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WISCONSIN ADMINISTRATIVE REGISTER

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. 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

2. 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

Commerce (4)

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:	March 11, 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
Extension Through:	January 27, 2011
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

4. EmR1044 — Rule adopted to revise **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: November 28, 2010
Effective Dates: November 28, 2010 through April 26, 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: February 13, 2011
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. EmR1042 — Rule to create **Ins. 3.35**, relating to colorectal cancer screening coverage and affecting small business.

Finding of Emergency

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

Beginning December 1, insurers offering disability insurance policies and self-insured governmental plans are required to offer coverage for colorectal cancer screening. In order to ensure there is no gap in coverage the office needs to promulgate guidance as directed s. 632.895 (16m) (d), Stats., in advance of the initial implementation date.

Publication Date: November 29, 2010
Effective Dates: November 29, 2010 through April 27, 2011

2. EmR 1043 — Rule to **amend s. Ins 3.37 (1) to (5) (intro); and to create s. Ins 3.37 (2m), (3m), (4m) and (5m), and 3.375**, Wis. Adm. Code, relating to health insurance coverage of nervous and mental disorders and substance use disorders, and affecting small business.

Exemption From Finding of Emergency

The legislature by s. 632.89 (4) (b) 2., Stats., provides an exemption from a finding of emergency for adoption of the rule. Section 632.89 (4) (b) 2., Stats., reads as follows:

s. 632.89 (4) (b) 2. Using the procedure under s. 227.24, the commissioner may promulgate the rules under subd. 1., for the period before the effective date of any permanent rules promulgated under subd.1., but not to exceed the period authorized under 227.24 (1) (c) and (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the commissioner is not required to provide evidence that promulgating a rule under this subdivision as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to make a finding of emergency for a rule promulgated under this subdivision.

Publication Date: November 29, 2010
Effective Dates: November 29, 2010 through April 27, 2011

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 (5)

Fish, Game, etc., Chs. NR 1—

1. 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

2. 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

3. 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

4. EmR1039 (DNR # IS-49-10(E)) — 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)

5. EmR1045 (DNR # IS-07-11(E))— Rule to repeal Chapter NR 40.02 (28m); to amend NR 40.04 (3m), and to repeal and recreate NR 40.07 (8), (all as created by Natural Resource Board emergency order EmR1039, DNR # IS-49-10(E)), 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: December 13, 2010

Effective Dates: December 13, 2010 through
See bold text above

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

EmR1046 (DNR # AM-48-10(E))— The Wisconsin Natural Resources Board proposes an emergency order to **amend** 407.02 (4) (b) (intro.), and Table 3 in 407.05 (5) and to **create** NR 400.02 (74m), 400.03 (3) (om), and (4) (go) and

(ki), 405.02 (28m), 405.07 (9), 407.02 (8m) and 407.075 relating to major source permitting thresholds for sources of greenhouse gas emissions and affecting small business.

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. Preservation of the public welfare necessitates putting the forgoing rules into effect prior to the time that it would take if the Department complied with normal procedures.

On April 1, 2010, the U.S. EPA promulgated the first emission standard for gases contributing to climate change, i.e., greenhouse gases or GHG, which will become effective on January 2, 2011. While these standards target automobile emissions, under the Clean Air Act, this action will unintentionally subject stationary sources across the country to complex prevention of significant deterioration (PSD) and Title V permitting and emission control requirements. U.S. EPA attempted to mitigate this unintended effect by promulgating additional rules, which became effective on June 3, 2010, limiting applicability of the permitting requirements. However, Wisconsin sources will not be affected by the new U.S. EPA rules since existing state statute and administrative code do not contain the same applicability limiting provisions. State rules consistent with those at the federal level must be in effect on January 2, 2011 in order to provide the relief U.S. EPA intended for Wisconsin sources. Without these proposed emergency rules, many sources, including municipal landfills, hospitals, asphalt plants, wastewater treatment plants, small wood fired boilers and agricultural digesters, will be considered major emissions sources of GHG, and therefore subject to the permit and emission control requirements for GHG. These permit and control requirements were never intended or designed to address the type or size of sources that could now be affected. Without the proposed changes, the existing rules would have the potential to overwhelm DNR permitting staff, divert resources away from significant environmental issues, and delay issuance of construction permits for critical projects for expanding businesses.

Therefore, the Department finds that the proposed emergency rules are necessary and appropriate for the preservation of the public welfare.

Publication Date: December 15, 2010

Effective Dates: December 15, 2010 through
May 15, 2011

Hearing Date: January 21, 2011

(See Notice this Register)

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
Extension Through: January 27, 2010
Hearing Date: September 28, 2010

Scope Statements

Commerce

Flammable, Combustible and Hazardous Liquids, Ch. Comm 10

Subject

Revises Chapter Comm 10, relating to flammable, combustible and hazardous liquids.

Objective of the Rule

The planned rule changes would primarily clarify and refine the comprehensive update of this chapter that the Department adopted in 2008.

Policy Analysis

Under chapter 101 of the Statutes, the Department is required to adopt and administer rules for safe storage, handling and use of flammable, combustible and hazardous liquids. These liquids, such as gasoline, are an important and often essential element in daily life, business and industry. However, the liquid and vapor phases of these products migrate very easily, which can and has resulted in serious fire, environmental, life–safety, and health–exposure risks and damage.

In 2008 the Department completed an extensive and comprehensive update of the rules, which included several substantial changes that were needed to achieve consistency with overriding federal regulations. In implementing this extensive update, through numerous training sessions, plan reviews, inspections, and renewals of operating permits, the Department has found several aspects of the rules that could be made easier to understand and more practical to apply.

The alternative of not promulgating these rule changes would result in continuing, unnecessary difficulty in applying the current rules.

Statutory Authority

Sections 101.02 (15), 101.09 (3), 101.14 (1) (a) and (4) (a), 101.142, and 227.11 (2) (a) of the Statutes.

Comparison with Federal Regulations

Federal regulations for aboveground storage tanks do not address fire and public safety issues or groundwater pollution issues, except for protecting potable water supply sources. Federal regulations for underground storage tanks do not address fire and public safety issues or surface water pollution issues, except for protecting potable water supply sources.

The planned rule changes are not expected to conflict with these federal regulations.

Entities Affected by the Rule

The planned rule changes are expected to benefit entities that design, install, inspect or operate storage tank systems for flammable, combustible or hazardous liquids.

Estimate of Time Needed to Develop the Rule

The staff time needed to develop the rule changes is expected to range from 100 to 150 hours, depending upon the associated complexity. This includes research, rule drafting, and processing the rule changes through public hearings,

legislative review and adoption. There are no other resources necessary to promulgate the rule changes.

Commerce

(Republished from Register 659, Nov. 30, 2010, to correct Agency heading.)

Financial Resources for Businesses and Communities, Chs. Comm 100 —

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.

Medical Examining Board

Subject

Revising Wis. Admin. Code Chapter MED 8.

Objective of the Rule

The Medical Examining Board seeks to modernize Wis. Admin. Code Chapter MED 8 to reflect recent trends in the area of the number of physician assistants a physician may supervise at one time. The proposed revisions will consider how practice specialty, practice setting, and patient population influence the manner in which physicians supervise physician assistants and whether there is any correlation to patient safety.

Policy Analysis

The revisions will be based on a review of the model rule set forth by the Federation of State Medical Boards (FSMB), current trends in the laws and regulations in other states and

the Medical Examining Board's assessment of necessary improvements to enforce the protection of public health and safety.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2) and 448.40(1), Stats.

Comparison with Federal Regulations

None.

Entities Affected by the Rule

The entities affected by the rule include Medical Examining Board, licensed professionals including doctors and physician assistants, health care consumers, and employers of licensed health care professionals.

Estimate of Time Needed to Develop the Rule

It is estimated that 300 hours will be needed to promulgate the rule.

Submittal of Rules to Legislative Council Clearinghouse

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

Health Services CR 10–146

On December 15, 2010 the Department of Health Services submitted a proposed rule-making order to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

Analysis

Revises Chapter DHS 1, relating to status and retention period for records of clients who have unpaid liability to the Department or counties.

Agency Procedure for Promulgation

A 30-day notice under s. 227.16 (2) (e), Stats. is published in this Register. No hearing is required unless, on or before February 1, 2011, the Department of Health Services is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group that will be affected by the rule.

Contact Information

Troy K. Kitzrow
Supervisor, Billing and Collections
Bureau of Fiscal Services
Division of Enterprise Services
Department of Health Services
1 West Wilson Street; Room 750
Madison, WI 53707
608–261–5984
Small Business Regulatory Review Coordinator:
Rosie Greer
608–266–1279
greerj@dhs.state.wi.us

Health Services CR 10–145

On December 15, 2010 the Department of Health Services submitted a proposed rule-making order to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

Analysis

The proposed rule repeals section DHS 88.06 (4), relating to resource center referrals by licensed adult family homes.

Agency Procedure for Promulgation

The department will not hold a public hearing on the proposed rules. The proposed changes bring the existing rules into conformity with section 50.033, Stats., which was revised under 2007 Act 20. Pursuant to section 227.16 (2) (b),

Stats., notice an public hearing are not required. Comments may be submitted until February 1, 2011 to:

Contact Information

For substantive questions on rules contact:
Pat Benesh, Quality Assurance Program Spec–Senior
Division of Quality Assurance
1 West Wilson St., Room 534
Madison, WI 53701
Phone: 608–264–9896
Fax: 608–267–0352
patricia.benesh@wisconsin.gov

Small Business Regulatory Review Coordinator:

Rosie Greer
608–266–1279
greerj@dhs.state.wi.us

Natural Resources

Environmental Protection — Air Pollution Control,

Chs. NR 400 —

CR 10–144

(DNR # AM–17–10)

On December 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 Chapters NR 400, 405 and 407, relating to major source permit thresholds for sources of greenhouse gas emissions.

Agency Procedure for Promulgation

A public hearing is required and will be held on January 21, 2011. The Department's Bureau of Air Management is primarily responsible for promulgation of the rule.

Contact Information

Robert Eckdale – Bureau of Air Management.

Public Service Commission CR 10–143

(PSC # 1–AC–235)

On December 3, 2010 the Public Service Commission of Wisconsin submitted a proposed rule-making order to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

Analysis

The proposed rule revises Chapter PSC 168, relating to the certification of resellers.

Agency Procedure for Promulgation

A public hearing is required and will be held on January 11, 2011. The Telecommunications Division of the Commission is responsible for promulgation of the rule.

Contact Information

Gary A. Evenson, Docket Coordinator

Phone: (608)-266-6744

Email: gary.evenson@wisconsin.gov

Rule-Making Notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

CR 10-106 (Rehearing)

Emergency Rule EmR __ (to be filed prior to 1-1-11)

NOTICE IS HEREBY GIVEN that the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on a temporary emergency rule and proposed “permanent” rule related to seed labeling and sales. These identical rules repeal and recreate Chapter ATCP 20, Wis. Adm. Code. The temporary emergency rule takes effect on January 1, 2011 and will remain in effect until July 1, 2011 or until the “permanent” rule takes effect, whichever is sooner.

Hearing Information

DATCP will hold the public hearing at the time and place shown below.

<u>Date and Time:</u>	<u>Location:</u>
January 11, 2011 Tuesday 9:00am-11:00am	Department of Agriculture, Trade & Consumer Protection Board Room (CR-106) 2811 Agriculture Drive Madison, WI 53718-6777

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by January 2, 2011, by writing to Deb Bollig, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4584. Alternatively, you may contact the DATCP TDD at (608) 224-5058. The hearing facility is handicap accessible.

Submittal of Written Comments

DATCP invites the public to attend the hearing and comment on the temporary emergency and proposed “permanent” rule. Following the public hearing, the hearing record will remain open until **January 14, 2011** for additional written comments. Comments may be sent to DATCP’s Division of Agricultural Resource Management at the address below, or by email to greg.helmbrecht@wisconsin.gov or by email to <http://AdminRules.Wisconsin.gov/>.

Copies of Proposed Rule

You can obtain a free copy of the temporary emergency rule or the proposed “permanent” rule, or both, by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4596 or emailing greg.helmbrecht@wisconsin.gov <http://AdminRules.Wisconsin.gov/>. Copies will also be available at the hearing. To view the temporary emergency rule and proposed “permanent” rule online, go to: <http://AdminRules.Wisconsin.gov/>.

Analysis by Department of Agriculture, Trade and Consumer Protection

The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers Wisconsin’s seed law under ss. 94.38 to 94.46, Stats. The seed law regulates the labeling and sale of agricultural seed. The law applies to nearly all seed sold for sowing purposes, including crop seed, vegetable seed for home gardens, lawn and turf seed, flower seed and native species seed. The law does not apply to tree or shrub seeds.

The 2009 biennial budget act (2009 Wis. Act 28) made significant changes to the seed law. Act 28 repealed many outdated standards effective January 1, 2011 and authorized DATCP to establish new standards by rule.

The temporary emergency rule implements the new law, pending adoption of a proposed “permanent” rule. The proposed “permanent” is identical to this temporary emergency rule. Pursuant to 2009 Wis. Act 28, section 9103(3), the temporary emergency rule took effect on January 1, 2011 and will remain in effect until July 1, 2011 or until the effective date of the proposed “permanent” rule, whichever is sooner.

This rule updates Wisconsin’s seed standards to make them more consistent with federal law, current generally-accepted business practices, the model state seed law published by the association of American seed control officials, and seed testing standards published by AOSA, Inc. (the association of official seed analysts). The rule is designed to protect seed purchasers, to ensure fair and accurate labeling of seed, and to ensure fair competition in the sale of seed.

Statute(s) interpreted

Section 93.07(1), 94.38 to 94.46, Stats.

Statutory authority

Sections 93.07(1) and 94.45(6), Stats. This emergency rule is also adopted pursuant to the nonstatutory provision in 2009 Wis. Act 28, section 9103(3).

Explanation of statutory authority

DATCP has general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction. DATCP has specific authority, under ss. 94.45(6), Stats., to promulgate rules for:

- The testing, labeling, distribution and sale of agricultural seed (including crop seed, vegetable seed for home gardens, lawn and turf seed, flower seed and native species seed).
- Seed labeler licensing.
- Seed law administration.

