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WISCONSIN ADMINISTRATIVE REGISTER

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Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590

email: bruce.hoesly@legis.wisconsin.gov

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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 (3)

1. EmR1012 — Rule adopted to create **section ATCP 70.03 (7) (e) and (f)**, relating to food processing plant license exemptions for certain home-canners and maple sap processors.

Finding of Emergency

(1) The Department of Agriculture, Trade and Consumer Protection (DATCP) administers state food processing plant license requirements under s. 97.29, Stats.

(2) Recent legislation (2009 Act 101, enacted on February 4, 2010) created a limited exemption from food processing plant license requirements under s. 97.29, Stats., for persons who home-can limited quantities of acidic, acidified or fermented vegetable and fruit products for retail sale at community and social events or at farmers' markets.

(3) Home-canned food products, if not properly canned, may pose a risk of serious food safety hazards such as botulism.

(4) DATCP has received many requests for clarification of the new license exemption under Act 101. In order to facilitate compliance and protect consumers from potentially serious food safety hazards, DATCP must adopt

administrative rules to clarify the scope, application and terms of the new license exemption.

(5) Implementing rules are urgently needed because of the seriousness of the potential food safety hazards, and the seasonal nature of the farmers' markets and other events at which home-canned products may be sold. The normal rulemaking process takes over a year to complete, and cannot be completed in time for this summer's farmers' markets (which begin as early as mid-April or May). Persons who wish to sell home-canned food products must clearly understand the scope of the license exemption, and the food safety standards that must be met in order to qualify.

(6) This temporary emergency rule clarifies the scope, application and terms of the new license exemption under Act 101, pending the completion of "permanent" rules by the normal rulemaking process. This emergency rule is needed to protect the public health, safety and welfare, and to facilitate fair and orderly implementation of the new license exemption.

(7) This emergency rule also exempts, from food processing plant license requirements under s. 97.29, Stats., a person who collects and processes relatively small quantities of maple sap to produce maple syrup or concentrated maple sap for sale to other processors for further processing. These small-scale processing activities pose minimal food safety risks, and the current license requirement imposes an unnecessary cost and compliance burden. An emergency rule is needed to relieve these cost and compliance burdens for the maple sap collection and processing season that typically begins in March. This emergency rule creates a temporary license exemption, pending the completion of "permanent" rules by the normal rulemaking process. This emergency rule clearly defines the scope, application and terms of the exemption, in order to protect public health, safety and welfare.

Publication Date: April 22, 2010

Effective Dates: April 22, 2010 through
September 18, 2010

Extension Through: November 17, 2010

Hearing Date: May 25, 2010

2. EmR1038 — Rule adopted to create **section ATCP 21.21**, relating to restricting the import of certain plants, wood and wood products to prevent the introduction of thousand cankers disease of walnut trees into this state.

Finding of emergency

(1) Thousand cankers disease is an emerging fungal disease that can be carried by the walnut twig beetle (the beetle is native to this country). The disease poses a serious threat to black walnut trees, an important forest species in Wisconsin. Black walnut is known for its highly valuable lumber, which is used for finished products such as furniture, musical instruments and gun stocks. There are approximately 18.5 million black walnut trees in Wisconsin, with over 13% of them located in the southeastern part of the state. Wisconsin businesses export over \$4 million in black walnut products annually.

(2) Thousand cankers disease was first observed in New Mexico in the 1990's. The disease has spread throughout the western United States, causing dieback and mortality in black walnut trees. In July, 2010, the disease was also confirmed in

the Knoxville, Tennessee area. The Tennessee infestation is the first confirmed infestation east of the Mississippi River, the native range of the black walnut tree.

(3) Thousand cankers disease is currently known to exist in the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Tennessee, Utah and Washington. The disease has not yet been found in Wisconsin.

(4) Thousand cankers disease may be spread by the movement of firewood, nursery stock, and unfinished or untreated wood products. It is important to restrict the import of host materials from infested areas, to prevent the disease from being introduced into Wisconsin. The disease, if introduced into Wisconsin, could cause great damage to Wisconsin's economically-important and environmentally important walnut forest resource.

(5) It is important to restrict the import of host materials from infested areas as soon as possible. Without this emergency rule, host materials may be imported into Wisconsin from infested areas without adequate safeguards to prevent the introduction of thousand cankers disease into this state.

(6) It would take over a year to adopt the necessary import restrictions by the normal rulemaking procedure prescribed in ch. 227, Stats. DATCP is therefore adopting this temporary emergency rule under s. 227.24, Stats., pending the adoption of a more "permanent" rule by the normal rulemaking procedures. This temporary emergency rule is necessary to protect the public peace, health, safety and welfare, and to help prevent the introduction of a serious plant disease in this state, pending the adoption of a "permanent" rule by the normal procedure.

Publication Date: November 1, 2010

Effective Dates: November 1, 2010 through March 30, 2011

3. EmR1040 — Rule adopted to create Chapter **ATCP 53**, relating to agricultural enterprise areas.

Exemption from Finding of Emergency

Under s. 91.84(2), the department may use the procedure under s. 227.24 to promulgate a rule designating an agricultural preservation area or modifying or terminating the designation of an agricultural preservation area. Notwithstanding s. 227.24(1)(c) and (2), a rule promulgated under that subsection remains in effect until the department modifies or repeals the rule. Notwithstanding s. 227.24(1)(a) and (3), the department is not required to determine that promulgating a rule under that subsection 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 under that subsection.

The department views s. 91.84(2) as authority to adopt permanent rules that shall be published immediately in the Wisconsin Administrative Code.

Publication Date: November 9, 2010
Effective Dates: January 1, 2011 until the Department modifies or repeals the rule

Children and Families

Safety and Permanence, Chs. DCF 37–59

EmR1034 — Rule adopted to create sections **DCF 57.485 and 57.49 (1) (am)**, relating to determination of need for new group homes.

Exemption From Finding of Emergency

Section 14m (b) of 2009 Wisconsin Act 335 provides that the department is not required to provide evidence that promulgating a rule under s. 48.625 (1g), Stats., 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.

Section 14m (b) also provides that notwithstanding s. 227.24 (1) (c) and (2), Stats., an emergency rule promulgated under s. 48.625 (1g), Stats., remains in effect until the permanent rules promulgated under s. 48.625 (1g), Stats., take effect.

Publication Date: September 2, 2010

Effective Dates: September 2, 2010 through the date permanent rules become effective

Hearing Date: October 21, 2010

Children and Families

Early Care and Education, Chs. DCF 201–252

EmR1027 — Rule adopted revising **Chapter DCF 201**, relating to child care subsidy program integrity.

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:

The Department of Children and Families has determined that significant disparities currently exist between DCF 201 and the intent of 2009 Wisconsin Acts 28 and 77 regarding Wisconsin Shares program integrity efforts. The recent efforts of the legislature and the department to address child care fraud and program integrity are estimated to save \$100 million over the course of the biennium. Currently over \$7.1 million of child care provider overpayments have yet to be collected due to the lack of authority to use basic collections practices such as tax intercept, wage levy, and property liens. This rule will permit the department to more aggressively collect on these debts, strengthen the department's ability to further tighten requirements for child care providers wishing to do business with the Wisconsin Shares program, and better enforce the rules of the program. These changes will result in continued fiscal savings as well as ensure better quality child care for the children of Wisconsin.

Publication Date: July 9, 2010

Effective Dates: July 9, 2010 through December 5, 2010

Hearing Date: August 6, 2010

Commerce

Wis. Commercial Building Code, Chs. Comm 60–66

EmR1022 — Rule adopted creating s. **Comm 62.0400 (5)**, relating to no smoking signs.

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 2009 Wisconsin Act 12, s. 101.123, Stats., is to take effect July 5, 2010.
2. Under the Act, the department is to establish by rule uniform characteristics for no smoking signs.
3. Under the Act, the responsibilities of person in charge of a public conveyance or at a location where smoking is prohibited include the posting of no smoking signs.
4. The department believes that the emergency rules are necessary in order to clarify the minimum no smoking sign characteristics so that persons in charge may fulfill the statutory obligations.

Publication Date: June 28, 2010
Effective Dates: July 5, 2010 through December 1, 2010
Hearing Date: July 26, 2010

Commerce (3)

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

1. EmR1019 — Rule adopted to create **Chapter Comm 135**, relating to tax credits for investments in food processing plants and food warehouses.

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. Under sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes, as created in 2009 Wisconsin Act 295, a taxpayer may claim a tax credit for investments in food processing plants and food warehouses during taxable years beginning after December 31, 2009.

Section 560.2056 (4) of the Statutes, as likewise created in 2009 Wisconsin Act 295, requires the Department to (1) implement a program for certifying taxpayers as eligible for the food processing plant and food warehouse investment credit, (2) determine the amount of credits to allocate to those taxpayers, and (3) in consultation with the Department of Revenue, promulgate rules to administer the program. No other provisions are established in the Statutes regarding the specific process for taxpayers to use in applying for the credits, and for the Department of Commerce to use in certifying eligible taxpayers and in allocating the credits.

Because of enactment of 2009 Wisconsin Act 295, a number of entities that may be eligible for the tax credits have contacted the Department with inquiries concerning the process for applying for the credits, for expenditures that have been or will be incurred during taxable years that began after December 31,

2009. In addition, section 71.07 (3rm) of the Statutes includes a \$1,000,000 tax-credit allocation that became available on May 27, 2010, and expires on June 30, 2010.

Although the Department of Commerce has begun promulgating the permanent rule that is required by 2009 Act 295, the time periods in chapter 227 of the Statutes for promulgating permanent rules preclude the permanent rule from becoming effective in time to accommodate allocating the tax credits for the 2009–10 fiscal year. This emergency rule will enable the Department of Commerce to establish an application, certification, and tax credit allocation process for the entities that will be eligible for the allocation that expires on June 30, 2010.

Publication Date: June 8, 2010
Effective Dates: June 8, 2010 through November 4, 2010
Extension Through: January 3, 2011
Hearing Date: August 17, 2010

2. EmR1026 — Rule adopted creating **Chapter Comm 139**, relating to rural outsourcing grants.

Exemption From Finding of Emergency

The Legislature, by Section 45 (1) (b) of 2009 Wisconsin Act 265, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through November 28, 2010
Hearing Date: October 13, 2010

3. EmR1041 — Rule adopted creating **Chapter Comm 103**, relating to certification of disabled-veteran-owned businesses, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by SECTION 101 (1) in 2009 Wisconsin Act 299, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: November 14, 2010
Effective Dates: November 15, 2010 through April 13, 2011

Government Accountability Board (2)

1. EmR1016 — Rule adopted to create **section GAB 1.91**, relating to organizations making independent disbursements.

Finding of Emergency

Pursuant to s. 227.24, Stats., the Government Accountability Board finds an emergency exists as a result of the United States Supreme Court decision *Citizens United v. FEC*, 558 U.S. ___, (No. 08–205)(January 21, 2010). Within the context of ch. 11, Stats, the rule provides direction to organizations receiving contributions for independent disbursements or making independent disbursements. Comporting with *Citizens United*, this emergency rule order does not treat persons making independent disbursements as

full political action committees or individuals under s. 11.05, Stats., for the purposes of registration and reporting. With respect to contributions or in-kind contributions received, this emergency rule order requires organizations to disclose only donations “made for” political purposes, but not donations received for other purposes.

