (for a multi-trade project). Act 28 changes these amounts to an estimated project cost of at least \$25,000. Act 28 has also created a new statute, s. 66.0904, Stats., which requires that a private developer obtain and comply with a prevailing wage rate determination for a private project that receives at least \$1,000,000 in direct financial assistance from a local governmental unit.

The state and local governmental units and private developers who may be subject to these new requirements of the prevailing wage laws need immediate guidance as to the manner in which the Department will apply the January 1, 2010 effective date to new projects. This rule provides that guidance by establishing that the new threshold requirements will apply to projects for which a request for bids is issued or a contract is negotiated after January 1, 2010.

Publication Date: December 29, 2009
Effective: January 1, 2010 through May 30, 2010

2. **EmR0942** — Rule adopted to amend **section DWD 293.02**, relating to the adjustment of thresholds for payment and performance assurance bond requirements and affecting small businesses.

Finding of Emergency

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

The adjustment of the thresholds for the application of the project payment and performance assurance bond requirements 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 the need for obtaining bonding 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 rule-making process.

Publication Date: December 29, 2009
Effective: January 1, 2010 through May 30, 2010

Scope Statements

Natural Resources

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

Subject

Development of Best Management Practices to Control Emissions of Hazardous Air Contaminants from Agricultural Waste.

Objective of the Rule

Changes to chs. NR 406, 407, 410, 438, and 445. The proposed rule changes pertain to implementation of existing air permit and emission requirements for sources of hazardous air contaminants from agricultural waste. The primary effort is to establish best management practices (BMPs) that control hazardous air emissions from agricultural waste. The proposed changes may also address scope, timeframe for review, submittal and approval, testing, record keeping, and reporting requirements related to BMPs approved by the Department.

In addition, possible amendments to ch. NR 410 would address fees to support Department implementation of proposed best management practices.

Policy Analysis

Existing Policy

Existing policy on the regulation of air emissions from agricultural waste is established in current rules as follows.

Hazardous air emissions from agricultural waste are regulated under ch. NR 445. This rule establishes ambient air standards for specific contaminants beyond the source's property line. The acceptable ambient concentrations for ammonia and hydrogen sulfide, two contaminants associated with agricultural waste, are 418 and 335 micrograms per cubic meter, respectively. Both of these ambient concentrations are averaged on a 24-hour basis. Multiple compliance demonstration options are provided in NR 445 for sources subject to these standards. For example, sources may demonstrate emissions are below specific values established in the rule, or sources may perform air dispersion modeling to determine off-property concentrations relative to established standards.

Revisions to ch. NR 445, made in July 2004 provided a 36 month exemption, until June 2007, for sources of hazardous emissions from agricultural waste. After June 2007, new sources were to have complied upon start-up of operations and existing sources had an additional 12 months to comply. The July 2004 revisions allowed use of best management practices, as approved by the Department, as a compliance option for these sources in addition to those mentioned previously.

Also published in July 2004 were revisions to the air permit requirements of chs. NR 406 and 407, providing a parallel 36 month air permit exemption for sources of hazardous emissions from agricultural waste from July 2004 to July 2007.

The end of the 36 month exemption period was established to coincide with the anticipated completion of studies at the state and federal level. It was anticipated these studies would provide air emission data to support rule applicability determinations and information about the efficacy of best management practices to support the evaluation and establishment of BMPs. Information about these studies is provided below.

Revisions to ch. NR 445, effective August 1, 2008, extended the exemption period, for a second time, through July 31, 2011. This second extension was granted because the results of state and federal air monitoring studies of animal feeding operations were not available at that time to support implementation of the rules with the prior compliance deadlines.

State Study

The Department engaged in a cooperative project to evaluate air emissions and BMPs for the control of hazardous air emissions from the handling of agricultural waste. The project included ambient air monitoring for hydrogen sulfide and ammonia, as well as odor evaluation near several dairy operations, installation of grant-funded improvements, and ambient air monitoring to evaluate the impact of BMPs to control hydrogen sulfide and ammonia emissions. The final report was published in September 2009. Air emissions from landspreading of agricultural waste were not included in this study.

Federal Study

As a result of a 2003 National Academy of Science report, US EPA initiated a national program to monitor and evaluate air emissions from animal feeding operations called the National Air Emissions Monitoring Study. Field work began in late 2006, much later than originally anticipated by the Department. Data collection was scheduled to be completed in mid 2009. Within 18 months after the study ends, US EPA will evaluate the data and publish air emission-estimating methods for animal feeding operations (by end of 2010). These methods will allow owners to estimate air emissions from their animal feeding operations and comply with applicable federal regulatory requirements in the Clean Air Act; Comprehensive Environmental Response, Compensation, and Liability Act; and the Emergency Planning and Community Right-to-Know Act, as noted in a following section. Air emissions from landspreading of agricultural waste are not included in this study either.

New Policy, Alternative Policies

The Department does not anticipate changes to underlying policy related to air permit requirements and hazardous air pollutant emission requirements for hazardous air pollutant emissions from agricultural waste.

Development of BMPs for agricultural waste may result in amendments to ch. NR 410 to establish fees. Fees may be necessary to support implementation of BMPs to control hazardous air contaminant emissions.

Statutory Authority

Sections 285.11 (1) and (16), 285.17 and 285.69, Stats.

Comparison with Federal Regulations

Existing Federal Regulations

Under the federal Clean Air Act, new and existing major stationary sources of federally regulated criteria air pollutant emissions are subject to federal air permit requirements. Included are permit requirements under the federal “Prevention of Significant Deterioration (PSD)” and “Non–Attainment Area” New Source Review programs, along with the applicable requirements for “Best Available Control Technology”, and “Lowest Achievable Emission Rate” technology and offsets, respectively. Emissions associated with animal feeding operations are not, categorically, exempt from these requirements.

Under Section 112(b) of the federal Clean Air Act, hazardous air pollutants are regulated through National Emission Standards for Hazardous Air Pollutants (NESHAPs), established by industry sector. No such standards have been established specifically for animal feeding operations. Ammonia and hydrogen sulfide, two air pollutants associated with animal feeding operations, are not regulated as federal hazardous air pollutants under section 112(b).

The Clean Air Act lists ammonia and hydrogen sulfide in section 112(r)(3), Prevention of Accidental Releases, and both the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right–to–Know Act (EPCRA) have reporting requirements for releases to the air, including emissions of hydrogen sulfide and ammonia.

In the late 1990s, as noted in an August 2005 press release, US EPA realized that it did not have sufficient air emissions data to implement federal Clean Air Act requirements for animal feeding operations. To resolve the situation, US EPA began discussions with animal feeding operation owners in 2001. These discussions led to a January 31, 2005 EPA Federal Register notice offering individual animal feeding operations an opportunity to voluntarily sign a consent agreement committing animal feeding operations to participate in a nationwide air emission monitoring study and establish a timeline for participating animal feeding operations to achieve compliance with federal air permit, air emission control, and air emission reporting requirements. In return, EPA provided limited amnesty from enforcement action during the term of the agreement.

The Department is not aware of any new or proposed federal regulations pertaining to hazardous air pollutant emissions from animal feeding operations, although EPA was petitioned in 2009 to list concentrated feeding operations under the Clean Air Act section 111(b)(1)(A) and promulgate standards of performance under sections 111(b)(1)(B) and 111(d).

Existing State Regulations

The federal air permit requirements described above are incorporated into state air permit rules in chs. NR 405, 406, and 407. In addition, chs. NR 406 and 407 include air permit requirements for minor sources. Emissions associated with animal feeding operations are not, categorically, exempt from these requirements. However, the revisions to chs. NR 406 and 407 published in July 2004 established an exemption period ending in July 2007 for sources of hazardous air contaminant emissions from agricultural waste. The exemption period was extended, again, in February 2008 for chs. NR 406 and 407.

Chapter NR 445 establishes acceptable ambient air concentrations for ammonia and hydrogen sulfide, two pollutants associated with agricultural waste from animal feeding operations. These concentrations are 418 and 335 micrograms per cubic meter, respectively, on a 24 hour average basis. As noted above, ammonia and hydrogen sulfide are not regulated as federal hazardous air pollutants under section 112(b), but are included in 112(r) of the Clean Air Act.

Similar to federal reporting requirements, state reporting requirements include the air spill reporting requirements in ch. NR 445 and the annual air emission reporting requirements of ch. NR 438. Air emissions from animal feeding operations are not categorically exempt from these reporting requirements.

The proposed changes to chs. NR 406, 407, and 445, pertain to implementation of established state air permit requirements and state hazardous air emission requirements for sources of hazardous air contaminants from agricultural waste. The proposed changes will affect the manner in which state and federal regulations differ, but are not expected to resolve the existing differences.