2009 Wis. Act 28 repealed outdated seed standards effective January 1, 2011, and authorized DATCP to adopt new standards by rule. A non-statutory provision, contained in section 9103(3) of Act 28, authorized DATCP to adopt interim rules by the emergency rulemaking procedure under s. 227.24, Stats., without a finding of emergency. Under this non-statutory provision, the interim rules may remain in effect until July 1, 2011 or until the effective date of proposed “permanent” seed rules, whichever date is earlier.

Related rule(s) or statute(s)

The department of natural resources (“DNR”) administers rules under ch. NR 40 related to the classification and control of invasive species, including invasive plant species. DATCP administers pesticide rules under chs. ATCP 29 and 30 (including pesticides used on treated seed).

Plain language analysis

This rule modifies Wisconsin rules governing the sale and labeling of agricultural and vegetable seed. This rule establishes standards related to seed labels, seed germination, and seed evaluation and testing. It establishes general standards for all agricultural seeds, and specialized standards for certain kinds of seed. The standards in this rule are generally consistent with all of the following:

- The federal seed act (7 USC 1551 et. seq.) and the federal plant variety protection act (7 U.S.C. 2321 et seq.).
- Model standards contained in the *Recommended Uniform State Seed Law* (July 2007) published by the association of American seed control officials.
- Seed evaluation standards and methods prescribed in the *Rules for Seed Testing* (October 1, 2010) published by AOSA, Inc. (the association of official seed analysts).

This rule incorporates seed labeler license fees set by s. 94.43, Stats. (this rule does not change the statutory fees). This rule also creates a mechanism by which DATCP may, for good cause, grant individual variances from labeling requirements under this rule if the variance is consistent with the purposes of this rule and is necessary to avoid unfairness or unnecessary hardship.

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

USDA administers the following federal laws:

- The federal seed act (7 USC 1551 et. seq.). Under the federal seed act, seed shipped in interstate commerce must be labeled with information that allows seed buyers to make informed choices. Label information must be truthful.
- The federal plant variety protection act (7 U.S.C. 2321 et seq.). Under the plant variety protection act, a plant breeder may obtain a certificate of plant variety protection (similar to a patent) for a new plant variety that meets certain criteria.

This rule is consistent with these federal laws.

Comparison with rules in adjacent states

Most states, and all of the states surrounding Wisconsin, have adopted seed labeling and testing standards that are similar to the standards under this rule.

Data and analytical methodologies

DATCP consulted with DNR, the university of Wisconsin–extension, and AOSA, Inc. (the association of official seed analysts) to develop the standards in this rule. DATCP also consulted with an advisory committee that included Wisconsin seed industry representatives and seed purchasers.

Standards Incorporated by Reference

This emergency rule incorporates, by reference, seed testing standards published by AOSA, Inc. (the association of official seed analysts). DATCP has requested the attorney

general’s permission to incorporate these standards by reference. Copies of the standards are on file with DATCP and the legislative reference bureau, and may be obtained from AOSA, Inc.

Small Business Impact

This rule will promote fair competition in the seed industry, for the benefit of seed businesses and seed purchasers. It will update obsolete seed standards, and will ensure that all seed labelers use the same standards for seed labeling and analysis. It will facilitate interstate commerce by making Wisconsin standards more consistent with current standards used by the United States department of agriculture (“USDA”) and other states. This rule will not have any significant adverse impact on affected businesses.

If you have comments or concerns relating to small business impact, you may also contact DATCP’s small business regulatory coordinator Keeley Moll at the address above, or by email at Keeley.Moll@wisconsin.gov or by telephone at (608) 224–5039.

Environmental Impact

This rule will protect the environment by helping to prevent the spread of certain noxious weed seeds. Other parts of the rule will have no environmental impact.

Fiscal Estimate

This rule will have no fiscal impact on state or local government. This rule incorporates, without change, seed labeler license fees set by s. 94.43, Stats.

Agency Contact Person

Questions and comments related to this rule, including hearing comments, may be directed to:

Greg Helmbrecht

Department of Agriculture, Trade and Consumer Protection

P.O. Box 8911

Madison, WI 53708–8911

Telephone: (608) 224–4596

E–Mail: Greg.Helmbrecht@datcp.state.wi.us

Notice of Hearings

(Without Public Hearing)

Health Services**CR 10–146**

NOTICE IS HEREBY GIVEN that pursuant to section 227.11 (2) (a), Stats., and interpreting section 227.11 (2) (a), Stats., and according to the procedure set forth in section 227.16 (2) (e), Stats., the Department of Health Services will adopt the following rules revising Chapter DHS 1, relating to status and retention period for records of clients who have unpaid liability to the Department or counties as proposed in this notice, without public hearing unless, on or before **February 1, 2011**, the Department of Health Services is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group that will be affected by the rule:

Submittal of Written Comments

Comments may be submitted until February 1, 2011 to:
 Troy K. Kitzrow
 Supervisor, Billing and Collections
 Bureau of Fiscal Services
 Division of Enterprise Services
 Department of Health Services
 1 West Wilson Street; Room 750
 Madison, WI 53707
 608-261-5984

Analysis by Department of Human Services**Statute(s) interpreted**

Sections 46.03 (18) and 46.10 (1) to (14) (a), Stats.

Statutory authority

Section 227.11 (2), Stats.

Explanation of statutory authority

Section 227.11 (2) (a), Stats., allows agencies to promulgate rules interpreting the provision of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Related rule(s) or statute(s)

Chapter 46, Stats.

Plain language analysis

In this order, the Department proposes to promote uniformity and cost savings by revising the status and retention period for records of clients who have unpaid liability to the Department or counties. The changes include repealing and recreating rules to more clearly state when a client record may be closed. The changes also include reducing the retention period for closed inpatient mental health records under s. DHS 1.06 (3) (e) from 10 years to 5 years. The current rules are confusing for Department and county staff and have led to different interpretations. The proposed changes may decrease costs and should increase uniformity and accountability for counties and the Department.

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

There appear to be no existing proposed federal regulations that are the same or similar to the proposed rules.

Comparison with rules in adjacent states

Illinois: There appear to be no administrative rules that are the same or similar to the proposed rules.

Iowa: There appear to be no administrative rules that are the same or similar to the proposed rules.

Michigan: There appear to be no administrative rules that are the same or similar to the proposed rules.

Minnesota: There appear to be no administrative rules that are the same or similar to the proposed rules.

Data and analytical methodologies

The Department analyzed ss. 46.03 (18) and 46.10 (1) to (14) (a), Stats., the Department's current practices and existing rules when deciding how to revise the rules proposed in this order.

Analysis and supporting documents used to determine effect on small business

The proposed rules relate to the status and retention periods of client records relating to payment for the services. The proposed rules do not affect businesses.

Small Business Impact

The proposed rules do not affect businesses.

Fiscal Estimate

The proposed changes may decrease costs and should increase uniformity and accountability for counties and the Department. The Department's potential savings may be up to \$1,000 annually. The savings for counties is unknown. The rules do not affect businesses.

Text Of Proposed Rule

SECTION 1. DHS 1.03 (20) (c) is repealed and recreated to read:

DHS 1.03 (20) PAYMENT PERIOD. (c) Third-party sources have been exhausted and the responsible parties have a permanent inability or unlikely future ability to pay.

SECTION 2. DHS 1.06 (3) (d) and (e) are repealed and recreated to read:

DHS 1.06 (3) (d) *Closing client records; record retention period.* Client records may be closed after the department or payment approval authority determines that any one of the conditions listed under s. DHS 1.03 (20) (a) to (c) applies. Closed client records shall be maintained for at least 5 years.

(e) *Audits.* Open and closed client records shall be made available for audit.

Agency Contact Person

Troy K. Kitzrow
 Supervisor, Billing and Collections
 Bureau of Fiscal Services
 Division of Enterprise Services
 Department of Health Services
 1 West Wilson Street; Room 750
 Madison, WI 53707
 608-261-5984

Notice of Hearing**Natural Resources****Environmental Protection — Air Pollution Control
Chs. NR 400 —****CR 10-144, EmR1046**

(DNR # AM-17-10 and AM-48-10(E))

NOTICE IS HEREBY GIVEN that pursuant to sections 227.16 and 227.17, Stats, the Department of Natural Resources, hereinafter the Department, will hold a public hearing on proposed revisions to Chapters NR 400, 405, and 407, Wis. Adm. Code, in permanent rule Order AM-17-10, relating to major source permit thresholds for sources of greenhouse gas emissions on the date and at the time and location listed below. The proposed revisions relate to issues for State Implementation Plan approvability, and the State Implementation Plan developed under sections 285.11(6), Stats., will be revised.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to section 227.24 (4), Stats., the Department will, on the same date and at the same time and location, hold a public hearing

on identical revisions in emergency rule Order AM-48-10(E), adopted by the Natural Resources Board on December 8, 2010 and which was published and became effective on December 15, 2010.

Hearing Information

<u>Date and Time:</u>	<u>Location:</u>
January 21, 2011 Friday 10:00am	Natural Resources State Office Building Room G09 101 S. Webster Street Madison, WI 53703

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Robert Eckdale in writing at the Department of Natural Resources, Bureau of Air Management (AM/7), 101 S Webster, Madison, WI 53702; by E-mail to Robert.Eckdale@wisconsin.gov ; or by calling (608) 266-2856. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule

The emergency order, proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link provided on the Proposed Air Pollution Control Rules Calendar at <http://www.dnr.state.wi.us/air/rules/calendar.htm>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Robert Eckdale, Department of Natural Resources, Bureau of Air Management (AM/7), 101 S. Webster St, Madison, WI, 53702, or by calling 608.266.2856.

Submittal of Written Comments

Comments must be received on or before **Friday, January 28, 2011**. Written comments may be submitted by 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:

Andrew Stewart
Department of Natural Resources
Bureau of Air Management (AM/7)
101 S Webster St, Madison, WI 53703
Phone: 608 266-6876
Fax: 608.267.0560
E-mail: Andrew.Stewart@wisconsin.gov

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

Analysis Prepared by the Department of Natural Resources

Statute(s) interpreted

Sections 227.11 (2) (a), 227.14 (1m) (b), 285.11 (1) and (16), and 285.60, Stats. The State Implementation Plan developed under s. 285.11 (6), Stats., is revised.

Statutory authority

Sections 227.11 (2) (a), 227.14 (1m) (b), 227.24 (1) (a), 285.11 (1) and (16), Stats.

Explanation of statutory authority

Section 227.11 (2) (a), Stats., gives state agencies general rulemaking authority. Section 227.14 (1m) (b), Stats., allows the Department to use the format of federal regulations in preparing a proposed rule if it determines that all or part of a state environmental regulatory program is to be administered according to standards, requirements or methods which are similar to standards, requirements or methods specified for all or part of a federal environmental program. Section 227.24 (1) (a), Stats., gives the Department the authority to promulgate a rule as an emergency rule without complying with notice, hearing, and publication requirements under ch. 227, Stats., if necessary for the preservation of public welfare. Section 285.11 (1), Stats., gives the Department authority to promulgate rules consistent with ch. 285, Stats. Section 285.11 (16), Stats., requires the Department to promulgate rules that specify the amounts of emissions that result in a stationary source being classified as a major source. This section requires the rules to be consistent with but no more restrictive than the federal Clean Air Act.

Related statute(s) or rule(s)

None.

Plain language analysis

On April 1, 2010, US EPA promulgated the first standard for regulating motor vehicle gases contributing to climate change, i.e., greenhouse gases or GHG. Because of the way the Clean Air Act (CAA) is structured, once GHG emissions from motor vehicles are subject to regulation, stationary sources become regulated for these gases. Without further action by EPA, this standard has the unintended affect of subjecting literally tens of thousands of sources across the country to some of the most complex air permit and emission control regulations. In order to mitigate this unintended effect, EPA promulgated on June 3, 2010 (75 FR 31514), an additional "tailoring" rule that limits the number of sources subject to the permit and emission control regulations.

Under current state statutes and administrative code, Wisconsin sources will become subject to permit and emission control requirements on January 2, 2010. However, Wisconsin sources will not benefit from the tailoring rule limiting applicability under air permit and emission control regulations until revisions can be made to Wisconsin administrative code. This order proposes to revise the administrative code to make it consistent with the new federal rule.

Specifically, this proposal will define the greenhouse gases subject to regulation, establish greenhouse gas emission thresholds, that if exceeded, will trigger permitting and emission control requirements, and establish global warming potential factors which are used to calculate individual greenhouse gas emissions on an equivalent and comparable basis.

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

U.S. EPA promulgated rules in 40 CFR parts 51 and 70 as revised on June 3, 2010 (75 FR 31514) to relieve overwhelming permitting burdens that would, in the absence of these rule, fall on permitting authorities and sources. They accomplished this by tailoring the applicability criteria that determine which GHG emission sources become subject to

the PSD and Title V programs of the CAA. In particular, EPA established with this rulemaking a phase-in approach for PSD and Title V applicability, and established the first two steps of the phase-in for the largest emitters of GHG.

Under these federal rules, the first step, which will begin on January 2, 2011, PSD or Title V requirements will apply to sources' GHG emissions only if the sources are subject to PSD or Title V anyway due to their non-GHG pollutants. Therefore, EPA will not require source owners or operators to evaluate whether they are subject to PSD or Title V requirements solely on account of their GHG emissions. Specifically, for PSD, Step 1 requires that as of January 2, 2011, the applicable requirements of PSD, most notably, the best available control technology (BACT) requirement, will apply to projects that increase net GHG emissions by at least 75,000 tpy carbon dioxide equivalent emissions, but only if the project also significantly increases emissions of at least one non-GHG pollutant. For the Title V program, only owners or operators of existing sources with, or new sources obtaining, Title V permits for non-GHG pollutants will be required to address GHG during this first step.

The second step of the federal rules, beginning on July 1, 2011, will phase in additional large sources of GHG emissions. New sources as well as existing sources not already subject to Title V that emit, or have the potential to emit, at least 100,000 tpy carbon dioxide equivalent emissions will become subject to the PSD and Title V requirements. In addition, sources that emit or have the potential to emit at least 100,000 tpy carbon dioxide equivalent emissions and that undertake a modification that increases net emissions of GHG by at least 75,000 tpy carbon dioxide equivalent emissions will also be subject to PSD requirements.

