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## WISCONSIN ADMINISTRATIVE REGISTER

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Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590

email: [bruce.hoesly@legis.wisconsin.gov](mailto:bruce.hoesly@legis.wisconsin.gov)

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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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### Agriculture, Trade and Consumer Protection

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

#### Finding of Emergency

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

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

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

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

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

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

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

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

**Publication Date:** April 22, 2010  
**Effective Dates:** April 22, 2010 through  
September 18, 2010  
**Hearing Date:** May 25, 2010

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### Children and Families

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

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

#### Finding of Emergency

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

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

**Publication Date:** December 30, 2009  
**Effective Dates:** January 1, 2010 through  
 May 30, 2010  
**Extension Through:** September 27, 2010  
**Hearing Dates:** March 17, March 31,  
 April 8, 2010

### Children and Families

#### *Family and Economic Security, Chs. DCF 101–153*

**EmR1024** — Rule adopted creating **Chapter DCF 110**, relating to transitional jobs for low–income adults.

#### **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:

Initial funding for the transitional jobs demonstration project will come from the Temporary Assistance to Needy Families (TANF) Emergency Contingency Fund under the American Recovery and Reinvestment Act of 2009. Spending for subsidized employment is one of the ways that the state can earn additional federal dollars under the TANF Emergency Contingency Fund. The deadline for earning the additional federal dollars is September 30, 2010.

**Publication Date:** June 30, 2010  
**Effective Dates:** July 1, 2010 through  
 November 27, 2010  
**Hearing Date:** August 5, 2010

### Children and Families (2)

#### *Early Care and Education, Chs. DCF 201–252*

1. **EmR1015** — Rule adopted revising **Chapter DCF 201**, relating to authorized hours of subsidized child care and affecting small businesses.

#### **Finding of Emergency**

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

2009 Wisconsin Act 28 assumes that implementation of s. 49.155 (6g), Stats., will save an estimated \$9 million over the 2009–2011 biennium.

**Publication Date:** May 17, 2010  
**Effective Dates:** May 17, 2010 through  
 October 13, 2010  
**Hearing Date:** June 17, 2010

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

#### **Finding of Emergency**

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

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

**Publication Date:** July 9, 2010  
**Effective Dates:** July 9, 2010 through  
 December 5, 2010  
**Hearing Date:** August 6, 2010

### Commerce

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

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

#### **Finding of Emergency**

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

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

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

### Commerce (4)

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

1. **EmR1013** — Rule adopted to create **Chapter Comm 121**, relating to the small business innovation research assistance program, and affecting small businesses.

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

The Legislature, by Section 9110 (16u) of 2009 Wisconsin Act 28, 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:** April 21, 2010  
**Effective Dates:** April 21, 2010 through September 17, 2010  
**Hearing Date:** June 11, 2010

2. **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  
**Hearing Date:** August 17, 2010

3. **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

4. **EmR1029**— Rule adopted to repeal and recreate **Chapter Comm 137**, relating to reallocations for recovery zone facility bonds as established under the federal American Recovery and Reinvestment Act of 2009, and affecting small businesses.

#### Exemption From Finding of Emergency

The Legislature, by Section 5 (1) (b) in 2009 Wisconsin Act 112, 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 23, 2010  
**Effective Dates:** July 23, 2010 through December 19, 2010

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### Corrections

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

#### Finding of Emergency

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

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

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

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

**Publication Date:** December 31, 2009  
**Effective Dates:** December 31, 2009 through May 29, 2010  
**Extension Through:** September 26, 2010  
**Hearing Date:** February 25, 2010

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## Earned Release Review Commission

(Formerly Parole Commission)

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

### Finding of Emergency

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

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

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

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond the legislatively recognized need to review inmates who meet the requirements under the statutes for potential release while the permanent rules are being developed.

**Publication Date:** December 31, 2009  
**Effective Dates:** December 31, 2009 through May 29, 2010  
**Extension Through:** September 26, 2010  
**Hearing Date:** February 23, 2010

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## Government Accountability Board

**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

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## Health Services (2)

*Health, Chs. DHS 110—*

- EmR1004** — Rule adopted to create **sections DHS 195.145 and 197.145**, relating to carbon monoxide detectors in hotels, motels, tourist rooming houses and bed and breakfast establishments, and affecting small businesses.