Entities Affected by the Rule

Entities likely to be impacted include owners and operators of animal feeding operations, including small businesses e.g., small farms. Beneficial effects of the rule may be realized by neighbors adjacent to owners and operators of animal feeding operations.

Estimate of Time Needed to Develop the Rule

3,944 hours DNR staff time.

Contact Information

Bart Sponseller
WDNR
101 S. Webster St.
Madison, WI 53701
Phone: (608) 266–1058
Email: bart.sponseller@wisconsin.gov

Submittal of Rules to Legislative Council Clearinghouse

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

Commerce

*Fee Schedule, Ch. Comm 2, Boilers and Pressure Vessels,
Ch. Comm 41, Mechanical Refrigeration, Ch. Comm 45*

CR 10–011

On February 1, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapters Comm 2, 41 and 45, relating to mechanical refrigeration.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for March 4, 2010. The Safety and Buildings Division is primarily responsible for the promulgation of the rule.

Contact Information

Sam Rockweiler
Code Development Consultant
Phone: (608) 266–0797
Email: sam.rockweiler@wisconsin.gov

Commerce

Petroleum Products, Ch. Comm 48

CR 10–006

On January 20, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter Comm 48, relating to petroleum and other liquid fuel products.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for February 26, 2010. The Division of Environmental and Regulatory Services is primarily responsible for the promulgation of the rule.

Contact Information

Sam Rockweiler
Code Development Consultant
Phone: (608) 266–0797
Email: sam.rockweiler@wisconsin.gov

Commerce

*Financial Resources for Businesses and Communities,
Chs. Comm 104—*

CR 10–007

On January 28, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter Comm 134, relating to meat processing facility investment credits.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for March 3, 2010. The Division of Business Development is primarily responsible for the promulgation of the rule.

Contact Information

Sam Rockweiler
Code Development Consultant
Phone: (608) 266–0797
Email: sam.rockweiler@wisconsin.gov

Commerce

*Financial Resources for Businesses and Communities,
Chs. Comm 104—*

CR 10–008

On January 28, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter Comm 132, relating to dairy manufacturing facility investment credits.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for March 2, 2010. The Division of Business Development is primarily responsible for the promulgation of the rule.

Contact Information

Sam Rockweiler
Code Development Consultant
Phone: (608) 266–0797
Email: sam.rockweiler@wisconsin.gov

Financial Institutions — Credit Unions

CR 10–009

On January 28, 2010, the Department of Financial Institutions submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter DFI-CU 65, relating to credit union service organizations.

Agency Procedure for Promulgation

A public hearing is scheduled for February 26, 2010. The Office of Credit Unions is primarily responsible for the promulgation of the rule.

**Office of Justice Assistance
CR 10-010**

On January 29, 2010, the Office of Justice Assistance submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter OJA 1, relating to the collection and analysis of motor vehicle traffic stop information.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled at a later date. The Office of Justice Assistance is the organizational unit that is responsible for promulgation of the rule.

Contact Information

Dennis Schuh, Program Director,
Office of Justice Assistance
Phone: (608) 266-7682
Email: Dennis.Schuh@wisconsin.gov

Rule-Making Notices

Notice of Hearing

Commerce

Fee Schedule, Ch. Comm 2
Boilers and Pressure Vessels, Ch. Comm 41
Mechanical Refrigeration, Ch. Comm 45
CR 10-011

NOTICE IS HEREBY GIVEN that pursuant to sections 101.02 (15) (j), 101.177, and 101.19 of the Statutes, the Department of Commerce will hold a public hearing on proposed rules to revise Chapters Comm 2, 41 and 45, relating to mechanical refrigeration, and affecting small businesses.

Hearing Information

The public hearing will be held as follows:

<u>Date and Time:</u>	<u>Location:</u>
March 4, 2010 Thursday At 10:00 a.m.	Thompson Commerce Center, Third Floor, Room 3B 201 West Washington Avenue Madison, Wisconsin

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266-0797 or at 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, via e-mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until March 8, 2010, 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. E-mail comments should be sent to sam.rockweiler@wi.gov. If e-mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

Copies of Proposed Rules

The proposed rules and an analysis of them are available on the Internet by entering "Comm 45" in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Home>. Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266-0797, or at Contact

Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Sections 101.02 (1) and (15) (h) to (j), 101.17, 101.177 and 101.19.

Statutory authority

Sections 101.02 (1) and (15) (h) to (j), 101.177, 101.19 and 227.11 (2) (a).

Explanation of agency authority

Under sections 101.02 (15) (h) to (j) and 101.17 of the Statutes, the Department is required to establish rules and prescribe safeguards for protecting the life, health, safety and welfare of employees and frequenters of public buildings and places of employment. Under section 101.177 of the Statutes, the Department is required to establish rules relating to proper handling and use of ozone-depleting refrigerants and associated equipment. Section 101.19 of the Statutes authorizes the Department to assess fees for providing services.

The Department also has authority under section 227.11 (2) (a) of the Statutes to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Related statute or rule

Some of the mechanical refrigeration systems addressed by the proposed rules include pressure vessel components that are regulated by chapter Comm 41.

Plain language analysis

The proposed rule changes primarily consist of updating chapter Comm 45 to have it directly reference the latest editions of two applicable national standards, and to make it consistent with current industry and regulatory practices for mechanical refrigeration systems. The primary referenced national standard is ANSI/ASHRAE 15-2007, including its addenda a to i — and ANSI/IIAR 2-2008 is referenced for closed-circuit ammonia mechanical refrigeration systems. Comm 45 currently instead references ANSI/ASHRAE 15 indirectly by incorporating chapter 11 of the 2000 edition of the *International Mechanical Code*[®] (IMC), which in turn references a previous version of ANSI/ASHRAE 15. No substantive changes to administrative requirements are included.

Comparison with federal regulations

The US Environmental Protection Agency has regulations relating to production or release of various ozone-depleting refrigerants, but the proposed rule changes do not directly address the topics covered by those regulations.

Comparison with rules in adjacent states

Michigan:

Michigan regulates the design and installation of mechanical refrigeration systems by adopting the 2006 edition of the IMC. The IMC in turn references the 2001 and

1999 editions of the ASHRAE 15 and IIAR 2 standards, respectively.

Minnesota:

Minnesota’s regulation is the same as Michigan — except closed–circuit ammonia refrigeration systems must comply with the 2008 edition of IIAR 2, and with the 2006 edition of B31.5 and the welding and welder criteria in section IX of the 2007 edition of the *ASME Boiler and Pressure Vessel Code*.

Illinois:

Illinois does not regulate mechanical refrigeration systems, and no corresponding Iowa regulations were found.

Summary of factual data and analytical methodologies

In considering the latest editions of ANSI/ASHRAE 15 and ANSI/IIAR 2, Department staff compared these standards to the requirements currently in Comm 45, and concluded that these standards are clearer and provide more detail than the current requirements and standards included in Comm 45, and would not impose significant costs or other impacts on a substantial number of businesses.

The rules were also developed with assistance from the Department’s advisory council for mechanical refrigeration. The organizations represented on that advisory council are as follows:

- Central Storage and Warehouse Company
- City of Milwaukee
- Mechanical Contractors Association of Wisconsin
- Sheet Metal and Air Conditioning Contractors Association of Milwaukee, Inc.
- University of Wisconsin — Madison
- Vilter Manufacturing Corporation
- Wisconsin Pipe Trades Association

Analysis and supporting documents used to determine effect on small business

An economic impact report was not prepared. Consideration of the potential effects on small business was based on guidelines produced by the federal Small Business Administration’s Office of Advocacy. The advisory council referenced above did not identify any significant impacts relative to compliance with the proposed revisions updating chapter Comm 45.

Small Business Impact

The proposed rules are not expected to impose significant costs or other impacts on a substantial number of businesses because the primary effect of the changes is to make chapter Comm 45 consistent with current regional and national standards for mechanical refrigeration, and with current industry and regulatory practices.

Initial regulatory flexibility analysis

Types of small businesses that will be affected by the rules.

Owners and operators of public buildings and places of employment that use mechanical refrigeration systems, or other premises if ozone–depleting refrigerants exist.

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

No new reporting or recordkeeping would be needed for compliance with these rules.

Types of professional skills necessary for compliance with the rules.

No new professional skills would be needed for compliance with these rules.

Rules have a significant economic impact on small businesses?

No

Environmental Assessment

The Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearings. Requests for the EA and comments on the EA should be directed to:

Department of Commerce
P.O. Box 14427
Madison, Wisconsin 53701
Telephone (608) 266–0797
or TTY (608) 264–8777

Written comments will be accepted until March 8, 2010

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

There are no requirements in this proposal that should significantly affect either state or local government costs or revenues.

The anticipated costs that may be incurred by the private sector in complying with new requirements in the proposed rules are adequately described in the rule analysis.

State fiscal effect

None.

Local government fiscal effect

None.