An important provision of these federal rules is that PSD and Title V permitting is only triggered when both the appropriate traditional mass-based applicability threshold, i.e., 100 tpy or 250 tpy, and the GHG carbon dioxide equivalent emission threshold are exceeded.

U.S. EPA also makes certain commitments to conduct studies related to potential regulatory burdens which could result from lowering the applicability threshold from what is contained in the current rule. Except for these federal commitments, the rules proposed here are consistent with the federal rules.

The greenhouse gas endangerment finding (74 FR 66496), EPA's memorandum entitled "Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program" (75 FR 17004) and the motor vehicle (75 FR 25324) and tailoring (75 FR 31514) rules have been challenged by various parties, nationally. In the event that courts or Congress stay or otherwise invalidate the finding, interpretation and both rules related to greenhouse gases the Department will act to invalidate the emergency rule and re-evaluate the need for a permanent rule in light of the court's or Congressional actions.

Comparison with rules in adjacent states

The states of Illinois and Minnesota are US EPA delegated states so they do not need to amend their state rules to implement the provision of the federal tailoring rule. Michigan and Iowa are SIP approved states like Wisconsin, so they will need to implement rules similar to what are being proposed here in order to modify their permit program and implement the provisions of the federal rule.

Summary of factual data and analytical methodologies

The proposed rule is based on the federal rule changes. Information on the federal rule changes can be obtained from federal registers published on October 27, 2009 (74 FR 55292), October 30, 2009 (74 FR 56260), and June 3, 2010 (75 FR 31514).

Analysis and supporting documents used to determine effect on small businesses

The Department did not conduct an independent analysis of the effect on small business, but is relying on the analysis performed by the US EPA. This analysis can be found in US EPA's rule docket for Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Proposed Rule [EPA-HQ-OAR-2009-0517; FRL-8966-7], October 27, 2009 (74 FR 55292).

Effect on Small Business

This proposal will prevent unintended impacts to small businesses resulting from promulgation by U.S. EPA of emission standards for GHG, by limiting the number that may become subject to the Title V and PSD permitting programs. 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

This proposal limits the applicability of Department permitting consistent with the federal permit program, resulting in fewer permit actions. This translates to an expected cost avoidance for both the Department and the private sector over what costs will be imposed if the proposal is not approved. The following information and assumptions were used in estimating the cost avoidance, which are summarized in the table below. (Note that estimates in this analysis are based on EPA proposed rules published in September, 2009. EPA's final rule establishes applicability thresholds much higher than originally proposed, therefore, the cost avoidance numbers go up significantly from what is presented here.)

National average dollar per permit costs and national numbers of permits avoided comes from Tables 3-1 and 3-2 in US EPA's Regulatory Impact Analysis for the Proposed Greenhouse Gas Tailoring Rule, Final Report, September, 2009.

Number of permits avoided in Wisconsin was determined by taking a percentage of the national estimate of permits avoided.

Number of industrial sources subject to PSD – Currently the Department issues 8-10% of the nation's PSD permits annually due the historically large manufacturing base in Wisconsin. While there will be some correlation between the industrial base and sources of greenhouse gas emissions it is not expected to be as high as what the Department currently sees under the existing PSD program. For the purposes of this

Fiscal Estimate 5% is being applied to the national estimate of 3,299 permits avoided, resulting in an estimated annual cost avoidance of \$13,947,450 for the private sector and \$7,647,750 for the Department.

Number of commercial and residential sources subject to PSD – Based on an assumption that Wisconsin’s number of sources is proportional to percentage of the national population, 2% is being applied to the national estimate of 37,197 permits avoided, resulting in an estimated annual cost avoidance of \$12,563,928 for the private sector and \$3,709,584 for the Department.

Number of new industrial sources subject to Title V – Currently the Department issues approximately 3% of the nation’s Title V permits. Therefore 3% of the national estimate of 195,895 permits avoided is used in this Fiscal Estimate resulting in an estimated one–time cost avoidance of \$272,398,950 for the private sector and \$115,706,376 for the Department.

Number of new commercial and residential sources subject to Title V – Based on an assumption that Wisconsin’s number of sources is proportional to percentage of the national population, 2% is being applied to the national estimate of 5,956,513 permits avoided, resulting in an estimated one–time cost avoidance of \$593,982,180 for the private sector and \$235,639,140 for the Department.

US EPA notes that significant uncertainties exist in their estimates due to the lack of historical record and permitting experience upon which to base resource needs for including greenhouse gas sources in the PSD and Title V permitting programs. The Department does not have Wisconsin specific information that allows the estimates to be better refined for this Fiscal Estimate.

Agency Contact Person

Andrew Stewart
 Department of Natural Resources
 Bureau of Air Management (AM/7)
 101 S Webster St,
 Madison, WI 53703
 Phone: 608 266–6876
 Fax: 608.267.0560
 E–mail: Andrew.Stewart@wisconsin.gov

Notice of Hearings

Public Instruction

CR 10–139

NOTICE IS HEREBY GIVEN that pursuant to sections 43.09 (2) and 227.11 (2) (a), Stats., and interpreting section 43.24 (3), Stats., the Department of Public Instruction will hold a public hearing as follows to consider proposed permanent rules to revise Chapter PI 6, relating to public library audit requirements. The hearing will be held as follows:

Hearing Information

Date and Time:	Location:
January 13, 2011	Reference and Loan Library
Thursday	Meeting Room
10:00am–Noon	2109 S. Stoughton Road Madison, WI 53716

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to

access any meeting, please call Michael Cross, Director, Public Library Development, at michael.cross@dpi.wi.gov, (608) 267–9225 or leave a message with the Teletypewriter (TTY) at (608) 267–2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Proposed Rule and Contact Person

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.wi.gov or by writing to:

Lori Slauson, Administrative Rules and Federal Grants
 Coordinator
 Department of Public Instruction
 125 South Webster Street
 P.O. Box 7841
 Madison, WI 53707

Submittal of Written Comments

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than **January 19, 2011**, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Public Instruction

Statute(s) interpreted

Section 43.24 (3), Stats.

Statutory authority

Sections 43.09 (2) and 227.11 (2) (a), Stats.

Explanation of statutory authority

Section 43.09 (2), Stats., allows the Division for Libraries, Technology and Community Learning in the Department of Public Instruction to promulgate necessary standards for public library systems. If promulgated, such rules shall be consistent with s. 43.15, Stats., and shall be established in accordance with ch. 227, except that the division shall hold a public hearing prior to adoption of any proposed rule.

Section 227.11 (2) (a), Stats., gives an agency rule–making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute(s) or rule(s)

None.

Plain language analysis

Subchapter III of ch. PI 6, Wis. Admin. Code, specifies requirements for public library systems. Current language under s. PI 6.06 (4) (d) dates from 1972 and must be revised to reflect current minimum standard expectations for governmental audits. The proposed rule language states the present minimum standard for governmental audits as they apply to public library systems and is consistent with other department audit requirements for agencies receiving federal and state funds through the department.

The rules require each public library system to contract with a certified public accountant to audit the system’s general purpose financial statements for the fiscal year. The audit shall be conducted in accordance with all applicable federal laws and regulations and Wisconsin Statutes and

administrative rules including: generally accepted auditing standards; governmental auditing standards issued by the comptroller general of the United States; and the applicable provisions of the United States office of management and budget, circular A-133. The rules also require each public library system to maintain financial statements present in the auditor's report and to submit a corrective action plan when found to be out of compliance.

The proposed rules will apply to public library system audits conducted upon the effective date of this rule.

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

None.

Comparison with rules in adjacent states

Iowa doesn't have any rules relating to library audit requirements.

Illinois requires the board of directors of each library system to:

- Maintain all financial records at the system headquarters.
- Cause an annual audit of the records of the system for the preceding fiscal year and those maintained by the treasurer to be made by an independent public accountant. The certified public accountant shall be guided by "Government Auditing Standards."
- Account for all funds of the library system by expenditure, encumbrance or reserves at June 30 each year.
- Adopt an annual budget for the ensuing fiscal year.
- Maintain an inventory of all equipment purchased.
- Ensure that financial reports are submitted to the state librarian twice a year.

Minnesota requires regional library systems to annually submit an audit of receipts and disbursements. The audit shall be performed by the staff of the state auditor's office, by a certified public accountant, or by a public accountant as defined in Minnesota statutes.

Michigan requires a cooperative library to file with the department a copy of an annual financial audit. If the audit report discloses a deficit or other material deficiency, the cooperative library shall submit a correction action plan for approval by the department.

Summary of factual data and analytical methodologies

See the plain language analysis.

Analysis and supporting documents used to determine effect on small businesses

N/A.

Anticipated costs incurred by private sector

N/A.

Effect on Small Business

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

Initial regulatory flexibility analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Fiscal Estimate

The proposed rules specify the minimum standard expectations for governmental audits.

Wisconsin public library systems are already aware of the requirements specified in the rule and are already complying. Therefore, the rules should not have a fiscal effect on public library systems.

The proposed rules will have no fiscal impact on school districts, the department or small businesses as defined in s. 227.114 (1) (a), Stats.

Agency Contact Person

Michael Cross, Director, Public Library Development, (608) 267-9225, michael.cross@dpi.wi.gov

Notice of Hearings

Public Instruction

CR 10-140

NOTICE IS HEREBY GIVEN that pursuant to sections 43.09 (1) and 227.11 (2) (a), Stats., and interpreting section 43.09, Stats., the Department of Public Instruction will hold a public hearing as follows to consider proposed permanent rules revising Chapter PI 6, relating to public librarian certification. The hearing will be held as follows:

Hearing Information

Date and Time:

**January 13, 2011
Thursday
10:00am-Noon**

Location:

Reference and Loan Library
Meeting Room
2109 S. Stoughton Road
Madison, WI 53716

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Michael Cross, Director, Public Library Development, at michael.cross@dpi.wi.gov, (608) 267-9225 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Proposed Rule and Contact Person

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.wi.gov or by writing to:

Lori Slauson, Administrative Rules and Federal Grants
Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Submission of Written Comments

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than **January 19, 2011**, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Public Instruction

Statute(s) interpreted

Section 43.09, Stats.

Statutory authority

Sections 43.09 (1) and 227.11 (2) (a), Stats.

Explanation of statutory authority

Section 43.09 (1), Stats., requires the Division for Libraries, Technology and Community Learning in the Department of Public Instruction to issue certificates to public librarians and promulgate, under ch. 227, Stats., necessary standards for public librarians.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute(s) or rule(s)

None.

Plain language analysis

Subchapter I of ch. PI 6, Wis. Admin. Code, pertains to public librarian certification and specifies certification requirements for administrators who serve in municipal, joint, and county public libraries with certain populations. The proposed rules:

Allow Grade II certificates to be issued to applicants holding a bachelor's degree along with a minor in library science if the minor includes or is supplemented by 3 semester credits of coursework, or the equivalent, in advanced public library administration.

Update public librarian certification requirements for Grade II and III certification. Some of the areas of coursework have been changed to reflect the changes in public librarians' work responsibilities. The total number of credits required to be completed will still be a total of 12. However, the rule will provide flexibility as to how those 12 credits may be earned.

Require certification renewal to include at least 10 hours of technology.

Modify the temporary certification requirements for Grade II and III certification to reflect the new coursework required to get a public librarian certification and require at least one course to be completed annually until the certification requirements are complete.

The proposed rules will apply to individuals as specified in the "INITIAL APPLICABILITY" section of the rule.

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

None.

Comparison with rules in adjacent states

Michigan and Iowa have public librarian certification programs that are similar to Wisconsin's. Among the features of their certification programs:

Certification of the directors of public libraries is required in both states. Michigan also has staffing standards that require selected staff in libraries, in addition to the director, to be certified.

Both of the certification programs have multiple levels of certification based on the populations of the communities served.

Both of the certification programs require specified educational attainments and additional library courses based on grade level.

Both of the certification programs require initial certification and recertification at specified time intervals.

The certification programs in Michigan and Iowa require that libraries have certified staff as condition of receiving state funds.

Illinois doesn't have a state certification program; each public library system establishes its own rules for membership requirements.

The certification program in Minnesota is voluntary for library employees.

Summary of factual data and analytical methodologies

To equip public library directors with the knowledge and skills needed in the changing environment of public library service.

Analysis and supporting documents used to determine effect on small businesses

N/A.

Anticipated costs incurred by private sector

N/A.

Effect on Small Business

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

Initial regulatory flexibility analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Fiscal Estimate

The proposed rules will update public librarian certification requirements. The rules update some coursework required to receive Grade II or III certification, but do not require additional coursework beyond the 12 semester credits currently required. The rules also allow four years of temporary certification for an individual to complete the courses needed to receive regular certification.

It is assumed the proposed rules will have no fiscal impact on libraries, school districts, the department or small businesses as defined in s. 227.114 (1) (a), Stats.

Agency Contact Person

Michael Cross, Director, Public Library Development, (608) 267-9225, michael.cross@dpi.wi.gov.

Notice of Hearing**Public Instruction****CR 10-141**

NOTICE IS HEREBY GIVEN that pursuant to sections 118.29 (6) and 227.11 (2) (a), Stats., and interpreting section 118.29 (6), Stats., the Department of Public Instruction will hold a public hearing as follows to consider proposed permanent rules creating Chapter PI 46, relating to training requirements for individuals administering nonprescription and prescription drug products to pupils.

Hearing Information

The hearing will be held as follows:

<u>Date and Time:</u>	<u>Location:</u>
January 12, 2011	GEF 3 Building
Wednesday	Room 041
3:00–4:30pm	125 S. Webster Street Madison, WI 53703

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Douglas White, Director, Student Services/Prevention and Wellness at douglas.white@dpi.wi.gov, (608) 266–5198 or leave a message with the Teletypewriter (TTY) at (608) 267–2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Proposed Rule and Submittal of Written Comments

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.wi.gov or by writing to:

Lori Slauson, Administrative Rules and Federal Grants
Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than **January 18, 2011**, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Public Instruction

Statute(s) interpreted

Sections 118.29 (6), Stats.

Statutory authority

Sections 118.29 (6) and s. 227.11 (2) (a), Stats.

Explanation of statutory authority

Section 118.29 (6), Stats., requires the department to approve training in administering nonprescription drug products and prescription drugs. The administrative rule provides the specifics of the department's medication training requirements.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute(s) or rule(s)

N/A

Plain language analysis

2009 Wisconsin Act 160 requires the department to approve training in administering nonprescription drug products and prescription drugs to pupils by school personnel or volunteers.