### Finding of Emergency

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

Section 101.149 (2) and (3), Stats., requires the owners of lodging establishments, including hotels, tourist rooming houses, and bed and breakfast establishments that were constructed on or before October 1, 2008, or had plans reviewed by the department of commerce before October 1, 2008, to, not later than April 1, 2010, install carbon monoxide detectors in every residential building that has a fuel–burning appliance, unless, pursuant to s. 101.149 (5), Stats., the building does not have an attached garage and all fuel–burning appliances in the building have sealed combustion units that are either covered by the manufacturer’s warranty against defects or are inspected under rules promulgated by DHS.

Section 254.74 (1) (am), Stats., requires DHS to promulgate rules under which DHS would conduct inspections of sealed combustion units for carbon monoxide emissions, and rules that specify the conditions under which DHS may issue orders to correct violations of s. 101.149 (2) or (3), Stats.

**Publication Date:** March 1, 2010  
**Effective Dates:** April 1, 2010 through August 28, 2010  
**Hearing Dates:** April 21, 23, 27, 28, 30, 2010

2. **EmR1009** — Rule adopted to revise **Chapter DHS 137**, relating to anatomical gifts and the Wisconsin Donor Registry.

#### Finding of Emergency

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

There are over 105,000 people in the United States on the national waiting list for organ transplants including 1,500 in Wisconsin. Due to the limited availability of organs for transplantation, 18 people die each day in the United States.

As part of Wisconsin's response to the need for increased organ and tissue donation, the department, as authorized under s. 157.06 (20), Stats., has established the Wisconsin Donor Registry (Donor Registry).

The Donor Registry will make it easier for Wisconsin residents to become donors and for procurement organizations to identify donors, and thus it should increase the supply of available organs and tissues, which may save the lives of persons awaiting transplant.

Promulgating the rules for the Donor Registry as emergency rules will enable department–authorized procurement organizations to quickly determine whether a person who is at or near death has a record of gift. In addition, the Donor Registry makes it possible for individuals to immediately make anatomical gifts.

The Donor Registry will become available for use by the public upon the effective date of these emergency rules and may be accessed by the public at [yesIwillwisconsin.com](http://yesIwillwisconsin.com). Substantially identical permanent rules are being proposed concurrent to this emergency order.

**Publication Date:** March 29, 2010  
**Effective Dates:** March 29, 2010 through August 25, 2010  
**Hearing Date:** May 5, 2010

### Insurance (4)

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

#### Exemption From Finding of Emergency

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

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

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

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

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

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

#### Exemption From Finding of Emergency

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

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

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

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

**Publication Date:** January 7, 2010  
**Effective Dates:** January 8, 2010 through January 7, 2011 (corrected)  
**Hearing Date:** May 5, 2010

3. **EmR1005** — A rule adopted creating **section Ins 3.36**, relating to treatment of autism spectrum disorders and affecting small business.

**Exemption From Finding of Emergency**

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

**Publication Date:** March 8, 2010  
**Effective Dates:** March 8, 2010  
 through August 4, 2010  
 (subject to s. 632.895 (12m) (f), Stats.)  
**Extension Through:** October 3, 2010  
**Hearing Date:** May 26, 2010

4. **EmR1020** — Rule adopted to revise **Chapter Ins 17**, relating to annual injured patients and families compensation fund fees and medical mediation panel fees for the fiscal year beginning July 1, 2010, and may have an effect on 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:

These changes must be in place with an effective date of July 1, 2010 for the new fiscal year assessments. The fiscal year fees were established by the Board of Governors at a meeting on May 18, 2010.

**Publication Date:** June 15, 2010  
**Effective Dates:** June 15, 2010  
 through November 11, 2010  
**Hearing Date:** July 19, 2010

**Military Affairs**

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

**Exemption From Finding of Emergency**

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

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

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

**Publication Date:** July 26, 2010  
**Effective Dates:** July 26, 2010 through  
 December 22, 2010

**Natural Resources (2)****Fish, Game, etc., Chs. NR 1—**

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

**Finding of Emergency**

The Department of Natural Resources finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is: Based on information received by the Department, user conflicts are increasing. Failure to enact this rule could lead to additional boating accidents and potential for injury during the upcoming high use season.

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

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

**Finding of Emergency**

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Deer populations are well below goal in much of northeast Wisconsin, causing great concern from hunters and others who value deer. This rule is one of the ways the department is trying to rebuild the populations there. The federal government and state legislature have delegated to the appropriate agencies rule–making authority to control and regulate hunting wild animals. The State of Wisconsin must provide publications describing the regulations for deer hunting to approximately 250,000 archery deer hunters prior to the start of the season. These regulations must be legally in effect prior to printing nearly 1 million copies of the regulations publication. The timeline for the permanent version of this rule will not have it in effect in time for these deadlines.