The Board adopts the legislature’s policy findings of s. 11.001, Stats., emphasizing that one of the most important sources of information to voters about candidates is available through the campaign finance reporting system. The Board further finds that it is necessary to codify registration, reporting and disclaimer requirements for organizations receiving contributions for independent disbursements or making independent disbursements so that the campaign finance information is available to voters. The rule must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

Publication Date: May 20, 2010
Effective Dates: May 20, 2010 through October 16, 2010
Extension Through: December 15, 2010
Hearing Date: August 30, 2010

2. EmR1035 — Rule adopted to repeal and recreate **Chapter GAB 4**, relating to observers at a polling place or other location where votes are being cast, counted or recounted.

Finding of Emergency

The Government Accountability Board repeals and recreates chapter GAB 4, Election observers, to establish guidelines for election inspectors and observers alike regarding observation by “any member of the public” of the public aspects of the voting process and regarding the conduct of observers at polling places and other locations where observation of the public aspects of the voting process may take place. The Board 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:

Pursuant to s. 227.24, Stats., the Government Accountability Board finds that an emergency exists in the Board’s May 5, 2008 decision to decline to reaffirm the administrative rule EIBd 4.01 because the rule was inconsistent with the requirements of its enabling statute, s. 7.41, Stats. The statute states that any member of the public is allowed to be present at the polls on Election Day to observe; however, it does not specify standards of conduct by which observers must abide.

The Board further finds that given the public interest in the 2010 General Election, the expected high turnout, the increasing use of observers in the polling place, and the comments of municipal and county clerks regarding the obstacles observers can pose to the orderly conduct of elections, it is necessary to codify standards to regulate the observers’ conduct and that the attached rule governing observer conduct must be adopted prior to the General Election to ensure the public peace and safety with respect to the administration of the fall elections.

Publication Date: September 24, 2010
Effective Dates: September 24, 2010 through February 20, 2011
Hearing Date: December 13, 2010

(See the Notice in this Register)

Insurance (2)

1. 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 Dates: October 2, 2009 through October 1, 2010
Extension Through: November 29, 2010
Hearing Date: December 8, 2009

2. 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 Dates: January 8, 2010 through January 7, 2011
Hearing Date: May 5, 2010

Military Affairs

EmR1030 — Rule adopted to create **Chapter DMA 1**, relating to military family financial aid.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 28, section 9136, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 28 reads as follows:

2009 Wisconsin Act 28, Section 9136. Nonstatutory provisions; Military Affairs.

(2c) EMERGENCY RULE; MILITARY FAMILY FINANCIAL AID. Using the procedure under section 227.24 of the statutes, the department of military affairs shall promulgate the rules described under section 321.45 (2) of the statutes, as created by this act, for the period before the permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, **the department of military affairs is not required to provide evidence that promulgating a rule under this subsection 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 the rules promulgated under this subsection.** [Emphasis added]

Publication Date: July 26, 2010
Effective Dates: July 26, 2010 through December 22, 2010
Hearing Date: October 13, 2010

Natural Resources (6)

Fish, Game, etc., Chs. NR 1—

1. EmR1014 — Rule adopted to create **section NR 45.13 (1m) (d)**, relating to the establishment of a slow–no–wake zone on the Wisconsin River at the Dells of Wisconsin River state natural area.

Finding of Emergency

The Department of Natural Resources 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: Based on information received by the Department, user conflicts are increasing. Failure to enact this rule could lead to additional boating accidents and potential for injury during the upcoming high use season.

Publication Date: May 20, 2010
Effective Dates: May 20, 2010 through October 16, 2010
Hearing Date: June 22, 2010

2. EmR1028 — Rule adopted to amend **s. NR 10.104 (7) (a)**, relating to the use of archery deer hunting licenses.

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. Deer populations are well below goal in much of northeast Wisconsin, causing great concern from hunters and others who value deer. This rule is one of the ways the department is trying to rebuild the populations there. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control and regulate hunting wild animals. The State of Wisconsin must provide publications describing the regulations for deer hunting to approximately 250,000 archery deer hunters prior to the start of the season. These regulations must be legally in effect prior to printing nearly 1 million copies of the regulations publication. The timeline for the permanent version of this rule will not have it in effect in time for these deadlines.

Publication Date: July 8, 2010
Effective Dates: July 8, 2010 through December 4, 2010
Hearing Date: August 30, 2010

3. EmR1033 — Rule adopted to revise **section NR 10.01 (1)**, relating to hunting and the 2010 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: September 1, 2010
Effective Dates: September 1, 2010 through January 28, 2011
Hearing Date: October 26, 2010

4. EmR1036 — Rule adopted to create **s. NR 40.04 (2) (g)** relating to the identification, classification and control of invasive species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the

department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

Publication Date: September 29, 2010
Effective Dates: September 29, 2010 through: *See bold text above*
Hearing Dates: October 25 to 29, 2010

5. EmR1037 — Rule adopted to create s. NR 27.03 (3) (a) relating to adding cave bats to Wisconsin's threatened species list.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Wis. Stats., is necessary and justified in establishing rules to protect the public welfare. The proposed rule change seeks to provide protection to Wisconsin cave bat species, which face the imminent threat of white-nose syndrome. White-nose syndrome has spread across 14 states and 2 Canadian provinces in the last 3 years, spreading up to 800 miles per year. Mortality rates of affected bat colonies reach 100%. The disease was located last spring within 225 miles of the Wisconsin's southern boarder and 300 miles from the northern boarder. Because the known dispersal distance of the little brown bat is 280 miles, an affected cave is now located within the dispersal range of Wisconsin little brown bats. Listing the cave bat species before white-nose syndrome has been detected in Wisconsin will allow the Department time to work collaboratively with stakeholders to ensure that appropriate conservation measures are developed and in place when white-nose syndrome is first detected. Because of the speed of white-nose syndrome, the Department would not have time to develop appropriate conservation measures if normal rule-making procedures were used and listing was delayed until after white-nose syndrome was detected in Wisconsin. Based on the current location and known rate of spread of the disease, we anticipate the presence of white-nose syndrome in Wisconsin as early as January 2011.

Publication Date: September 29, 2010
Effective Dates: September 29, 2010 through February 25, 2011
Hearing Dates: October 25 to 29, 2010

6. EmR1039 — Rule adopted to create s. NR 40.02 (7g), (7r), (25m), (28m) and (46m), 40.04 (3m) and 40.07 (8) relating to the identification, classification and control of invasive bat species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the

department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

Publication Date: November 3, 2010
Effective Dates: November 3, 2010 through *See bold text above*
Hearing Date: November 29, 2010
 (See Notice Register 658, October 31, 2010)

Regulation and Licensing (4)

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

3. EmR1031 — Rule adopted revising **Chapters RL 110 to 116**, relating to the regulation of professional boxing contests.

Exemption From Finding of Emergency

The Department of Regulation and Licensing, pursuant to 2009 Wisconsin Act 111, is not required to provide evidence that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare.

Publication Date: August 25, 2010
Effective Dates: September 1, 2010 through
 January 28, 2011
Hearing Date: September 20, 2010

4. EmR1032 — Rule adopted creating **Chapters RL 192 to 196**, relating to the regulation of mixed martial arts sporting events.

Exemption From Finding of Emergency

The Department of Regulation and Licensing, pursuant to 2009 Wisconsin Act 111, is not required to provide evidence that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare.

Publication Date: August 26, 2010
Effective Dates: September 1, 2010 through
 January 28, 2011
Hearing Date: September 20, 2010

Technical College System Board

EmR1025 — Rule adopted to amend **Chapter TCS 17**,

relating to training program grant funds.

Finding of Emergency

The Wisconsin Technical College System Board 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 an emergency is:

In May 2010, the Wisconsin C.O.R.E. Jobs Act provided an additional \$1 million GPR for the training program grants authorized in Wis. Stats. §§ 20.292 (1) (eh) and 38.41. These funds were provided to address a critical need of Wisconsin employers for skills training and education necessary to protect the state's economic vitality and health, with a special emphasis on advanced manufacturing and welding.

The WTCS Board is required to award these funds by June 30, 2011, the end of the current 2009–11 biennium. In addition, s. TCS 17.06 (1), Wis. Adm. Code, requires that district boards or employers receiving skills training or education under the grant shall contribute matching funds, other than in-kind matching funds, equal to at least 25% of total approved project costs.

Due to the sustained decline in economic conditions and reduction in business revenues, technical college districts report that employers are withdrawing participation in approved training grants because of an inability to fund the 25% match. Therefore, to ensure that business and incumbent workers in need of skills training and other education may access these services and that appropriated funds are distributed to technical college districts for this purpose before the end of the fiscal year, emergency administrative rules eliminating the 25% match requirement must be established immediately.

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through
 November 28, 2010
Hearing Date: September 28, 2010

Scope Statements

Agriculture, Trade and Consumer Protection

Subject

Revises Chapter Comm 138, relating to woody biomass harvesting and processing credit.

Objective of the Rule

The rules proposed would implement the provisions of 2009 Wisconsin Act 269 that relate to certifying applicants and allocating to them tax credits for equipment which is utilized primarily to harvest or process woody biomass for use as a fuel or as a component of fuel.

Policy Analysis

The Department has rules for several other programs associated with tax credits, but none of those programs are targeted specifically to equipment for harvesting or processing woody biomass.

The rules are expected to address (1) the eligibility requirements for applicants; (2) the documentation that must be submitted by applicants to become certified as eligible for the 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 tax credit.

The alternative of not promulgating these rules would conflict with the directive in section 560.209 (4) of the

Statutes – as created by 2009 Wisconsin Act 269 – that requires this promulgation, in consultation with the Department of Revenue.

Statutory Authority

Sections 227.11 (2) (a) and 560.209 (4).