Long–range fiscal implications

None known or anticipated.

Agency Contact Information

Sam Rockweiler, Wisconsin Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI, 53708–0427; telephone (608) 266–0797; e–mail sam.rockweiler@wi.gov.

Any inquiries for the small business regulatory coordinator for the Department of Commerce can be directed to Sam Rockweiler, as listed above.

Notice of Hearing

Commerce

Petroleum Products, Ch. Comm 48

CR 10–006

NOTICE IS HEREBY GIVEN that pursuant to sections 101.02 (1), 168.04 (1), 168.16 (4), and 227.11 (2) (a) of the Statutes, the Department of Commerce will hold a public hearing on proposed rules to revise Chapter Comm 48, relating to petroleum and other liquid fuel products, and affecting small businesses.

Hearing Information

The public hearing will be held as follows:

Date and Time:	Location:
February 26, 2010	Thompson Commerce Center,
Friday	Third Floor, Room 3B
At 10:00 a.m.	201 West Washington Avenue
	Madison, Wisconsin

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266–0797 or at 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, via e–mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until March 3, 2010, 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. E–mail comments should be sent to sam.rockweiler@wi.us. If e–mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708–0427.

Copies of Proposed Rules

The proposed rules and an analysis of the rules are available on the Internet by entering “Comm 48” in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Home>. Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.us, or at telephone (608) 266–0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Sections 168.04 (1) and 168.16 (4), Stats.

Statutory authority

Sections 101.02 (1), 168.04 (1), 168.16 (4), and 227.11 (2) (a), Stats.

Explanation of agency authority

Under section 101.02 (1) of the Statutes, the Department is required to adopt reasonable rules relative to the exercise of the Department’s powers and authorities, and to the mode and manner of its inspections. Under chapter 168 of the Statutes, the Department is responsible for inspection of petroleum and other liquid fuel products that come into Wisconsin. Chapter 168 requires that these products meet minimum product–grade specifications as prescribed by rule by the Department; and that the Department’s inspections be conducted, so far as applicable, in accordance with the latest standards produced by ASTM International. Section 168.16

(4) of the Statutes specifically authorizes the Department to promulgate reasonable rules relating to the administration and enforcement of chapter 168. The Department also has authority under section 227.11 (2) (a) of the Statutes to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Related statute or rule

The proposed rule changes for chapter Comm 48 are related to rules in chapter Comm 10 that address inventory controls for motor vehicle fuels, and to rules in chapters Comm 10 and 14 that address storage of flammable and combustible liquids.

Plain language analysis

The proposed rule changes primarily consist of updating chapter Comm 48 to include the latest revisions of several recently updated ASTM International standards for petroleum and other liquid fuel products. Consent to adopting the ASTM standards will be obtained from the Attorney General prior to incorporating the standards into the rules.

The proposed changes also include several clarifications and refinements relating to administration and enforcement by the Department’s inspectors. These changes would (1) further clarify that this chapter addresses not only petroleum–based fuels but also liquid fuels and fuel components which are not petroleum–based, such as ethanol and biodiesel; (2) authorize shutdown of a storage tank system if corresponding inventory, delivery or manifest records either have been falsified or are not available for inspection within 24 hours after being requested; (3) codify use of biodiesel–blended motor fuels of 6 to 20 percent biodiesel; (4) clarify that fuel products which are imported into the state are subject to sampling by the Department, instead of always sampled by the Department; (5) clarify that the Department tests samples at locations and frequencies which are designed to prevent sale of noncompliant fuel products, instead of testing all samples of all products; and (6) codify the maximum amount of water permitted in a fuel–storage tank.

Comparison with federal regulations

The Federal Trade Commission establishes requirements for accurate automotive fuel ratings, under Title 16 of the Code of Federal Regulations, Part 306 – which includes criteria for octane ratings, certification, and posting. Also included in Part 306 are detailed requirements for labeling retail diesel fuel dispensing devices that dispense fuel blends consisting of more than 5 percent by volume biodiesel fuel or biomass–based diesel fuel. Those detailed requirements include prescribed dispenser labels for blended fuels of 6 to 20 percent biodiesel fuel or biomass–based diesel fuel, and dispenser labels for blended fuels of more than 20 percent biodiesel fuel or biomass–based diesel fuel. The proposed rule changes for chapter Comm 48 include an informational Note referencing those labeling requirements.

Federal Environmental Protection Agency fuel standards mandate transitioning fully to ultra–low–sulfur diesel fuel, which has a sulfur content of no greater than 15 parts per million, and which is needed to enable heavy–duty engine components to consistently reduce particulate matter and nitrogen oxide emissions by 90 and 95 percent, respectively, below previous standard levels. The current deadlines for completing this transition are December 1, 2010, for highway vehicles — and 2014 for non–road, locomotive, and marine vehicles. The EPA is likewise implementing corresponding,

similar reductions in sulfur levels in automotive gasoline. The proposed rule revisions for chapter Comm 48 do not directly address air–quality–based issues such as these, and therefore retain the current Wisconsin requirements that permit higher maximum sulfur levels in diesel fuel and automotive gasoline. These Wisconsin requirements are expected to be retained until the federally mandated transition is completed.

Comparison with rules in adjacent states

Minnesota, Iowa, Illinois, and Michigan all have requirements addressing the quality of motor vehicle fuels. An Internet–based search showed that Iowa, Illinois, and Michigan similarly apply the most recent, corresponding standards produced by ASTM International. Minnesota and Illinois were found to similarly collect samples of motor fuels, which are then tested appropriately.

Summary of factual data and analytical methodologies

In considering the latest revisions of the ASTM International standards, Department staff reviewed the corresponding topics addressed by ASTM International in updating each standard. In developing the clarifications and refinements relating to administration and enforcement, input from inspection staff was relied upon, particularly in relation to mandated product–inventory records that have been found to be either unavailable or unreliable.

The rules were also developed with assistance from the Department’s advisory committee for petroleum and other liquid fuel products. The organizations represented on that advisory committee are as follows:

- Wisconsin Biodiesel Association
- Wisconsin Small Engine Consortium
- Wisconsin Petroleum Council
- Petroleum Marketers Association and Convenience Store Association of Wisconsin
- Cooperative Network
- Wisconsin Bio Industry Alliance
- Renewable Fuels Association
- National Petrochemical and Refiners Association

Analysis and supporting documents used to determine effect on small business

An economic impact report was not prepared. Consideration of the potential effects on small business was based on federal guidelines produced by the federal Small Business Administration’s Office of Advocacy.

Small Business Impact

The proposed rules are not expected to impose significant costs or other impacts on a substantial number of businesses because the primary effect of the changes is to make chapter Comm 48 consistent with current regional and national standards for fuel quality, and with current administrative practices.

Initial regulatory flexibility analysis

Types of small businesses that will be affected by the rules.

The proposed rules may affect any business which brings petroleum or other liquid fuel products into Wisconsin, or which markets these products within Wisconsin.

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

No new reporting, bookkeeping or other procedures would be required for compliance with the proposed rules.

Types of professional skills necessary for compliance with the rules.

No new professional skills would be necessary for compliance with the proposed rules.

Rules have a significant economic impact on small businesses?

No.

Environmental Analysis

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

Assumptions used in arriving at fiscal estimate

There are no requirements in this proposal that should significantly affect either state or local government costs or revenues.

The anticipated costs that may be incurred by the private sector in complying with new requirements in the proposed rules are adequately described in the rule analysis.

State fiscal effect

None.

Local government fiscal effect

None.

Long–range fiscal implications

None known or anticipated.

Agency Contact Information

Sam Rockweiler, Wisconsin Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI, 53708–0427; telephone (608) 266–0797; e–mail sam.rockweiler@wi.gov.

Any inquiries for the small business regulatory coordinator for the Department of Commerce can be directed to Sam Rockweiler, as listed above.

Notice of Hearing

Commerce

Financial Resources for Businesses and Communities, Chs. Comm 104— CR 10–007

NOTICE IS HEREBY GIVEN that pursuant to section 560.208 (4) of the Statutes, the Department of Commerce will hold a public hearing on proposed rules to create Chapter Comm 134, relating to investment credits for meat processing facilities, and affecting small businesses.

Hearing Information

The public hearing will be held as follows:

Date and Time:	Location:
March 3, 2010	Thompson Commerce Center,
Wednesday	Third Floor, Room 3B
At 10:00 a.m.	201 West Washington Avenue
	Madison, Wisconsin

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266–0797 or at 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, via e–mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until March 5, 2010, 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. E–mail comments should be sent to sam.rockweiler@wi.gov. If e–mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708–0427.

The proposed rules and an analysis of the rules are available on the Internet by entering “Comm 134” in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Homesam.rockweiler@wi.gov>. Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266–0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Sections 71.07 (3r), 71.28 (3r), 71.47 (3r), and 560.208, Stats., as created in 2009 Wisconsin Act 2.