**Publication Date:** July 8, 2010  
**Effective Dates:** July 8, 2010 through  
 December 4, 2010  
**Hearing Date:** August 30, 2010  
 (See the Notice in this Register)

**Natural Resources****Environmental Protection — Hazardous Waste Management, Chs. NR 600—**

- EmR1007** — Rule adopted revising **section NR 660.10**, relating to hazardous waste management.

**Exemption From Finding of Emergency**

Section 289.67 (2) (de), Stats., as created by 2009 Wisconsin Act 28 (the 2009–2011 biennial budget bill), requires the department to promulgate by rule definitions of “large quantity generator” and “small quantity generator” for purposes of the hazardous waste generator fees established by s. 289.67 (2) (b) 1., Stats., as amended by 2009 Wisconsin Act 28.

Section 9137 (2), a non–statutory provision in 2009 Wisconsin Act 28, authorizes the department to promulgate the required definitions using emergency rule making procedures, but is not required to provide evidence that promulgating a rule under that 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 emergency.

**Publication Date:** March 17, 2010  
**Effective Dates:** March 17, 2010 through July 1, 2011  
**Hearing Date:** April 26, 2010

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### Public Instruction (3)

1. **EmR1018** — Rule adopted to create **Chapter PI 45**, relating to the use of race–based nicknames, logos, mascots, and team names by school boards.

#### Finding of Emergency

Pursuant to Section 3 of the nonstatutory provisions of 2009 Wisconsin Act 250, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

**Publication Date:** June 1, 2010  
**Effective Dates:** June 1, 2010 through October 28, 2010  
**Hearing Date:** July 29, 2010

2. **EmR1021** — Rule adopted to create **section PI 35.07**, relating to establishing a temporary, nonrenewable waiver from the requirement that a teacher have a bachelor’s degree in order to teach in a private school under the Milwaukee Parental Choice Program.

#### Exemption From Finding of Emergency

Pursuant to Section 9139 (4r) of the nonstatutory provisions of 2009 Wisconsin Act 28, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

**Publication Date:** June 16, 2010  
**Effective Dates:** June 16, 2010 through November 12, 2010  
**Hearing Date:** July 12, 2010

3. **EmR1023** — Rule adopted creating **Chapter PI 43**, relating to education reform.

#### Finding of Emergency

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

2009 Wisconsin Act 215 requires the state superintendent to promulgate rules establishing criteria and procedures for determining whether a school or school district is in need of improvement and whether a school is among the lowest performing 5 percent of all public schools in the state. The Act became effective May 14, 2010 and review by the various interest groups was completed June 18, 2010. Rules must be

in place as soon as possible to establish identification criteria prior to the upcoming school year.

**Publication Date:** June 28, 2010  
**Effective Dates:** June 28, 2010 through November 24, 2010  
**Hearing Date:** July 27, 2010

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### Regulation and Licensing (2)

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

#### Exemption From Finding of Emergency

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

**Publication Date:** September 10, 2008  
**Effective 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

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### 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

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### Transportation

**EmR1017** — Rule adopted to create **section Trans 100.25**, relating to mandatory insurance exemptions.

#### Finding of Emergency

The Department of Transportation finds that an emergency exists and that an emergency rule is necessary for the

immediate preservation of the public health and welfare. A statement of the facts constituting the emergency is the requirements of the mandatory insurance laws in Chapter 344, Stats., as created by 2009 Wis. Act 28, contain exceptions to furnishing proof of a motor vehicle liability insurance policy. This emergency rule defines the administration of those exceptions. These mandatory insurance requirements, and the exceptions, are effective June 1, 2010, thereby necessitating an emergency rule being put into place until the effective date of the permanent rule. Clarification of the mechanism to be used to qualify for an exception under the new statute will be useful to persons wishing to file for an exception. Persons whose religious beliefs preclude them from buying insurance will benefit from this rule making.

**Publication Date:** June 1, 2010  
**Effective Dates:** June 1, 2010 through  
 October 28, 2010  
**Hearing Date:** June 24, 2010

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### Workforce Development

#### *Labor Standards, Chs. DWD 270–279*

**EmR1011** — Rule adopted to create **Chapter DWD 273**, relating to the regulation of traveling sales crews.

#### Finding of Emergency

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

The statute which provides for the regulation of traveling sales crews became effective on April 1, 2010. The Department has completed its work on the proposed administrative rule which implements the statute, and submitted the proposed rule in final form for legislative review on April 13, 2010. Putting the provisions of the proposed rule into effect during the legislative review period will allow the Department to take any enforcement action that might be needed if there are complaints during this period about the operation of traveling sales crews without the permits required by statute.