Comparison with Federal Regulations

The 2008 Food, Conservation and Energy Act, P.L. 110–234, included a new, temporary tax credit that is available to qualified cellulosic biofuel producers, some of whom may process woody biomass into a material that is used to produce the biofuel. The credit is \$1.01 per gallon and is available through December 31, 2012.

Entities Affected by the Rule

The rules may affect entities that incur expenses for equipment which is utilized primarily to harvest or process woody biomass for use as a fuel or as a component of fuel.

Estimate of Time Needed to Develop the Rule

The staff time needed to develop the rules is expected to range from 80 to 120 hours, depending upon the associated complexity. This includes research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to promulgate the rules.

Submittal of Rules to Legislative Council Clearinghouse

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

Government Accountability Board CR 10–130

On November 4, 2010, the Government Accountability Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order repeals and recreates Chapter GAB 4, Wis. Adm. Code, relating to the conduct of individuals exercising the right to observe all public aspects of the voting process in an election under s. 7.41, Stats.

Agency Procedure for Promulgation

A public hearing is scheduled for 9:30 a.m. on December 13, 2010 in the Board Room of the Government Accountability Board, 212 E. Washington Ave. 3rd Floor, Madison, Wisconsin. The Government Accountability Board is primarily responsible for preparing the proposed rule.

Contact Information

Michael R. Haas, Staff Counsel
Government Accountability Board
212 E. Washington Avenue, 3rd Floor
P.O. Box 2973, Madison, Wisconsin 53701–2973
Phone 266–0136
Email: Michael.haas@wisconsin.gov

Natural Resources *Fish, Game, etc., Chs. NR 1—* CR 10–131

DNR # FR–38–10

On November 10, 2010 the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter NR 45, relating to golf carts at Governor Thompson State Park and Peshtigo River State Forest.

Agency Procedure for Promulgation

The Department's Bureaus of Forestry Management and Parks and Recreation are jointly primarily responsible for promulgation of the rule. A public hearing is required and will be held on December 16, 2010.

Contact Information

John Lubbers, Regional Forestry Staff Supervisor
DNR Bureau of Forest Management Northeast Region
2984 Shawano Avenue
Green Bay, WI 54313
Phone: (920) 662–5132
Email: John.Lubbers@wisconsin.gov

Jim Warren, Chief–Public Lands and Conservation Services

DNR Bureau of Forest Management
101 S. Webster St., FR/4
P.O. Box 7921
Madison, WI 53707–7921
Phone: (608) 264–8990
Email: James.warren@wisconsin.gov

Peter Biermeier, Chief–External Relations and Planning
DNR Bureau of Parks & Recreation
101 S. Webster St., PR/6
P.O. Box 7921
Madison, WI 53707–7921
Phone: (608) 264–6136
Email: Peter.biermeier@wisconsin.gov

Natural Resources

*Environmental Protection —Solid Waste Management,
Chs. NR 500—*

CR 10–128

DNR # WA–33–10

On November 5, 2010 the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter NR 502 and 518, relating to compost use standards.

Agency Procedure for Promulgation

The Department's Bureau of Waste Management is primarily responsible for promulgation of the rule. A public hearing is required and will be held on December 13, 2010.

Contact Information

Brad Wolbert
Bureau of Waste Management
Department of Natural Resources
P O Box 7921
Madison, WI 53707–7921
Phone (608) 264–6286
Fax (608) 267–2768
E–mail Brad.Wolbert@wisconsin.gov

Natural Resources***Environmental Protection — Water Supply, Chs. NR 800—*****CR 10–132**

DNR # DG–39–10

On November 11, 2010 the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter NR 854 relating to Water Supply Service Area Plans. Chapter NR 854 implements a statutory requirement to establish, by rule, a continuous planning process for persons operating a public water supply system, statewide, that serve a population of 10,000 or more and any person that operates a consecutive water system that receives water from a public water supply system required to prepare a plan under this chapter. The rule also applies to any person proposing a new or increased diversion in the Great Lakes Basin – regardless of the size of the population served. The rule sets forth definitions, timelines and procedures for a water supply service area planning process.

Agency Procedure for Promulgation

The Department's Bureau of Drinking Water and Groundwater is primarily responsible for promulgation of the

rule. Public hearings have been scheduled for December 14 and 15.

Contact Information

Dino Tsoris, Bureau of Drinking Water and Groundwater, (608) 267–4581.

Revenue**CR 10–129**

On November 4, 2010, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule repeals Chapter Tax 53, relating to plat review fees, and repeals and recreates Chapter Tax 20, relating to the lottery and gaming and school levy tax credits.

Agency Procedure for Promulgation

The Office of the Secretary is primarily responsible for the promulgation of the proposed rule. A public hearing on the proposed rule is required and will be scheduled.

Contact Information

Dale Kleven

Income, Sales and Excise Tax Division

Telephone: (608) 266–8253

E–mail: dale.kleven@revenue.wi.gov

Rule–Making Notices

Notice of Hearing Government Accountability Board CR 10–130, EmR1035

NOTICE IS HEREBY GIVEN that pursuant to sections 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting section 7.41, Stats., the Government Accountability Board will hold a public hearing to consider adoption of an emergency and permanent rule to repeal and recreate Chapter GAB 4, Wis. Adm. Code, relating to observers at a polling place or other location where votes are being cast, counted or recounted.

Hearing Information

A public hearing will be held at the time and place shown below:

<u>Date and Time:</u>	<u>Location:</u>
December 13, 2010 Monday 9:30am	Government Accountability Board Office Third Floor 212 E. Washington Ave. Madison, WI 53703

This public hearing site is accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact the Agency Contact listed below.

Submittal of Written Comments

Comments may be submitted by **December 13, 2010**, to the Government Accountability Board, 212 E. Washington Ave. Third Floor, P.O. Box 7984, Madison, WI 53707–7984; (gab.wi.gov).

Analysis Prepared by the Government Accountability Board

Statute(s) interpreted

Section 7.41 of the Wisconsin Statutes

Statutory authority

Sections 5.05 (1) (f), 7.41 (5), and 227.11 (2) (a), Stats.

Explanation of statutory authority

This rule repeals and re–creates Chapter GAB 4, Election observers, interpreting s. 7.41 of the Wisconsin Statutes – Public’s right to access. Express rule–making authority to interpret the provisions of statutes the Board enforces or administers is conferred on it pursuant to s. 227.11 (2) (a), Stats. In addition, s. 5.05 (1) (f), Stats., provides that the Board may promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration. Furthermore, the Board is empowered by s. 7.41 (5), Stats., to promulgate rules consistent with the supervisory authority of a chief inspector at any polling place on election day, regarding the proper conduct of individuals

exercising the right under s. 7.41, Stats., to readily observe all public aspects of the voting process in an election.

Related statute(s) or rule(s)

Sections 5.35 (5), 7.37 (2) and 12.13 (3) (x), Stats., relating to maintaining order at the polling place, and other locations where observation of the public aspects of the voting process is taking place, and enforcing compliance with the lawful commands of the inspectors at the polling place.

Plain language analysis

This rule repeals and recreates rule Chapter GAB 4, relating to observers and observation of the public aspects of the voting process at polling places and other locations where observation of the public aspects of the voting process is taking place.

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

Observers and observation of the voting process is a matter of state regulation, not federal regulation. Consequently, no federal legislation or regulation applies to observers in Wisconsin or any other state.

Comparison with rules in adjacent states

The States of Illinois, Iowa, Michigan and Minnesota all have legislation that allows persons to observe at the polling places in that state, but none of those states allows any member of the public to show up at a polling place and observe because each of those states requires prospective observers to register with the municipal clerk before the election and receive authorization to observe.

Summary of factual data and analytical methodologies

Adoption of the rule was not predicated on any factual data or analytical methodologies, but on observation eliminating provisions of the former Ethics Board’s and Elections Board’s rules that were inconsistent with the provisions or intent of the new law merging those agencies into the new Government Accountability Board.

Analysis and supporting documents used to determine effect on small businesses

Preparation of an economic impact report is not required. The Government Accountability Board does not anticipate that the repeal and recreation of the described provisions will have an economic impact.

Small Business Impact

The creation of this rule does not affect business.

Initial regulatory flexibility analysis

The creation of this rule does not affect the normal operations of business.

Fiscal Estimate

The creation of this rule has no fiscal effect.

Text Of Proposed Rule

Pursuant to the authority vested in the State of Wisconsin Government Accountability Board by ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., the Government Accountability Board hereby repeals Chapter GAB 4, Election observers, and creates new Chapter GAB 4, Election observers, as follows:

SECTION 1. Chapter GAB 4 is repealed.

SECTION 2. Chapter GAB 4 is created to read:

Chapter GAB 4 Election Observers

GAB 4.01 Observers at the polling place.

(1) In this chapter:

(a) “Board” means the Government Accountability Board.

(b) “Chief inspector” means the chief inspector at a polling place, under s. 7.30 (6) (b), Stats., or the election official that the chief inspector designates to carry out the responsibilities of the chief inspector under this chapter.

(c) “Clerk” means the municipal or county clerk, the executive director of the board of election commissioners, or the official designated by the clerk or director to carry out the election responsibilities under this chapter.

(d) “Communications media” has the meaning given in s. 11.01(5), Stats.

(e) “Electioneering” has the meaning given in s. 12.03 (4), Stats.

(f) “Member of the public” means any individual who is present at any polling place, or in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855, Stats., on any day that absentee ballots may be cast at that site, for the purpose of observation of an election or the absentee ballot voting process, excluding a candidate appearing on the ballot at that polling place or a registered write-in candidate, for an office voted on at that polling place or other location.

(g) “Public aspects of the voting process” means the election activities that take place at a polling place, or other observation location, that includes waiting in line to vote by inspectors, the election day registration process, the recording of electors under s. 6.79 Stats., the elector’s receipt of a ballot, the deposit of the ballot into the ballot box, a challenge to an elector’s right to vote, the issuing of a provisional ballot, and the counting and reconciliation process.

(2) Any member of the public intending to exercise the right to observe an election under s. 7.41, Stats., shall notify the chief inspector of that intent upon entering the voting area of a polling place. The observers shall sign a form acknowledging they understand the applicable rules and will abide by them. The observers shall also list their full name, street address and municipality, and the name of the organization or candidate the observer represents, if any, on the form. The inspector shall attach the form to the Inspectors’ Statement, EB-104. The chief inspector shall provide the observer with a name tag supplied by the board which reads “Election Observer.” Observers shall wear this name tag at all times when they are inside the polling place.

(3) To ensure the orderly conduct of the election, the chief inspector may reasonably limit the number of observers representing a particular organization or candidate.

(4) The chief inspector shall direct the observer to an area of the polling place designated by the chief inspector as an observation area.

