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## WISCONSIN ADMINISTRATIVE REGISTER

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## Emergency Rules Now in Effect

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

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

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

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

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

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

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

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### Children and Families (3)

#### *Safety and Permanence, Chs. DCF 37–59*

**1. 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

**2. EmR1050** — Rule adopted to repeal **Chapter DCF 38** and revise **Chapter DCF 56**, relating to foster care.

#### **Finding of Emergency**

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

In the Child and Family Services Review of Wisconsin's child welfare system this past year, the federal Administration for Children and Families found that Wisconsin is not operating in substantial conformity with a number of federal requirements. In response to this review, the department has submitted a program improvement plan that commits the department to complete implementation of the levels of care system and the child assessment tool throughout the first quarter of 2011. Implementation must begin immediately to meet this deadline and subsequent dependent deadlines in the remaining 2 years of the program improvement plan.

**Publication Date:** January 1, 2011  
**Effective Dates:** January 1, 2011 through May 30, 2011  
**Extension Through:** August 31, 2011  
**Hearing Date:** February 8, 15, 28, 2011

**3. EmR1106** — Rule adopted to revise **Chapters DCF 52, 54, and 57**, relating to regulation of rates charged by residential care centers for children and youth, child-placing agencies, and group homes.

#### **Finding of Emergency**

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

2009 Wisconsin Act 28 directed the department to implement rate regulation effective January 1, 2011. Implementation was delayed and this rule is phasing-in rate regulation at the earliest feasible date.

**Publication Date:** April 18, 2011  
**Effective Dates:** April 18, 2011 through September 16, 2011  
**Hearing Date:** May 18, 2011

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## Government Accountability Board

**EmR1049** — Rule adopted to amend **section GAB 1.28**, relating to the definition of the term “political purpose.”

### Finding of Emergency

The Government Accountability Board amends s. GAB 1.28 (3) (b), Wis. Adm. Code, relating to the definition of the term “political purpose.” Section GAB 1.28 as a whole continues to clarify the definition of “political purposes” found in s. 11.01 (16) (a)1., Stats., but repeals the second sentence of s. GAB 1.28 (3) (b) which prescribes communications presumptively susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

This amendment to s. GAB 1.28 (3) (b) is to the rule that was published on July 31, 2010 and effective on August 1, 2010, following a lengthy two year period of drafting, internal review and study, public comment, Legislative review, and consideration of U.S. Supreme Court decisions. Within the context of ch. 11, Stats, s. GAB 1.28 provides direction to persons intending to engage in activities for political purposes with respect to triggering registering and reporting obligations under campaign financing statutes and regulations. In addition, the rule provides more information for the public so that it may have a more complete understanding as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly.

Pursuant to §227.24, Stats., the Government Accountability Board finds an emergency exists as a result of pending litigation against the Board and two decisions by the United States Supreme Court: *Federal Election Commission (FEC) v. Wisconsin Right to Life, Inc. (WRTL II)*, 550 U.S. 549 (2007) and *Citizens United v. FEC*, 558 U.S. \_\_\_, (No. 08–205) (January 21, 2010). Following the effective date of the August 1, 2010 rule, three lawsuits were filed seeking a declaration that the rule was unconstitutional and beyond the Board’s statutory authority: one in the U.S. District Court for the Western District of Wisconsin, one in the U.S. District Court for the Eastern District of Wisconsin, and one in the Wisconsin Supreme Court. On August 13, 2010, the Wisconsin Supreme Court temporarily enjoined enforcement of the August 1, 2010 rule, pending further order by the Court.

In the lawsuit in the U.S. District Court for the Western District of Wisconsin, the parties previously executed a joint stipulation asking the Court to permanently enjoin application and enforcement of the second sentence of s. GAB 1.28 (3) (b). On October 13, 2010, the Court issued an Opinion and Order denying that injunction request. In denying the injunction, the Court noted that “G.A.B. has within its own power the ability to refrain from enforcing, or removing altogether, the offending sentence from a regulation G.A.B. itself created” and emphasized that “removing the language — for example, by G.A.B. issuing an emergency rule — would be far more ‘simple and expeditious’ than asking a federal court to permanently enjoin enforcement of the offending regulation.” *Wisconsin Club for Growth, Inc. v. Myse*, No. 10–CV–427, slip op. at 2 (W.D. Wis. Oct. 13, 2010). The Court further noted that staying the case would give the Board time to resolve some or all of the pending issues through further rulemaking. *Id.*, slip op. at 14.

In addition, the Board, through its litigation counsel, has represented to the Wisconsin Supreme Court that it does not intend to defend the validity of the second sentence of s. GAB 1.28 (3) (b) and that it would stipulate to the entry of an order

by that Court permanently enjoining the application or enforcement of that sentence.

This amendment brings s. GAB 1.28 (3) (b) into conformity with the above stipulation, with the representations that have been made to the Wisconsin Supreme Court, and with the suggestions made in the October 13, 2010, Opinion and Order of the U.S. District Court for the Western District of Wisconsin. The Board finds that the immediate adoption of this amendment will preserve the public peace and welfare by providing a simple and expeditious clarification of the meaning of s. GAB 1.28 for litigants, for the regulated community, and for the general public and by doing so in advance of the 2011 Spring Election and any other future elections.

**Publication Date:** January 7, 2011  
**Effective Dates:** January 7, 2011 through June 5, 2011  
**Extension Through:** October 3, 2011  
**Hearing Date:** February 16, 2011

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## Insurance (2)

**1. EmR1101** — Rule adopted to revise **section Ins 6.07 (4) and (9)**, relating to readability and electronic access to insurance policies and affecting small business.

### Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows: the cost of implementing the Flesch scores and electronic access to policies significantly exceeded anticipated costs for the insurance industry; a review of state resources indicates insufficient staff to timely review the volume of health insurance policy filings resulting from the flesch score requirement; and it is anticipated the federal department of Health and Human Services (“HHS”) will use National Association of Insurance Commissioners recommendations for the development of standards for a uniform summary of benefits and coverage explanation for all potential policyholders and enrollees. Repealing these provisions now before costly system overhauls will save both the industry and the state significant resources. Further, although it was anticipated that the National Association of Insurance Commissioners was planning to implement a national readability standard, such movement has stalled negating the amendment to prior Flesch readability scores.

The changes contained in this emergency rule will restore prior standards and ease financial constraints for the insurance industry.

**Publication Date:** February 9, 2011  
**Effective Dates:** February 9, 2011 through July 8, 2011  
**Extension Through:** September 6, 2011  
**Hearing Date:** May 3, 2011

**2. EmR1108** — Rule to amend **sections Ins 17.01 (3) and 17.28 (3) (c)**, and to repeal and recreate **section Ins 17.28 (6)**, Wis. Adm. Code, relating to annual injured patients and families compensation fund fees, medical mediation panel fees, and provider classifications for the fiscal year beginning July 1, 2011.

### 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:

These changes must be in place with an effective date of July 1, 2011 for the new fiscal year assessments. The fiscal year fees were established by the Board of Governors at meeting on February 16, 2011. Although the permanent version is currently under review by the Legislature, it cannot be published in time to meet the necessary effective date.

**Publication Date:** June 10, 2011  
**Effective Dates:** June 10, 2011 through November 6, 2011

### Natural Resources (5)

*Fish, Game, etc., Chs. NR 1—*

**1. EmR1036** — Rule adopted to create **section 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 Date:** October 25 to 29, 2010

**2. EmR1039** (DNR # IS-49-10(E)) — Rule adopted to create **sections 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

**3. EmR1045** (DNR # IS-07-11(E)) — Rule to repeal **section NR 40.02 (28m)**; to amend **section NR 40.04 (3m)**, and to repeal and recreate **section 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*

**4. EmR1107** — Rule to amend **section NR 25.09 (2) (b) 2. a. and f.**, and create **section NR 25.09 (1) (b) 11.**, relating to commercial fishing in outlying waters.