The proposed rules require individuals who administer medications to pupils under s. 118.29, Stats., to have medication *skill* training annually and medication *knowledge*

training bi-annually. The rules require the *skill* training to be documented by a school nurse, medical provider or adequately trained parent but do not specify what entity must provide the training. In addition, the rules do not specify what entity must provide the *knowledge* training only that it must be approved by the department.

Emergency rules may be promulgated prior to March 1, 2001, the effective date of the Act's provisions.

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

N/A

Comparison with rules in adjacent states

Illinois, Iowa, Michigan, Minnesota do not have rules relating to medication administration training requirements.

Summary of factual data and analytical methodologies

To determine the training requirements related to medication administration, the Department first reviewed examples of such training from other states and school districts. The Department's drafts of training requirements were then reviewed by experts in the field including the Wisconsin Association of School Nurses, Wisconsin Department of Health Services public health nursing program, pharmacists and medical doctors. Suggestions from these groups helped to shape the final proposed training requirements. Guidelines for medication training follow similar frequency in other areas of healthcare such as use cardiopulmonary resuscitation and automated defibrillation by unlicensed assistive personnel.

Analysis and supporting documents used to determine effect on small businesses

N/A

Anticipated costs incurred by private sector

N/A

Effect on Small Business

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

Initial regulatory flexibility analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Fiscal Estimate

The proposed rules require individuals who administer medications to pupils under s. 118.29, Stats., to have medication *skill* training annually and medication *knowledge* training bi-annually. The rules require the skill training to be documented by a school nurse, medical provider or adequately trained parent. The rules do not specify what entity must provide the knowledge training only that it must be approved by the department.

Local fiscal effect

The knowledge portion of the training may be obtained by using department resources (webcast and SchoolMeds On-Line Medication Training Program) free of charge. However, a school district may provide or contract for such training if approved by the department. It is assumed that most school districts will use the resources provided by the department. Therefore, any costs associated with providing the knowledge portion of the training by the school district will be voluntary and is indeterminate.

The skill portion of the training will have to be provided by a school nurse, medical provider or adequately trained parent. For school districts that have hired or contracted school nursing services, the skill verification for medication administration would likely be the continued responsibility of the nurse at no additional cost. Eighty percent of school districts employ a school nurse. Of the remaining 20 percent, some school districts contract for nursing services and some school districts may have an adequately trained parent willing to verify the skill portion of training.

For school districts that do not have a school nurse or parent, the cost of contracting with a nursing service is \$30 per hour. The time necessary for the nurse to verify the skill would take approximately 10 minutes for each route of medication. The rate of children with special health care needs in Wisconsin statewide is 13.9 percent. However, it is unknown how many different routes of medication may need to be administered to these students. It is also unknown how many of these students attend a school district that does not employ a school nurse. Therefore, costs associated with providing training needed to verify skill medication administration are indeterminate.

State fiscal effect

DPI provides the knowledge training as described above. If this training is not used by school districts, DPI must approve the training used. Costs associated with providing and reviewing training will be absorbed by the department.

Private schools fiscal effect

As with public school districts, the costs to private schools are indeterminate. However, the costs are not expected to have a significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Agency Contact Person

Douglas White, Director, Student Services/Prevention and Wellness, (608) 266-5198, douglas.white@dpi.wi.gov.

Notice of Hearing Public Service Commission CR 10-143

(PSC # 1-AC-235)

NOTICE IS HEREBY GIVEN that the Public Service Commission of Wisconsin proposes an order to renumber section PSC 168.06 (5); renumber and amend section PSC 168.13 (2) (a); amend section PSC 168.09 (2); and create section PSC 168.06 (5) (b) and 168.13 (2) (b) and (c). The proposed amendments would, respectively, establish certain criteria for the recertification of resellers; include section 196.859, Stats., in the list of assessment statutes that apply to large resellers; and clarify the procedure for involuntary revocation of a reseller certificate.

NOTICE IS GIVEN that pursuant to section 227.16 (2) (b), Stats., the commission will hold a public hearing on these proposed rule changes at the time and location below:

Hearing Information

<u>Date and Time:</u>	<u>Location:</u>
January 11, 2011 Tuesday 10:00am	Public Service Commission Amnicon Falls Hearing Room 610 Whitney Way Madison, WI 53705

This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to receive this document in a different format should contact the Docket Coordinator, as indicated in the following paragraph, as soon as possible.

Submittal of Written Comments

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **January 19, 2011**, at noon (**January 18, 2011**, at noon, if filed by fax). All written comments must include a reference on the filing to docket 1-AC-235. File by one mode only.

Industry:

File comments using the Electronic Regulatory Filing system. This may be accessed from the commission's website, <http://psc.wi.gov>.

Members of the Public:

If filing electronically: Use the Public Comments system or the Electronic Regulatory Filing system. Both of these may be accessed from the commission's website, <http://psc.wi.gov>.

If filing by mail, courier, or hand delivery: Address as shown in the box on page 1.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet MUST state "Official Filing," the docket number 1-AC-235, and the number of pages (limited to 25 pages for fax comments).

<u>Comments Due:</u>	<u>Address Comments to:</u>
January 19, 2011 Noon	Sandra J. Paske, Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854
FAX Due: January 18, 2011 Noon	FAX: (608) 266-3957

Analysis Prepared by Public Service Commission of Wisconsin

Statutory authority and explanation of authority

The proposed rule amendments are authorized under ss. 196.01 (1) (d), 196.02 (1) and (3), 196.03 (1) and (6), 196.203 (2) and (3), 196.44, 196.859, and 227.11 (2), Stats.

Section 227.11, Stats., authorizes agencies to promulgate administrative rules. Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3), Stats., grants the commission specific authority to promulgate rules. Sections 196.01 (1d) (c) and 196.203 (2), Stats., define resellers and require their certification to provide telecommunications services in Wisconsin. Section 196.859, Stats., requires the commission to assess telecommunications providers to recover the budgeted costs of the enforcement of the telecommunications trade practices regulations under the jurisdiction of the department of agriculture, trade and consumer protection. Pursuant to its authority in ss. 196.44 and 196.02 (3), Stats., the commission may promulgate a rule interpreting and applying s. 196.859, Stats., to reseller telecommunications providers.

Statute(s) interpreted

The proposed regulations interpret ss. 196.203 (3), 196.03 (1) and (6), and 196.44, Stats. Sections 196.203 (3) and 196.03 (1) and (6), Stats., require that a telecommunications utility, which includes resellers in the alternative telecommunications utility category, provide reasonably adequate services and that such services be priced at just and reasonable rates. For a telecommunications provider, whether a service is reasonably adequate or a rate or charge is just and reasonable is determined by a multi-factor test in ss. 196.03 (1) and (6), Stats. The multi-factor test applies when evaluating what is in the public interest, convenient or necessary with respect to the services and rates and charges of a telecommunications provider. Certification of a reseller is effected under s. 196.203, Stats., which includes in the certification process the commission's right and opportunity to impose provisions of ch. 196, Stats., that the commission believes are necessary for protection of the public interest.

Protection of the public interest is effected by ensuring that only properly certified resellers are doing business in Wisconsin. A streamlined revocation process as proposed aids the elimination from the market of resellers that are unable or unwilling to comply with the law. In addition, the mechanism of voiding of reseller arrangements, contracts, and billings for operations without proper certification is an administrative device to compel resellers to properly obtain and maintain certification at the risk of repaying their Wisconsin-generated revenues gained during unauthorized operations. This device is a means of enforcing provisions of ch. 196, Stats., under s. 196.44, Stats. However, an amendment is proposed here to better calibrate the refund obligation to the nature of the deficiency causing the loss of certification. If a reseller lost certification and then re-applied, the criteria proposed to evaluate the applicant reseller's ability to comply with regulations would strike a better balance between the refund obligation and the cause of the loss of certification. Greater flexibility will aid a speedier return of the applicant reseller to full certification.

Section 196.44, Stats., permits the appropriate enforcement of s. 196.859, Stats., as a provision in ch. 196, Stats., subject to commission enforcement. The proposed rule to make larger resellers subject to assessment is consistent with the commission's discretion and duty to engage in practical and economical enforcement of a legislative direction for the recovery of budgeted costs of the enforcement of the telecommunications trade practices regulations of the department of agriculture, trade and consumer protection.

Related statute(s) or rule(s)

Related rules consist of the other provisions of ch. PSC 168 dealing with resale of telecommunications services and the certification of resellers. That chapter identifies telecommunications services that are legally available for resale, providers that are subject to reseller certification, the application for certification, and how certification is continued through annual report filings. Once an entity is certified as a reseller, the related rules identify the permissible activities in which a reseller may engage and the statutes with which the reseller must comply. Annual reports on such activities are required, which, if not filed, may trigger the revocation of certification. Other activities are identified that may also justify opening a revocation proceeding. Finally, a reseller may also voluntarily surrender its certificate to cease

Wisconsin intrastate operations, but subject to compliance with any outstanding commission orders.

Summary and analysis of the rule amendments

The proposed amendment to PSC 168.06 (5) establishes five criteria that the commission may use to evaluate the amount of revenues that need to be refunded due to operations without certification, as required to enforce PSC 168.06 (1). The proposed criteria afford the commission flexibility to judge each reseller re-applying for certification according to its individual circumstances, taking into account the reason for loss of certification, the cooperation of the applicant, past conduct while operating without authority, the number and type of consumer complaints, and the impact of a proposed refund upon the financial viability of the applicant. This benefits the applicant by informing it as to the requisites for re-certification and by better accommodating equitable arguments that a full refund might be disproportionate to the nature of the failure that resulted in the prior de-certification.

The proposed amendment to PSC 168.09 (2) to insert s. 196.859, Stats., in the list of assessment statutes applicable to larger resellers better informs them of their statutory responsibilities. This treatment accords with the commission's decision in docket 5-TI-1990 in November 2009, to impose the statute on larger resellers by exercise of the reserved power to amend any reseller's existing certificate. Resellers having intrastate Wisconsin gross operating revenues in a calendar year that did not exceed \$200,000 were excluded in that order and remain excluded in this proposed rule amendment. Commission experience fairly suggests that it would be burdensome to require an annual report from smaller providers where the costs of commission processing and provider compliance would likely exceed the few dollars of liability that would accrue to the reseller but for the exemption.

Finally, the proposed amendment of the revocation procedure under PSC 168.13 (2) clarifies and streamlines the revocation process by clearly stating the opportunity to cure non-compliance within the timeline of a revocation proceeding, but before the revocation process proceeds to a formal trial-type hearing. The current language tends to suggest that an objecting respondent reseller should petition for a hearing when in fact a proceeding with an opportunity for hearing is already underway by the commission's noticing an intention to revoke certification. The proposed amendment clarifies that during the initial 30-day window, the reseller can choose either to object and proceed to hearing or to elect to cure deficiencies to avoid the sanction of revocation.

Comparison with existing or proposed federal regulations

There are no known comparable rules at the federal level under the jurisdiction of the Federal Communications Commission.

Comparison with similar rules in adjacent states

Section 196.859, Stats., relates to an assessment by the commission for telecommunications utility trade practices. Such an assessment is apparently unique to Wisconsin. There is no similar rule in any of the neighboring states of Illinois, Iowa, Michigan and Minnesota.

The neighboring states do not have regulations comparable to the proposed rule amendments to provide flexibility in granting re-certification and streamlining the revocation process. Michigan does not certify resellers at all. While the other three states do have reseller certification procedures, if

a reseller lost its certification and then re-applied, each of those states would treat the applicant reseller as if it were seeking an original certification. However, such an applicant would be subject to limited additional staff scrutiny as to whether the cause for the termination of the prior certification had been remedied. Such additional scrutiny is not codified in any rules, however. None of the three states has Wisconsin's refund obligation for revenues obtained during unauthorized operations. The criteria in proposed PSC 168.06 (5) (b) would be unique to Wisconsin.

Effect on Small Business

No specific factual or analytical studies were conducted as to the proposed changes, or with respect to the effects on small businesses. The proposed amendment to PSC 168.09 (2) is intended to avoid smaller reselling entities, especially as the administrative costs for both the commission and the provider would likely exceed the annual assessment liability, which in many cases, based on other assessment statutes administered by the commission, could be quite small.

Anecdotal experience from prior commission applications and proceedings support the amendment of PSC 168.13 (2) and PSC 168.06 (5) (b), as simplifying procedures and thus creating savings and efficiencies in administrative operations for both the reseller and the commission.

Initial regulatory flexibility analysis

The proposed rule changes may affect small businesses, but generally in a way that affords them benefits. No new professional skills will be required of a small business on account of the rule.

The establishment of criteria that may mitigate the current refund of revenues received while operating without certification will provide an opportunity for a small business to present facts, without need of counsel, to show why refunds would not be fair or could adversely affect the economic viability of the company. The proposed rule essentially allows equitable arguments to be made to reduce the refund without imperiling the company and to expedite a reseller's return to certification in good standing.

The insertion of s. 196.859, Stats. (telecommunications utility trade practices), among those assessment statutes applicable to certain larger resellers has already been applied by order in docket 5-TI-1990. The order in that docket applied s. 196.859, Stats., to large resellers having annual gross operating revenues derived from Wisconsin intrastate operations of \$200,000 or more. The smallest resellers will continue to be exempt from reporting if they have gross operating revenues under \$200,000 in a calendar year, as they would otherwise have no duty to file any revenue data with the commission. It would not be worth the commission expense to force small resellers to file annual reports to permit levying assessments under s. 196.859, Stats., that likely would not exceed the cost of preparing and filing the necessary reports.

The last rule change proposing an amendment to the certification revocation procedure clarifies the process. It permits resellers to quickly comprehend their choices: (a) compliance to retain good standing; (b) default to permit the revocation without opposition; or (c) opposition to revocation by going to a contested case hearing. The current rule's lack of clarity suggests an additional petition process for hearing when it was originally intended that there be one proceeding to encompass both an opportunity to cure deficiencies and the right to resort to hearing, if necessary.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

State Fiscal Effects

There are no estimated state fiscal effects from the draft revisions to the Telecommunications Resellers and Resale Rule (PSC 168). A state fiscal effect would occur if the revisions increased or decreased state staff workload, but the proposed rule is not anticipated to change workload for state staff.