(5) The observation area shall be situated to enable observers to observe all public aspects of the voting process during the election. When physically feasible within the polling place, the observation area shall be not less than 6 feet nor more than 12 feet from the table at which electors are announcing their name and address and being issued a voter number. If observers are unable to hear the electors stating their name and address, the poll workers shall repeat the name

and address. If necessary to ensure all public aspects of the process are readily observable, the chief inspector shall set up additional observation areas near the election-day registration table and area where elector challenges are handled.

(6) Observers shall comply with the chief inspector’s lawful commands or shall be subject to removal from the polling place.

(7) All of the observers’ questions and challenges shall be directed to the chief inspector.

(8) Upon receiving a challenge to a voter’s ballot at the polling place, the chief inspector shall follow the challenge procedure in Chapter GAB 9, Wis. Adm. Code. The challenge shall be recorded on the Challenge Documentation Form, EB-104c.

(9) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the chief inspector, threatens the orderly conduct of the election or interferes with voting, the chief inspector shall warn the offending observer(s) that such conduct shall cease or the observer shall have to leave the polling place

(10) If, after receiving the warning provided in sub. 9, the offending observer does not cease the offending conduct, the chief inspector shall order the offending observer to depart the polling place. If the offending observer declines or otherwise fails to comply with the chief inspector’s order to depart, the chief inspector shall summon local law enforcement to remove the offending observer.

(11) While in the polling place, observers shall keep conversation to a minimum and shall try to conduct whatever conversation is necessary at a low enough volume to minimize distraction to electors and to the election inspectors and any other election officials. Failure to adhere to this subsection shall result in a warning under sub. 9 and, if the conduct continues, removal under sub. 10.

(12) Observers shall be permitted to view the poll lists, excluding the confidential portions of the lists maintained under ss. 6.35 (4) and 6.79 (6), Stats., as long as doing so does not interfere with or distract electors under s. 5.35 (5) Stats. Observers shall not be permitted to make a photocopy or take photographs of the poll lists on election-day.

(13) Observers shall not be permitted to handle an original version of any official election document.

(14) Observers shall not engage in electioneering as defined in s.12.03, Stats. If an observer violates s. 12.03, Stats., the chief inspector shall issue a warning under sub. 9 and, if the conduct continues, shall order the offending observer to depart the polling place or suffer removal under sub. 10.

(15) Observers shall not use a cellular telephone or other wireless communication device inside the voting area to make voice calls. Such use shall result in a warning under sub. 9 and, if the conduct continues, shall result in removal under sub. 10. Text messaging and other non-audible uses of such a device are permissible.

(16) Observers shall not engage in any conversation with election officials or other electors concerning a candidate, party, or question appearing on the ballot. Such conversation constitutes electioneering under s. 12.03, Stats., and shall result in a warning under sub. 9 and, if the conduct continues, removal under sub. 10. The chief inspector may order that other conversation be minimized if it is disruptive or interferes with the orderly conduct of the election.

(17) The restrictions on voter contact under sub. 16 shall not be construed to prevent any observer from assisting an elector under s. 6.82, Stats., provided that the elector requests the observer's assistance, and provided that the assistance meets the other requirements of s. 6.82, Stats., and the observer qualifies to provide assistance under that statute.

(18) Observers shall not wear any clothing or buttons having the name or likeness of, or text related to, a candidate, party, or referendum group appearing on the ballot or having text which describes, states, or implies that the observer is a governmental official or has any authority related to the voting process. Wearing such apparel at the polling place constitutes a violation of s. 12.03, Stats., and shall result in a warning under sub. 9 and, if the observer refuses to comply with the chief inspector's order, shall result in removal under sub. 10.

(19) Observers may not use any video or still cameras inside the polling place while the polls are open for voting. Failure to adhere to this subsection shall result in a warning under sub. 9 and, if the conduct continues, removal under sub. 10.

(20) After the polls close, candidates are allowed to be present and the prohibition of video and still cameras does not apply unless it is disruptive or interferes with the administration of the election.

GAB 4.02 Observers at the municipal clerk's office.

(1) Observers shall be permitted to be present at the municipal clerk's office, provided the clerk's office is located in a public building, or an alternate site for absentee voting designated under s. 6.855, Stats., on any day that absentee ballots may be cast in the office.

(2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The municipal clerk shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.

(3) The clerk shall establish observation areas to allow observers to view all public aspects of the absentee voting process. The observers need not be allowed behind the counter in the clerk's office.

(4) All of the observers' questions shall be directed to the clerk.

(5) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the clerk, threatens the orderly conduct of the election or interferes with voting, the clerk shall issue a warning under s. GAB 4.01 (9) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01 (10). (6) Observers may not use any video or still camera inside the clerk's office.

GAB 4.03 Observers at the central counting location.

(1) In a municipality using a central counting location under s. 5.86, Stats., observers shall be permitted to be present at the central counting location.

(2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The municipal clerk shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.

(3) The clerk shall establish observation areas to allow observers to view all public aspects of the counting process.

(4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the clerk, threatens the orderly conduct of the count, the clerk shall issue a warning under s. GAB 4.01 (9) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01 (10).

(5) Observers shall be permitted to use a video or still camera inside the central count location unless it is disruptive or interferes with the administration of the election.

(6) All of the observers' questions and challenges shall be directed to the clerk.

GAB 4.04 Observers at absentee ballot canvass.

(1) In a municipality using a central absentee ballot canvass location under s. 7.52, Stats., observers shall be permitted to be present at the canvass location.

(2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The board of absentee ballot canvassers shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.

(3) The board of absentee ballot canvassers shall establish observation areas to allow observers to view all public aspects of the canvassing process.

(4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the board of absentee ballot canvassers, threatens the orderly conduct of the count, the board of absentee ballot canvassers shall issue a warning under s. GAB 4.01 (9) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01 (10).

(5) Observers shall be permitted to use a video or still camera inside the absentee canvass location unless it is disruptive or interferes with the administration of the absentee ballot canvass.

(6) All of the observers' questions and challenges shall be directed to the member of the board of absentee ballot canvassers designated to receive questions and challenges.

GAB 4.05 Observers at absentee voting locations described in s. 6.875, Stats.

(1) One observer from each of the two political parties whose candidate for governor or president received the greatest number of votes in the municipality, in the last general election, may accompany the special voting deputies to absentee voting locations described in s. 6.875, Stats.

(2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The special voting deputies shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.

(3) The special voting deputies shall establish observation areas to allow observers to view all public aspects of the absentee voting process.

(4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the special voting deputies, threatens the orderly conduct of the absentee voting process, the special voting deputies shall issue a warning under s. GAB 4.01 (9) and, if the observer

does not cease the offending conduct, order the observer's removal under s. GAB 4.01 (10).

(5) Observers shall not be permitted to use a video or still camera inside the voting location.

(6) All of the observers' questions shall be directed to the special voting deputies.

GAB 4.06 Observers at a recount.

(1) Pursuant to s. 9.01 (1) (b) 11., Stats., the recount of any election shall be open to any interested member of the public including candidates and their counsel.

(2) Observers shall conform their conduct to the requirements of s. GAB 4.01. The board of canvassers shall exercise the authority of the chief inspector under s. GAB 4.01 to regulate observer conduct.

(3) The board of canvassers may limit observers to a designated area, but the observers shall be positioned so that they can see the poll lists and each individual ballot as it is counted. If there is not room for all observers to view the ballots as they are being counted, visual preference shall be given to the candidates or their representatives.

(4) If any observer engages in any loud, boisterous, or otherwise disruptive behavior that, in the opinion of the board of canvassers, threatens the orderly conduct of the count, the board of canvassers shall issue a warning under s. GAB 4.01 (9) and, if the observer does not cease the offending conduct, order the observer's removal under s. GAB 4.01 (10).

(5) Observers shall be permitted to use a video or still camera inside the recount location unless it is disruptive or interferes with the administration of the election.

(6) All of the observers' questions and challenges shall be directed to the member of the board of canvassers designated to receive questions and challenges.

GAB 4.07 Communications media observers.

(1) Observers from communications media organizations shall identify themselves and the organization they represent to the chief inspector upon arriving at the polling place. The inspector shall record that information on the inspectors' statement, EB-104.

(2) Communications media observers shall be permitted to use video and still cameras provided the cameras are not used in a manner that allows the observer to see or record how an elector has voted and provided the cameras do not interfere with voting or disrupt the orderly conduct of the election.

GAB 4.08 Polling Place Accessibility Assessments.

(1) This section applies to disability advocates and other individuals authorized by the board to assess the compliance of a polling place with s. 5.25 (4) (a), Stats.

(2) When practical, groups and individuals observing under this section shall notify the clerk at least 24 hours in advance of their intent to assess polling place accessibility.

(3) Disability advocate observers shall be allowed out of the designated observation area to take accessibility measurements to ensure compliance with polling place accessibility requirements unless it is disruptive or interferes with the administration of the election.

(4) Disability advocate observers shall be allowed to take photos and video to document compliance with the accessibility requirements unless it is disruptive or interferes with the administration of the election.

(5) Disability advocate observers shall be allowed to wear shirts or name tags identifying themselves as disability advocate observers.

(6) Election officials, including poll workers, shall facilitate the work of disability advocates in making their accessibility assessments.

SECTION 3. EFFECTIVE DATE. This permanent rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Agency Contact Person

Michael Haas, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, Madison, Wisconsin 53707-7984; Phone 608-266-0136; Michael.haas@wisconsin.gov.

Notice of Hearing

Natural Resources

Fish, Game, etc., Chs. 1—

CR 10-128

DNR # WA-33-10

NOTICE IS HEREBY GIVEN THAT pursuant to sections 227.16 and 227.17, Stats., the Department of Natural Resources will hold a public hearing on repeal of NR 502.12 (1) (a) to (f), (8) (a) 4. and 6. and (9); renumbering of NR 502.12 (8) (a) 5., 7. and 8.; renumbering and amendment of NR 502.12 (4) (e) 3.(note); amendment of NR 500.03 (45), (185), (253) and (262), NR 502.12 (title), (1) (intro.) and (note), (2), (3) (title), (intro.) and (a), (4) (title), (intro.), (c), (e) (intro.) and 3., (5) (title), (intro.), (b) to (e) and (f) (intro.), 1. and 2., (6) (title), (intro.), (b), (c) and (e), (7) (title), (intro.), (a) to (c), (8) (title) and (a) (intro.), (10) (intro.) and (a) to (e), (h) 3. and (j) (note), (11) (intro.), (a) and (b), (12) (a) and (b), (13) (title), (intro.), (b), (e), (f), (g), (h) and (k), (14) (a) and NR 518.04 (1) (intro.), (b) and (i); repeal and recreation of NR 502.12 (4) (e) 2., (7) (e) and (f), (8) (b), (11) (d), (15), (table 1) and (table 2); and creation of NR 500.03 (20r), (29), (30g), (30r), (44m), (86m), (88m), (155m), (219m) and (253m), NR 502.12 (4) (e) 4., (8) (c), (11) (e), (13) (m), (n), (o) and (p), and (16), Wis. Adm. Code, relating to composting of solid waste, at the date, time and locations listed below.