**Publication Date:** April 19, 2010  
**Effective Dates:** April 19, 2010 through  
 September 15, 2010

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## Scope Statements

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### Dentistry Examining Board

#### Subject

Revises sections DE 6.02, 7.03 and 7.05, to clarify the board's advertising rule and to create consistency in cardiopulmonary resuscitation (CPR) training requirements.

#### Objective of the Rule

Clarify the board's unprofessional advertising rule, DE Ch. 6, to require training in an American Dental Association (ADA) Commission on Dental Accreditation (CODA) post-graduate training program in a specialty recognized by the board as a prerequisite to advertising a practice as specializing in a dental specialty. Also, the board intends to prohibit advertising a specialty if it is not a specialty recognized by CODA, and to specify other changes to the advertising rule that may be necessary for its effective enforcement.

Clarify wherever necessary CPR requirements for licensing, renewal and certification, including certification in the administration of local anesthesia, to ensure wider availability of approved options for qualified CPR training.

#### Policy Analysis

Currently, the board's unprofessional conduct advertising rule requires training in a CODA-approved course. CODA approves programs, not courses. The result is that dental practices may currently advertise a purported specialty without having completed a CODA-approved program. In addition, there are a limited number of CODA-recognized specialties, and there are dental practices in Wisconsin advertising specialties that are not recognized by CODA.

To obtain a license to practice dentistry or dental hygiene, an applicant must submit evidence satisfactory to the board that the person has current proficiency in CPR through instruction provided by an individual, organization, or institution of higher education qualified to provide such instruction. To renew a license, a dentist and dental hygienist must attest that he or she has current proficiency in CPR. The statute requires the board to consult with the Department of Health Services to determine whether an individual, organization, or institution of higher education is qualified to provide instruction in CPR. The Department of Health Services maintains a list of approved providers. The list includes five providers in addition to the American Red Cross and the American Heart Association. To obtain certification to administer local anesthesia, dental hygienists must show evidence of current qualification in CPR from either the American Heart Association (AHA) or the American Red Cross (ARC). If there are qualified CPR course providers in addition to the AHA and the ARC that are recognized for licensing and renewing a license, the board concludes there are likewise additional course providers qualified to provide CPR training for local anesthesia.

#### Statutory Authority

Sections 15.08 (5) (b), 227.11 (2) and 447.02, Wis. Stats.

#### Comparison with Federal Regulations

None.

#### Entities Affected by the Rule

Applicants for a dentist or dental hygiene license, applicants renewing a dental or dental hygiene license, dental hygienists applying for certification to administer local anesthesia, CPR course providers, the Dentistry Examining Board and the Department of Regulation and Licensing.

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

It is estimated that 150 staff hours will be needed to promulgate the rule.

### Government Accountability Board

#### Subject

Creates Chapter GAB 26 relating to Contract Sunshine.

#### Objective of the Rule

Rules promulgated by the Board will assist with the proper administration of 2005 Wisconsin Act 410 ("Contract Sunshine.")

#### Policy Analysis

Pursuant to 2005 Wisconsin Act 410 ("Contract Sunshine"), state agencies are required to provide certain information to the Government Accountability Board regarding solicitations, contracts, or orders involving major expenditures. Furthermore, the Government Accountability Board is required to post the agencies' information on an internet site. The proposed order will provide direction to agencies subject to the Act regarding the method and manner by which to comply with the Act. In addition, the proposed order will clarify responsibilities of the Government Accountability Board regarding monitoring agencies' compliance with the Act.

#### Statutory Authority

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

#### Comparison with Federal Regulations

At the federal level, the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) and the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) codified requirements to report publicly via the internet certain assistance and procurement data for Federal agencies for all actions that obligate \$25,000 or more in Federal funds. The Office of Management and Budget established the [www.USAspending.gov](http://www.USAspending.gov) website to implement the statutory requirements. The Office of Management and Budget is promulgating rules to provide further guidance to agencies regarding assistance reporting, but has relied on guidance found in OMB Circulars to date. Rules for procurement reporting are generally found in Title 48 of the Code of Federal Regulations. (See 48 CFR ch. 1). Federal procurement data is first entered into the Federal Procurement Data System and then exported to [www.USAspending.gov](http://www.USAspending.gov). The proposed rules and existing rules prescribe the manner and method for compliance with the two Acts.

**Entities Affected by the Rule**

The Government Accountability Board and any state agency making solicitations for bids or competitive sealed proposals, or proposed orders or contracts for which bids or competitive sealed proposals will not be solicited, that involve a major expenditure as defined in section 16.753 (1), Wis. Stats.