#### Finding of Emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is: Commercial trap nets in Lake Michigan pose a hazard to the safety of recreational fishermen trolling submerged fishing lines. The preservation of public safety requires appropriate measures to assure that recreational boaters can know the location of trap nets and are able to release themselves from entanglement with the commercial nets. Accordingly, this NRB Order requires that 1) boat operators engaged in trolling with downriggers carry wire cutters on board capable of severing fishing line or downrigger cable, 2) the enhanced net marking requirements on Lake Michigan be applied to trap nets on Lake Superior, 3) all parts of trap nets set in Zone 3 of Lake Michigan between June 29 and Labor Day be within designated areas, and 4) the marking of trap nets in Lake Michigan be enhanced by the use of reflective tape on buoy staffs.

**Publication Date:** May 23, 2011  
**Effective Dates:** May 23, 2011 through October 19, 2011  
**Hearing Date:** June 27, 2011

**5. EmR1109** — Rule to amend sections NR 10.01 (3) (ed) 1. a., 10.01 (3) (et) 2., 10.104 (7) (a) 1., and 10.104 (7) (b), relating to deer hunting seasons and carcass tag use.

#### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The rule is necessary in order to foster participation by hunters and landowners so they will continue to hunt and cooperate in CWD control and deer herd management. This rule proposal balances pressing social concerns about the quality of the deer hunt with the need for effective herd control measures such as additional antlerless deer harvest in management units that are more than 20% over population goals or simply over population goals in units that are part of the CWD Management Zone. This rule will increase harvest of bucks in the CWD zone which have a higher prevalence of CWD and, because of their greater dispersal distances, have a higher likelihood of spreading CWD. However, the rule retains a herd control tool which requires that antlerless deer be harvested before additional bucks (beyond the initial one) may be taken. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control and regulate hunting of wild animals. The State of Wisconsin must provide publications describing the regulations for deer hunting to more than 630,000 deer hunters prior to the start of the season. These regulations must be approved prior to printing nearly 1 million copies of the regulations publication.

**Publication Date:** July 2, 2011  
**Effective Dates:** September 17, 2011 through February 13, 2012

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### 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 section NR 407.02 (4) (b) (intro.), and Table 3 in 407.05 (5) and to create sections 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  
**Extension Through:** September 11, 2011  
**Hearing Date:** January 21, 2011

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### Revenue (3)

**1. EmR1104** — Rule adopted creating section Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

#### Finding of Emergency

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

It is necessary to promulgate this rule order so that these credits and deductions, created to help bring much needed jobs to Wisconsin, may be administered in a fair and consistent manner.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Legislative Reference Bureau, as provided in s. 227.24, Stats.

**Publication Date:** April 7, 2011  
**Effective Dates:** April 7, 2011 through September 3, 2011  
**Hearing Date:** June 14, 2011

**2. EmR1105** — Rule adopted creating section Tax 3.05, relating to income and franchise tax deductions for job creation.

**Finding of Emergency**

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of income and franchise tax deductions for job creation.

It is necessary to promulgate this rule order so that these deductions, created to help bring much needed jobs to Wisconsin, may be administered in a fair and consistent manner.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Legislative Reference Bureau, as provided in s. 227.24, Stats.

**Publication Date:** April 7, 2011  
**Effective Dates:** April 7, 2011 through September 3, 2011  
**Hearing Date:** June 14, 2011

**3. EmR1110** — The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.54 (56), Stats., creating **section Tax 11.10** relating to wind, solar, and certain gas powered products.

The statement of scope for this emergency rule, SS 001-11, was approved by the governor on June 17, 2011, and published in Register 667 on July 14, 2011. This emergency rule was approved by the governor on June 20, 2011

**Finding of Emergency**

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of a sales and use tax exemption for certain energy-producing wind, solar, and gas powered products and the electricity or energy they produce.

It is necessary to promulgate this rule order so that this exemption, which is effective July 1, 2011, may be administered in a fair and consistent manner.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Legislative Reference Bureau, as provided in s. 227.24, Stats.

**Publication Date:** June 29, 2011  
**Effective Dates:** June 29, 2011 through November 25, 2011

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**Safety and Professional Services**  
(Formerly Commerce)

*Financial Resources for Businesses and Communities,  
Chs. Comm 100-149*

**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 14, 2010 through April 12, 2011  
**Extension Through:** August 10, 2011  
**Hearing Date:** February 15, 2011

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**Safety and Professional Services (3)**  
(Formerly Regulation and Licensing)

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

**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  
April 13, 2009

**2. EmR0828** — Rules adopted to amend **section RL 181.01 (2) (c)**; and to create **sections 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. EmR1102** — Rule adopted creating **Chapters RL 200 to 202**, relating to governing professional conduct of individuals licensed as sign language interpreters, and for the treatment of state resident licensure exemption requests.

#### **Finding of Emergency**

2009 Wisconsin Act 360 created laws regulating the practice of sign language interpreting, and became effective on December 1, 2010. Under the act, codified at s. 440.032, Stats., individuals practicing as sign language interpreters must now be licensed by the department, and must comply with a code of professional conduct to be promulgated by the department. The new law also provides for exemptions from the licensure requirement under certain circumstances, and requires the council to promulgate rules establishing the criteria and procedures for granting state resident exemptions. As s. 440.032, Stats., is already in effect, an emergency rule is necessary to implement the law pending promulgation of a similar permanent rule.

**Publication Date:** March 16, 2011  
**Effective Dates:** March 16, 2011 through August 12, 2011  
**Extension Through:** October 11, 2011  
**Hearing Date:** May 3, 2011

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### **Safety and Professional Services — Barbering and Cosmetology Examining Board**

**EmR1047** — Rule adopted to revise **Chapters BC 9 and 11**, relating to late renewal and continuing education.

#### **Finding of Emergency**

The rule as currently promulgated fails to adequately protect the public to the extent that several provisions are underdeveloped, ambiguous or silent. As a result, inconsistent interpretations and contradictory information has led to significant confusion within the profession. Given that the rules require licensees to comply by March 31, 2011, the errors and omissions need to be addressed immediately so licensees can receive adequate training to provide safe and competent services to the public, and comply with the requirements for renewal of a license.

**Publication Date:** December 23, 2010  
**Effective Dates:** December 23, 2010 through May 21, 2011  
**Extension Through:** September 18, 2011  
**Hearing Date:** April 4, 2011

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### **Safety and Professional Services — Veterinary Examining Board**

**EmR1103** — Rule adopted to revise **sections VE 2.01 (2), 3.03 (intro) and (5)**, relating to the requirements for the initial licensure of veterinarians, specifically, the procedures for, and the types of examinations required.

#### **Finding of Emergency**

As currently written, the veterinary examining board rules regarding licensure candidates' deadlines for submission of applications to take the North American Veterinary Licensing Examination (NAVLE) do not align with the deadlines established by the National Board of Veterinary Medical Examiners (NBVME). The rules thus also conflict with the deadlines defined in the board's NBVME NAVLE agreement. The rules state that a candidate shall file a completed NAVLE application with the board at least 60 days prior to the date of the scheduled examination. However, NAVLE's deadlines require submission of applications approximately 115 days ahead of the examination date. This inconsistency between the rules and NAVLE's deadlines will likely cause significant confusion for licensure candidates. At worst, it could preclude a candidate from taking the particular NAVLE he or she applies for due to missing the application deadline. In addition, recently-passed legislation now allows foreign veterinary graduates to show evidence of successful completion of the Program for the Assessment of Veterinary Education Equivalence (PAVE) as an alternative to the American Veterinary Medical Association (AMVA) Educational Commission for Foreign Veterinary Graduates Certification (ECFVGC) program. The board adopts this emergency rule effecting the necessary changes pending the promulgation of a similar permanent rule.