Statutory authority

Sections 227.11 (2) (a) and 560.208 (4), Stats.

Explanation of agency authority

Section 560.208 (4) of the Statutes requires the Department to promulgate rules for administering a program to certify applicants and allocate tax credits for the meat processing investments addressed in sections 71.07 (3r), 71.28 (3r) and 71.47 (3r) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

Related statute or rule

The Department has rules for several other programs associated with tax credits, but those programs are not

targeted specifically to investments in meat processing facilities.

Summary of proposed rule

The proposed rules in this order address (1) the eligibility requirements for applicants; (2) the documentation that must be submitted by applicants to become certified as eligible for the meat processing facility investment credit, and to receive acceptance of incurred expenses; (3) the Department’s response to the submitted documentation; and (4) filing a claim with the Department of Revenue for the corresponding tax credit.

Comparison with federal regulations

Neither the Department nor the Department of Revenue is aware of any existing or proposed federal regulations that address these tax credits.

Comparison with rules in adjacent states

An Internet–based search of rules promulgated by Minnesota, Michigan, Illinois and Iowa revealed that each state offers various tax credit programs, but none that are similar to the meat processing facility investment credit in Wisconsin.

Summary of factual data and analytical methodologies

The data and methodology for developing these proposed rules were derived from and consisted of (1) incorporating the applicable criteria from 2009 Wisconsin Act 2, (2) incorporating applicable best practices the Department has developed in administering the current tax credit program for dairy manufacturing facility investments, (3) soliciting and utilizing input from the Department of Revenue, and (4) reviewing Internet–based sources of related federal and state information.

Analysis and supporting documents used to determine effect on small business

The primary document that was used to determine the effect of the proposed rules on small businesses was 2009 Wisconsin Act 2. The proposed rules apply their private–sector requirements only to owners or operators of meat processing facilities who choose to pursue tax credits for investing in those facilities.

Small Business Impact

The proposed rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants who choose to pursue tax credits for investments in meat processing facilities.

Initial regulatory flexibility analysis

Types of small businesses that will be affected by the rules.

Owners and operators of meat processing facilities who choose to pursue the tax credits in sections 71.07 (3r), 71.28 (3r), and 71.47 (3r) of the Statutes, for investing in those facilities.

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

An application form prescribed by the Department must be completed and submitted to the Department.

Types of professional skills necessary for compliance with the rules.

No new professional skills are necessary for compliance with the rules.

Rules have a significant economic impact on small businesses?

No.

Environmental Analysis

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

Assumptions used in arriving at fiscal estimate

Although the rules will newly result in review of documentation relating to certifying applicants as eligible to then claim allocated tax credits for investments in meat processing facilities, the number of these reviews and allocations is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose any significant costs on the private sector, because the rules address only voluntary submittal of documentation relating to tax credits for investments in meat processing facilities.

State fiscal effect

None.

Local fiscal effect

None.

Long–range fiscal implications

None known.

Agency Contact Person

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707–7970; telephone (608) 267–0762; e–mail Steven.Sabatke@Wisconsin.gov.

Any inquiries for the small business regulatory coordinator for the Department of Commerce can be directed to Sam Rockweiler, sam.rockweiler@wi.gov, or at telephone (608) 266–0797.

Notice of Hearing

Commerce

Financial Resources for Businesses and Communities,

Chs. Comm 104—

CR 10–008

NOTICE IS HEREBY GIVEN that pursuant to section 560.03 of the Statutes, the Department of Commerce will hold a public hearing on proposed rules to revise Chapter Comm 132, relating to dairy manufacturing facility investment credits for dairy cooperatives, and affecting small businesses.

Hearing Information

The public hearing will be held as follows:

Date and Time:

March 2, 2010
Tuesday
At 1:00 p.m.

Location:

Thompson Commerce Center,
Third Floor, Room 3B
201 West Washington Avenue
Madison, Wisconsin

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266–0797 or at 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 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, via e–mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until March 5, 2010, 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. E–mail comments should be sent to sam.rockweiler@wi.gov. If e–mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708–0427.

Copies of Proposed Rules

The proposed rules and an analysis of the rules are available on the Internet by entering “Comm 132” in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Home>. Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266–0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Sections 71.07 (3p), 71.28 (3p) and 71.47 (3p), Stats., as amended by 2009 Wisconsin Act 2.

Statutory authority

Sections 227.11 (2) (a) and 560.207 (4), Stats.

Explanation of agency authority

Section 560.207 (4) of the Statutes requires the Department to promulgate rules for administering a program to certify applicants and allocate tax credits for the dairy manufacturing investments addressed in sections 71.07 (3p), 71.28 (3p) and 71.47 (3p) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

Related statute or rule

The Department has rules for several other programs associated with tax credits, but those programs are not targeted specifically to investments by dairy cooperatives in dairy manufacturing facilities.

Summary of proposed rule

The proposed rules in this order would expand chapter Comm 132 to enable members of dairy cooperatives to claim tax credits for the cooperatives' investments in dairy manufacturing facilities, as authorized by 2009 Wisconsin Act 2.

Comparison with federal regulations

Neither the Department nor the Department of Revenue is aware of any existing or proposed federal regulations that address these tax credits.

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

Michigan provides tax abatement to agricultural processing facilities that qualify for the Agricultural Processing Renaissance Zones (APRZ) program. There are no administrative rules for the program, but guidelines are available through the Michigan Economic Development Corporation's Web site at <http://www.themedc.org>.

Minnesota:

Minnesota offers various tax credit programs, but none that are similar to the dairy manufacturing facility investment credit in Wisconsin.

Iowa:

In Iowa, the High Quality Job Creation Program offers tax credits, exemptions and refunds to qualifying businesses to offset the cost incurred to locate, expand, or modernize an Iowa facility. Qualifying businesses must meet several eligibility requirements, including producing value-added goods or being in one of 11 targeted industries. Administrative rules for this program are available in the Iowa Administrative Code, 261–Chapter 68. Further information is available through the Iowa Department of Economic Development Web site at www.iowalifechanging.com.

Illinois:

Illinois offers various tax credit programs, but none that are similar to the dairy manufacturing facility investment credit in Wisconsin.

Summary of factual data and analytical methodologies

The data and methodology for developing these proposed rules were derived from and consisted of (1) incorporating the applicable criteria from 2009 Wisconsin Act 2, (2) incorporating applicable best practices the Department has developed in administering the current tax credit program for dairy manufacturing facility investments, (3) soliciting and utilizing input from the Department of Revenue, and (4) reviewing Internet-based sources of related federal and state information.

Analysis and supporting documents used to determine effect on small business

The primary document that was used to determine the effect of the proposed rules on small businesses was 2009 Wisconsin Act 2. The proposed rules apply their private-sector requirements only to dairy cooperatives that choose to pursue tax credits for investing in dairy manufacturing facilities.

Small Business Impact

The proposed rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by dairy

cooperatives that choose to pursue tax credits for dairy manufacturing modernization or expansion activities.

Initial regulatory flexibility analysis**Types of small businesses that will be affected by the rules.**

Members of dairy cooperatives that choose to pursue the tax credits in sections 71.07 (3p), 71.28 (3p), and 71.47 (3p) of the Statutes, for investing in dairy manufacturing facilities.

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

An application form prescribed by the Department must be completed and submitted to the Department.

Types of professional skills necessary for compliance with the rules.

No new professional skills are necessary for compliance with the rules.

Rules have a significant economic impact on small businesses?

No.

Environmental Analysis

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**Assumptions used in arriving at fiscal estimate**

Although the rules will newly result in review of documentation relating to certifying dairy cooperatives and allocating tax credits to them for investments in dairy manufacturing facilities, the number of these reviews and allocations is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose any significant costs on the private sector, because the rules address only voluntary submittal of documentation relating to tax credits for investments by dairy cooperatives in dairy manufacturing facilities.

State fiscal effect

None.

Local government fiscal effect

None.

Long-range fiscal implications

None known.

Agency Contact Person

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Finance and Compliance, P.O. Box 7970, Madison, WI, 53707–7970; telephone (608) 267–0762; e-mail Steven.Sabatke@Wisconsin.gov.

Any inquiries for the small business regulatory coordinator for the Department of Commerce can be directed to Sam

Rockweiler, sam.rockweiler@wi.gov, or at telephone (608) 266–0797.

Notice of Hearing
Financial Institutions — Credit Unions
CR 10–009

NOTICE IS HEREBY GIVEN That pursuant to ss. 186.235 (8) and 227.1 1(2), Stats., the Office of Credit Unions will hold a public hearing to consider a rule to create Chapter DFI–CU 65, relating to credit union service organizations.