Hearing Information

The hearing for this matter will be held at **10:00 a.m. on Monday, December 13, 2010** at the following locations simultaneously (the locations will be linked electronically):

State Natural Resources Building (GEF 2) Room 513
101 South Webster Street
Madison, WI 53707

DNR Oshkosh Service Center
Suite 700

625 E. Cty Road Y,
Oshkosh, WI 54901

DNR Northern Region Rhinelander Headquarters
107 Sutliff Avenue
Rhinelander, WI 54501

DNR Southeast Region Headquarters
2300 N. Martin Luther King Jr Drive
Milwaukee, WI 53212

DNR West Central Region Headquarters
1300 West Claremont Avenue
Eau Claire, WI 54702

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Brad Wolbert at 608-264-6286, Brad.Wolbert@wisconsin.gov. A request must include specific information and must be received at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System website at <http://adminrules.wisconsin.gov>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Brad Wolbert at 608-264-6286, Brad.Wolbert@wisconsin.gov.

Submittal of Written Comments

Comments on the proposed rule must be received on or before Tuesday, **December 21**. Written comments may be submitted via U.S. mail, fax, E-mail or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to:

Brad Wolbert, Bureau of Waste and Materials Management,
Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison, WI 53707
Phone: 608-264-6286
Fax: 608-267-2768
E-mail: Brad.Wolbert@wisconsin.gov

Analysis Prepared by the Department of Natural Resources

Statute(s) interpreted

Sections 287.05, 289.30 and 289.31, Stats.

Statutory authority

Sections 227.11, 289.05, 289.06, 289.07 and 289.43, Stats.

Explanation of agency authority

Section 227.11, Stats., confers general agency rule-making authority. Sections 289.05, 289.06 and 289.07, Stats., assign the duty and provide the authority to the Department to promulgate rules implementing ch. 289, Stats. Section 289.43, Stats., gives the Department the authority to specify by rule types of solid waste facilities that are not required to be licensed under ss. 289.21 to 289.32 or types of solid waste that need not be disposed of at a licensed solid waste disposal facility.

Related statute(s) or rule(s)

None

Plain language analysis

Composting is regulated as a form of solid waste processing that converts decomposable organic materials to a substance with many beneficial uses and avoids the adverse environmental impacts of landfill disposal or incineration.

The proposed rule revisions would (1) expand the types and quantities of decomposable organic materials that could be composted with minimal regulation, and (2) provide a voluntary set of quality standards for certain finished compost products, allowing commercial and municipal composters to distinguish their high-quality compost products in the marketplace.

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

None.

Comparison with rules in adjacent states

Adjacent states' compost regulations have a number of basic similarities to those of Wisconsin, but vary significantly from each other in their details. Note that Michigan, Minnesota and Illinois, like Wisconsin, are in various stages of revising their composting regulations, in large part as a response to burgeoning interest among food residuals generators nationwide in diverting their material from landfills. Iowa's compost regulations are relatively new, and Iowa's DNR is considering proposals to revise them to facilitate larger-scale food residuals composting.

Minnesota:

Minnesota regulations establish two categories of composting facilities: (a) yard material facilities, which are subject to a permit-by-rule system similar in effect to Wisconsin's exemption for yard material compost sites with less than 20,000 cubic yards' capacity, and (b) facilities for composting all other materials, which must obtain individual permits. Minnesota requires all composting facilities to file an annual report with the state regulatory agency. Facilities accepting decomposable material other than yard residuals for composting are subject to design and other permit requirements that were developed for municipal solid waste composting. These have been criticized as being overly strict when applied to materials like food scraps and non-recyclable paper—hence the effort underway to revise the composting rules to establish a “middle” category of composting facility that would avoid some of the current regulatory impediments to composting food and other source-separated decomposable materials. For non-yard facilities, Minnesota's rules require testing of the compost product, and imposes quality standards under a classification system that distinguishes between high quality (Class I) compost suitable for unrestricted use, and Class II compost, the use of which is restricted. The metals standards for the two compost classes are based on federal standards for landspreading sewage sludge, or biosolids, contained in Part 503 of the federal Clean Water Act. Minnesota does apply a more stringent limit to mercury content as well as a PCB limit.

Illinois:

In Illinois, composting is relatively highly restricted by the state. Composting facilities must be individually permitted similar to facilities such as landfills, except for facilities at which landscape material is composted and used on an agricultural crop farm. The practical implication of this regulatory system is that food scrap composting is not economically feasible in Illinois. Illinois legislators have recently proposed bills to remove the regulatory barriers to food scrap composting.

Michigan:

In Michigan, the composting rules are being revised to align composting of food scraps and other decomposable materials with composting of yard residuals. Current

Michigan rules do not include general standards for composting materials other than yard residuals, and composters of more than 500 cubic yards are required to obtain a solid waste processing permit. The exception to this requirement is food scraps, which, because they are not considered solid waste in Michigan, are not subject to any composting requirements. In practice, Michigan has very few composting sites other than those for yard residuals in part because local authorities are hesitant to issue permits for food scrap composting in the absence of state rules. Michigan's proposed rules would allow source-separated compostable materials similar to Wisconsin's proposed definition to be composted with yard residuals without plan review, a site-specific permit or an overall limit on the size of the site. The rule would impose operational standards on composting facilities that are comparable to Wisconsin's, with more stringent standards for liners and for control of liquids. Farm sites would be subject to fewer restrictions so long as they were not operating as a large commercial compost operation. The proposed compost facility standards include annual reporting requirements and requirements for testing and labeling of compost products, but do not impose numerical standards for chemical constituents in general-use composts made from yard residuals or source-separated compostable materials.

Iowa:

Iowa's compost regulations establish a tiered system similar to Wisconsin's in concept, with exemptions for small, on-premises and agricultural sites, a permit-by-rule provision for yard residual composting facilities, and an individual permit system for larger composting facilities accepting materials other than yard residuals. Permit-by-rule facilities as well as permitted facilities are required to report volumes annually. Iowa allows permit-by-rule composting of mixed food and yard materials up to 2 tons per week, as well as unlimited quantities of yard residuals and on-farm ag materials. Permit-by-rule and permitted facilities have operational and design requirements comparable to those in Wisconsin for exempt and non-exempt facilities, respectively. Compost from permitted facilities must be tested for pathogens and metals, and meet standards equivalent to federal Part 503 biosolids standards, in order to be applied to land or marketed. Permitted facilities receiving more than 5,000 cubic yards of feedstock annually are subject to financial assurance requirements.

Summary of factual data and analytical methodologies

The Department developed the proposed rule in response to a petition for rulemaking brought by composters and recyclers through the Associated Recyclers of Wisconsin (AROW). To ensure sound and informed technical and policy analysis, the Department formed a technical advisory committee composed of stakeholders representing municipal and commercial composters, the University of Wisconsin, AROW, the environmental community, the Wisconsin Department of Transportation (a potential large-scale user of compost) and the Wisconsin Department of Agriculture, Trade and Consumer Protection. Department staff also consulted with a number of other external interested parties from municipal government, the waste disposal industry, compostable materials generators and other groups. Staff performed an extensive comparison of compost regulations and compost quality standards in other states, Canada and

Europe, and reviewed the development of the current federal risk-based metals limits for biosolids.

Analysis and supporting documents used in determination of effect on small businesses

Small businesses were the driving force behind the petition for rulemaking that prompted the Department to develop these rules. The Department consulted directly with small businesses through the technical advisory committee during the development of the proposed rule language, and also worked closely with staff of the University of Wisconsin's Solid & Hazardous Waste Education Center, who are familiar with the concerns of small composting businesses and compostable materials generators.

Effect On Small Business

The proposed rule is expected to have a small and generally positive impact on small businesses. Small businesses potentially affected by the rule include commercial composters, farmers that compost material brought in from offsite, small businesses that generate food and other compostable material, and small waste hauling businesses.

The rule does not mandate composting. It would make it easier for commercial and municipal composters as well as farmers to accept a variety of source-separated compostable materials, which may enable them to expand their businesses and find new customers. Some composters, such as those producing Class A compost, will have to comply with additional regulations regarding product testing. Most commercial and municipal composters (but not farm composters using only farm-derived inputs) will need to submit an annual estimate of the amount of compost they produce. This reporting requirement has been minimized as much as possible while still providing information needed by the agency to quantify composting activity in Wisconsin.

Small waste hauling businesses may see changes or increases in their businesses if source-separation of organic materials becomes more commonplace. Food scrap generators and other small businesses generating compostable materials may benefit from having a broader choice of options for managing their unwanted organic materials. Keeping organic materials separate from the waste stream may require changes in hauling contracts for those generators that choose to send their material to be composted, and less frequent pickup of non-putrescible material would partly offset the additional cost associated with separate organics pickup. Eventually, split collection trucks may allow both simultaneous pickup of materials destined for composting and for landfilling.

Small business regulatory coordinator

The small business regulatory coordinator may be contacted at SmallBusiness@dnr.state.wi.us, or by calling 608-266-1959.

Environmental Analysis

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

Fiscal Estimate

Summary

The main fiscal effect of the proposed rule would be a decrease in revenue to the state from the landfill tipping fee. The extent of the revenue decrease would depend on how many tons of additional material are diverted from landfilling to composting as a result of the rule. Local costs and revenues are not expected to be significantly affected. The financial effect of the proposed rule on the private sector may be significant and positive for composting facilities, as they would be able to accept additional raw materials with minimal additional regulatory burden. Landfill operators can control the impacts of the loss of tonnage to their facilities by entering the compost business themselves, as many have already done. Compost operators' revenue potential would increase due to the establishment of codified standards for high quality or "Class A" compost afforded by the proposed rule. This high quality compost may command a premium price in the marketplace.

Anticipated cost incurred by the private sector

Private sector impacts from the proposed rule revisions are expected to be neutral to positive. The proposed rules do not require generators of compostable materials to compost or to alter their current arrangements for waste disposal. However, many generators of compostable materials, including small-to-medium size groceries and large national food retailers, hospitals, event sponsors, restaurants and institutions, have encountered difficulties finding an outlet for diverting food scraps from landfill disposal. The proposed rule addresses this need. In facilitating the development of composting businesses and infrastructure, the proposed rule would provide generators with additional options for disposing of unwanted materials, some of which might cost less than landfill disposal. These generators believe it is in their long-term business interests to divert organic materials from landfilling.