**Publication Date:** March 28, 2011  
**Effective Dates:** March 28, 2011 through August 24, 2011  
**Extension Through:** October 23, 2011  
**Hearing Date:** May 25, 2011

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## Scope Statements

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### Justice SS 009–11

This scope statement was approved by the governor on August 4, 2011.

This proposed emergency rule will create a new chapter to be designated Wis. Admin. Code Ch. Jus 17.

#### Relating to

The recognition by Wisconsin of concealed carry licenses issued by other states.

#### Description of the objective of the rule:

The State of Wisconsin Department of Justice (“DOJ”) proposes to promulgate an emergency administrative rule relating to the recognition by Wisconsin of concealed carry licenses issued by other states. Under s. 165.25 (12), Stats., as created by s. 22 of 2011 Wis. Act 35, DOJ is required to promulgate by rule a list of states that issue a permit, license, approval, or other authorization to carry a concealed weapon if the permit, license, approval, or other authorization requires, or designates that the holder chose to submit to, a background search that is comparable to the type of background check that DOJ is required to conduct under s. 175.60 (1) (ac), Stats. Furthermore, section 100 (1) of 2011 Wis. Act 35 requires DOJ to use the emergency rulemaking procedures of s. 227.24, Stats., to promulgate an emergency rule meeting that requirement that would be in effect for the period of time before the effective date of any permanent rule subsequently promulgated to satisfy the same requirement. The proposed emergency rule will have an effective date of November 1, 2011, which is also the effective date of the statutory provisions in 2011 Wis. Act 35 that will allow out-of-state licensees to carry concealed weapons in Wisconsin.

The proposed emergency rule would provide the required list of states and would make it clear that a permit, license, approval, or other authorization issued by any of those listed states is an “out-of-state license” as defined in s. 175.60 (1) (f), Stats. A comparable permanent rule will be subsequently submitted as part of a larger package of permanent rules to be promulgated by DOJ pursuant to the rulemaking requirements of 2011 Wis. Act 35.

DOJ’s administrative rules are located at Wis. Admin. Code chs. Jus 8–12, 14, and 16. The proposed emergency rule will be placed in a new chapter, to be designated Wis. Admin. Code ch. Jus 17, and to be titled “Licenses to carry a concealed weapon.” The proposed new chapter will eventually contain all of the administrative rules that DOJ will be required to promulgate pursuant to 2011 Wis. Act 35. Pending the promulgation of those rules, Wis. Admin. Code ch. Jus 17 will contain only the emergency rule proposed in this scope statement.

#### Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and

#### an analysis of policy alternatives; the history, background and justification for the proposed rule

In 2011 Wisconsin Act 35, the state of Wisconsin established a new system under which DOJ will issue licenses authorizing eligible Wisconsin residents to carry concealed weapons in Wisconsin. Under this legislation, DOJ is required, for each license applicant, to “conduct a criminal history record search and . . . search its records and conduct a search in the national instant criminal background check system” to determine whether the applicant is prohibited from possessing a firearm under federal law or Wisconsin state law.

The new Wisconsin legislation allows the carrying of concealed weapons not only by Wisconsin residents who obtain the new concealed carry license from DOJ, but also by residents of other states who meet certain statutory requirements, including the possession of a concealed carry license, permit, or other authorization issued by another state, but only if the individual has been subjected to a criminal background check comparable to the type of check described above.

To facilitate Wisconsin’s recognition of out-of-state licensees, 2011 Wis. Act 35 requires DOJ to establish a list of all other states that fall into either of two categories:

- (1) states in which a background check comparable to Wisconsin’s is legally required in order to obtain authorization to carry a concealed weapon; and
- (2) states which do not legally require such a background check, but which issue concealed carry permits that designate whether the holder of the permit has voluntarily chosen to submit to a background check that is comparable to Wisconsin’s.

The proposed emergency rule is necessary to provide that list of states and to comply with the above statutory requirement. The existence of this emergency rule will enable law enforcement officers and others to determine whether a particular concealed carry permit, license, approval, or other authorization issued by another state is entitled to recognition as an “out-of-state license” as defined in s. 175.60 (1) (f), Stats. The alternative of not promulgating this emergency rule would violate the specific requirements of s. 165.25 (12), Stats., and section 100 (1) of 2011 Wis. Act 35.

#### Statutory authority for the rule (including the statutory citation and language)

Section 165.25 (12), Stats., expressly authorizes and requires DOJ to promulgate the proposed rule:

Promulgate by rule a list of states that issue a permit, license, approval, or other authorization to carry a concealed weapon if the permit, license, approval, or other authorization requires, or designates that the holder chose to submit to, a background search that is comparable to a background check as defined in s. 175.60 (1) (ac).

Section 100 (1) of 2011 Wis. Act 35 expressly authorizes and requires DOJ to use the emergency rulemaking procedures of s. 227.24, Stats.:

Using the procedure under section 227.24 of the statutes, the department of justice shall promulgate rules required

under section 165.25 (12) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under those sections, 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 is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of an emergency for a rule promulgated under this subsection.

**Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule**

It is estimated that state employees will spend approximately 80 hours on the rulemaking process for the proposed emergency rule, including research, drafting, and compliance with required rulemaking procedures.

**Description of all entities that may be impacted by the rule**

The proposed emergency rule will make it possible to determine whether a particular concealed carry permit, license, approval, or other authorization issued by another state is entitled to recognition in Wisconsin. The rule thus will affect the interests of all out-of-state concealed carry licensees. The rule will also affect the interests of law enforcement officials and others who may need to determine whether an out-of-state license is entitled to recognition in Wisconsin.

**Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule**

The regulation of the carrying of concealed weapons, including the recognition by one state of a concealed carry license issued by a different state, is primarily governed at the state level. Numerous federal statutes and regulations restrict the possession of weapons that have been shipped in interstate commerce, but there are no federal regulations that relate to reciprocal recognition of concealed carry licenses between states.

**Contact Person**

Assistant Attorney General Clayton P. Kowski, (608) 266-7477.

**Natural Resources**

*Fish, Game, etc., Chs. NR 1—*  
SS 011-11

This statement of scope was approved by the governor on August 15, 2011.

**Subject**

Scope statement relating to sport trolling on the Great Lakes revising Chapter NR 19.

**Subject/Objective of the proposed rules**

This rulemaking pertains to sport trolling with downriggers in Wisconsin waters of the Great Lakes. It attempts to address safety concerns regarding trap nets.

**Description of policy issues/analysis of policy alternatives**

The proposed rule making would require sport trollers on the Great Lakes to carry wire cutters for emergency release from entanglement with trap nets. This rule making is pursuant to recommendations of the Natural Resources Board.

**Statutory authority**

Sections 29.014 (1), 30.74 (2) (a), and 23.11 (1), Wis. Stats.

**Estimate of time needed to develop the rules**

One month.

**Summary and preliminary comparison with existing or proposed regulations**

Trap nets are fixed structures on the lake bottom that can pose a risk to sport trollers whose lures and downriggers can become entangled in the trap net ropes. This has been the subject of controversy and rule making over the past three decades. Current Department policy reflects Legislative intent to accommodate both sport and commercial fishing in the Great Lakes. In April 2011 the Natural Resources Board (NRB) approved permanent rule changes related to the marking and placement of trap nets. The NRB also implemented these rules on an emergency basis so they would be in effect for the 2011 fishing season. As part of the emergency rule, there was also a requirement that sport anglers carry wire cutters sufficient to cut themselves free should a downrigger cable become snagged in a trap net or other obstruction. That requirement was not included in the permanent rules because it was outside of the scope of the original public hearings. This proposal is intended to address that deficiency.