Hearing Information

The public hearing will be held as follows:

<u>Date and Time:</u>	<u>Location:</u>
February 26, 2010 Friday At 10:00 a.m.	Dept. of Financial Institutions 345 W. Washington Avenue 5th Floor Madison, Wisconsin

Copies of Proposed Rule, Submission of Written Comments, and Agency Contact Information

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency’s internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708–8861, tel. (608) 267–1705, e–mail mark.schlei@wisconsin.gov. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution’s website, www.wdfi.org. Written comments must be received by the conclusion of the department’s hearing regarding the proposed rule.

For substantive questions on the proposed rule, contact Suzanne Cowan, Director, Office of Credit Unions, P.O. Box 14137, Madison, WI 53708–0137, tel. (608) 267–2609, e–mail suzanne.cowan@wisconsin.gov.

Analysis Prepared by the Office of Credit Unions

Statute(s) interpreted

Section 186.11 (4), Stats.

Statutory authority

Sections 186.235 (8) and 227.11 (2), Stats.

Related statute or rule

None.

Explanation of agency authority

Pursuant to ch. 186, Stats., the Office of Credit Unions regulates state–chartered credit unions and credit union service organizations.

Summary of proposed rule

The objective of the rule is to create ch. DFI–CU 65. The purpose of the rule is to set forth certain procedures and requirements for credit union service organizations, including notice, corporate separateness, legal opinions, expansion of services, conflicts of interest, report and audit procedures, increase of investment, and supervision.

Comparison with existing or proposed federal regulations

Comparable rules may be found in federal regulations governing federally–chartered credit unions, National Credit Union Administration regulation Part 712.

Comparison with rules in adjacent states

Illinois has comparable rules; Minnesota, Iowa and Michigan do not.

Summary of factual data and analytical methodologies

The office applied its own experience in its regulation of credit union service organizations regarding the notice, corporate separateness, legal opinions, expansion of services, conflicts of interest, report and audit procedures, increase of investment, and supervision matters addressed by the rule. An additional resource for the office is the National Credit Union Administration and its regulation of credit union service organizations. Furthermore, the office has met and discussed with various credit unions and industry representatives matters regarding CUSO regulation.

Small Business Impact

Small businesses are neither involved nor effected by this rule.

Fiscal Estimate

The rule’s requirements place no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Second Revised Notice of Hearings

(Original published, Register January 15, 2010, No. 649)

Natural Resources

***Environmental Protection — General, Chs. NR 100—
CR 09–112***

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.11 (2) (a), 281.16, 281.19, 281.65 and 281.66, Stats., the Department of Natural Resources will hold public hearings on proposed revisions to Chapters NR 151, 153 and 155, Wis. Adm. Code, relating to the control of polluted runoff and two grant programs that help fund those controls.

Hearing Information

The hearings will be held on:

January 25, 2010 at 1:00 p.m.	Outagamie County Highway Dept. Highway Shop Conference Room 1313 Holland Road Appleton
January 28, 2010 at 1:00 p.m.	Best Western Trail Lodge 3340 Mondovi Road Room: Chippewa #1 Eau Claire
February 2, 2010 at 1:00 p.m.	State Office Bldg. 141 NW Barstow St., Room 151 Waukesha
February 10, 2010 at 1:00 p.m.	Lyman F. Anderson Agricultural and Conservation Center 1 Fen Oak Court Classrooms A & B (1st floor) Madison
February 11, 2010 at 1:00 p.m.	Rib Mountain Municipal Center 3700 N. Mountain Road (HWY NN) Wausau

February 25, 2010 UW Platteville, Pioneer Student Center
at 1:00 p.m. University North Room
One University Plaza
Platteville

March 8, 2010 Multipurpose Room
at 2:00 p.m. Northern Great Lakes Visitor Center
29270 Co. Highway G
Ashland

Each hearing will begin with a 1 hour informational session followed by formal testimony.

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided to qualified individuals with disabilities upon request. Please call Carol Holden at (608) 266–0140 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule and Fiscal Estimate

The proposed rule revisions and supporting documents, including the fiscal estimate may be viewed and downloaded and comments electronically submitted at the following internet site: <https://health.wisconsin.gov/admrules/public/Home> (Search this website using “NR 151”, select “NR 151, 153, 155 Relating to Runoff Management Performance Standards and Grants.”). If you do not have internet access, a personal copy of the proposed rules and supporting documents, including the fiscal estimate may be obtained from Carol Holden, DNR – WT/3, P.O. Box 7921, Madison, WI 53707–7921 or by calling (608) 266–0140.

Submission of Written Comments

Written comments on the proposed rules may be submitted via U.S. mail to Carol Holden, DNR – WT/3, P.O. Box 7921, Madison, WI 53707–7921 or by e–mail to carol.holden@wisconsin.gov. Comments may be submitted until **March 12, 2010**. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Sections 281.16, 281.65 and 281.66, Stats.

Statutory authority

Sections 227.11 (2) (a), 281.16, 281.19, 281.65 and 281.66, Stats.

Related statute or rule

Chapter 92 and s. 283.33, Stats., and chs. ATCP 50, and NR 120, 152, 154, 216 and 243, Wis. Adm. Code.

Plain language analysis of the rule

Chapter NR 151, Runoff Management

The rule adds new and modifies existing performance standards that address nonpoint source pollution from both agricultural and non–agricultural sources, including transportation. The new performance standards include:

- a setback from waterbodies in agricultural fields within which no tillage would be allowed;
- a limit on the amount of phosphorus that may run off croplands as measured by a phosphorus index;

- a prohibition against significant discharge of process wastewater from milk houses, feedlots, and other similar sources;
- a standard that requires implementation of best management practices designed to meet a load allocation specified in an approved Total Maximum Daily Load (TMDL).

Modifications are made to the agricultural performance standards addressing cropland soil erosion control, nutrient management and manure storage. The rule also changes the non–agricultural performance standards that address construction site erosion control, post–construction storm water management and developed urban areas. The subchapter addressing transportation performance standards is moved to the non–agricultural performance standards sections. The agricultural implementation and enforcement sections are modified to clarify cost–share eligibility and to better align with the department’s stepped enforcement procedures. Some definitions are added and other definitions that are no longer used are deleted.

Chapter NR 153, Targeted Runoff Management And Notice Of Discharge Grant Programs

This existing rule contains policies and procedures for administering targeted runoff management grants to reduce both agricultural and urban nonpoint source pollution. Grants may be used to cost share the installation of best management practices as well as to support a variety of local administrative and planning functions. Projects are selected through a competitive scoring system and generally take two to three years to complete.

The revisions create four project categories for the targeted runoff management grant program instead of one category in the existing rule. The categories include large–scale/TMDL implementation, large–scale/non–TMDL control, small–scale/TMDL implementation and small–scale/non–TMDL control projects. The rule will help the state make progress in meeting its obligation to address impaired waters by focused funding of projects addressing TMDLs.

To implement recent statutory changes to the grant program, the rule creates a mechanism outside the competitive TRM process to fund Notices of Discharge (NODs) issued under ch. NR 243. Other provisions allow the department more flexibility in allocating grant funds and ensure an equitable scoring system. Portions of ch. NR 153 are repealed and recreated to accommodate the newly created categories, to eliminate or add definitions, clarify and expand restrictions on cost sharing, require the establishment of a local ch. NR 151 implementation program as a grant condition and allow for additional safeguards in the application documents.

Chapter NR 155, Urban Nonpoint Source Pollution Abatement And Storm Water Management Grant Program

This existing rule contains policy and procedures for administering the urban nonpoint source and storm water management grant program authorized under s. 281.66, Stats. The department may make grants under this program to governmental units for practices to control both point and nonpoint sources of storm water runoff from existing urban areas, and to fund storm water management plans for developing urban areas and areas of urban redevelopment. The goal of this grant program is to achieve water quality standards, minimize flooding, protect groundwater, coordinate urban nonpoint source management activities with the municipal storm water discharge permit program and

implement the non–agricultural nonpoint source performance standards under ch. NR 151. Grants to a governmental unit may be used to cost share the installation of best management practices as well as to support a variety of local administrative and planning functions. The department may also make grants to the board of regents of the University of Wisconsin System to control urban storm water runoff from campuses in selected locations. Projects are selected through a competitive scoring system and generally take one to two years to complete.

The revisions to ch. NR 155 increase the department’s management oversight and accountability of grants while at the same time increase flexibility in how the grants are used. The revisions limit on the amount of money a grantee may receive in a given grant year, increase the department’s management oversight of grants by approving all contracts, regardless of cost, provide the department greater flexibility in awarding funds and allow for additional safeguards in the application documents.