Composters should benefit from being able to accept additional materials into their operations without complex permit requirements. Composters that choose to make Class A compost as defined under the proposed rule may incur additional costs for testing, although some of these composters already perform such testing on their own initiative. Private sector composters may also incur minor increased costs for recordkeeping and annual reporting, although these costs will be minimized by use of a simple, standard form, and may be mitigated by (1) the operational utility of the data that they will be generating, and (2) the larger array of materials that their facilities can accept under the rule while maintaining a relatively low level of regulatory oversight.

Waste hauling companies should still be able to enter into contracts and perform work hauling food and other compostable materials, even if the destination of those materials changes from the landfill to a composting facility. Waste disposal companies have expressed interest in operating their own compost facilities to accept yard and food materials, and several facilities in Wisconsin have already commenced operations. The economics of these waste disposal company activities are not clear, but the costs of operating a small compost facility are likely outweighed by the benefits to the landfill facility of the compost that is being produced to serve as topsoil, cover soils, or a marketable product.

State fiscal effect

Decrease existing revenues.

Local government fiscal effect

Indeterminate.

Units affected

Towns, Villages, Cities, Counties.

Agency Contact Person

Brad Wolbert, Bureau of Waste and Materials Management,

Department of Natural Resources

101 South Webster Street

P.O. Box 7921

Madison, WI 53707

Phone: 608-264-6286

Fax: 608-267-2768

E-mail: Brad.Wolbert@wisconsin.gov

Notice of Hearing

Natural Resources

Fish, Game, etc., Chs. 1—

CR 10-131

DNR # FR-38-10

NOTICE IS HEREBY GIVEN THAT pursuant to section 27.01 (17), Stats., the Department of Natural Resources will hold a public hearing on revisions to Chapter NR 45, Wisc. Adm. Code, relating to the promulgation of a rule that specifies when and where golf carts are allowed in the Governor Thompson State Park and the Peshtigo River State Forest.

Hearing Information

Date and Time:

**December 16,
2010**

**Thursday
4:00pm**

Location:

Stephenson Town Hall
W11280 County Road

Crivitz, WI 54114

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Rudolph Bentley at (608) 267-9481 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule and Submittal of Electronic Comments

The proposed rule and supporting documents, including the fiscal estimate may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov> (Search this Web site using the Natural Resources Board Order No. FR-38-10). If you do not have Internet access, a personal copy of the proposed rule and supporting documents, including the fiscal estimate may be obtained from Kristin Lambert, Bureau of Forest Management, P.O. Box 7921, Madison, WI 53707 or by calling (608) 261-0754.

Submittal of Written Comments

Written comments on the proposed rule may be submitted via U.S. mail to Mr. John Lubbers, Division of Forestry, Wisconsin Department of Natural Resources, 2984 Shawano

Avenue, Green Bay, WI 54313-6727 or by e-mail to john.lubbers@wisconsin.gov. Comments may be submitted until **December 31, 2010**.

Analysis Prepared by the Department of Natural Resources

Statutory authority

Section 27.01 (17) Stats., created under 2009 Wisconsin Act 54, required the Department to promulgate this rule.

Related statute(s) or rule(s)

Related statutes or rules include but are not limited to the following provisions:

340.01 Vehicles – General Provisions, Words and phrases defined.

349.18 Vehicles – Powers of State and Local Authorities, Additional traffic-control authority of counties and municipalities.

23.33 (11p) (a) 2 Conservation, All-terrain vehicles, Local ordinances, Utility terrain vehicle pilot program.

Plain language analysis

The rule defines “golf cart” as a vehicle that can go no more than 20 miles per hour, can carry one to two people and equipment, and is intended for the game of golf.

The rule authorizes the use of golf carts in the Governor Thompson State Park and the Peshtigo River State Forest. The rule describes specifically, which areas on the above mentioned properties are authorized for golf cart use, including six (6) boat landings, one (1) town park leased from the Department, one (1) Department road, and other locations as posted.

The rule also describes how the golf cart must operate, that golf cart operators must possess a valid drivers license, and minimum safety features that the golf cart must possess.

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

A search of federal regulations did not reveal any similar rules.

Comparison with rules in adjacent states

Iowa:

Iowa Code s. 347.247 – Golf cart operation on city streets.

Minnesota:

Minn. Stat. s. 169.045 Special Vehicle Use on Roadway.

Michigan:

Mich. Comp. Laws s. 257.244 – Operation of vehicle by manufacturer, subcomponent system producer, dealer, or transporter with special plate; unauthorized use of special plate; penalties; surety bond or insurance; number of plates; operation of vehicle with dealer plate by vendee or prospective purchaser; issuance of registration plate to move vehicle or trailer.

Illinois:

625 ILCS 5/11-1426.1 – Operation of non-highway vehicles on streets, roads, and highways.

Summary of factual data and analytical methodologies

The Department gathered input in the form of interviews, from user groups, local residents, local units of governments and WPS to determine historical use of golf carts before the Department acquired the lands. In addition, significant consultation occurred with the Department of Transportation

and the Town of Stephenson on existing golf cart ordinances, authority and safety elements.

Analysis and supporting documents used in determination of effect on small business or in preparation of economic impact report

There are no new compliance, reporting, or bookkeeping requirements, nor are there any associated performance standards associated with the proposed rule.

Effect on Small Business

Pursuant to section 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Small business regulatory coordinator

The Department’s small business coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

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.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

State fiscal effect

To adequately administer this new law, both access way construction along with reasonable signage and posting will be required. Signage costs are estimated as 20 signs at \$350 per sign for sign, post, concrete and labor. Total costs of signage estimated at \$7,000. The Department may also need to acquire up to two acres of land to access BL 13, and construct a trail on that acreage. The cost for the land and the trail has not been determined.

Local fiscal effect

These properties are wholly managed by the Department; consequently the approval of these administrative rules would have minimal fiscal effect on local units of government.

Agency Contact Person

John Lubbers

Phone: (920)-662-5132

Fax: (920)-662-5159

E-mail: john.lubbers@wisconsin.gov

Notice of Hearing

Natural Resources

Environmental Protection — Water Supply, Chs. 800—

CR 10-132

DNR # DG-39-10

NOTICE IS HEREBY GIVEN THAT pursuant to sections 227.11 (2) (a) and 281.348, Stats., the Department of Natural Resources will hold public hearings on the creation of Wis. Adm. Code Chapter NR 854 Water Supply Service Area Plans, relating to the establishment of a statewide water supply service area planning process for operators of public water supply systems.

The rule establishes a planning process covering a 20-year period for public water supply systems serving populations of 10,000 or more to help ensure that those systems sustainably provide an adequate quantity and quality of water to their customers.

Hearing Information

December 14, 2010, Tuesday, 2:00 p.m.

Concurrent sessions will be held at the following two locations:

University of Wisconsin – Milwaukee
Lubar Hall, Room S-250,
3202 N. Maryland Avenue
Milwaukee, WI 53211

(<http://www4.uwm.edu/map/buildings/vt-lub-prof.cfm>)

AND

University of Wisconsin – Green Bay
Instructional Services Building, Room 1034
2420 Nicolet Drive
Green Bay, WI 54311

(<http://www.uwgb.edu/team/maps/index.htm>).

December 15, Wednesday, 2:00 p.m.

Concurrent sessions will be held at the following two locations:

University of Wisconsin – Eau Claire
Old Library, Room OL1132
105 Garfield Avenue
Eau Claire, WI 54702-4004

(<http://www.uwec.edu/Maps/campmap.htm>)

AND

The Pyle Center, Room 232
702 Langdon Street,
Madison, WI 53702 (<http://www.map.wisc.edu/>)

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call James McLimans at (608) 266-2726 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule and Submittal of Electronic Comments

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. (Search the Web site using Natural Resources Board Order No. DG-39-10). If you do not have Internet access, a personal copy of the proposed rule and supporting documents may be obtained from Dino Tsois, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707-7921 or by calling (608) 267-4581.

Submittal of Written Comments

Written comments on the proposed rule may be submitted via U.S. mail to Mr. Dino Tsois, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707-7921 or by e-mail to Constantine.Tsois@wisconsin.gov. Comments may be submitted until **December 31, 2010**. Written comments, whether submitted electronically or by mail, will have the same weight and effect as oral statements presented at the public hearings.

Analysis Prepared by the Department of Natural Resources

Statute(s) interpreted

Section 281.348, Stats.

Statutory authority

Sections 227.11(2)(a) and 281.348, Stats

Plain language analysis

This rule supports the implementation of s. 281.348, Stats., as created in 2007 Wisconsin Act 227, to establish a continuing water supply service area planning process for persons that operate public water supply systems that serve a population of 10,000 or more and any person that operates a consecutive water supply system that receives water from a public water supply system required to prepare a plan under this rule. Persons required to prepare a water supply service area plan under this rule must have an approved plan by December 31, 2025. However, persons proposing a new or increased withdrawal from the waters of the Great Lakes basin must prepare a water supply service area plan prior to receiving approval for the new or increased withdrawal. The rule also applies to any person proposing a new or increased diversion from the Great Lakes Basin – regardless of the size of the population. Persons requesting a new or increased diversion must have an approved water supply service area plan before the department will grant an approval of a new or increased diversion. The purpose of water supply service area planning is to systematically evaluate alternative means of supplying water to a delineated water supply service area and to identify a cost-effective water supply alternative for the 20-year planning period.

The proposed rule requires that persons preparing a water supply service area plan: include the identification of water supply options that are based on a cost-effectiveness analysis of regional and individual water supply and water conservation alternatives; delineate a water supply service area; forecast populations and water demands; establish population densities and population forecasts; assess environmental impacts of implementing water supply alternatives; analyze how the plan is consistent with comprehensive and other planning processes; and conduct a public participation process, including review and comment, for a proposed water supply service area plan.

Summary of the factual data and analysis that support the proposed rule

Information from published scientific literature, industry manuals, information from other states and consultation with the Wisconsin Public Service Commission were reviewed in the development of the core elements of the rule. Additionally, the department considered the input from an advisory committee, which included representatives from public water supply systems, municipal and town organizations, urban planners and environmental organizations in the development of the water supply service area planning process.

Analysis and supporting documents used in determination of effect on small business

The proposed rule is estimated to affect approximately 77 public water supply systems serving populations of 10,000 or more throughout the state. The rule will affect public water supply systems owned or operated primarily by a city, village, town, utility district or municipal water district.