The Telecommunications Resellers and Resale Rule revision 1) clarifies the process under which the Commission considers the amount of customer refunds required of resellers who operate without certification, 2) clarifies the process under which resellers may file an objection to revocation of certification, and 3) makes administrative rule consistent with Commission order under docket 5-TI-1990 and applies s. 196.859 to resellers with annual gross operating revenues, derived from Wisconsin intrastate operations, of \$200,000 or more. The rule change to apply s. 196.859 to resellers with intrastate revenues of \$200,000 or more is consistent with current policy and will not change state staff workload. The revisions clarifying the information the Commission will consider in calculating potential refunds to consumers and in finalizing revocation proceedings could streamline state staff work processes. The volume of reseller recertification requests is very small, but can be time-consuming in the one element usually of concern to resellers, the amount of refund due to operations without proper certification. It is anticipated that the flexibility provided in the proposed criteria applicable to establishing and/or reducing required refunds would likely permit much faster resolution of this primary issue of contention. A small, but unquantifiable, increment in staff processing efficiency is expected. Therefore, the proposed rule is estimated to have no state fiscal effect.

Local Fiscal Effects

The revised Telecommunications Resellers and Resale Rule is not estimated to have a local fiscal effect. A local fiscal effect would occur if telecommunication service rates or refunds for customers, which include Local Governments, were affected by this proposed rule. The revisions to the rule are not anticipated to change service rates. In addition, the revisions clarifying process under which the Commission considers the amount of customer refunds required of resellers who operate without certification will not change Commission policy in determining the amount of customer refunds required; so the proposed rule will not affect refund amounts. Therefore, the revised Telecommunications Resellers and Resale Rule is not estimated to have a local fiscal effect.

State fiscal effect

No State Fiscal Effect.

Local fiscal effect

No local government costs.

Long-range fiscal implications

None.

Text Of Proposed Rule

Section 1. PSC 168.06 (5) is renumbered 168.06 (5) (a).

SECTION 2. PSC 168.06 (5) (b) is created to read:

PSC 168.06 (5) (b) If a reseller is seeking recertification after a prior certification under this chapter expired or was

revoked by the commission and it had operated in Wisconsin without certification, the commission may consider the following factors in determining any repayment, refund, or credit respecting the reseller's void arrangements, contracts, and billings under sub. (1):

1. The reason for the failure to obtain certification of its operations under this chapter.
2. The cooperation of the reseller in resolving past deficiencies in conjunction with the application for re-certification.
3. The past conduct of the reseller during the period in which it operated without valid certification under this chapter.
4. The number and type of prior and pending consumer complaints against the reseller based upon violations of this chapter or regulations of any other governmental unit.
5. The impact of repayment, refund, or credit upon the financial viability of the reseller.

SECTION 3. PSC 168.09 (2) is amended to read:

PSC 168.09 (2) Alternative telecommunications utility resellers having gross operating revenues derived from Wisconsin intrastate operations of \$200,000 or more in a calendar year shall comply with and be subject to assessment as provided in ss. 196.85, and 196.858, and 196.859, Stats.

SECTION 4. PSC 168.13 (2) is renumbered 168.13 (2) (a) and amended to read:

PSC 168.13 (2) (a) If the commission has determined that grounds for revocation exist, the commission may commence a revocation proceeding by mailing to the affected reseller, at its last known address on file with the commission, a written notice of the reasons for the proposed revocation of certification under this section. ~~Within 30 days of the mailing date of said notice, a reseller may file a written petition for continued certification. The petition shall contain a statement of any corrective action taken and state whether a hearing is requested or waived. Depending upon the information received, the commission may determine that the grounds for revocation have been remedied, proceed to revoke the reseller's certificate, or take other action as may be appropriate in the circumstances. Failure of a reseller to~~

~~respond under this subsection shall result in revocation of certification without hearing.~~

SECTION 5. PSC 168.13 (2) (b) and (c) are created to read:

PSC 168.13 (2) (b) Within 30 days of the mailing date of said notice under par. (a), a reseller may file a written petition for continued certification. The petition shall contain a statement of any corrective action taken and state whether a hearing is requested or waived. file a written response that may contain one or more of the following:

1. A showing that one or more of the commission's reasons for revocation have been resolved or cured.
2. A showing that one or more of the commission's reasons may be resolved in a remedial compliance plan for which the reseller requests commission acceptance and deferral of certificate revocation.
3. An objection to the commission's reasons for revocation and a request for hearing.

(c) Depending upon the information received in the reseller's response, the commission may determine that the grounds for revocation have been remedied, proceed to revoke the reseller's certificate, or take other action as may be appropriate in the circumstances. Failure of a reseller to respond under this subsection shall result in revocation of certification without hearing.

SECTION 6. EFFECTIVE DATE. This 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

Questions regarding this matter should be directed to the docket coordinator, Gary A. Evenson, at (608) 266-6744. Small business questions may be directed to Gary A. Evenson at the foregoing telephone number, or gary.evanson@wisconsin.gov. Media questions should be directed to Teresa Weidemann-Smith, Communications Specialist, Governmental and Public Affairs, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number; if calling from Wisconsin, dial (800) 251-8345; if calling from outside Wisconsin, dial (608) 267-1479.

Submittal of Proposed Rules to the Legislature

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

Commerce
CR 10-108

Rule-making order revises Chapter Comm 129, relating to tax credits for Angel Investments and Early Stage Seed Investments.

Commerce
CR 10-116

Rule-making order revises Chapter Comm 133, relating to film production accreditation program.

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.

Workforce Development

Public Works Construction Contracts, Chs. 290-294

CR 10-029

Revises Chapter DWD 293.02, relating to the adjustment of thresholds for payment and performance assurance bond requirements and affecting small businesses.
Effective 2-1-11.

Rules Published with this Register and Final Regulatory Flexibility Analyses

*The following administrative rule orders have been adopted and published in the **October 31, 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.

Administration CR 10-063

The Wisconsin Department of Administration (DOA) adopts the order to create Chapter Adm 24 relating to debarment, suspension and ineligibility of DOA contractors. Effective date 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This rule is intended to address potential issues encountered by DOA's Division of State Facilities as it manages building contracts for the State of Wisconsin. The small businesses involved would be expected to include small building contractors and their subsidiaries and affiliates, as well as developers and other firms involved in the design and construction of state facilities.

DOA lacks salary and other necessary data to estimate the comparable costs incurred by private sector contractors in defending themselves during these proceedings. However, the staff time involved would be approximately the same as that required of the DOA staff attorney and staff. Differences in cost would be a function of the billing rate of the private sector legal counsel.

Based upon limited information from the DOT, and upon DOA's experience with problematic contractors, it is anticipated that no more than 6 suspensions or debarments will occur annually, making the impact on small businesses as a class negligible. The impact will be felt only on individual contractors, and then only due to their own contractual and legal behavior. In all cases, DOA will fund the cost of fact-finding hearings with no provision to recover those costs from the contractors involved.

Summary of Comments by Legislative Review Committees

No comments were reported.

Agriculture, Trade and Consumer Protection CR 09-054

(DATCP # 09-R-03)

Revises Chapter ATCP 1, relating to Administrative Orders and Contested Cases. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This rule will have little, if any, impact on business. This rule updates and clarifies, but does not substantially alter, current rules. This rule will not have any significant impact on business, beyond what already exists under current statutes and rules. Existing impacts have been few and minor.

Summary of Comments by Legislative Review Committees

On April 15, 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 Consumer Protection. Neither the Senate committee nor the Assembly committee held a hearing or took any action on the rule.

Agriculture, Trade and Consumer Protection EmR1040

(DATCP # 10-R-04)

Revises Chapter ATCP 53, relating to agricultural enterprise areas. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This rule, by itself, does not have any direct impact on farmers or other business owners. The designation of an AEA does not control or restrict land use. However, farm owners in the designated AEAs are eligible to enter into voluntary 15-year farmland preservation agreements with DATCP. That enables them to claim farmland preservation tax credits under s. 71.613, Stats.

Participating farmers may claim a significant tax credit benefit for the 15-year term of their agreement (\$5 per acre per year, or \$10 per acre per year if the land is also covered by a certified farmland preservation zoning ordinance). The AEA designation may also help reassure farmers and investors that the affected area will remain in agricultural use. The AEA designation may encourage, and help focus, agricultural investment and development.

Farmers who choose to enter into farmland preservation agreements (in order to qualify for tax credits) may incur some costs to keep their land in agricultural use for 15 years, and to comply with state soil and water conservation requirements. Some of these farmers may already be complying with conservation standards. In any case, the decision to enter into a farmland preservation agreement is voluntary. The cost of compliance for participating (if any) may be outweighed by the tax credit benefit.

Many of the farmers who will benefit from this rule are "small businesses." This rule will have a positive effect on those small businesses. This rule will impose no new mandates on small business (farmland preservation agreements are entirely voluntary). This rule is not subject to the small business delayed effective date under s. 227.22(2)(e), Stats.

Summary of Comments by Legislative Review Committees

Under s. 91.84(2), Stats, DATCP was granted the authority to adopt this rule using the procedure under s. 227.24, Stats. As a result, DATCP was not required to transmit the above rule for legislative review.

Agriculture, Trade and Consumer Protection CR 09-105

(DATCP # 09-R-08)

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

Summary of Final Regulatory Flexibility Analysis

This rule modifies current DATCP weights and measures rules. Among other things, this rule implements 2009 Wis. Act 28 (biennial budget act). Act 28 changed state weights and measures laws, including laws related to vehicle scales, weights and measures service companies, vehicle tank meters and liquefied petroleum (LP) gas meters. Act 28 created new license requirements, and authorized DATCP to establish certain license fees and surcharges by rule. Act 28 also authorized DATCP to charge reinspection fees to help pay for reinspections made necessary by weights and measures law violations. The rule does the following:

- Creates new license fee categories and increases the annual fees for *weights and measures* inspections of licensed retail food establishments (it does *not* change *food safety* inspection fees or license categories).
- Increases the annual fee for a vehicle scale operator license and establishes a fee for a permit to install or relocate a vehicle scale (neither fee applies to livestock scales other than vehicle scales).
- Updates and clarifies current requirements for annual testing of vehicle scales and *livestock scales* and reporting test results to DATCP. The rule establishes a vehicle scale operator license surcharge for an operator who fails to comply with the annual reporting requirements (does not apply to operators of livestock scales other than vehicle scales).
- Establishes a fee to process a request, by a vehicle scale operator *or livestock scale operator*, for a variance from an applicable scale construction standards (this rule does not change current construction standards).
- Increases current annual license fees for weights and measures service companies and the current examination fee for certification of an individual weights and measures technician (5-year certification). The examination fee may be paid by the weights and measures service company that employs the technician.
- Implements statutory licensing requirements and establishes annual license fees for operators of LP gas meters. This rule establishes a license fee surcharge for an applicant who is found to have operated an LP gas meter without a license during the previous year. In addition, it establishes basic annual testing and test reporting requirements related to LP gas meters.
- Implements statutory licensing requirements and establishes annual license fees for vehicle tank meter operators. In addition, it establishes basic annual testing and test reporting requirements related to vehicle tank meters. This rule establishes a license fee surcharge for an applicant who is found to have operated a vehicle tank meter without a license during the previous year or who has failed to comply with the basic testing and test reporting requirements during the previous year.
- Establishes reinspection fees to cover DATCP reinspection costs incurred because of law violations found on an initial inspection of a weight or measure (including a scale or other weighing or measuring device).

DATCP has not incorporated a small business enforcement policy in this rule. This rule will affect businesses that operate

or service weights and measures in Wisconsin, most of which are small businesses. Many affected business will pay higher fees, or will pay fees for the first time. However, the fee increases are not expected to have a major impact on overall business costs. Fees for each business category are proportionate to weights and measures program costs for that business category, and cover only a portion of program costs. DATCP will seek voluntary compliance.

Summary of Comments by Legislative Review Committees

On April 21, 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 Consumer Protection. The Assembly Committee on Consumer Protection held a hearing on May 18, 2010 and an executive session June 22, 2010 where they voted to send the rule back for modifications to the fee increases. On June 28, 2010 DATCP agreed to consider modifications to the rule. The Senate Committee on Agriculture and Higher Education held a public hearing on July 28, 2010 and took no action. Beginning July 16, 2010 DATCP started meeting with key industry stakeholders to discuss modifications to the fee increases. On September 14, 2010 DATCP delivered a modified rule to both the assigned Senate and Assembly Committees for review. Neither committee held any hearings or took any action on this modified rule.

Agriculture, Trade and Consumer Protection CR 10-045

(DATCP # 09-R-11)

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

Summary of Final Regulatory Flexibility Analysis

The “No Call” law authorizes DATCP to create a list of telephone numbers of Wisconsin residents who do not want to receive telemarketing calls. When first enacted, the “No Call” law only authorized DATCP to include residential “land line” numbers on the “No Call” list. Since DATCP adopted the current rules, the legislature changed the statutory definition of persons covered by the No Call law to include individuals who are provided commercial mobile service by a telephone utility. This rule updates and clarifies current rule coverage to include individuals who are provided commercial mobile service to the persons who may add their telephone numbers to the No Call list. This rule does all of the following:

- Changes the definition of “residential telephone customer” to “covered telephone customer” and defines this term to mean “an individual in this state who receives basic local exchange service or commercial mobile service from a telecommunications utility.”
- Changes the definition of “nonresidential telephone customer” to “noncovered telephone customer” and defines this term to mean “a person, other than a covered customer, who receives telecommunications service from a telecommunications utility.”
- Amends the definition of “telephone call” to include a voice communication “through the use of commercial mobile service.”
- Clarifies that the definition of “telecommunications utility” includes a person who provides commercial mobile service.

- Renumbers the definitions and amends other parts of the rule to reflect changes in the definitions.

DATCP has not incorporated a small business enforcement policy in this rule as this rule will have few, if any, negative impacts on business. This rule simply updates the definitions and coverage of current rules to reflect law changes already enacted by the Legislature and implemented by DATCP. DATCP will seek voluntary compliance.

Summary of Comments by Legislative Review Committees

On August 31, 2010, DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection and to the Assembly Committee on Consumer Protection. Neither the Senate committee nor the Assembly committee held a hearing or took any action on the rule.