The rule also allows the use of local assistance grants to pay for work done by competent in–house staff rather than hiring an outside consultant thus increasing local government’s flexibility to control costs. The rule adds requirements that hired consultants be competent in storm water management, all outstanding grants be completed on schedule prior to a new grant award, a final report be submitted and that the department may deny a grant to an otherwise eligible project if there is a potential impact on hazardous sites in addition to historic sites, cultural resources or endangered resources. Other parts of ch. NR 155 are repealed and recreated to define terms, clarify concepts and merge similar sections, giving the department greater flexibility in awarding funds.

Comparison with federal regulations

The rule revisions are consistent with federal regulations that apply to control of nonpoint sources of pollution, animal feeding operations, nutrient management and storm water management. While federal regulations do not apply specifically to cropland practices or livestock operations that have only nonpoint source runoff, there are federal regulations for concentrated animal feeding operations (point sources) that specify control of nutrients entering surface waters. Certain modifications also better align state grant funding priorities with those of the federal government regarding total maximum daily loads.

The rule’s phosphorus index performance standard is based on national policy and guidelines on nutrient management issued by the US Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) in April, 1999. The national policy and guidelines suggested the use of one of three phosphorus risk assessment tools, the most comprehensive of which is the phosphorus index. Prior to the adoption of this national policy, states began developing phosphorus–based nutrient management guidelines or regulations. The tillage setback performance standard is based on the phosphorus index calculation that assumes no tillage to the edge of the bank. The performance standard specifying BMPs to meet the load requirements of approved TMDLs will help the state to control nonpoint source pollutants to achieve federally required and approved TMDLs. The control of process wastewater discharge is of sufficient concern that USDA has developed technical standards for management of process wastewater.

Comparison of similar rules in adjacent states

In general, the adjacent states do not use statewide performance standards specifically designed to address polluted runoff from agricultural sources. However, these states have various regulations and procedures in place to address many of the polluted runoff sources that these rule revisions address. All four states use the phosphorus index in some form but none have proposed using it as a statewide performance standard as this rule does. The rule differs from the adjacent states’ rules because it has more detail in its phosphorus index, is more quantitative and has more research to validate it. Also, in Wisconsin, pursuant to s. 281.16, Stats., cost sharing must be made available to existing agricultural operations before the state may require compliance with the standards.

Illinois:

Illinois does not have a tillage setback requirement, but it does offer a property tax incentive for the construction of livestock waste management facilities including the development of vegetative filter strips. The filter strips must be in cropland that is surrounding a surface–water or groundwater conduit, must be part of a conservation plan, and must have a uniform ground cover. The minimum and maximum widths that are eligible for the tax reduction is determined by the slope. Illinois does not allow raw materials, by–products and products of livestock management facilities, including milkhouse waste, silage leachate, and other similar products to be discharged to waters of the state. In addition to tax incentives, Illinois relies on federal Clean Water Act section 319 funds from US EPA to fund nonpoint source projects in the state.

Illinois requires that permit applicants follow a series of technical standards that are in the Illinois Urban Manual for both construction and post–construction. If the developer uses the technical standards they are considered in compliance, unless an inspection indicates that the technical standard is not working adequately. The developer will then need to make changes to their construction site or storm water management plan.

Iowa:

Iowa requires that nutrient management plans for livestock operation of 500 or more animal units be based on the phosphorus index. The rule’s version of the phosphorus index uses Iowa’s “quasi–modeling” approach but the equations are based on Wisconsin research. Iowa does not require a separation distance between tillage activities and waterbodies. Iowa prohibits discharge to waters of the state, polluting waters of the state and discharge to road ditches.

Iowa does not have a performance standard approach to construction projects, but does require BMP implementation. There is no specific goal for post–construction other than to have a storm water management plan similar to the way Wisconsin’s program was set up before ch. NR 151 was promulgated in 2002. The requirement on the municipality is to try to control runoff from new development. There are no specific goals.

Iowa is making an effort to coordinate the development of TMDLs with the implementation of water quality improvement plans based on TMDLs. There is not yet a separate funding source specifically for implementing TMDL plans, but there are several different funding sources currently

used for watershed project implementation, including section 319 funds and three different sources of state–funded watershed implementation funds. There is also a state–funded lakes restoration fund which may be partly used for watershed restoration work. Wherever possible, watershed projects try to leverage EQIP and other federal sources of funds.

Iowa does not currently offer a separate source of funds for Animal Feeding Operation BMPs in response to a Notice of Discharge violation. However, Iowa does not preclude a producer from funding because of a Notice of Violation (NOV), except in the case where the NOV results in the requirement for an NPDES permit. Funding from State Revolving Funds and federal section 319 cannot be used for BMPs requiring an NPDES permit, but can be used for non–permitted BMPs. EQIP funds in Iowa are currently allocated such that counties with water quality livestock projects receive 40 percent of the eligible points when scoring for EQIP funding. The Iowa Department of Agriculture and Land Stewardship has a nutrient management program designed to offer financial assistance for livestock producers for manure management, but the program has not been funded in over 10 years.

Michigan:

Michigan does not require a separation distance between tillage activities and waterbodies. The state’s rules regarding process wastewater only apply to permitted concentrated animal feeding operations, but discharges from smaller farms are generally prohibited as a violation of water quality standards.

Within permits that apply to municipal separate storm sewer systems (MS4s), Michigan has similar performance standards for post–construction total suspended solids control and peak flow control in new development. It has a minimum treatment volume standard of one inch (or ½ inch if technically supported) where they must achieve an 80 percent total suspended solids reduction. It also has a channel protection criteria where the post–peak flow rate and volume must match the pre–peak flow rate and volume for all storms up to the 2–yr, 24–hr event. The peak flow control standard is more stringent than this rule because it also controls volume. Wisconsin is trying to control streambank erosion by controlling a greater number of smaller storms. Michigan has also identified some water bodies that are not required to meet the channel protection standard, similar to Wisconsin’s approach. Michigan has an option to use low impact development to meet these two standards, which is very different from Wisconsin. However, unlike Wisconsin, Michigan is only implementing these performance standards on new development in municipalities that have an MS4 permit. Also, if the municipality had an ordinance in place prior to this rule that addressed water quality for new development even if the performance standard was not included, they are grandfathered in.

Michigan has a pass through grant (section 319 and Clean Michigan Initiative funds) that places a priority on projects that will restore impaired waters or achieve progress toward meeting TMDL load reductions. Michigan does not have a program similar to the rule’s mechanism to fund NODs outside of a competitive grant process.

Minnesota:

Minnesota does not have a tillage setback requirement along all waterbodies in agricultural areas, but the state does require a 16.5 foot (one rod) grass strip along certain public

drainage ditches as well as vegetated strips, restored wetlands, and other voluntary set–aside lands through federal, state and local programs. For process wastewater, Minnesota rules place a limit of less than 25 mg/l BOD₅ (biological oxygen demand) that can be released to surface water and, if released to a leach field, the threshold is less than 200 mg/l BOD₅.

For non–agricultural practices, Minnesota recently reissued construction permits that require infiltration and the need for additional BMPs when sites are located near s. 303 (d) or outstanding resource waters. Its permit generally is more prescriptive in terms of how to design a BMP for optimal control, but it is not usually presented as a performance standard which would provide more flexibility. Based on Minnesota’s documentation, it appears to require BMPs that will achieve an 80 percent total suspended solids reduction and ones that will infiltrate the first half inch of runoff from impervious surfaces. Minnesota requires more BMPs, including temperature control, if the receiving water has special needs such as ORW/ERW waters or s. 303 (d) waters.

Minnesota provides funding for TMDLs through its Clean Water Legacy Act and section 319 of the federal Clean Water Act. The state does not have a funding mechanism to fund notices of discharge specifically, but is looking for ways to provide more financial support for runoff from feedlots. There is a state cost–share program which is used alone or in combination with federal cost share.

Summary of factual data and analytical methodologies

The rule’s agricultural performance standards were developed with input from an advisory committee that met four times between December 2007 and February 2008. The following research results and methodologies were analyzed as part of the development of these standards.

Phosphorus Index:

The Wisconsin Buffer Initiative: A Report to the Natural Resources Board of the Wisconsin Department of Natural Resources by the University of Wisconsin–Madison, College of Agricultural and Life Sciences. Dec. 22, 2005.

The following series of articles focused on the watershed targeting approach used in the Wisconsin Buffer Initiative report:

Diebel, M. W., J.T. Maxted, P. J. Nowak, and M. J. Vander Zanden. 2008. Landscape planning for agricultural nonpoint source pollution reduction I: A geographical allocation framework. *Environmental Management* 42 (5): 789–802.

Maxted, J. T., Diebel, M. W., and M. J. Vander Zanden. 2009. Landscape planning for agricultural nonpoint source pollution reduction II: Balancing watershed size, number of watersheds, and implementation effort. *Environmental Management* 43 (1): 60–68.

Diebel, M. W., J.T. Maxted, D. Robertson, S. Han, and M. J. Vander Zanden. 2009. Landscape planning for agricultural nonpoint source pollution reduction III: Assessing phosphorus and sediment reduction potential. *Environmental Management* 43 (1): 69–83.