**Description of all entities affected by the rules**

The rules would directly affect sport anglers who engage in trolling with downriggers on the Great Lakes.

**Economic Impact**

Level 3 – Little to no economic impact expected. There would be no implementation costs for the Department. Compliance costs would be minimal for individual sport anglers who need to purchase wire cutters. A quick online search for the cost of wire cutters showed prices ranging from \$3 to \$56.

**Name, address, phone, and e-mail of agency contact**

William Horns  
Wisconsin Department of Natural Resources  
101 South Webster St.  
Madison, WI 53707-7921  
608-266-8782  
william.horns@wisconsin.gov

**Safety and Professional Services**  
(formerly Commerce)

*Licenses, Certifications and Registrations, Ch. Comm 5*  
SS 010-11

The attached statement of scope for this rule relating to modifications to Comm 5 was approved by the Governor on August 5, 2011, as required by s. 227.135 (2) Stats.

**Description of the objective of the rule**

The objective of the rule is to revise the Administrative Code chapter Comm 5, Licenses, Certifications and

Registrations, to reflect the direction provided by legislation under 2011 Wisconsin Act 32, state budget act, in repealing s. 101.136, Stats., relating to the licensing of thermal system insulators.

**Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule**

Currently, under provisions of chapter Comm 5 the Department has established rules that implement the thermal system insulator licensing mandates of 2009 Wisconsin Act 16. Act 16 created s. 101.136, Stats., which mandates as of July 1, 2011 that only individuals licensed as insulation mechanics or working under the direct supervision of licensed insulation mechanics may install or maintain thermal system insulation.

The alternative of not revising the code would result in the rules not reflecting the direction provided by the legislation under 2011 Wisconsin Act 32.

**Statutory authority for the rule (including the statutory citation and language)**

The statutory authority for the rule is contained in sections 101.02 (1) and 227.10 (1), Stats.

101.02 Powers, duties and jurisdiction of department. (1) The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings.

227.10 Statements of policy and interpretations of law; discrimination prohibited. (1) Each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute.

**Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule**

The department estimates approximately 80 hours will be needed to perform the review and develop the needed rule changes. This time includes drafting the rule changes and processing the changes through public hearings, legislative review, and adoption. The department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

**Description of all entities that may be impacted by the rule**

The current credentialing rules under chapter Comm 5 relating to thermal system insulators affects HVAC contractors, plumbing contractors and mechanical refrigeration contractors.

**Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule**

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding the licensing of thermal insulators.

**Contact Person**

James Quast, (608) 266-9292.

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## Rule–Making Notices

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### Notice of Hearing Employee Trust Funds

CR 11–041

NOTICE IS HEREBY GIVEN that the Wisconsin Department of Employee Trust Funds (ETF) proposes an order pursuant to s. 227.14, Stats., to amend sections ETF 20.35 (1) (b) and (c), (2), (3), (4) (c) 3., (5), (6), (7) (a), and (8) (b) and (c); and to create sections ETF 20.35 (8) (d), (9), and (10), relating to the division of Wisconsin retirement system accounts under a qualified domestic relations order.

#### Hearing Information

**Date:** Thursday, October 13, 2011  
**Time:** 1:00 P.M.  
**Location:** 801 W. Badger Road  
 Conference Room GA  
 Madison, WI 53713

Persons wishing to attend should come to the reception desk located up the stairs and directly to the left (or by elevator) from the main entrance to the building.

#### Submittal of Written Comments

Comments may be submitted to: Lucas Strelow, Policy Analyst, Department of Employee Trust Funds, 801 W Badger Rd, Madison, WI 53713–7931, P.O. Box 7931 (use ZIP Code 53707 for PO Box); Phone: 608–267–0722; E–mail: [lucas.strelow@etf.state.wi.us](mailto:lucas.strelow@etf.state.wi.us), no later than 4:30 p.m., Central Standard Time, on **October 24, 2011**.

#### Copies of Proposed Rule

Copies of the proposed rule are available without cost from the Office of the Secretary, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707–7931. The telephone number is: (608) 266–1071.

#### Analysis Prepared by Department of Employee Trust Funds

##### *Statutes interpreted*

Sections 40.03 (2) (t), 40.02 (2m), (20), (21c), (21d), and (48m), Stats.

##### *Statutory authority*

Sections 40.03 (2) (i), (ig), (ir), and 227.11 (2) (a) (intro), 1. to 3., Stats.

##### *Explanation of Statutory Authority*

By statute, the ETF Secretary is expressly authorized, with appropriate board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin statutes. Also, each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

##### *Related rules or statutes*

There are no other rules that clarify the circumstances under which ETF will handle the division of WRS accounts and annuities.

#### *Plain language analysis*

These rule changes add language for domestic partner QDROs, address tax concerns under IRC S. 415 (b), clarify procedure, and provide ETF with more flexibility in handling QDROs received out of sequence. These changes include the following:

- In order to remain in compliance with 2009 Wisconsin Act 28, language must be added throughout ETF 20.35 to make QDROs applicable to domestic partnerships.
- Currently, ETF 20.35 has no procedure to follow when multiple QDROs are received out of sequence in relation to their decree date. In other words, if the department receives more than one QDRO awarding a portion of the participant’s WRS account or annuity to different “alternate” payees, but the award received by ETF first was issued by the court on a later date than the other(s), ETF has no rule for choosing which payee should receive the award. The newly proposed rule, under ETF 20.35 (9), divides the account chronologically in the order in which the department receives the QDRO. This policy is meant to encourage the timely submittal of QDROs to ETF and to manage the inherent difficulty of payment of a QDRO received out of sequence.
- An amendment, under ETF 20.35 (3) (c) (5), is added to address add–on service for part–time non–teaching staff. Language governing creditable service for these individuals was not included in the previous rule.
- An amendment to the rule, under ETF 20.35 (8) (d), fills a gap in procedure regarding retroactive annuity payments. The rule clarifies that no interest is payable from ETF on retroactive annuity payments made to alternate payees for any months prior to ETF’s receipt of a QDRO. No interest is due because the WRS account is divided only when the QDRO is received by ETF, rather than at the time of its decree date.
- An amendment, under ETF 20.35 (6) (c), changes the language to invalidate QDROs received after the alternate payee’s date of death. Previously, language only invalidated a QDRO upon the participant’s death.
- An amendment, under ETF 20.35 (8) (c), addresses retroactive corrections that result in a benefit below statutory thresholds. The amendment clarifies that retroactive corrections below the threshold are not payable.
- Finally, in order to ensure compliance with the Internal Revenue Code, an amendment to the code, ETF 20.35 (10), addresses how to apply IRC 415 (b) limits to the participant’s and alternate payee’s aggregate benefits. The department is given flexibility under the amendment to make necessary adjustments to the participant’s and alternate payee’s benefits on an equitable pro rata basis to assure tax compliance.

#### *Comparison with federal regulations*

There are no existing federal regulations that specifically address how public retirement plans are to administer domestic partner QDRO’s. IRC 415 (b) limits are, however, one federal statutory limitation that the proposed rule change stands to address. The amendment is written to ensure continued compliance with these federal tax laws, which

provide for a general dollar limit that the plan can pay an annuitant annually.