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

There are no comparable federal regulations pertaining to a water supply service area planning process.

Comparison with rules in adjacent states

The following table compares water supply service area planning requirements in adjacent states.

Water Supply Service Area Planning Comparison				
Wisconsin	Michigan	Illinois	Iowa	Minnesota
A water supply planning process is established for public water supply systems that serve populations of 10,000 or more or persons proposing a new or increased diversion of Great Lakes water. The planning process includes a cost-effectiveness analysis of water supply and water conservation alternatives that can sustainably supply an adequate amount of water of sufficient quality. The water supply service area plan must include a delineation of the water supply service area, describe current and projected water demands, and describe plans to meet projected water demand. The plans shall also assess environmental impacts. The rule also establishes a public participation process, timelines for plan submittal by December 31, 2025, and a department plan approval process.	Publicly owned and operated community water suppliers that operate a waterworks system are required to submit a general plan that identifies water system needs for 5-year and 20-year planning periods by January 1, 2016. The general plan may include information about current reliability studies, annual pumpage reports, a sample siting plan, a water protection plan, a water conservation and efficiency program, waterworks operation and maintenance programs, regional planning documents and relevant land use plans for the service area. Administrative rules require a public water supply system to conduct a hydrogeological study of the groundwater source to determine the availability of water and consideration of other hydrogeological conditions and water quality assessments. Administrative code also requires public water systems proposing use of a surface water supply to conduct an assessment of surface water sources including a determination of the availability of an adequate and dependable water supply source.	A water supply planning process is conducted for two regional planning agencies in the state that includes the Northeast Region and the East-Central Region. The establishment of the two water supply planning areas is based on population densities and establishment of priority watersheds in the state. The water supply plans include an evaluation of water use, water demand and future water demand projections through 2050. The water supply plans also evaluate future water supply options based on hydrogeology studies of the area, water conservation, and climate change through 2050.	A Self-Assessment Manual is used to assess Iowa water system viability. The manual is a tool for public water systems to appraise their technical, managerial, and financial capability to provide water supply to their customers. The assessment includes determining the availability and adequacy of water supply sources; treatment requirements; infrastructure needs; operation and maintenance; management and administration; finances; and future planning.	All public water supply systems that serve more than 1,000 people must submit a water supply plan every 10 years for approval. The water supply plans must include a description and evaluation of the water supply system that includes an analysis of water demand, water use trends, treatment and storage capacity, a description of water sources, natural resource impacts, resource sustainability, proposed water sources, alternative capital improvement plan, emergency response procedures, and a water conservation plan.

Effect on Small Business

Persons responsible for submitting a water supply service area plan are owners or operators of public water supply systems. Costs associated with the water supply service area planning process will be managed by the operator of a public water supply system. The costs may be passed on to the customers of the public water supply system through utility rate increases subject to PSC approval and those customers would include small businesses. Costs are likely to be very case specific; however, the department anticipates that any individual utility rate increase resulting from costs imposed by this rule would be relatively small since the costs would be distributed among all customers that the public water supply system serves (residential, commercial and industrial) and due to the 20-year planning period over which the costs could be distributed.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have an economic impact on small businesses.

Small business regulatory coordinator

The Department’s small business regulatory coordinator may be contacted at SmallBusiness@wisconsin.gov or by calling (608) 266-1959.

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 upon the comments received, the department may prepare an environmental analysis before proceeding with the proposal. The environmental review document would summarize the department’s consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

A fiscal estimate has been prepared and a full copy can be obtained following the procedures set forth above under Copies of Proposed Rule.

The department estimates that there are 77 public water supply systems that will need an approved water supply service area plan by December 31, 2025. The department estimates that 10 or fewer public water systems may need an approved water supply service area plan prior to the December 31, 2025 date.

As described below, the department assumes that the annualized costs to public water supply systems is relatively low; in part because many municipalities already conduct some level of water supply service area planning. Local governments may choose to pay for these costs out of existing funds. However, the costs will be incurred at the beginning of the planning period, and if the existing water utility revenues are insufficient to cover these up-front planning costs, the department assumes that public water supply systems regulated by the Public Service Commission (PSC) will have the option to recover the water supply planning costs from water supply users in a variety of ways.

The department estimates that the annual cost for water supply service area planning affecting local governments will be the amounts described below.

1) The department estimates that 38 public water supply systems will plan to meet the projected water demand with new or enlarged water supply facilities. The cost estimate to prepare a water supply service area plan for public water supply systems that plan to meet water demand with new or enlarged facilities is \$57,300. The department assumes that

the \$57,300 cost to prepare the plan would be spread over a 20-year planning period; therefore the annual cost would be $\$57,300/20 = \$2,900$.

2) The department estimates that 19 public water supply systems will need to meet the projected demand with existing water supply facilities. The cost estimate to prepare a water supply service area plan with existing supplies is \$27,300. The department assumes that the \$27,300 cost to prepare the plan would be spread over a 20-year planning period; therefore the annual cost would be $\$27,300/20 = \$1,400$.

3) The department estimates that 20 consecutive systems will have to prepare a water supply service area plan that includes a delineation of the water supply service area, a description of the water supply system, and forecast population and water demand. The cost estimate for consecutive systems to prepare a water supply service area plan is \$16,500. The department assumes that the \$16,500 cost to prepare the plan would be spread over a 20-year planning period; therefore the annual cost would be $\$16,500/20 = \800 .

Agency Contact Person

Dino Tisoris, Water Supply Specialist
Wisconsin Department of Natural Resources Bureau for
Drinking Water and Groundwater
Phone: (608) 267-4581
Email: Constantine.Tsoris@wisconsin.gov

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.

Agriculture, Trade and Consumer Protection **CR 09-054**

Revises Chapter ATCP 1, relating to administrative orders and contested cases.
Effective 1-1-11.

Agriculture, Trade and Consumer Protection **EmR1040**

Creates Chapter ATCP 53, relating to agricultural enterprise area.
Effective 1-1-11.

(See Exemption from Finding of Emergency for EmR1040 in the Emergency Rules Now In Effect.)

Agriculture, Trade and Consumer Protection **CR 09-105**

Revises Chapter ATCP 92, relating to weights and measures regulation, licensing and fees.
Effective 1-1-11.

Agriculture, Trade and Consumer Protection **CR 10-045**

Revises Chapter ATCP 127, relating to the addition of cell phone numbers to the Wisconsin No Call law.
Effective 1-1-11.

Commerce

Fire Prevention, Ch. Comm 14 ***Uniform Dwelling, Chs. Comm 20-25***

Wisconsin Commercial Building Code, Chs. Comm 60-66 **CR 09-104**

Revises Chapters Comm 14, 21, 22, 23, 61, 62 and 63 relating to fire prevention; recordkeeping for fires; fire suppression for mobile kitchens; structural, ventilating, and vapor-barrier requirements for one- and two-family dwellings; and local enforcement, no-smoking signs, carbon monoxide detectors, and energy conservation, for commercial buildings; and affecting small businesses.
Effective 1-1-11.

Commerce

Petroleum Products, Ch. Comm 48 **CR 10-006**

Revises Chapter Comm 48, relating to petroleum and other liquid fuel products, and affecting small businesses.
Effective 1-1-11.

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5 ***Plumbing, Ch. Comm 81-87*** **CR 10-064**

Revises Chapter Comm 5, 18 and 81 to 84 relating to the Wisconsin Uniform Plumbing Code.
Effective 1-1-11.

Commerce

Financial Resources for Businesses and Communities, ***Ch. Comm 100-*** **CR 10-079**

Revises Chapter Comm 106, relating to the Wisconsin Development Fund.
Effective 1-1-11.

Commerce

Financial Resources for Businesses and Communities, ***Ch. Comm 100-*** **CR 10-080**

Creates Chapter Comm 126, relating to the Wisconsin Venture Fund.
Effective 1-1-11.

Natural Resources

Fish, Game, etc., Chs. NR 1- **CR 08-022**

DNR # WM-04-08

Revises Chapters NR 10 and 45 relating to hunting in state parks, including department managed portions of State Ice Age Trail areas.
Effective 1-1-11.

Natural Resources

Fish, Game, etc., Chs. NR 1- **CR 10-051**

DNR # WM-02-10

Revises Chapters NR 8, 10, 12 and 17 relating to license and permit procedures, game and hunting, wildlife damage and nuisance control and dog trials and training.
Effective 1-1-11.

Natural Resources*Fish, Game, etc., Chs. NR 1—***CR 10-053**

DNR # FH-17-09

Revises Chapters NR 20, 21 and 22, relating to commercial fishing on the Mississippi river boundary waters of Wisconsin and affecting small business.
Effective 1-1-11.

Natural Resources*Fish, Game, etc., Chs. NR 1—***CR 10-066**

DNR # WM-21-10

Repeals section NR 10.31 (2); amends sections NR 10.001 (9w), 10.01 (1) (v), 10.125 (1) (c) 2. a., 10.125 (3) (intro) and 10.125 (3) (a) (intro), repeals and recreates 10.01 (1) (b), (g) and (u) relating to hunting and the 2010 migratory game bird seasons and waterfowl hunting zones.
Effective 1-1-11 in part and 2-1-11 in part.

Natural Resources*Fish, Game, etc., Chs. NR 1—***CR 10-069**

DNR # ER-10-10

Amends section NR 29.04 (1) (a) and (b), and creates section 29.04 (1) (am), (c) and (d) relating to Endangered Resources Information Fees.
Effective 1-1-11.

Natural Resources*Environmental Protection — General, Chs. NR 100—**Environmental Protection — Water Supply,
Chs. NR 800—***CR 10-059**

DNR # DG-25-10

Repeals section NR 142.03 (1), (2) and (3) and creates Chapter NR 856, relating to registration and reporting process for water withdrawals and affecting small business.
Effective 1-1-11.

Natural Resources*Environmental Protection — Water Supply,
Chs. NR 800—***CR 10-060**

DNR # DG-24-10

Creates Chapter NR 852, relating to water conservation and water use efficiency for water withdrawals and affecting small business.
Effective 1-1-11.

Natural Resources*Environmental Protection — General, Chs. NR 100—**Environmental Protection — Water Supply,
Chs. NR 800—***CR 10-061**

DNR # DG-23-10

Repeals section NR 142.03 (4) and creates Chapter NR 850, relating to water withdrawal fees in the Great Lakes basin and affecting small business.
Effective 1-1-11.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in the November 30, 2010, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

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

Agriculture, Trade and Consumer Protection **CR 10-055**

Revises Chapter ATCP 60, relating to somatic cell standards for dairy goat milk. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

This rule will benefit the Wisconsin dairy goat industry, by relaxing the current somatic cell standard for dairy goat milk to conform to the newly relaxed national standard. This rule will maintain parity with other states, and will relieve goat milk producers and dairy plant operators of certain problems associated with the current somatic cell standard.