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

30 hours.

**Hearing and Speech Examining Board****Subject**

Revises Chapter HAS 8, relating to an ethics continuing education requirement for audiologists, hearing instrument specialists, and speech language pathologists.

**Objective of the Rule**

The proposed rule would require two hours in ethics out of the twenty hours of continuing education that must be completed prior to renewal of a credential for audiologists, hearing instrument specialists and speech language pathologists.

**Policy Analysis**

The Board may further define ethics within the context of continuing education. Credits will not be restricted by topic.

**Statutory Authority**

Sections 15.08 (5) (b), 227.11 (2), 459.095, 459.12 (1) and 459.24 (5m), Wis. Stats.

**Comparison with Federal Regulations**

None.

**Entities Affected by the Rule**

Licensed audiologists, hearing instrument specialists and speech language pathologists, continuing education sponsors and providers, and the Department of Regulation and Licensing

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

It is estimated that 160 staff hours will be needed to promulgate the rule.

**Military Affairs****Subject**

Creates Chapter DMA 1, relating to military family financial aid.

**Objective of the Rule**

Create rules to administer the distribution of Military Family Relief funds donated per section 20.465 (2) (r), Wis. Stats., through Military Family Financial Aid.

**Policy Analysis**

Currently the Military Family Relief Fund is not administered.

**Statutory Authority**

Section 321.45 (2), Wis. Stats.

**Comparison with Federal Regulations**

Various non–profit entities, to include Army Emergency Relief, are endorsed by the federal government to support service members and their families during financial emergencies; however, there are no analogous rules funded by tax check–off.

**Entities Affected by the Rule**

Military Family Financial Aid will only affect service members and their families, and will create a minimal administrative burden on the Department of Military Affairs.

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

Department of Military Affairs employees will spend approximately 100 hours developing and promulgating this rule.

**Natural Resources*****Fish, Game, etc., Chs. NR 1—***

(DNR # PR–36–10)

**Subject**

Revises section NR 1.29, relating to management of department lands purchased for the ice age trail and north country trail.

**Objective of the Rule**

To guide and allow some management of lands purchased for the Ice Age and North Country trails. Such management activities would include selective timber harvest, invasive species removal, installation of the Ice Age and North Country trails, dispersed camping, and other minor trail amenities such as small parking lots.

This rule proposal would compliment the proposed Ice Age Trail hunting policy (NR 10.275 (4), Wis. Adm. Code).

**Policy Analysis**

These rules would provide property managers guidance for pre–Master Plan management of lands purchased for the Ice Age and North Country trails. These individual properties, which number in the high 70s, are not likely to be Master Planned for another six to ten years.

**Statutory Authority**

Sections 23.09, 23.17, 23.175, 27.01, and 227.11 (2) (a), Wis. Stats.

**Comparison with Federal Regulations**

N/A.

**Entities Affected by the Rule**

Groups likely interested in this rule will be recreation user groups, trail users, and the governmental and non–profit partners on the Ice Age and North Country Trails.

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

80 hours.

**Contact Information**

Brigit Brown

101 S. Webster Street, Madison, WI 53703

Phone: (608) 266–2183

Email: brigitt.brown@wi.gov



## Natural Resources

### *Fish, Game, etc., Chs. NR 1—*

(DNR # CF–28–09)

**NOTE:** *The original scope statement was published in the Administrative Register on November 1, 2009. While working on revisions to ch. NR 51, DNR staff have identified several issues that should be addressed and were not included in the original scope statement. An amended scope statement appears below.*

#### Subject

Revises Chapter NR 51, Wis. Adm. Code, relating to the administration of grants provided through the Knowles–Nelson Stewardship Program.

#### Objective of the Rule

Proposed changes to ch. NR 51 fall into the following categories:

1. Housekeeping — Corrections of grammar, sentence structure, definitions of terms used in the existing ch. NR 51 but not previously defined, and gathering of requirements from throughout ch. NR 51 into one location when those requirements apply to all categories of Stewardship grants.
2. Changes resulting from reauthorization of the Knowles–Nelson Stewardship Program in 2007 Wis. Act 20 — Adds public access requirements by reference to ch. NR 52, Wis. Adm. Code. Adds new signage requirements. Adds three new subchapters, as follows:
  - Grants to Counties for County Forests (s. 23.0953 (2) (a) 1., Wis. Stats.)
  - Grants to Counties when the DNR asks for Assistance (s. 23.0953 (2) (a) 2., Wis. Stats.)
  - Recreational Boating Facility grants (s. 23.0917 (2) (a) 3m., Wis. Stats.)