Children and Families

Family and Economic Security, Chs. DCF 101 — 153 **CR 08–034**

Revises Chapter DCF 101, relating to Wisconsin Works sanction good cause exceptions. Effective 1–1–11.

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

None.

Children and Families

Early Care and Education, Chs. DCF 201 — 252 **CR 10–086**

Revises Chapter DCF 201, relating to child care subsidy program integrity. Effective 1–1–11.

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

Legislative committees extended the review periods and the Department submitted germane modifications in response to concerns expressed by Legal Action of Wisconsin and AFSCME Child Care Providers Together. The committees had no further comments.

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5 ***Elevators, Escalators and Lift Devices, Ch. Comm 18*** ***Plumbing, Chs. Comm 81 — 87*** **CR 10–064**

Revises Chapters Comm 5, 18, 81 and 84, relating to Wisconsin uniform plumbing code. Effective 1–1–11.

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.19 (3m), Stats., the Department of Commerce has determined that the proposed rules to update

chapters Comm 81 to 84 will not have a significant impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments received.

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 to 23 and 61 to 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. Effective 1–1–11.

Summary of Final Regulatory Flexibility Analysis

The proposed rules are minimum requirements to meet the directives of sections 101.14, 101.141, 101.573, and 101.575 the statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives that are the basis for the rules.

No new substantive reporting would be imposed on small businesses.

No issues were raised by small businesses during either the public Hearing process or the legislative review process.

Summary of Comments by Legislative Review Committees

No comments received.

Commerce

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

Revises Chapters Comm 48, relating to petroleum and other liquid fuel products. Effective 1–1–11.

Summary of Final Regulatory Flexibility Analysis

Chapter 168 of the Statutes requires that petroleum products meet minimum product–grade specifications as prescribed by rule by the Department; and that the Department’s inspections be conducted, so far as applicable, in accordance with the latest standards produced by ASTM International. Those statutory provisions do not exempt small businesses from these grade specifications or inspection requirements.

Updating chapter Comm 48 to make it consistent with current national standards for petroleum products and fuel ethanol, and inclusion of the clarifications and refinements relating to administration and enforcement, are expected to simplify compliance efforts for both small and large businesses.

No new substantive reporting will be imposed on small businesses.

No significant new other measures or investments would be required for compliance with the proposed rules.

Summary of Comments by Legislative Review Committees

No comments received.

Commerce***Financial Resources for Businesses and Communities,
Chs. Comm 100 —*****CR 10-079**

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

Summary of Final Regulatory Flexibility Analysis

Less stringent application requirements are not included for small-business applicants because the application process has been simplified so as to not impose unnecessary administrative burdens or other impediments on any business that applies for a corresponding grant and loan.

No substantive new reporting will be imposed on small businesses.

The rules are not expected to impose significant costs on small businesses for other measures because the rules address submittal of documentation, and other activities, only by applicants that choose to pursue the grants or loans addressed in the rules.

Summary of Comments by Legislative Review Committees

No comments received.

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

Revises Chapters Comm 126, relating to the Wisconsin Venture Fund. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

Less stringent application requirements are not included for small-business applicants because the rules only address grants for the Wisconsin Angel Network and for research institutions or nonprofit organizations that are involved in economic development.

No substantive reporting will be imposed on small businesses.

Summary of Comments by Legislative Review Committees

No comments received.

Financial Institutions***Banking*****CR 10-097**

Revises section DFI-Bkg 74.01 (4) and creates sections DFI-Bkg 74.01 (4) and (5), relating to the exemption of health care billing companies from the definition of a collection agency. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This proposed rule will have no adverse impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services***Management and Technology and Strategic Finance,
Chs. DHS 1 —******Community Services, Chs. DHS 30 —******Health, Chs. DHS 110 —*****CR 10-091**

Revises DHS 12 Appendix A, 83, 88, 124, 127, 148 and 165, relating to minor technical changes. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This proposed rule will have no adverse impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services***Health, Chs. DHS 110 —*****CR 10-085**

Revises Chapters DHS 110, 111, 112, 113, and 119, relating to emergency medical services, including first responders, emergency medical technicians (EMTs), first responder service providers, non-transporting EMT service providers, and ambulance service providers. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will not have a negative fiscal impact on small or large private sector emergency medical service providers or training centers because the proposed rules consolidate, clarify, and by inserting new standards of care, update existing rules. These changes should make compliance easier and more efficient for small and large private sector providers.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services***Health, Chs. DHS 110 —*****CR 10-084**

Revising Chapter DHS 138, relating to the subsidy of health insurance premiums for persons with HIV infection. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

The rules will not have a significant economic impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Insurance**CR 10-077**

Revises section Ins 51.01, relating to the risk-based capital of health insurers, property and casualty insurers and fraternal insurers. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Insurance CR 10-068

Revises section Ins 3.33, relating to uniform questions and format for individual health insurance. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Insurance CR 09-096 and 10-038

Revises section Ins 3.75, relating to continuation of group insurance policies. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Marriage and Family Therapy, Professional Counseling and Social Work Examining Board CR 10-013

Revises section MPSW 1.11, relating to psychometric testing. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed by the department's Small Business Review Advisory Committee and it was determined that the rules will not have a 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 reported.

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

(DNR # WM-04-08)

Amends 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.

Summary of Final Regulatory Flexibility Analysis

The revisions to chs. NR 10 and 45, Wis. Adm. Code, pertain to hunting seasons and regulations. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

No comments were reported.

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 NR 29.04 (1) (am), (c) and (d), relating to endangered resources information. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

Individuals from small businesses (e.g., private consulting firms) may choose to use the services provided in the rule. In the case of a pilot certification program, small businesses with certified employees may benefit from the rule by being able to provide additional services to their clients. These rules impose no compliance or reporting requirements for small businesses and thus are not expected to have a significant economic impact on a substantial number of small businesses. Therefore, under s. 227.19(3m), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

No comments were reported.

Natural Resources *Fish, Game, etc., Chs. NR 1 —* CR 10-042

(DNR # LF-05-10)

Revises Chapter NR 45, relating to use of departmental property. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This rule does not impose performance standards or compliance or reporting requirements for small businesses. Small business impacts from the commercial use permit fee increase will be minor as the permit fee increase is \$20 per year. Even for a very small-scale business, the cost is likely to be easily absorbed by the business, and offset by revenues generated from the business conducted on the state property. This change is not expected to dramatically increase revenues to the system; rather it updates the fee relative to the value businesses receive from doing business on system properties, and the impact their work may have on the resources or facilities at the property. The current fee is significantly below market value, remains an economical choice for businesses or families to utilize, and is unlikely to impact demand.

The Corporate Event fee at Lakeshore State Park is \$500 for less than 500 attendees and is intended to offset the additional expenses associated with sponsoring the event. The businesses impact is anticipated to be minimal for many small businesses.

The campground fee increases will not have a negative effect on nearby private campground owners. Private

campgrounds may see a small increase in visitation and associated revenue if some campers select the private provider rather than paying the increased fee. The slow-no-wake proposal is not anticipated to have a measurable effect on commercial boat operators.

This is a Type III action under Chapter 150, Wis. Adm. Code, and neither are an environmental impact statement nor an environmental assessment is required.

Summary of Comments by Legislative Review Committees

No comments were reported.

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

(DNR # FH-17-09)

Revises Chapters NR 20, 21, 22, and 24, relating to commercial fishing on the Mississippi river boundary water of Wisconsin. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

Small businesses that may be affected by the proposed rule are commercial fishers who currently hold or may in the future a license for commercial fishing on the Wisconsin waters of the Mississippi River. This rule will allow licensed commercial fishers to use resident or non-resident helpers or crew members and not require the helpers or crew members to each hold an individual license. The rule does require the licensed commercial fisher to notify the department of the name and address of their helpers and crew members before they engage in commercial fishing activities, but only if the helper or crew member does not also hold a current commercial fishing license. This notification may be made when applying for the license, along with the commercial fisher's monthly report, or by calling the department and providing the information.

No new professional skills are needed to comply with the proposed rule.

Summary of Comments by Legislative Review Committees

No comments were reported.

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

(DNR # WM-02-10)

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

Summary of Final Regulatory Flexibility Analysis

The recommendations have been incorporated into the rule.

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The recommendations have been incorporated into the rule.

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

(DNR # WM-21-10)

Revises Chapter 10, relating to hunting and the 2010 migratory bird seasons and waterfowl hunting zones. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small business, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

No comments were reported.

Natural Resources *Environmental Protection — General, Chs. NR 100 —* **CR 09-102**

(DNR # WM-10-02)

Revises Chapter NR 140, relating to groundwater standards. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

No specific direct effect on small business is anticipated. This rule establishes health and welfare related groundwater quality standards used for design, compliance and cleanup determinations. No new funding or business activity will be created.

Summary of Comments by Legislative Review Committees

The proposed rule revisions were referred to the Senate Committee on the Environment, and the Assembly Natural Resources Committee in August, 2010. No action was taken by either committee.

Natural Resources *Environmental Protection — General, Chs. NR 100 —* **CR 09-112**

(DNR # WT-14-08)

Revises Chapter NR 151, 153, and 155, relating to runoff pollution performance standards and prohibitions, the targeted runoff management grant program and the urban nonpoint source and storm water management grant programs, and affecting small business. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

Small businesses directly affected by the proposed agricultural revisions in ch. NR 151 are crop and livestock productions. The Wisconsin Agricultural Statistics Service estimates that in 2007 there were about 76,000 farms in Wisconsin (68,000 livestock operations). Most of these operations meet the definition of a small business. Other small businesses that would benefit from these rule revisions are restaurants, shops, marinas and similar businesses that rely on

tourism and are adversely affected by degraded lake and river water quality caused by nonpoint source pollution.

Proposed revisions to the non-agricultural performance standards in ch. NR 151 will apply to any business involved with land-disturbing construction activity. As part of a new construction project, businesses must meet the performance standards both for the construction phase and the post-construction phase as identified in an erosion and sediment control plan and in a storm water management plan. Small businesses established after the effective date of the proposed rule that are required to obtain industrial storm water permits must also meet post-construction performance standards by designing and installing BMPs as part of their industrial storm water pollution prevention plan. Construction erosion control and post-construction storm water management are federal requirements for land disturbing construction sites of one acre or more. This rule proposes prescriptive measures for construction sites of less than one acre or sites not required to obtain permit coverage under the Clean Water Act. These sites are currently meeting similar performance standards as regulated by the Department of Commerce under ch. COMM 60 prior to its transfer to the department. Chapter COMM 60 requires an erosion control plan, but the proposed changes to ch. NR 151 will not require development of a plan, just implementation of appropriate BMPs. There will be no reporting requirement.

A. Methods for Reducing Impacts on Small Business

1. Less stringent compliance or reporting requirements.

Agricultural Operations

Agricultural livestock and crop producers are required to comply with the new performance standards and modifications to the performance standards contained in ch. NR 151, just as they are for the existing performance standards and manure management prohibitions. Producers who are in compliance with the existing nutrient management performance standard may already be in compliance with the proposed phosphorus index and tillage setback performance standards. The phosphorus index standard is included in nutrient management technical standard 590. The maintenance of streambank integrity, as proposed through a tillage setback standard, is an assumption of the phosphorus index calculation. In circumstances where the phosphorus index has been determined to be insufficient to achieve water quality standards in areas where a total maximum daily load (TMDL) has been approved, a phosphorus index lower than 6 may ultimately be required. The process wastewater performance standard may require producers to have higher levels of pollution control to be in compliance. The annual cap included in the phosphorus index performance standards may mean that some producers will need to modify their tillage practices to reduce the rate of cropland soil erosion.

For existing agricultural facilities and practices, compliance is only required if cost sharing is provided at 70% of the eligible costs, or up to 90% for cases of economic hardship. If actions needed to comply with the rules only involve minor management changes that aren't eligible for cost sharing, then a producer must implement those practices to comply with the standards without cost sharing. New agricultural facilities and practices that are established after the effective date of the new and modified performance standards will need to comply, regardless of the availability of cost sharing. In other words, any new facilities or practices installed or constructed after the performance standards are in effect must be installed or implemented in compliance with the new standards.

The proposed code changes do not require crop producers and livestock operators with less than 1,000 animal units to report to the department. Counties that choose to implement the performance standards and prohibitions via ordinances may require some form of reporting. It is not possible to determine what type of reporting or the impact such reporting would have on these types of operations. In general, the purpose of relying on performance standards and prohibitions is more conducive to minimal reporting, allowing operations to rely on more visual, rather than technical, methods of determining compliance. Reporting required by counties would likely be minimal due to the large number of facilities that will need to meet the standards.

Non-agricultural Businesses

The compliance and reporting requirements for businesses involved with land-disturbing construction sites, including commercial sites, will not change except that a plan is no longer required for sites less than one acre. The rule revisions provide for a clarification of the performance standards when developing an erosion and sediment control plan or a storm water management plan, but do not require additional reporting. Small businesses have been meeting the current reporting and compliance requirements of the permit program. It is not anticipated that small businesses undertaking new construction, whether it be for commercial or industrial sites, will have a harder time meeting the reporting and compliance requirements than any other industry or commercial development.

2. Less stringent schedules or deadlines for compliance or reporting requirements.

Agricultural Operations

Existing livestock operations with fewer than 1,000 animal units and crop producers are only required to comply with the new and modified performance standards if cost sharing is provided. Implementation schedules and deadlines, consequently, are dependent on when cost-sharing dollars are available. The code sets up time frames for compliance once dollars are available. Counties, however, may have different time frames established although cost sharing is still required. Since compliance is contingent on cost-share availability and cost-share dollars will be limited each year, it may be years before the standards are fully implemented and less stringent time frames would only stretch compliance out further. New crop producers and livestock facilities with fewer than 1,000 animal units will need to comply with the new and modified performance standards from the date the rule becomes effective, regardless of the availability of cost sharing. It is more cost effective for new facilities to construct best management practices or otherwise comply with performance standards up front rather than correct problems later on.

Non-agricultural Businesses

The proposed revisions did not change the schedule for compliance and reporting. A Notice of Intent (NOI) is still required to be submitted 14 days prior to commencing construction. Once construction commences, the required plans must be followed. This rule refines the performance standards for the erosion and sediment control plan and storm water management plan and does not change the time schedule. New industrial permittees will continue to have requirements to submit a Storm Water Pollution Prevention Plan prior to construction of a new site. As part of their construction NOI, their storm water management plan and best management practice implementation will have a clear set of performance standards to meet.