Summary of Comments by Legislative Review Committees

On August 13, 2010, DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate Committee on Agriculture and Higher Education and to the Assembly Committee on Agriculture. Neither the Senate Committee on Agriculture and Higher Education nor the Assembly Committee on Agriculture took any action on the rule.

Barbering and Cosmetology Examining Board **CR 10-014**

Revises Chapter BC 7, relating to examinations for barbers and cosmetologists, aestheticians, electrologists, manicurists, and managers. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed and discussed by the department's Small Business Review Advisory Committee and determined that the rules will not have any significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were reported.

Children and Families

Family and Economic Security, Chs. DCF 101-153 **CR 10-078**

Creates Chapter DCF 110, relating to transitional jobs for low-income adults. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

The rule will affect small businesses as defined in s.

227.114 (1), Stats., but will not have a significant economic impact on a substantial number of businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5 **CR 10-039**

Revises Chapter Comm 5, relating to building contractor registration. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

The rules clarify and revise the requirements and definitions in section Comm 5.30 relating to Building Contractor Registration as mandated by 2009 Wisconsin Act 28. The definition of "construction business" has been broadened to include additional trades that are regulated by departmental codes. The rules require the registration of trades and businesses that construct, install or alter mechanical equipment and devices such as boilers, gas systems, piping, mechanical refrigeration systems serving a building or structure. In addition, the rules expand the registration requirement to those trades or businesses involved in the construction, installation or alteration of permanent devices or structures regulated under the amusement rides code and the sanitation code. The rules create administrative procedures and a forfeiture process for those persons or entities doing construction- or installation-related work without a registration number.

Summary of Comments by Legislative Review Committees

No comments received.

Corrections **CR 09-120**

Revises Chapter DOC 302, relating to sentence computation and modification. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

The rules are not applicable to small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Earned Release Review Commission

CR 09-119

Repeals and recreates Chapter PAC 1, relating to the release of inmates from state prison through parole or other procedures established through 2009 Wis. Act 28. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

The Earned Release Review Commission has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in § 227.114, Stats.

Summary of Comments by Legislative Review Committees

No comments reported.

Insurance

CR 10-065

Revises sections Ins 17.01 (3) and 17.28 (6), relating to fiscal year 2011 fund fees and mediation panel fees. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments received.

Natural Resources

Environmental Protection — Wis. Pollutant Discharge Elimination System, Chs. NR 200—

CR 10-035

DNR # WT-25-08

Revises Chapter NR 217 and repeals and recreates section NR 102.06, relating to phosphorus water quality standards criteria and limitations and effluent standards. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

Food processing facilities and cheese factories were identified as potential categories of small businesses that would most directly be affected by these rule revisions. Data on these types of facilities was analyzed and there are few, if any, small businesses that directly discharge wastewater containing phosphorus to lakes or streams. Many small cheese factories land apply their wastes and do not discharge wastewater containing phosphorus. Therefore, this rule revision does not anticipate any additional compliance or reporting requirements for small businesses.

If there is an impact on small businesses as a result of these rule revisions, it would likely be an indirect fiscal impact. Many small businesses discharge their wastes to a municipal wastewater treatment facility. If a municipal wastewater treatment plant's wastewater discharge permit is modified to require further removal of phosphorus, it is likely that the cost to provide additional treatment levels will be absorbed by increasing sewer use charges. Some small businesses may experience an increase in sewer service fees as these rule revisions are implemented statewide.

Some municipalities may also require specific small businesses to provide pretreatment for phosphorus removal if a wastewater discharge from a small business contributes significant loadings of phosphorus to the sanitary sewer system. Implementation of these rule revisions may result in additional costs for phosphorus pretreatment to a select subset of small businesses.

The department is unable to specifically estimate the indirect fiscal impact to small businesses as a result of implementation of this rule package because of the variability of each situation.

Summary of Comments by Legislative Review Committees

No comments reported.

Natural Resources

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

CR 10-033

DNR # AM-06-09

Revises Chapter NR 433, relating to implementation of best available retrofit technology for the protection of visibility in mandatory Class I federal areas. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

The existing rule requirements apply to large industrial sources or electric generation units which are not small businesses. Therefore based on the limited nature of the proposed rule changes there is no impact anticipated to small businesses.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a hearing and the Department did not receive any comments or request for modifications from the committees.

Natural Resources

Environmental Protection — Air Pollution Control

Chs. NR 400—

CR 10-048

DNR # AM-12-10

Revises Chapters NR 400, 405 and 406, relating to permit requirements for Class I areas, and affecting small business. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

These proposed rules apply only to larger sources of air pollution which are not, in general, small businesses. The Department believes it is unlikely any small business would be impacted by these proposed rules.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a hearing and the Department did not receive any comments or request for modifications from the committees.

Natural Resources

Environmental Protection — Air Pollution Control

Chs. NR 400—

CR 10–049

DNR # AM–13–10

Revises Chapters NR 484 and 485, relating to the vehicle inspection and maintenance program and affecting small business. Effective 12–1–10.

Summary of Final Regulatory Flexibility Analysis

Small businesses that own vehicles subject to the inspection maintenance (I/M) program have been and will continue to be affected by the I/M program in the same way that individual vehicle owners are affected. The proposed rule may have a small, but not significant, economic impact on those small businesses that own non-exempt vehicles registered in Sheboygan County. The DNR estimates that the proposed rule will increase the average repair cost per failed vehicle in Sheboygan County by \$216.

Improved fuel efficiency resulting from the more thorough repairs may offset some of these increased costs.

The proposed rule will not impose any new requirements on small businesses.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a hearing and the Department did not receive comments or requests for modifications from the committees.

Natural Resources

Environmental Protection — Air Pollution Control

Chs. NR 400—

CR 10–050

DNR # AM–16–10

Revises Chapters NR 400, 404, 405, 406, 407, 408 and 484, relating to permit requirements for particulate matter emission. Effective 12–1–10.

Summary of Final Regulatory Flexibility Analysis

Major sources that are currently subject to the Title V and PSD program generally do not qualify as small business under s. 227.114 (1), Wis. Stats. The proposed rule is not expected to have a significant impact on small business.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a hearing and the Department did not receive comments or requests for modifications from the committees.

Natural Resources

Environmental Protection — Water Supply,

Chs. NR 800—

CR 09–073

DNR # DG–19–09

Repeals and recreates Chapters NR 809 and 811, and creates Chapter NR 810, relating to safe drinking water design requirements for community water systems, and

requirements for the operation and maintenance of public water supply systems. Effective 12–1–10.

Summary of Final Regulatory Flexibility Analysis

Typically, the Department has little flexibility with drinking water regulations since State rules can be no less stringent than the federal regulation. Flexibility in the rule will be used to reduce monitoring costs and complexity wherever possible. These rules should not have a significant impact on small business since the water systems operated by small businesses such as taverns and restaurants are already subject to the inspection and deficiency correction requirements included in the rule modifications. Therefore, under s. 227.19(3m), Stats., a final regulatory analysis is not required.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and the Assembly Committee on Natural Resources. A hearing was held by the Senate Committee on June 30, 2010. A Department presentation was made by Lee Boushon recommending adoption of Rule No. CHR–09–073. The legislative review period has expired.

Public Instruction

CR 10–002

Repeals and recreates section PI 11.36 (6), relating to the identification of children with specific learning disabilities. Effective 12–1–10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments reported.

Public Instruction

CR 10–074

Revises Chapter PI 45, relating to the use of race-based nicknames, logos, mascots and team names by school boards. Effective 12–1–10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments reported.

Public Instruction

CR 10–075

Revises Chapter PI 43, relating to education reform. Effective 12–1–10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments reported.

Public Instruction**CR 10-083**

Revises Chapters PI 8 and 34, relating to educator preparation and licensing flexibility. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments reported.

Revenue**CR 10-093**

Revises Chapter Tax 4, 7, 8, 9 and 11, relating to motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms; fermented malt beverage tax return and refund claim forms; intoxicating liquor report, tax return, and refund claim forms; cigarette and tobacco products report, tax return and refund claim forms; and sales and use tax, local exposition tax, and premier resort area tax return forms. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments reported.

Revenue**CR 10-094**

Revises Chapter Tax 11, relating to sales and use tax. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments reported.

Revenue**CR 10-095**

Revises Chapters Tax 1, 2 and 3, relating to electronic funds transfer; original and amended corporation franchise and income tax returns; information returns and wage

statements; returns of persons other than corporations; the recycling surcharge; estimated tax requirements; addback and disclosure of related entity expenses; pass-through entity withholding; and the dividends received deduction for corporations. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments reported.

Transportation**CR 10-070**

Revises Chapter Trans 100, relating to safety responsibility, damage judgment, and mandatory insurance laws. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

This regulatory change has no impact on small business. The safety responsibility and damage judgment portions of this rule making largely codifies existing DOT policy with regard to the administration of the safety responsibility and damage judgment laws. This rule making related to filings in lieu of mandatory insurance are not expected to impact small business in any manner. The new mandatory insurance law itself may require small businesses that lack automobile coverage to obtain insurance or make a filing in lieu of insurance with the Department. The Department does not anticipate any fiscal effect upon small businesses from this codification.

Summary of Comments by Legislative Review Committees

No comments reported.

Workforce Development***Apprenticeship, Chs. DWD 295-296*****CR 10-073**

Revises Chapter DWD 295, relating to the state apprenticeship program and affecting small businesses. Effective 12-1-10.

Summary of Final Regulatory Flexibility Analysis

The rule changes affect small businesses as defined in s. 227.114 (1), Stats., but do not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **November 2010**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

Revisions

Agriculture

Ch. ATCP 60

ATCP 60.15 (4)

ATCP 60.20 (3), (6) (intro.), (b), (c)

Barbering and Cosmetology Examining Board

Ch. BC 7

BC 7.01

BC 7.02 (1), (2)

BC 7.03 (1) to (3)

BC 7.04 (1) to (5)

BC 7.05

BC 7.06

BC 7.07

BC 7.08

BC 7.09 (2) to (4)

Children and Families

Ch. DCF 110 (Entire Chapter)

Commerce

Ch. Comm 5

Comm 5.02 Table

Comm 5.06 Table

Comm 5.12

Comm 5.125

Comm 5.30 (1) (b), (c), (1m)

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Editorial Corrections

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

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