Allows grant awards for up to 75% of total project costs to nonprofit conservation organizations that meet certain criteria (s. 23.096 (2m), Wis. Stats.)
3. Incorporation of Existing Grant Practices — Many of these practices have evolved and been used since ch. NR 51 was last promulgated in 2001. Some changes in this category represent changes in policy.

#### Policy Analysis

1. Advances for Friends Group reduced from 100% to 50% following execution of grant agreement. Increasingly, Friends Groups have been slow in closing out grants when 100% is advanced and often cannot provide documentation to justify all expenditures. When a 100% advance is provided and all funds are expended, there is nothing available to refund the DNR. By providing a 50% advance, the DNR is exercising its fiduciary responsibility. Friends Groups will continue to be eligible for their entire grant award so long as they submit documentation in support of claimed costs.
2. Clarify that grants provided for development projects must encumber the grant property in perpetuity. By practice over the last decade, the DNR has required that properties are encumbered under the Stewardship program even if the DNR has only provided a Stewardship grant for a development project. This change to ch. NR 51 codifies past practices. To formalize the process, grant contracts will be recorded on the property deed.

3. Make “playgrounds” a grant–eligible support facility for nature–based outdoor recreation. Getting children into the outdoors and beginning an appreciation of nature often begins with playground equipment in parks. The statutes allow the DNR to add to the definition of nature–based outdoor recreation by rule. Local governments have requested this addition to the definition of nature–based outdoor recreation. The DNR feels playground equipment should be considered on a case–by–case basis so long as the equipment is supplemental to the primary purpose of the grant.
4. Further defines criteria for nonprofit conservation organizations to be eligible to apply for a Stewardship grant.
5. Removes the requirement that the DNR “shall” provide a Stewardship grant for Natural Area projects if funds are available. This change acknowledges that project approval is also contingent upon approval of the Natural Resources Board and Joint Finance Committee, where appropriate.
6. Increases the required lease length on developed properties not owned by the sponsor from 20 to 25 years. This change provides increased protection for properties where Stewardship grant funds were used.
7. Simplifies the formula for determining how long nonprofit conservation organization organizations have to use “residual credits”. Residual credit is the term used to describe any remaining value of a donated property where that property has already been used as sponsor match to an earlier Stewardship grant application. Project sponsors will have 36 months from the date that the first grant contract is issued to use residual credit. Residual credit still cannot be transferred among nonprofit conservation organizations and still can only be used as match to projects within the same Stewardship grant subprogram.
8. Requires that a comprehensive outdoor recreation plan (CORP) be adopted by the time of a grant application rather than the CORP being “under development” at the time of grant application. The DNR has experienced several instances where local government projects scored well enough to rank high enough to receive grant funding, but the project is delayed more than one year because the CORP took so long to be adopted. Funds reserved for local governments in these cases could have been awarded to the next highest–ranked project that was ready to proceed. Requiring that CORP be adopted at the time of a grant application ensured that Stewardship grant funds are used in a timely manner.
9. Other issues identified through public outreach and comment during the rule making process.

#### Statutory Authority

Sections 23.0917, 23.0916, 23.9165, Wis. Stats. (*Warren Knowles–Gaylord Nelson Stewardship 2000 program*); 23.0953, Stats., (*Grants to counties for land acquisition*); and 227.11 (2), Stats., (*general rule making authority*).

#### Comparison with Federal Regulations

There are no existing or proposed federal regulations that govern the administration of the Knowles–Nelson Stewardship grant programs.

#### Entities Affected by the Rule

Entities eligible for Stewardship Grants include: cities, villages, towns, counties, lake sanitary districts as defined in s. 30.50 (4q), Wis. Stats., public inland lake protection and

rehabilitation districts, Friends groups, and nonprofit conservation organizations as defined in s. 23.0955 (1), Wis. Stats. All of these entities are affected by this rule and they will have varying levels of interest in any modifications to the existing rule. The counties and the Wisconsin County Forests Association will be very interested in the development of the new subchapter for grants to counties. The Stewardship Advisory Council will also work with the Department on proposed rule changes.

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

The Department anticipates spending approximately 1,000 hours of existing staff time for this rule revision. This time

includes meetings with the Stewardship Advisory Council, drafting the rule, taking the rule to statewide public hearings, preparing and attending meetings with the Natural Resources Board, legislative review, and rule adoption. It is estimated that this rule process will be completed on May 1, 2011.