3. Consolidation or simplification of compliance or reporting requirements.

Agricultural Operations

Department compliance and reporting requirements for agricultural operations and facilities are not expected to change as a result of the proposed code changes. For crop producers and livestock operations with fewer than 1,000 animal units, the majority of compliance efforts will be handled through the counties. The counties can provide a convenient, accessible contact for operations and several counties have developed compliance checklists and/or tracking and reporting systems to consolidate and simplify compliance identification and verification. As for reporting, as mentioned above, the proposed rule revisions do not require additional reporting.

Non-Agricultural Businesses

For commercial development, the department will be assuming the responsibilities formerly held by the Department of Commerce to regulate storm water discharges from commercial building sites in a manner that meets ch. NR 151 requirements. The rule revisions simplify the construction erosion control requirements that Commerce formerly imposed.

4. Performance standards in lieu of design or operational standards.

For both agricultural and non-agricultural operations, the program requirements are already in the form of performance standards. Many of these promote self-assessments on behalf of the operation because they can be easily recognized and complied with via site management or low-cost improvements. However, meeting some of the performance standards may require technical assistance with designs, operational standards or written management plans.

5. Exemptions from any or all requirements of the rule.

Agricultural Operations

Crop producers and livestock operations with fewer than 1,000 animal units cannot be wholly exempted from applicable performance standards and prohibitions because: 1) the authorizing statute was specifically established to apply to these operations (i.e., nonpoint source agricultural operations); and 2) they are the sectors that need to give further consideration to the impacts of their operations on water quality. Conditional exemptions based on the availability of cost sharing do exist.

Non-agricultural Businesses

Small businesses that undertake construction are required to comply with the construction erosion control and storm water management requirements of ch. NR 151. Construction site erosion, whether it is from a small business or a large one is still potentially a major water quality problem and storm water discharges from these sites have been equally regulated with those of other businesses under ch. NR 216. A small business building and parking lot can have a greater impact than a large business depending on the amount of imperviousness, and its proximity to a water resource. If small business were to be exempt from meeting the performance standards, then the level of control and the attainment of water quality standards would be significantly diminished.

Summary of Comments by Legislative Review Committees

No comments were reported.

Natural Resources

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

(DNR # DG-25-10)

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

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not have a significant economic impact on small businesses. This rule will affect small businesses that supply their own water with water supply systems that have the capacity to withdraw over 100,000 gallons per day. Small businesses, like other entities that are affected by this rule, will have to determine the amount of water used on a monthly basis and report that water use annually. Small businesses that receive water solely from a public water supply will not be impacted by this rule. The registration, withdrawal measurement, and reporting requirements are straightforward and can be accomplished by most individuals with no specific professional background.

Summary of Comments by Legislative Review Committees

No comments were reported.

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 850, relating to water withdrawal fees in the Great Lakes basin and affecting small business. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

Although the rule will primarily affect public water systems, power companies, and large industrial water users, small businesses that will be affected include agricultural operations, including irrigation, livestock, and aquaculture. The department lacks comprehensive data regarding water withdrawals; however, the data the department does have suggests that relatively few small businesses withdraw more than 50 MGY. The proposed modification would limit the fees charged to a small business to \$1,000.

Small businesses that withdraw an average of 100,000 gallons of water per day or more in any 30-day period must report their calendar year water usage to the department by March 1 of the following calendar year. Minimal computer skills will be necessary to report the amount of water withdrawn annually. Fees based on the amount of water withdrawn must be paid by June 30th. The department is developing an online reporting mechanism for water withdrawals that is expected to be easy to use and take little time to complete.

Summary of Comments by Legislative Review Committees

No comments were reported.

Natural Resources

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

CR 10-046

(DNR # AM-06-10)

Revises Chapter NR 410, relating to asbestos inspection and notification fees. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

The proposed rule changes do not increase any regulatory or reporting requirements on small businesses. Asbestos notification fees that are proposed to be increased by this rule are ultimately paid by the owners of the structures that are being renovated or demolished. Some of those owners are small businesses. However, the increased fee amounts are a very small percentage of the overall cost of the related renovation or demolition projects. No comments were received from building owners concerning the proposed increased fees. Three comments were raised during the public comment period by asbestos abatement contractors, who were likely small businesses. It is quite common for abatement contractors to initially pay the notification fees for a project, and then be reimbursed once they are paid for their work. The issue is the notification fee cost that is “carried” by the contractors during the course of the abatement contract. We believe this can be mitigated by structuring abatement project contracts to provide for payment of notification fees by the project owners as those costs are incurred.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. A hearing was held by the Senate Committee on September 29, 2010. No comments or requests for modifications from either committee were forwarded to the Department.

Natural Resources

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

CR 10-047

(DNR # AM-09-10)

Revises Chapter NR 410, relating to air management new source permit application review fees. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

The proposed rule has the potential to have a significant impact on a substantial number of small sources.

I. Identify and discuss why the rule includes or fails to include any of the following methods for reducing the impact on small business.

A. Less stringent compliance or reporting requirements.

Not applicable. Proposal does not impose any compliance or reporting requirements

B. Less stringent schedules or deadlines for compliance or reporting requirements.

Not applicable. Proposal does not impose any compliance or reporting deadlines.

C. Consolidation or simplification of performance standards in lieu of design or operational standards.

Not applicable. Proposal does not impose any performance, design or operational standards.

D. The establishment of performance standards in lieu of design or operational standards.

Not applicable. Proposal does not impose any design or operational standards.

E. The exemption from any or all requirements of the rule:

Proposal applies to sources that do not qualify for exemptions that currently exist in permitting rule. Proposal does provide relief for small business for additional fees that apply over and above the initial application fee when the small business withdraws the permit application prior to a final determination being made.

II. Summarize the issues raised by small business during the rule hearings, any changes made in the proposed rule as a result of alternatives suggested by small business and the reasons for rejecting any alternatives suggested by small business.

No issues were raised by small business during the hearings or during the public comment period.

III. Identify and describe any reports required by the rule that must be submitted by small business and estimate the cost of their preparation.

No reports are required by the proposal.

IV. Identify and describe any measures or investments that small business must take to comply with the rule and provide an estimate of the associated cost.

No measures or investments need to be made by small business to comply with the proposal.

V. Identify the additional cost, if any, to the state in administering or enforcing a rule which includes any of the methods listed in I. A through E.

Not applicable.

VI. Describe the impact on public health, safety and welfare, if any, caused by including in the rule any of the methods listed in I. A through E.

Not applicable.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. A hearing was held by the Senate Committee on September 29, 2010. No comments or requests for modifications from either committee were forwarded to the Department.

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.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not have a significant economic impact on small businesses. This rule will affect small businesses that supply their own water using water supply systems in the Great Lakes basin with certain water withdrawals as identified in Tier 1, Tier 2 or Tier 3 and businesses statewide that withdraw water that will result in a water loss averaging more than 2,000,000 gallons per day in any 30-day period. Small businesses will have to submit an

annual report describing and quantifying the success or failure of the implemented CEMs and documentation of any other implemented CEMs as required for Tier 2 or Tier 3 withdrawals. The implementation of water conservation and efficiency measures required for this rule may require basic engineering and accounting skills to analyze the CEMS for cost effectiveness and determine if the CEMs are environmentally sound and economically feasible. Department staff will offer compliance assistance services to help small businesses implement conservation and efficiency measures. Depending on the business sector, there may be a need for businesses to hire external professionals to assist with engineering or accounting skills to implement the CEMs. Small businesses that receive water solely from a public water supply will not be impacted by this rule.

Summary of Comments by Legislative Review Committees

No comments were reported.

**Public Instruction
CR 10-058**

Amends section PI 34.31 (2) and creates section PI 34.01 (52m), relating to school nurse certification. Effective 1-1-11.

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 were reported.

**Regulation and Licensing
CR 10-081**

An order of the Department of Regulation and Licensing to repeal RL 7.07 (1) and Appendix I to ch. RL 7; to renumber RL 7.03 (6); to renumber and amend RL 7.03 (1) and (3) to (5); to amend ch. RL 7 (title), RL 7.01 (2), 7.02 (1) to (2b) and (7), 7.03 (2), 7.04 (1) (e), (f), (2) and (3), 7.05 (3), 7.07 (3) (a), (b) and (c), 7.08 (2) and 7.11 (1) (d) and (e); and to create RL 7.03 (1) and 7.07 (3) (e) and (4), relating to the impaired professionals procedure. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

After review by the department's Small Business Review Advisory Committee, it was determined that these proposed rules will have no 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.

**Transportation
CR 10-082**

The Wisconsin Department of Transportation adopts an order to create Trans 75, relating to bikeways and sidewalks in highway projects. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

This proposed rule has no effect on small business.

Summary of Comments by Legislative Review Committees

No comments were reported.

**Transportation
CR 10-088**

The Wisconsin Department of Transportation adopts an order amending section Trans 131.01 (2), 131.02 (1m), (6), (10), (34m), (50m), (54) and (56m), 131.03 (title), (4), (6) (title), (a)1., 2. and 4., (d) 2., 3., 5. and 8., (10) (a) 3., (d) 2., (11) (title), (n) and (o), (15) (a)1., 2., 12., 23., 24. and 29., 131.04 (2) (b) and (c), 131.05 (1), (1) (j) and (3), 131.06 (2) (b), 131.07 (1) (b), 131.11 (1) (intro.), (a) and (e), 131.12 (3), 131.13 (1) (a) 4. and 6., and (6) (b) and (c), 131.14 (3) (title), (5) (a), (b) and (e), and 131.15 (1), relating to the vehicle emission inspection process. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

The rule will have no effect on small business.

Summary of Comments by Legislative Review Committees

No comments were reported.

**Workforce Development
Public Works Construction Contracts,
Chs. DWD 290 — 294
CR 10-092**

Revises Chapter DWD 290, relating to prevailing wage rates. Effective 1-1-11.

Summary of Final Regulatory Flexibility Analysis

Because the proposed rule carries forward the new or amended requirements of the statutes as affected by 2009 Act 28, the proposed rule of itself does not have an effect on small business.

Summary of Comments by Legislative Review Committees

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **December 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

Administration

Ch. Adm 24 (Entire Chapter)

Agriculture

Ch. ATCP 1

ATCP 1.01 (1) to (4), (14) to (22)
 ATCP 1.03 (1) (a), (2) (b), (3)
 ATCP 1.05 (1), (4), (6)
 ATCP 1.06 (1), (2), (3) (title), (a), (d)
 ATCP 1.07 (2), (3)
 ATCP 1.08 (title), (1), (2), (3), (4) (c), (d)
 ATCP 1.10 (1) (intro.), (h), (n), (o), (q), (t)
 ATCP 1.11 (title), (1) (b) to (f)
 ATCP 1.12
 ATCP 1.15 (2)
 ATCP 1.16 (1) to (3), (4) (a), (b)
 ATCP 1.20 (5), (8)
 ATCP 1.21 (1) (b)
 ATCP 1.23 (3) (a), (6)
 ATCP 1.24 (2), (3) (title), (a), (b)
 ATCP 1.25 (1) (b) to (d), (4) (b), (c), (6) (b)
 ATCP 1.32 (2), (3) (b)
 ATCP 1.33
 ATCP 1.34

Ch. ATCP 53 (Entire Chapter)

ATCP 53 Appendix A

Ch. ATCP 92

ATCP 92.01 (1e), (1s), (2), (2g), (2r), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20)
 ATCP 92.12
 ATCP 92.20 (2) (d), (3) (intro.), (b)
 ATCP 92.21 (3) (b)
 ATCP 92.30 (title), (1), (2) (title), (3) (title), (intro.), (4) (title), (5) (title), (a), (f), (6), (7), (8), (9)
 ATCP 92.31 (title), (2) (c), (3)
 ATCP 92.43
 ATCP 92.45
 ATCP 92 Subchapter VI (title)
 ATCP 92.50
 ATCP 92.52
 ATCP 92 Subchapter VII (title)
 ATCP 92.60

Ch. ATCP 127

ATCP 127.80 (3), (4), (5), (6), (7), (8), (9), (10)
 ATCP 127.81 (1) (a), (c)
 ATCP 127.82 (1), (2), (3) (a), (b), (6)
 ATCP 127.83 (2) (b), (c), (3), (4)

Children and Families

Ch. DCF 101

DCF 101.20

Ch. DCF 150

DCF 150 Appendix C, D

Ch. DCF 201

DCF 201.02 (7g), (7r)
 DCF 201.04 (5) (title), (5) (a) (title), (b), (bm), (c) (intro.), (cg), (cr), (d), (e), (ed), (eh), (ep), (et), (f), (g)
 DCF 201.07 (1) (e), (f)

Commerce

Ch. Comm 5

Comm 5.06
 Comm 5.99 (5) (c)

Ch. Comm 14

Comm 14.001 (1) (a), (b), (2)
 Comm 14.01 (1) (a), (c), (e), (f), (g), (2) (a) to (f), (3) to (14)
 Comm 14.03 (intro.), (1) to (6), (7), (8) to (10)
 Comm 14.10 (2), (3), (4)
 Comm 14.20
 Comm 14.34
 Comm 14.50
 Comm 14.53
 Comm 14 Appendix A-14.01 (2) (b), (6), (8), (9) (b), (13)
 Comm 14 Appendix Forms

Ch. Comm 18

Comm 18.1702 (1)

Ch. Comm 21

Comm 21.03 (1) (c)
 Comm 21.25 (8) (e), (9) (b), (c), Figure 21.25-G (c)
 Comm 21.26 (8) (a)

Ch. Comm 22

Comm 22.10 (17)
 Comm 22.33 (1), (2)
 Comm 22.38 (3) (d), (e)

Ch. Comm 23

Comm 23.08 (4)

Ch. Comm 48

Comm 48 (title)
 Comm 48.100
 Comm 48.120
 Comm 48.130
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 Comm 48.420
 Comm 48.500
 Comm 48.510
 Comm 48.520
 Comm 48.530
 Comm 48.580
 Comm 48.590
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Ch. Comm 61

Comm 61.60 (2) (a), (b), (c), (d), (e), (f)
 Comm 61.61 (2) (a), (b), (3), (4)