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

- *Illinois* – The State of Illinois does not have domestic partnerships, and the state’s civil unions are not given pension rights. The State Retirement System of Illinois (SRS) does not include domestic partnership or civil union language in its QDRO rule. SRS also does not have a rule in place for multiple QDROs received out of sequence, nor does it have a rule addressing compliance with S. 415 (b) of the Internal Revenue Code regarding the aggregate benefits paid to participant and alternate payee.
- *Iowa* – Iowa allows same–sex marriage, but uses the term “*administrable domestic relations order*” or “*ADRO*” to govern a domestic relations order that divides the marital property of same gender spouses. The Iowa Public Employee Retirement System (IPERS) has incorporated the ADRO into its domestic relations order rule, primarily as an addition to existing language. IPERS does not have a rule in place for multiple QDROs (or ADROs) received out of sequence, nor does it have a rule addressing compliance with S. 415 (b) of the Internal Revenue Code regarding the aggregate benefits paid to participant and alternate payee.
- *Michigan* – Michigan’s Constitution bans same–sex marriage and other kinds of same–sex unions. Domestic partnership language is not within the State Employees Retirement System of Michigan regulations on QDROs. The State Employees Retirement System of Michigan also does not have a rule in place for multiple QDROs received out of sequence, nor does it have a rule addressing compliance with S. 415 (b) of the Internal Revenue Code regarding the aggregate benefits paid to participant and alternate payee.
- *Minnesota* – Minnesota does not provide for domestic partnerships, and the Minnesota State Retirement System (MSRS) does not include language for them in its QDRO rule. MSRS also does not have a rule in place for multiple QDROs received out of sequence, nor does it have a rule addressing compliance with S. 415 (b) of the Internal Revenue Code regarding the aggregate benefits paid to participant and alternate payee.

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

The proposed rule amendment is intended to make ETF’s QDRO rule clearer and more flexible, as well as to bring it into closer harmony with state and federal statutes.

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

The rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System.

**Small Business Impact**

There is no effect on small business.

**Fiscal Estimate**

The rule will not have any fiscal effect on the administration of the Wisconsin Retirement System, nor will it have any fiscal effect on the private sector, the state or on any county, city, village, town, school district, technical college district, or sewerage districts.

**Agency Contact Person**

Lucas Strelow, Policy Analyst, Department of Employee Trust Funds, 801 W Badger Rd, Madison, WI 53713–7931, P.O. Box 7931 (use ZIP Code 53707 for PO Box); Phone: 608–267–0722; E–mail: [lucas.strelow@etf.state.wi.us](mailto:lucas.strelow@etf.state.wi.us).

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## Submittal of Proposed Rules to the Legislature

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

**Safety and Professional Services  
(formerly Regulation and Licensing)  
CR 11-020**

The rule proposes to renumber and amend section RL 4.08 (intro), and to create section RL 4.08 (2), relating to background checks and fingerprinting.

This rule is not subject to s. 227.185 Stats. The statement of scope for this rule, published in Register No. 662 on February 14, 2011, was sent to the LRB prior to the effective date of 2011 Wis. Act 21.

**Safety and Professional Services  
(formerly Commerce)  
*Plumbing, Chs. Comm 81-87*  
CR 11-031**

Revises Chapters Comm 81 to 84, relating to private onsite wastewater treatment systems (POWTS).

This rule is not subject to s. 227.185. The statement of scope for this rule, published in Register No. 655, on July 14, 2010, and was sent to LRB prior to the effective date of 2011 Wis. Act 21.

**Safety and Professional Services —  
Examining Board of Architects, Landscape  
Architects, Professional Engineers and Land  
Surveyors  
CR 11-014**

Creates Chapter A-E 13, relating to continuing education for professional engineers.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule, published in Register No. 629, on May 31, 2008, was sent to the legislative reference bureau prior to the effective date of 2011 Wis. Act 21.

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## Rule Orders Filed with the Legislative Reference Bureau

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

### **Administration** **CR 11-004**

*(Authority for this rule was transferred to Department of Administration by 2011 Wisconsin Act 32)*

Creates Chapter Comm 103, relating to certification of disabled-veteran-owned businesses, and affecting small business.  
Effective 10-1-11.

### **Natural Resources**

*Environmental Protection — Water Supply,  
Chs. NR 800—*  
**CR 10-109**

Creates Chapter NR 860, relating to the application and permit process for withdrawals of Great Lakes basin water and affecting small business.  
Effective 10-1-11.

### **Safety and Professional Services** **(formerly Regulation and Licensing)** **CR 11-018**

Creates Chapters RL 200 to 202, relating to sign language interpreters.  
Effective 10-1-11.

### **Safety and Professional Services —** **Chiropractic Examining Board** **CR 11-019**

Revises Chapter Chir 5, relating to continuing education for chiropractors, chiropractic technicians and chiropractic radiological technicians.  
Effective 10-1-11.

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

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

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

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

#### **CR 10-120**

(ATCP # 09-R-4)

Revises Chapter ATCP 161, relating to economic development grants and loans – accountability provisions. Effective 9-1-11.

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

Business Impact Summary:

This rule implements provisions that are intended to improve accountability for public funds used to make economic development grants or loans. This includes requiring that certain recipients provide specified information as a condition of a grant or loan, and authorizing DATCP to withhold payment or impose financial penalties if grant or loan recipients fail to honor the terms of their contract.

For a grant or loan of \$100,000 or more, the department must include within the grant or loan contract a provision requiring the recipient to give DATCP a verified statement signed by a certified public accountant (CPA) and a director or principal officer of the grant or loan recipient. The verified statement must account for how the grant or loan funds were used. The verified statement required by this rule is *not* the same as a “verified *financial* statement,” as that term is used in accounting practice.

DATCP is allowed to withhold or recover payments, or impose financial penalties, if a grant or loan recipient submits false information to DATCP or fails to honor the terms of the grant or loan contract.

Affected businesses, including small businesses, voluntarily apply for the grants and loans from DATCP. Grant and loan recipients receive a substantial financial benefit from the state. This rule will add few, if any, costs for grant and loan recipients that comply with the terms of their contracts.

Under this rule, a business receiving a grant or loan of over \$100,000 must submit a verified statement signed by a certified public accountant (CPA) and by a director or principal officer of the grant or loan recipient. This requirement may impose some additional costs on some grant or loan recipients. DATCP has awarded about five grants or loans of this size in the past 20 years, so few recipients are likely to be affected by this requirement.

#### **Comments from Legislative Committees (Summary)**

On February 28, 2010, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Assembly Committee on Agriculture and Senate Committee on Agriculture, Forestry, and Higher Education. No action was taken by either committee.

### **Children and Families**

#### **Safety and Permanence, Chs. DCF 35-59**

#### **CR 10-148**

Revises Chapter DCF 56, relating to foster care. Effective 9-1-11.

#### **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**

No comments received.

### **Employee Trust Funds**

#### **CR 10-137**

Revises section ETF 20.055, relating to the waiver of spousal/domestic partner consent on Wisconsin Retirement System benefit applications. Effective 9-1-11.

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

There is no effect on small business.

#### **Summary of Comments of Legislative Standing Committees**

No comments were reported.

### **Employee Trust Funds**

#### **CR 10-138**

Revises section ETF 10.75, relating to the implementation of statutory changes related to power of attorney pursuant to 2009 Wisconsin Act 319. Effective 9-1-11.

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

There is no effect on small business.

#### **Summary of Comments of Legislative Standing Committees**

No comments were reported.

### **Insurance**

#### **CR 11-015**

Revises Chapter Ins 17, relating to annual injured patients and families compensation fund fees, mediation panel fees and provider classifications. Effective 9-1-11.

#### **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 of Legislative Standing Committees

No comments received.

#### Insurance CR 11-021

Revises section 6.07, relating to readability and electronic access to insurance policies. Effective 9-1-11.

#### 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 of Legislative Standing Committees

No comments received.