**Contact Information**

Amy Bradley  
Stewardship Local Assistance Grant Manager  
DNR — Bureau of Facilities and Land  
P.O. Box 7921, Madison, WI 53707  
Phone: (608) 267–0497  
Email: Amy.Bradley@Wisconsin.gov

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## Submittal of Rules to Legislative Council Clearinghouse

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

### **Financial Institutions — Banking** **CR 10–097**

On July 30, 2010, the Department of Financial Institutions, Division of Banking submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### **Analysis**

The proposed order revises section DFI–Bkg 74.01 and creates section DFI–Bkg 74.18, relating to the exemption of health care billing companies from the definition of a collection agency.

#### **Agency Procedure for Promulgation**

A public hearing is required and is scheduled for August 26, 2010. The Division of Banking is responsible for promulgation of the rule.

#### **Contact Information**

Mark Schlei, Deputy General Counsel  
Dept. of Financial Institutions  
Phone: (608) 267–1705

### **Financial Institutions — Banking** **CR 10–098**

On July 29, 2010, the Department of Financial Institutions, Division of Banking submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### **Analysis**

The proposed order creates Chapter DFI–Bkg 75, relating to payday lending.

#### **Agency Procedure for Promulgation**

A public hearing is required and is scheduled for August 26, 2010. The Division of Banking is responsible for promulgation of the rule.

#### **Contact Information**

Mark Schlei, Deputy General Counsel  
Dept. of Financial Institutions  
Phone: (608) 267–1705

### **Technical College System Board** **CR 10–096**

On July 26, 2010, the Wisconsin Technical College System Board submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### **Analysis**

The proposed order revises section TCS 17.06, relating to training program grants.

#### **Agency Procedure for Promulgation**

A **tentative** date of September 28, 2010 has been set for a public hearing.

#### **Contact Information**

Morna Foy, Vice President / Executive Assistant  
Wisconsin Technical College System Board  
Phone: (608) 266–2449  
Email: morna.foy@wtcsystem.edu

### **Transportation** **CR 10–099**

On August 3, 2010, the Department of Transportation submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### **Analysis**

The proposed order revises Chapter Trans 178, relating to the Unified Carrier Registration System.

#### **Agency Procedure for Promulgation**

No public hearing is required. The Department’s Division of Motor Vehicles, Bureau of Vehicle Services is responsible for promulgation of the rule.

#### **Contact Information**

Julie A. Johnson, Paralegal  
Phone: (608) 267–3703  
Email: Julie1.Johnson@dot.wi.gov

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## Rule–Making Notices

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### Notice of Hearing

#### Agriculture, Trade and Consumer Protection

(Reprinted from the July 31, 2010 Register)

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a rule designating 12 agricultural enterprise areas (AEAs) encompassing a total of just under 200,000 acres pursuant to s. 91.84, Stats. An AEA is a contiguous land area, devoted primarily to agricultural use, which is locally targeted for agricultural preservation and agricultural development.

#### Hearing Information

DATCP will hold two public hearings at the times and locations shown below.

- Date:** August 12, 2010  
**Time:** 2:00 PM to 6:00 PM  
**Location:** Town of Washington Town Hall  
 5750 Old Town Hall Road  
 Eau Claire, WI 54701
- Date:** August 16, 2010  
**Time:** 2:00 PM to 6:00 PM  
**Location:** Dept. of Agriculture, Trade & Consumer Protection  
 2811 Agriculture Drive  
 Board Room, 1<sup>st</sup> Floor  
 Madison, WI 53704

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by **August 5, 2010** by contacting Coreen Fallat, Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, [coreen.fallat@wi.gov](mailto:coreen.fallat@wi.gov), telephone (608) 224–4625. Alternatively, you may contact the DATCP TDD at (608) 224–5058. Handicap access is available at the hearings.

#### Submittal of Written Comments

DATCP invites the public to attend the hearings and comment on the rule. Following the hearing, the hearing record will remain open until **Tuesday, August 31** for additional written comments. Comments may be sent to the Division of Agricultural Resource Management, Attention Coreen Fallat, at 2811 Agriculture Drive, Madison, WI 53708, by email to [DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov) or online at <http://adminrules.wisconsin.gov>.

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

#### Copies of Proposed Rule

You may obtain free copies of the proposed rule by contacting the Wisconsin Department of Agriculture, Trade

and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, Attention Coreen Fallat, Madison, WI 53708. You may also obtain copies by calling (608) 224–4625 or emailing [DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov). Copies will also be available at the hearing. To view the proposed rule online, go to: <http://adminrules.wisconsin.gov/Keeley.Moll@datcp.state.wi.us>.