Ch. Comm 62

Comm 62.0400 (5)
 Comm 62.1200 (2) (a)

Ch. Comm 63

Comm 63.0102 (1), (2) (title), (a), (b), (d)
 Comm 63.0504 (3)

Ch. Comm 81

Comm 81.01 (35), (62e), (116), (154m), (160e),
 (160m), (166)
 Comm 81.20 Tables 2, 3e, 4, 7

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 Comm 82.21 (1) (b), (d)
 Comm 82.30 (6) (a), (c), Table 2
 Comm 82.31 (5) (a), (6) (c), (14) (g), (17) (a)
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 Comm 82.34 (title), (1), (2), (3) (intro.), (a), (c), (e) (g),
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 (b), (9), Tables 1, 1a, 1b
 Comm 82.41 (1), (5) (e), Table 2
 Comm 82.70 Table 1
 Comm 82 Appendix

Ch. Comm 84

Comm 84.20 (5) (f), (L) to (o), (6) (a), (b), (d), (e),
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DFI—Bkg 74.01 (4) to (6)

Health Services**Ch. DHS 12**

DHS 12.02 (1) (b)
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 DHS 12.12 (6) (g)
 DHS 12 Appendix A

Ch. DHS 83

DHS 83.02 (5m)
 DHS 83.15 (1) (c), (d)
 DHS 83.28 (7)
 DHS 83.35 (1) (a)
 DHS 83.37 (1) (h)
 DHS 83.38 (1) (g)
 DHS 83.50 (2) (a)
 DHS 83.59 (2) (e)
 DHS 83.64 (4)
 DHS 83 Appendix A

Ch. DHS 88

DHS 88.06 (1) (a)
 DHS 88.10 (5) (b)
 DHS 88 Appendix A

Ch. DHS 110 (Entire Chapter)**Ch. DHS 111 (Entire Chapter)****Ch. DHS 112 (Entire Chapter)****Ch. DHS 113 (Entire Chapter)****Ch. DHS 119 (Entire Chapter)****Ch. DHS 124**

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DHS 138.03 (2), (3), (14)
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MPSW 1.11

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NR 8.04 (2) (b)

NR 8.52 (1) (d)

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Ch. NR 10

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NR 10.01 (1) (b), (g), (u), (v), (3) (e), (ed), (ef), (em)

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NR 10.104 (11) (b)

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NR 21.10

NR 21.11 (1) (intro.), (b), (cf), (i), (L), (2) (d), (3) (L)

NR 21.13 (3) (a)

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NR 29.04 (1) (a), (am), (b), (c), (d)

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NR 45.09 (1), (5) (intro.), (a), (10), (11)

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NR 151.105

NR 151.11 (title), (1), (2), (4), (5), (6) (title), (6m), (7), (8)

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NR 151.121 to 151.128

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NR 151.22 (1) (a)

NR 151.225

NR 151.23 (title), (1), (2) (cm), (3) (a), (4) (title), (4m), (5), (6)

NR 151.24 (1) (bm)

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 (intro.), (e), (j), (y), (3) (b), (4) (a), (6) (b)
 NR 153.16
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 (6) (b), (7), (8) (a), (9), (11), (12)
 NR 153.23 (1) (c), (e) (title), (f)
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 NR 153.28 (1) (b)
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Ch. NR 155

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 NR 155.13 (1) (intro.)
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Regulation and Licensing**Ch. RL 7**

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 RL 7.01 (2)
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Transportation**Ch. Trans 75 (Entire Chapter)****Ch. Trans 131**

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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.

Agriculture

Ch. ATCP 92

ATCP 92.30 (5) (f)
ATCP 92.31 (3)

Children and Families

Ch. DCF 39

DCF 39.03 (11)

Commerce

Ch. Comm 48

Comm 48.110
Comm 48.120
Comm 48.240 (1)
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Ch. Comm 82

Comm 82.31 (14) (g)
Comm 82.34 (15) (e)

Ch. Comm 83

Comm 83.32 (1) (h)

Health Services

Ch. DHS 12

DHS 12.03 (24)

Ch. DHS 34

(Reprinted to reflect Note revisions)

Ch. DHS 36

(Reprinted to reflect Note revisions)

Ch. DHS 75

(Reprinted to reflect Note revisions)

Ch. DHS 83

DHS 83.02 (28) (b)

Ch. DHS 94

(Reprinted to reflect Note revisions)

Ch. DHS 110

DHS 110.04 (19), (33)
DHS 110.07 (1) (c)
DHS 110.18 (2) (dm)
DHS 110.54 (intro.)
DHS 110.57 (4)

Ch. DHS 127

DHS 127.03 (3) (a)

Natural Resources

Ch. NR 12

NR 12.10 (1) (b)

Ch. NR 21

NR 21.02 (15), (16), (30)

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Ch. NR 45

NR 45.04 (1) (a)
NR 45.13 (26) (e), (f), (g)

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NR 142.02 (1), (2) (b), (12)
NR 142.03 (3) (b), (c)
NR 142.06 (1) (intro.)

Ch. NR 151

NR 151.02 (48)
NR 151.03 (intro.)
NR 151.04 (4)
NR 151.07 (4) (c)
NR 151.15 (2)
NR 151.244 (1), (2)

Ch. NR 153

NR 153.14 (7) (title), (8) (title)
NR 153.15 (2) (r), (3), (4)
NR 153.26 (8)

Ch. NR 154

NR 154.04 (25) (c) 2., (39) (c) 2.

Ch. NR 155

NR 155.15 (2) (m)
NR 155.21 (5) (c)

Ch. NR 157

NR 157.03 (2) (b), (d)
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NR 410.03 (4) (a)

Ch. NR 852

NR 852.03 (22)
NR 852.05 (3) (intro.)
NR 852.08

Transportation

Ch. Trans 309

Trans 309.02 (1), (2), (4), (5), (6), (9)
Trans 309.07 (3)
Trans 309.18 (1)
Trans 309.24 (1) (a), (y), (3) (d), (4) (d)

Workforce Development

Ch. DWD 290

DWD 290.01 (10m), (12) (c)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 332. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Senior Airman Daniel Johnson of the United States Air Force Who Lost His Life While Serving His Country in Operation Enduring Freedom.

Executive Order 333. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Corporal Justin Cain of the United States Marine Corps Who Lost His Life While Serving His Country in Operation Enduring Freedom.

Executive Order 334. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Specialist Scott Nagorski of the United States Army Who Lost His Life While Serving His Country in Operation Enduring Freedom.

Executive Order 335. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Private First Class Jacob Gassen of the United States Army Who Lost His Life While Serving His Country in Operation Enduring Freedom.

Executive Order 336. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff on National Pearl Harbor Remembrance Day.

Public Notices

Department of Children and Families *Family and Economic Security, DCF Chs. 101 — 153*

Pursuant to DCF 150.04 (4) (b) and DCF 150.05 (2) (c), the Department of Children and Families is publishing in this Register revised Chapters DCF 150 Appendix C and DCF 150 Appendix D addressing child support obligations and maximum birth cost judgment amounts for low-income payers to reflect that there have been no changes in the federal poverty guidelines since the schedule was last revised.

Chapter DCF 150

APPENDIX C

Child Support Obligation of Low-Income Payers at 75% to 150% of the 2010* Federal Poverty Guidelines

Monthly Income Up To	One Child		Two Children		Three Children		Four Children		Five Children	
	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount
\$ 675.00	11.11%	\$ 75	16.44%	\$ 111	18.96%	\$ 128	20.30%	\$ 137	22.22%	\$ 150
\$ 700.00	11.33%	\$ 79	16.76%	\$ 117	19.33%	\$ 135	20.70%	\$ 145	22.66%	\$ 159
\$ 725.00	11.55%	\$ 84	17.07%	\$ 124	19.70%	\$ 143	21.09%	\$ 153	23.09%	\$ 167
\$ 750.00	11.76%	\$ 88	17.39%	\$ 130	20.08%	\$ 151	21.49%	\$ 161	23.53%	\$ 176
\$ 775.00	11.98%	\$ 93	17.71%	\$ 137	20.45%	\$ 158	21.89%	\$ 170	23.97%	\$ 186
\$ 800.00	12.20%	\$ 98	18.03%	\$ 144	20.82%	\$ 167	22.28%	\$ 178	24.40%	\$ 195
\$ 825.00	12.42%	\$ 102	18.34%	\$ 151	21.19%	\$ 175	22.68%	\$ 187	24.84%	\$ 205
\$ 850.00	12.64%	\$ 107	18.66%	\$ 159	21.56%	\$ 183	23.07%	\$ 196	25.27%	\$ 215
\$ 875.00	12.85%	\$ 112	18.98%	\$ 166	21.94%	\$ 192	23.47%	\$ 205	25.71%	\$ 225
\$ 900.00	13.07%	\$ 118	19.29%	\$ 174	22.31%	\$ 201	23.87%	\$ 215	26.15%	\$ 235
\$ 925.00	13.29%	\$ 123	19.61%	\$ 181	22.68%	\$ 210	24.26%	\$ 224	26.58%	\$ 246
\$ 950.00	13.51%	\$ 128	19.93%	\$ 189	23.05%	\$ 219	24.66%	\$ 234	27.12%	\$ 258
\$ 975.00	13.73%	\$ 134	20.24%	\$ 197	23.42%	\$ 228	25.06%	\$ 244	27.46%	\$ 268
\$1,000.00	13.95%	\$ 140	20.56%	\$ 206	23.79%	\$ 238	25.45%	\$ 255	27.89%	\$ 279
\$1,025.00	14.16%	\$ 145	20.88%	\$ 214	24.17%	\$ 248	25.85%	\$ 265	28.33%	\$ 290
\$1,050.00	14.38%	\$ 151	21.20%	\$ 223	24.54%	\$ 258	26.24%	\$ 276	28.76%	\$ 302
\$1,075.00	14.60%	\$ 157	21.51%	\$ 231	24.91%	\$ 268	26.64%	\$ 286	29.20%	\$ 314
\$1,100.00	14.82%	\$ 163	21.83%	\$ 240	25.28%	\$ 278	27.04%	\$ 297	29.64%	\$ 326
\$1,125.00	15.04%	\$ 169	22.15%	\$ 249	25.65%	\$ 289	27.43%	\$ 309	30.07%	\$ 338
\$1,150.00	15.25%	\$ 175	22.46%	\$ 258	26.03%	\$ 299	27.83%	\$ 320	30.51%	\$ 351
\$1,175.00	15.47%	\$ 182	22.78%	\$ 268	26.40%	\$ 310	28.23%	\$ 332	30.95%	\$ 364
\$1,200.00	15.69%	\$ 188	23.10%	\$ 277	26.77%	\$ 321	28.62%	\$ 343	31.38%	\$ 377
\$1,225.00	15.91%	\$ 195	23.41%	\$ 287	27.14%	\$ 332	29.02%	\$ 355	31.82%	\$ 390
\$1,250.00	16.13%	\$ 202	23.73%	\$ 297	27.51%	\$ 344	29.41%	\$ 368	32.25%	\$ 403
\$1,275.00	16.34%	\$ 208	24.05%	\$ 307	27.89%	\$ 356	29.81%	\$ 380	32.69%	\$ 417
\$1,300.00	16.56%	\$ 215	24.37%	\$ 317	28.26%	\$ 367	30.21%	\$ 393	33.13%	\$ 431
\$1,325.00	16.78%	\$ 222	24.68%	\$ 327	28.63%	\$ 379	30.60%	\$ 405	33.56%	\$ 445
\$1,350.00	17.00%	\$ 230	25.00%	\$ 338	29.00%	\$ 392	31.00%	\$ 419	34.00%	\$ 459

Appendix C will be adjusted based on the 2011 federal poverty guidelines effective March 1, 2011.

*Note: DCF 150.04(4)(b) provides:

(b) The department shall revise the schedule in Appendix C every year based on changes in the federal poverty guidelines since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

As stated in the Federal Register, Vol. 75, No. 148, there are no changes in the federal poverty guidelines for the year 2010.

Chapter DCF 150
APPENDIX D
Maximum Birth Cost Judgment Amounts for Low-Income
Payers at 75% to 150% of the 2010* Federal Poverty Guidelines*

Monthly Income Up To:	Percent	Number of Months	Maximum Birth Cost Judgment Amount**
\$ 675	3.28%	36	\$ 797
\$ 700	3.34%	36	\$ 842
\$ 725	3.41%	36	\$ 890
\$ 750	3.47%	36	\$ 937
\$ 775	3.53%	36	\$ 985
\$ 800	3.60%	36	\$ 1,037
\$ 825	3.66%	36	\$ 1,087
\$ 850	3.73%	36	\$ 1,141
\$ 875	3.79%	36	\$ 1,194
\$ 900	3.85%	36	\$ 1,247
\$ 925	3.92%	36	\$ 1,305
\$ 950	3.98%	36	\$ 1,361
\$ 975	4.04%	36	\$ 1,418
\$ 1,000	4.11%	36	\$ 1,480
\$ 1,025	4.17%	36	\$ 1,539
\$ 1,050	4.24%	36	\$ 1,603
\$ 1,075	4.30%	36	\$ 1,664
\$ 1,100	4.36%	36	\$ 1,727
\$ 1,125	4.43%	36	\$ 1,794
\$ 1,150	4.49%	36	\$ 1,859
\$ 1,175	4.55%	36	\$ 1,925
\$ 1,200	4.62%	36	\$ 1,996
\$ 1,225	4.68%	36	\$ 2,064
\$ 1,250	4.75%	36	\$ 2,138
\$ 1,275	4.81%	36	\$ 2,208
\$ 1,300	4.87%	36	\$ 2,279
\$ 1,325	4.94%	36	\$ 2,356
\$ 1,350	5.00%	36	\$ 2,430

*The maximum birth cost judgment amount may not exceed the identified percentage of the father's current monthly income available for child support multiplied by 36 months.

Appendix D will be adjusted based on the 2011 federal poverty guidelines effective March 1, 2011.

*Note: DCF 150.05(2)(c) provides:

(c) The department shall revise the schedule in Appendix D every year based on changes in the federal poverty guidelines since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

As stated in the Federal Register, Vol. 75, No. 148, there are no changes in the federal poverty guidelines for the year 2010.

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