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

(DNR # FR-38-10)

Revises section NR 45.055, relating to golf carts. Effective 9-1-11.

#### Summary of Final Regulatory Flexibility Analysis

Impacts are expected to be minimal, but include implementation and enforcement of the rule (town, county, the Department, and public safety agencies) and ability of residents to lawfully and safely use golf carts and a potential increase in such use (residents, businesses).

The proposed rule is not expected to have a significant adverse effect on a substantial number of small businesses and may have favorable effects on a number of small businesses that provide services to users of golf carts. Small businesses that may be positively affected by the proposed rule include golf cart retailers and services providers, gas stations, and other service type industries.

No new compliance, reporting or bookkeeping requirements are imposed by the proposed rule and no new professional skills are needed to comply with the proposed rule.

### Summary of Comments of Legislative Standing Committees

No comments received.

#### Natural Resources *Environmental Protection — Air pollution control,* *Chs. NR 400—* CR 10-144

Revises Chapters NR 400, 406 and 407, relating to major source permitting thresholds for sources of greenhouse gas emissions and affecting small business. Effective 9-1-11.

#### Summary of Final Regulatory Flexibility Analysis

The adopted rules do not have the potential to have a significant impact on a substantial number of small businesses. By establishing specific thresholds for

greenhouse gas emissions, the proposed rules reduce the number of sources that would otherwise be subject to New Source Review construction and Title V operation permit and control requirements based on greenhouse gas emissions.

### Summary of Comments of Legislative Standing Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Environment. The Assembly Committee held a hearing on June 22, 2010. No comments or requests for modifications were received from either Committee.

#### Public Service Commission CR 10-143

Revises Chapter PSC 168, relating to the certification and operation of alternative telecommunications utility resellers. Effective 9-1-11.

#### Summary of Final Regulatory Flexibility Analysis

The Final Rule is not expected to adversely affect small business as defined in ss. 227.114 (1) and 196.216, Stats. Although the costs to small business are not subject to quantification, the process improvements in the amendments proposed here should reduce costs in re-certification situations and in revocation proceedings.

### Summary of Comments of Legislative Standing Committees

No comments were reported.

#### Safety and Professional Services (formerly Commerce)

*Fee Schedule, Ch. Comm 2*  
*Licenses, Certifications and Registrations, Ch. Comm 5*  
*Fire Prevention, Ch. Comm 14*  
*Elevators, Escalators and Lift Devices, Ch. Comm 18*  
*Uniform Dwelling, Chs. Comm 20-25*  
*Wis. Commercial Building Code, Chs. Comm 60-66*  
CR 10-103

Revises Chapters Comm 2, 5, 14, 18, 20 to 25 and 61 to 66, relating to Wisconsin Commercial Building Code. Effective 9-1-11 in part, 1-1-12 in part 7-1-14 in part.

#### Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.19 (3m), Stats., the Department of Commerce has determined that the proposed rules to amend Chapter Comm 5 will not have a significant impact on a substantial number of small businesses. The Department believes the rules will not increase the effect on small businesses from what the current rules impose on them. The revisions for the Commercial Building Code do not apply retroactively to existing buildings. The proposed revisions would apply when a new building or modification to an existing building is proposed. The various advisory councils utilized by the Department in developing the revisions did not identify major economic concerns with the technical revisions updating the Commercial Building Code to the latest national model codes as amended in this proposal.

### Summary of Comments of Legislative Standing Committees

No comments received.

**Safety and Professional Services  
(formerly Commerce)**

*Fee Schedule, Ch. Comm 2*

*Fire Prevention, Ch. Comm 14*

*Uniform Dwelling, Ch. Comm 20–25*

*Gas Systems, Ch. Comm 40*

**Wisconsin Commercial Building Code, Chs. Comm 60–66  
CR 11–002**

Revises Chapters Comm 2, 14, 20, 40 and 65, relating to gas systems. Effective 9–1–11.

**Summary of Final Regulatory Flexibility Analysis**

Less stringent requirements are not proposed for small businesses because the statutory directives under which these rule changes are proposed do not provide such flexibility.

None of the proposed rule changes are expected to significantly increase the current cost of installing and operating fuel gas systems because the primary effect of the changes is to make chapter Comm 40 consistent with current regional and national standards for these systems, and with current industry and regulatory practices. No substantive new reporting would be imposed on small businesses.

**Summary of Comments of Legislative Standing Committees**

No comments received.

**Safety and Professional Services  
(formerly Regulation and Licensing)**

**CR 08–087**

Revises Chapters RL 180 and 181, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife. Effective 9–1–11.

**Summary of Final Regulatory Flexibility Analysis**

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 of Legislative Standing Committees**

No comments were reported.

**Safety and Professional Services  
(formerly Regulation and Licensing)**

**CR 10–135**

Revises Chapters RL 80, 81, 82, 83, 84, 85, and 86, relating to licensure and certification requirements if licensed in another state or territory, approved instructors for educational programs and continuing education, examination requirements, rules of professional conduct and “FIRREA” and AQB criteria. Effective 9–1–11.

**Summary of Final Regulatory Flexibility Analysis**

These proposed rules were reviewed by the department’s Small Business Review Advisory Committee to determine if

the rules will have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. It was determined that the rules will not have a significant economic impact on a substantial number of small businesses.

**Summary of Comments of Legislative Standing Committees**

No comments were reported.

**Safety and Professional Services —  
Hearing and Speech Examining Board**

**CR 11–017**

Revises Chapter HAS 8, relating to requiring ethics courses and approval of continuing education programs. Effective 9–1–11.

**Summary of Final Regulatory Flexibility Analysis**

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 of Legislative Standing Committees**

No comments were reported.

**Safety and Professional Services —  
Radiography Examining Board**

**CR 11–016**

Creates Chapters RAD 1 to 6, relating to radiography. Effective 9–1–11.

**Summary of Final Regulatory Flexibility Analysis**

These proposed rules were reviewed by the 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 of Legislative Standing Committees**

No comments were reported.

**Transportation**

**CR 10–142**

Revises Chapter Trans 132, relating to temporary operation plates or permits. Effective 9–1–11.

**Summary of Final Regulatory Flexibility Analysis**

To the extent that small businesses purchase eligible vehicles through private sales, this application will have a positive effect on small businesses.

**Summary of Comments of Legislative Standing Committees**

No comments were reported.

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## Sections Affected by Rule Revisions and Corrections

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The following administrative code sections had rule revisions and corrections take place in **August 2011**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

### Revisions

#### Agriculture, Trade and Consumer Protection

##### Ch. ATCP 161

ATCP 161.50  
ATCP 161.52  
ATCP 161.54  
ATCP 161.56

#### Children and Families

##### Ch. DCF 37

DCF 37.02 (9), (10)

##### Ch. DCF 38

Entire Chapter Repealed

##### Ch. DCF 50

DCF 50.01 (4) (t), 1., 2.  
DCF 50.03 (1) (a) 3., b.  
DCF 50.04 (Note)  
DCF 50.042  
DCF 50.044 (2) (Note), (3) (c)  
DCF 50.045 (2) (Note), (3) (c)  
DCF 50.05 (1) (a), 1., 2.