The following studies of in–field runoff sediment and phosphorus concentrations provided some of the data that was used in building phosphorus index equations:

Panuska, J.C., K.G. Karthikeyan and P.S. Miller. 2008. Impact of surface roughness and crusting on particle size distribution of edge–of–field sediments. *Geoderma* 145: 315 – 324.

Panuska, J.C., K.G. Karthikeyan and J.M. Norman. 2008. Sediment and phosphorus losses in snowmelt and rainfall runoff from three corn management systems. *Trans. ASABE* 51: 95 – 105.

Panuska, J.C., K.G. Karthikeyan. 2009. Phosphorus and organic matter enrichment in snowmelt and rainfall runoff from agricultural fields. *Geoderma* XX: XX –XX (in review).

The following articles about the in–field runoff monitoring methods to collect the runoff phosphorus data that are used to validate the phosphorus index:

Bonilla, C.A., D.G. Kroll, J. M. Norman, D.C. Yoder, C.C. Molling, P.S. Miller, J.C. Panuska, J. B. Topel, P.L. Wakeman, and K.G. Karthikeyan. 2006. Instrumentation for measuring runoff, sediment, and chemical losses from agricultural fields. *Journal of Environmental Quality* 35:216–223.

Stunetebeck, T.D., M.J. Komiskey, D.W. Owens, and D.W. Hall. 2008. Methods of data collection, sample processing and data analysis for edge–of–field, stream gaging, subsurface tile, and meteorological stations at Discovery Farms and Pioneer Farm in Wisconsin, 2001–7. U.S. Geological Survey Open File report 2008–1015. 51 p.

The following paper showed one year’s worth of research that validated the Wisconsin phosphorus index.

Bundy, L. G., A. P. Mallarino, and L. W. Good. 2008. Field–Scale Tools for Reducing Nutrient Losses to Water Resources. Pp. 159–170 in *Final Report: Gulf Hypoxia and Local Water Quality Concerns Workshop*. September 26–28, 2005, Ames, Iowa. Sponsored by Iowa State University and EPA. Organized by the MRSHNC, Upper Mississippi River Sub–basin Hypoxia Nutrient Committee. St. Joseph, Michigan.

The following paper in press shows that simple runoff phosphorus loss models, like the Wisconsin phosphorus index can work well:

Vadas, P. A., L.W. Good, P.A. Moore Jr., and N. Widman. 2009. Estimating phosphorus loss in runoff from manure and phosphorus for a phosphorus loss quantification tool. *Journal of Environmental Quality* (in press).

The following document shows all the phosphorus index equations on the internet:

Good, L. W. and J. C. Panuska. 2008. Current calculations in the Wisconsin P Index. Available at: <http://wpindex.soils.wisc.edu> .

The following models were used in the development of the Wisconsin phosphorus index:

RUSLE 2 (Revised Universal Soil Loss Equations, version 2), USDA–NRCS official RUSLE2 Program and Database and Training materials and User’s Guides are available from http://fargo.nserl.purdue.edu/rusle2_dataweb/RUSLE2_Ind_ex.htm The draft user’s guide on this site is on the link labeled “RUSLE2 Technology.”

Snap–Plus 1.129.1, 1/20/2009 Copyright 2003–2008 by University of Wisconsin Regents Software developed by P Kaarakka, L.W. Good, and J. Wolter in the Department of Soil Science, UW Madison. This a software program links models for nutrient management (SNAP), conservation assessment (RUSLE2) and the Wisconsin Phosphorus Index (PI) into one software program for multi–year nutrient and conservation planning. The most current version is available at <http://www.snapplus.net/> .

Process wastewater performance standard:

The rule’s performance standard requires that livestock producers have no significant discharge of process wastewater to waters of the state. Sources of greatest concern include feed storage leachate and milk house waste. Process wastewater discharge is of sufficient concern that USDA has developed technical standards for its management. Environmental aspects of milking center waste water and feed storage leachate, including waste characteristics and water quality impacts, are included in:

Pollution Control Guide for Milking Center Wastewater Management. Springman, R.E., Payer, D.D and B.J. Holmes. 1994. University of Wisconsin–Extension, 44 pages.

“Silage Leachate Control”. Wright, Peter, in *Silage: Field to Feedbunk, Proceedings from the North American Conference, Hershey, Pennsylvania, February 11–13, 1997*. Pages 173 – 186. NRAES, editor.

“Environmental Problems with Silage Effluent”. Graves, R.E., and P.J. Vanderstappen. USDA Natural Resources Conservation Service, National Water Management Center Publication. 6 pages

“Base Flow Leachate Control.” Wright, Peter and P.J. Vanderstappen. Paper No. 94–25 60, ASCE Meeting Presentation at the 1994 International Winter Meeting, Atlanta Ga., December 13 – 16, 1994. 7 pages.

The USDA technical standard for managing milk house waste and feed storage leachate discharges is: *Waste Treatment* (no. 629). USDA, Natural Resources Conservation Service. August, 2008. 22 pages.

Modifications to the non–agricultural performance standards were developed with input from a technical advisory committee that met four times between October 2007 and February 2008. Changes to the protective areas performance standard are based on the department’s Guidance for the Establishment of Protective Areas for Wetlands in Runoff Management Rules, Wisconsin Administrative Code NR 151 in the Waterway and Wetland Handbook, Ch. 10. Department staff gathered information from municipal engineers and conducted analyses under various scenarios using analytical models to provide information to the technical advisory committee including:

- analysis showing the impact of redevelopment on total suspended solids loads, recommendations and estimated costs for control practices,
- analysis of the infiltration performance standards modifications for different land uses.

Analysis and supporting documentation used to determine effect on small business

The department concluded that the revisions to chs. NR 151, 153 and 155 will result in additional compliance requirements for small businesses, but the rules will not result in additional reporting requirements for small businesses. Rather than mandate specific design standards, the rules either establish new performance standards or revise existing performance standards.

Compliance requirements for agricultural producers vary depending on the type of operation and the performance standard, but the revisions to the rules will not change the existing compliance requirements for agricultural operations. Under state law, compliance with the performance standards is not required for existing nonpoint agricultural facilities and practices unless cost sharing is made available for eligible costs. A less stringent compliance schedule is not included for

agricultural producers because compliance is contingent on cost sharing and in many cases, it can take years for a county or the state to provide cost share money to a producer.

Agricultural producers who are in compliance with the existing nutrient management performance standard may already be in compliance with the new phosphorus index and tillage setback performance standards. A phosphorus reduction strategy is included in NRCS nutrient management technical standard 590 (Sept. 5, 2005). A phosphorus index of 6 or less is specified in the PI strategy in Criteria C, 2 of the technical standard. The concept of streambank integrity, as proposed through a tillage setback performance standard, is an assumption of the phosphorus index calculation, which estimates phosphorus delivery to the stream via overland flow, but not from bank erosion or other means that soil, manure or fertilizer might enter the stream from farming operations. In circumstances where the phosphorus index has been determined to be insufficient to achieve water quality standards in areas where an approved total maximum daily load (TMDL) has been approved, a higher level of pollution control may be required. An owner or operator in this situation would be required to implement BMPs designed to meet the load allocation in the TMDL.

The rule revisions will not change the schedules for compliance and reporting requirements for non–agricultural businesses. These requirements are the same as those specified in ch. NR 216. In determining whether non–agricultural small businesses can be exempted from the rules, the department concluded that because the requirements of ch. NR 151, Subchapter III are based on federal requirements the state cannot exempt those businesses. Also, the impacts from certain small business construction activities can have as large a water quality impact as from large businesses.

In determining the compliance and reporting effects, the department considered 1) the existing performance standards and prohibitions in ch. NR 151, 2) the requirements of NRCS technical standard 590 needed to meet the nutrient management performance standard, 3) assumptions contained in the Wisconsin Phosphorus Index, 4) compliance and reporting requirements under ch. NR 216, Subchapter II, 5) agreement with the department of commerce to regulate storm water discharges from commercial building sites under one permit, and 6) feedback from members of advisory committees that included small business owners and organizations.

Small Business Impact (including how this rule will be enforced)

The overall effect on small businesses may be increased time, labor and money spent on BMPs or planning tools, but there will not be a significant economic impact on small business. However, for agricultural producers the proposed new agricultural performance standards and the revised existing agricultural performance standards are not enforceable unless 70 percent cost sharing is provided, or up to 90 percent for economic hardship cases. The rules will be enforced either through county ordinances, DNR stepped enforcement procedures or a combination of the two.