##### Ch. DCF 56

DCF 56.01 (1)  
DCF 56.02 (1) (2) (a) 1., (b) 1. (Note), 6., b., (c) 1.  
DCF 56.03 (1), (1g), (1r), (3) (a), (6m), (10m), (11m), (14), (15), (15m), (21g), (21r), (22), (24), (29), (33m), (34d), (34h), (34p), (34t), (35m), (36), (37), (37e), (37m), (37s), (38)  
DCF 56.04 (2), (4) (a) 2. (Note), 5m., (8)  
DCF 56.05 (1) (b), 2., (c), 1. h. to n., 2.  
DCF 56.06  
DCF 56.07 (1m), (2), (b), (3) (d), (4) (d), (g), (i), (10) (a)  
DCF 56.08 (8) (a) 2., 3., (11), (Note)  
DCF 56.09 (1) (am), (bm), (cm), (dm), (em), (fm), (gm), (h), (hm), (o), (1g), (1m) (a) (title), (b), (title), (c), (title) (d) to (g), (2) (a), (c), (h), (i), (4) (dm), (e), (g), (10) (g)  
DCF 56.11 (1), (2), (3), (4), (5)  
DCF 56.13 (title), (1), (c), (2), (3), (b) (Note), (4) (title), (a) 1., b. (Note), 2., 3., (b), (5) to (8)  
DCF 56.14 (4), (b), (6), (title), (a) (intro.), (b), (6d), (6h), (6p), (6t), (7) (title), (a) (intro.), (b), 2., (c), (d), (7e), (7m), (7s), (8) (b) 1g., 1r., 3.  
DCF 56.15  
DCF 56.16 to 56.23  
DCF Appendix A

##### Ch. DCF 201

DCF 201.02 (12), (17) (Note), (21)

##### Ch. DCF 250

DCF 250.03 (13)

#### Commerce

##### Ch. Comm 2

Comm 2.31 (1) (a) (d) (i)  
Comm 2.36  
Comm 2.44, (Table)  
Comm 2.52 (3) (title), (a)

##### Ch. Comm 5

Comm 5.61 (1)  
Comm 5.63 (1) (b) 5.

##### Ch. Comm 14

Comm 14.01 (1) (g) (Note)  
Comm 14.13 (3) (title), (intro.), (Note), (4)

##### Ch. Comm 18

Comm 18.1702 (1) (a), (b)

##### Ch. Comm 20

Comm 20.24-10 (Table)

##### Ch. Comm 21

Comm 21.095

##### Ch. Comm 40

Entire Chapter

##### Ch. Comm 61

Comm 61.03 (14) (a), (b), (c), (d), (e), (f), (15)  
Comm 61.04 (4), (15)  
Comm 61.05  
Comm 61.30 (1) (a), (b) 1. 2. 3., (3), (4) (a), (b), Table 61.30-2, Table 61.30-3  
Comm 61.31 (1) (b) 2., (Note) 3.  
Comm 61.34  
Comm 61.40 (1) (a)

##### Ch. Comm 62

Comm 62.0202 (1), (2)  
Comm 62.0400 (1) (Note), (6)  
Comm 62.0401 (Note)  
Comm 62.0402  
Comm 62.0414  
Comm 62.0702  
Comm 62.0703  
Comm 62.0704  
Comm 62.0705  
Comm 62.0706  
Comm 62.0707

Comm 62.0708  
 Comm 62.0721  
 Comm 62.0902 (title)  
 Comm 62.0903 (1), (2), (3), (4), (5) (intro.), (a), (b) (intro.), (c) 3. (intro.), b., (d), (6) (intro.), (a), (c), (d), (6m) (intro.), (a), (b), 1. 2. 3. 4. 5. (c), (7), (intro.), (b) 4., (8), (9), (10) (b), (11), (12), (13), (14) (b), (15)  
 Comm 62.0907 (2), (3), (4), (5), (6), (7)  
 Comm 62.0909 (7)  
 Comm 62.1007  
 Comm 62.1008 (2)  
 Comm 62.1009  
 Comm 62.1016  
 Comm 62.1017  
 Comm 62.1018 (intro.)  
 Comm 62.1019 (2)  
 Comm 62.1020  
 Comm 62.1021 (title), (1), (2)  
 Comm 62.1022  
 Comm 62.1101 (2) (a), (c)  
 Comm 62.1103 (1), (2) (a), (b)  
 Comm 62.1107 (title), (1) (a), (b), (c), (2) (a), (c), (d), (3) (a) (Note), (b) (title)  
 Comm 62.1110 (1) (title), (2) (title), (a), (b) (Note)  
 Comm 62.1200 (2) (a) 1., (3) (d)  
 Comm 62.1405  
 Comm 62.1407  
 Comm 62.1603 (title), (1), (2), (3), (4), (5), (6)  
 Comm 62.1604 (title), (1), (2)  
 Comm 62.1607 (1), (2), (3), Table 1607.1  
 Comm 62.1612  
 Comm 62.1613 (1), (2), (3)  
 Comm 62.1700  
 Comm 62.1802  
 Comm 62.1803  
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 Comm 62.1805  
 Comm 62.1806  
 Comm 62.1807  
 Comm 62.1808 (title), (1), (2), (3), (4), (5), (6)  
 Comm 62.1809  
 Comm 62.1810 (title), (1), (2) (intro.), (a), (b), (d), (e), (f), (3), (4), (5), (6), (7), (8), (9)  
 Comm 62.1901  
 Comm 62.1903  
 Comm 62.1908  
 Comm 62.1913  
 Comm 62.1915  
 Comm 62.2101  
 Comm 62.2105  
 Comm 62.2109 (2) (b), (3), Table 62.2109–1, Table 62.2109–2  
 Comm 62.2204  
 Comm 62.2206  
 Comm 62.2210  
 Comm 62.2303  
 Comm 62.2902 (5) (Note)  
 Comm 62.2903  
 Comm 62.3001 (1), (2), (3)  
 Comm 62.3002  
 Comm 62.3004 (2) (b)  
 Comm 62.3500 (3) (a), (b), (d)

**Ch. Comm 63**

Comm 63.002 (2)  
 Comm 63.0101  
 Comm 63.0102  
 Comm 63.0303 (intro.)  
 Comm 63.0402  
 Comm 63.0403 (2), (3)  
 Comm 63.0404  
 Comm 63.0405  
 Comm 63.0501 (2)  
 Comm 63.0502  
 Comm 63.0503 (3), (4), (5), (6), (7), (8), (9), Table 503.2.3 (1), Table 503.2.2 (2)  
 Comm 63.0505 (1), (2) (a) 3., (3), (4)  
 Comm 63.0506 (Note)

**Ch. Comm 64**

Comm 64.0101  
 Comm 64.0102 (title) (2)  
 Comm 64.0202 (1) (d)  
 Comm 64.0300 (1), (2)  
 Comm 64.0301 (3) (b) 2.  
 Comm 64.0307  
 Comm 64.0313 (4)  
 Comm 64.0401 (1), (4) (a), (b), (c), (d), (5), (6), (7)  
 Comm 64.0402  
 Comm 64.0403 (1) (a), (2), (3), (4), (5) (a) 1., (d) (title) 1., 2. a. ,d., (6) (c) 4., (8), (9), Table 64.0403  
 Comm 64.0404 (1), (2) (c)  
 Comm 64.0407  
 Comm 64.0501 (1), (2), (3) (title), (intro.), (5)  
 Comm 64.0502 (1), (2)  
 Comm 64.0506 (2) (bm), (c)  
 Comm 64.0514  
 Comm 64.0601  
 Comm 64.0602  
 Comm 64.0702  
 Comm 64.0710  
 Comm 64.0801 (3)  
 Comm 64.0918 (2), (3)  
 Comm 64.1500 (2) (a) (Note)

**Ch. Comm 65**

Comm 65.0303 (2)  
 Comm 65.0610  
 Comm 65.0630  
 Comm 65.0800

**Ch. Comm 66**

Comm 66.0100 (Note)  
 Comm 66.0101 (2) (a), (b)  
 Comm 66.0202 (2)  
 Comm 66.0300  
 Comm 66.0500  
 Comm 66.0503  
 Comm 66.0509 (Note)  
 Comm 66.0602  
 Comm 66.0607 (2) (e), (f), (g), (h), (3)  
 Comm 66.0701  
 Comm 660704  
 Comm 66.0901 (1)  
 Comm 66.0910  
 Comm 66.0912  
 Comm 66.1002  
 Comm 66.1101 (1), (2) (title)

Comm 66.1105  
 Comm 66.1301 (2), (3)  
 Comm 66.1400  
 Appendix A  
 Appendix B

**Ch. Comm 82**

Comm 82.40 (3) (e) 1. (Note) 2. a., b., c., d.

**Employee Trust Funds****Ch. ETF 10**

ETF 10.75

**Ch. ETF 20**

ETF 20.055

**Hearing and Speech Examining Board****Ch. HAS 8**

HAS 8.03 (1), (Note), (3), (6)

HAS 8.04 (6)

**Insurance****Ch. Ins 6**

Ins 6.07 (4) (a) (intro.), 1., 2., 5., 8., (d), (9)

**Ch. Ins 17**

Ins 17.01 (3)

Ins 17.28 (3) (c), (6)

**Natural Resources****Ch. NR 45**

NR 45.055

**Ch. NR 400**

NR 400.02 (74m)

NR 400.03 (3) (om), (4) (go), (kg)

**Ch. NR 405**

NR 405.02 (28m)

NR 405.07 (9)

**Ch. NR 407**

NR 407.02 (4) (b) (intro.), (8m)

NR 407.05 Table 3

NR 407.075

**Public Service Commission****Ch. PSC 168**

PSC 168.06 (5), (b)

PSC 168.09 (2)

PSC 168.13 (2), (c)

**Radiography Examining Board****RAD 1**

(Entire Chapter)

**RAD 2**

(Entire Chapter)

**RAD 3**

(Entire Chapter)

**RAD 4**

(Entire Chapter)

**RAD 5**

(Entire Chapter)

**RAD 6**

(Entire Chapter)

**Regulation and Licensing****Ch. RL 80**

RL 80.03 (10)

**Ch. RL 81**

RL 81.02 (8) (Note)

RL 81.03 (2) (d) (Note)

RL 81.04 (1) (a) (Note), (c) 4.

RL 81.05 (1), (2)

**Ch. RL 82**

RL 82.01 (1), (6)

**Ch. RL 83**

RL 83.01 (3) (f), (g), (4) (intro.), (c) (Note)

RL 83.07 (7)

**Ch. RL 84**

RL 84.001

RL 84.01 (1) (Note), (7) (f), (g), (13), (14)

RL 84.02

RL 84.03

RL 84.04

**Ch. RL 85**

RL 85.01 (6)

RL 85.02 (1) (Note), (8) (f), (g), (11), (12)

**Ch. RL 86**

RL 86.01 (10), (11), (12), (13), (14)

**Ch. RL 180**

RL 180.02 (1m), (3m), (11)

**Ch. RL 181**

RL 181.01 (1) (d), (2) (c), 1., 2., (4) (b) 4.

**Transportation****Ch. Trans 132**

Trans 132.01 (1), (2)

Trans 132.02 (7), (a), (b)

Trans 132.03 (intro.), (2)

Trans 132.04 (1) (a) to (c), (2), (3) (a), (b), (c)

Trans 132.05

Trans 132.06 (title), (1) to (7) (a)

Trans 132.07

Trans 132.08 (1) (intro.), (2)

Trans 132.09

Trans 132.10

**Editorial Corrections**

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

**Agriculture, Trade and Consumer Protection****ATCP 161**

ATCP 161.52 (2)

**Children and Families****Ch. DCF 51**

DCF 51.07 (1) (e), (7)

**Ch. DCF 56**

DCF 56.12 (1) (e)

DCF 56.13 (7) (h) 4., 5.

**Ch. DCF 57**

DCF 57.40 (3) (a) 2.

**Ch. DCF 250**

DCF 250.06 (6) (a), (b)

**Ch. DCF 251**

DCF 251.06 (6) (b) 1.

**Ch. DCF 252**

DCF 252.43 (3) (d) 2.

**Commerce****Ch. Comm 62**

Comm 62.0406 (title)

**Ch. Comm 63**

Comm 63.0202 (2)

**Ch. Comm 64**

Comm 64.0202 (2)

**Ch. Comm 65**

Comm 65.0202 (2)

**Health Services****Ch. DHS 12**

DHS 12.02 (1) (b)

**Natural Resources****Ch. NR 45**

NR 45.10 (1) (a) 6.

**Ch. NR 132**

NR 132.13 (1)

**Ch. NR 135**

NR 135.03 (intro.), Note

NR 135.19 (3) (b), Note

**Radiography Examining Board****RAD 1**

RAD 1.01

RAD 1.02 (7)

**Regulation and Licensing****Ch. RL 80**

RL 80.03 (7)

**Ch. RL 84**

RL 84.001 (title)

**Ch. RL 180**

RL 180.02 (4), (6)

**Transportation****Ch. Trans 132**

Trans 132.01

Trans 132.02 (2), (4)

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## Executive Orders

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

**Executive Order 39.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff in Iowa County as a Mark of Respect for Carolyn K. Olson, Iowa County Clerk of Circuit Court.

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## Public Notices

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### Health and Family Services

#### (Medical Assistance Reimbursement for Services Provided by Hospital Affiliated and Free-Standing End Stage Renal Disease Providers)

The State of Wisconsin reimburses providers for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health Services, is called Medical Assistance (MA) or Medicaid. In addition, Wisconsin has expanded this program to create the BadgerCare and BadgerCare Plus programs under the authority of Title XIX and Title XXI of the Social Security Act and ss. 49.471, 49.665, and 49.67 of the Wisconsin Statutes. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Wisconsin Department of Health Services is proposing to modify the Medicaid reimbursement methodology for services provided by end stage renal disease (ESRD) providers. The Department's proposal involves no change in coverage of services.

2011 Act 32, the 2011–2013 biennial budget, directed the Department to change the Medicaid reimbursement structure for ESRD providers. The Department will pay ESRD providers a per diem rate set at a percentage of the Medicare reimbursement rate for the services that they provide. Initially, this amount will not exceed approximately 80% of the Medicare reimbursement rate. The percentage may be revised from time to time.

#### **Proposed Change**

The proposed change is to adopt a reimbursement rate of a per diem rate not to exceed a percentage of the Medicare reimbursement rate for services provided by ESRD providers. Initially, that percentage is not to exceed approximately 80%. The change will apply to dialysis services provided on dates of service on and after September 10, 2011.

The projected fiscal effect of these changes is a savings of \$3.1 million general purpose revenue (GPR) and \$1.9 million federal match (FED) for a total of \$5.0 million all funds (AF) for the 2011–2013 biennium.

#### **Copies of the Proposed Change**

A copy of the proposed change may be obtained free of charge by calling or writing as follows:

##### ***Regular Mail***

James Vavra  
Bureau of Benefits Management  
Division of Health Care Financing  
P.O. Box 309  
Madison, WI 53701–0309

##### ***Phone***

James Vavra  
(608) 261–7838

##### ***FAX***

(608) 266–1096  
Attention: James Vavra

##### ***E-Mail***

[james.vavra@dhs.wisconsin.gov](mailto:james.vavra@dhs.wisconsin.gov)

A copy of the proposed change are available for review at the main office of any county department of social services or human services.

#### **Written Comments:**

Written comments are welcome. Written comments on the proposed changes may be sent by FAX, e-mail, or regular mail to the Department. The FAX number is (608) 266–1096. The e-mail address is [james.vavra@dhs.wisconsin.gov](mailto:james.vavra@dhs.wisconsin.gov). Regular mail can be sent to the above address. All written comments will be reviewed and considered.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

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