Small businesses in the construction industry will not see an effect from the changes to the construction performance standard, but may experience increased costs from the changes to some of the post–construction performance standards. Most of the businesses affected by the changes to

the total suspended solids standard will be commercial and it is difficult to estimate how many of those would be classified as small businesses. The modifications to the infiltration and the protective area performance standards may add additional costs, but they are expected to be small. Businesses affected will be both large and small. The rule will be enforced through permits required under ch. NR 216, or through local ordinances. For the non–agricultural performance standards, cost sharing is not required for compliance. However, the department may award grants for certain BMPs and planning activities.

Initial regulatory flexibility analysis

Pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

Describe the type of small business that will be affected by the rule.

Agricultural producers (crops and livestock), business and associated professionals involved with construction (developers, engineers, contractors, others in the building profession, and small commercial establishments that meet the definition of small business).

Briefly explain the reporting, bookkeeping and other procedures required for compliance with the rule.

None.

Describe the type of professional skills necessary for compliance with the rule.

Familiarity with software such as SNAP Plus and RUSLE2 will be needed for the phosphorus index agricultural performance standard.

Small business regulatory coordinator

The Department’s Small Business Regulatory Coordinator for this rule may be contacted at Julia.Riley@wisconsin.gov or by calling (608) 264–9244.

Environmental Analysis

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

Summary

Proposed rule revision will result in an increased demand on agency staff devoting more time to training, education, grant oversight, enforcement and development of guidance and procedures. The department estimates that a total of 10.5 FTEs will be needed to implement all three rules.

State fiscal effect

Increase costs. Costs will not be absorbed within the agency’s budget.

Local government fiscal effect

Increase costs.

Types of local governmental units affected

Towns, Villages, Cities, Counties.

Fund sources affected

GPR, SEG.

Long–range fiscal implications

State cost–share grants to fully implement the process wastewater performance standard would be \$9.3 million or \$930,000 annually if awarded over a 10–year period. However, this estimate is dependent upon the availability of cost–share funds to implement the standard.

Agency Contact Person

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Notice of Hearing**Veteran Affairs****EmR0944, CR 09–122**

NOTICE IS HEREBY GIVEN That pursuant to s. 45.20 (2) (c) 2. a., Stats., and Chapter 227 of the Wisconsin Statutes, the Wisconsin Department of Veterans Affairs will hold a public hearing to consider emergency rules and proposed permanent rules to amend section VA 2.02 (2), relating to the veterans tuition reimbursement program.

Hearing Information

The public hearing will be held as follows:

<u>Date and Time:</u>	<u>Location:</u>
March 10, 2010 Wednesday At 10:00 a.m.	Wis. Dept. of Veterans Affairs Board Room, 8th Floor 30 West Mifflin Street Madison, Wisconsin

Submission of Written Comments

Written comments relating to the proposed rules should be submitted to James A. Stewart, 30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707–7843. Phone: (608) 266–3733 E–Mail: jimmy.stewart@dva.state.wi.us

Comments should be submitted no later than March 24, 2010.

Analysis Prepared by the Wisconsin Department of Veterans Affairs**Statute interpreted**

Section 45.20 (2) (c) 2., Stats.

Statutory authority

Section 45.20 (2) (c) 2. a., Stats.

Explanation of agency authority

The department is charged with administering a grant program to reimburse eligible veterans for undergraduate tuition within the program limitations. It provides eligible applicants with printed and electronic applications for the program through county veterans service offices, school veterans officials and directly from the department. The Legislature has granted the agency authority to promulgate a rule for setting the time an application for the program must be completed and received by the department.

Related statute or rule

There is no related statute or rule.

Plain language analysis

The amendment of VA 2.02 (2) will create a specific time period for the completion and submission of an application for the veterans tuition reimbursement program.

Comparison with federal regulations

There is no current or pending federal regulation which would provide tuition reimbursement for the eligible veterans under this program.

Comparison with rules in adjacent states

There are no similar rules in adjacent states.

Summary of factual data and analytical methodologies

The department has reviewed the provision of financial aids through public and private institutions of higher education. It has also discussed the application deadlines for financial aids with school veterans officials and county veterans service officers. The department has determined that the majority of applications for financial aid in institutions of higher education occur within the first 60 days following the initiation of the semester or term. The department is proposing a time frame for applying for this program consistent with the majority of other financial aids applications.

Analysis and supporting documents used to determine effect on small business

No analysis was performed regarding an economic impact statement.

Small Business Impact

These rules have no effect upon small businesses, nor any significant fiscal impact upon the private sector.

Fiscal Estimate**Assumptions used in arriving at fiscal estimate**

The amended rule will require the application to be completed and received by the department no later than 60 days after the starting date of the course, term or semester for which reimbursement is requested. The proposed rule amendment will show initially an increase in the department's denial rate and a decrease in expenditures of the tuition reimbursement grant for eligible veterans. Available data shows that based on historic trends the percentage of applications denied by not being submitted within the required time limit; in FY07 13%, FY08 9% and in FY09 0%.

For the purpose of the fiscal impact of this fiscal estimate, the decrease in expenditures is projected to be:

	Base Demand	% denials	Fiscal Impact	Adjusted Demand
FY11	\$1,403,015	13%	\$(182,392)	\$1,220,623
FY12	\$1,487,196	8%	\$(118,976)	\$1,368,220
FY13	\$1,576,428	4%	\$(63,057)	\$1,513,371
FY14	\$1,671,013	4%	\$(66,841)	\$1,604,173

The fiscal effect in FY11 will be (\$182,392) and in FY12 (\$118,976).

Please contact the Agency Contact Person listed below to request a copy of the fiscal estimate.

State fiscal effect

Decrease existing appropriation.

Fund sources affected

SEG.

Affected Ch. 20 appropriations

Section 20.485 (2) (tf), Stats.

Text of the Proposed Permanent and Emergency Rules

SECTION 1. VA 2.02 (2) is amended to read:

(2) REIMBURSEMENT APPLICATION. An application shall be submitted on a form approved by the department. It may be submitted through a county veterans service officer, through any other agent authorized by the department, or directly to the department, either manually or electronically. ~~The application may not be submitted until the semester for which reimbursement is requested has been completed.~~ Applications shall be received by the department or an authorized agent no later than 60 days after the starting date of the course, term or semester for which reimbursement is requested. Applications are considered received if all student information is completed and a physical or electronic date stamp is affixed to the application. The school veterans

coordinator shall list the completion date of the semester, the cost of tuition, other assistance received or applied for by the applicant, the number of credits enrolled in during the semester, and the semester grade point average. Applications are considered complete when all required information has been provided and the completed application is submitted to the department manually or electronically. Completed applications submitted more than 60 days following the last day of the course, term or semester for which reimbursement is requested will be denied unless good cause can be shown for the delay in submission.

Agency Contact Person

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Submittal of Proposed Rules to the Legislature

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

**Architects, Landscape Architects, Professional
Engineers, Designers and Land Surveyors
Examining Board
CR 09-080**

A rule-making order to create Chapter A-E 12, relating to continuing education for architects.

**Architects, Landscape Architects, Professional
Engineers, Designers and Land Surveyors
Examining Board
CR 09-081**

A rule-making order to create Chapter A-E 11, relating to continuing education for landscape architects.

Commerce

***Financial Resources for Businesses and Communities,
Chs. Comm 104—
CR 09-063***

A rule-making order to create Chapter Comm 100, relating to the Economic Development Tax Credit — tax incentives for job creation, capital investment, employee training and corporate headquarters, and affecting small businesses.

Commerce

***Financial Resources for Businesses and Communities,
Chs. Comm 104—
CR 09-082***

A rule-making order to revise Chapter Comm 129, relating to tax credits for angel investments and early stage seed investments, and affecting small businesses.

**Employee Trust Funds
CR 09-047**

A rule-making order to revise section ETF 11.11, relating to legal counsel advising the boards that are attached to the department while a board considers a final decision pertaining to an appeal.

**Employee Trust Funds
CR 09-048**

A rule-making order to revise section ETF 11.15 (4), relating to the agent for service of process upon the boards that are attached to the department.

**Employee Trust Funds
CR 09-057**

A rule-making order to make technical and minor substantive changes in Chapters ETF 10, 11, 20, 52 and 60.

**Health Services
Health, Chs. DHS 110—
CR 09-062**

A rule-making order to revise Chapter DHS 157, relating to radiation protection.

**Insurance
CR 09-076**

A rule-making order to revise Chapter Ins 3, relating to medicare supplement and replacement guarantee issue eligibility.

**Natural Resources
Fish, Game, etc., Chs. NR 1—
CR 09-077**

A rule-making order to create Chapter NR 52, relating to stewardship land access.

Rule Orders Filed with the Legislative Reference Bureau

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

Commerce

Fee Schedule, Ch. Comm 2

Licenses, Certifications and Registrations, Ch. Comm 5

CR 09-046

Rule revises Chapters Comm 2 and 5, relating to fees charged by the Safety and Buildings Division.
Effective 4-1-10.

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