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

This rule designates 12 agricultural enterprise areas (AEAs) pursuant to s. 91.84, Stats. An AEA is a contiguous land area, devoted primarily to agricultural use, which is locally targeted for agricultural preservation and agricultural development. The 12 AEAs designated by this rule encompass just under 200,000 acres. The AEAs include land in 11 counties and 27 towns (some of the AEAs cross town or county lines).

The designation of an AEA does not control or restrict land use. However, the owners of farms located within an AEA may enter into voluntary 15–year farmland preservation agreements with DATCP. That enables them to claim farmland preservation tax credits under s. 91.613, Stats.

#### *Statutes interpreted*

Section 91.84 and 91.86, Stats.

#### *Statutory authority*

Section 91.84 (1) and (2), Stats.

#### *Explanation of Statutory Authority*

Under s. 91.84 (1), Stats., DATCP may designate up to 15 AEAs, encompassing a total of not more than 200,000 acres, before January 1, 2012. DATCP may designate additional AEAs after January 1, 2012. DATCP may designate AEAs by a special abbreviated rulemaking process described in s. 91.84 (2), Stats.

DATCP may designate AEAs in response to local petitions under s. 91.86, Stats. Each petition must be signed by at least 5 farmers within the AEA, and by the affected county and local governments. Other persons may sign in support of a petition.

#### *Related rules or statutes*

Owners of farms located within an AEA may enter into voluntary 15–year farmland preservation agreements with DATCP, pursuant to s. 91.60, Stats. Those farmers may claim farmland preservation tax credits under s. 91.613, Stats. Tax credits are higher for farms that are also covered by a certified farmland preservation zoning ordinance under subch. III of ch. 91, Stats. An owner of a farm located within an AEA may enter into a farmland preservation agreement, regardless of whether the farm owner signed the petition requesting designation of the AEA.

#### *Plain language analysis*

This rule designates the following 12 AEAs, totaling just under 200,000 acres, in the following locations (the AEAs are specifically described by the maps shown in *Appendix A* to this rule):

AEA name	AEA Location (County and Town)
Antigo Flats AEA	Langlade County; Towns of Ackley, Antigo, Neva, Peck, Polar, Price and Rolling
Ashippun/Oconomowoc AEA	Dodge and Waukesha Counties; Towns of Ashippun and Oconomowoc
Bayfield AEA	Bayfield County; Town of Bayfield
Bloomer Area AEA	Chippewa County; Town of Bloomer
Cadott Area AEA	Chippewa County; Towns of Goetz and Delmar
La Prairie AEA	Rock County; Towns of La Prairie and Turtle
Maple Grove AEA	Shawano County; Town of Maple Grove
Rush River Legacy AEA	St. Croix County; Town of Rush River
Scuppernong AEA	Jefferson County; Towns of Cold Spring, Hebron, Palmyra and Sullivan
Squaw Lake AEA	Polk and St. Croix Counties; Towns of Alden, Farmington, Somerset and Star Prairie
Town of Dunn AEA	Dane County; Town of Dunn
Windsor AEA	Dane County; Town of Windsor

### *Comparison with federal regulations*

There are no federal programs comparable to the AEA program implemented by this rule. Over 15 states have “agricultural district” programs that bear some resemblance to the AEA program implemented by this rule, including the neighboring states of Illinois, Iowa, and Minnesota. However, each of those state programs has its own unique features.

None of the programs in other states is exactly comparable to the AEA program implemented by this rule, and some are more comparable to Wisconsin’s farmland preservation zoning program. Some include limits on non–farm development, local planning requirements, right–to–farm protection, rewards for conservation practices, per acre property tax credits, and eligibility for participation in a conservation easement program.

### *Summary of data and analytical methodologies*

DATCP evaluated AEA petitions in consultation with a panel that included independent reviewers. DATCP and the reviewers considered factors identified in ss. 91.84 and 91.86, Stats., as well as a variety of other factors identified in the petition forms. Petitioners were invited to submit, and did submit, extensive data and information to support their petitions.

### **Environmental Impact**

This rule, by itself, does not have a direct impact on the environment. This rule enables eligible farmers to enter into voluntary farmland preservation agreements with the state. Those agreements will have a positive effect on the environment by preserving agricultural land and promoting compliance with state soil and water standards.

This rule is not a “major action significantly affecting the quality of the environment,” for purposes of s. 1.11, Stats. No environmental impact statement is required under s. 1.11, Stats. or ch. ATCP 3, Wis. Adm. Code.

### **Small Business Impact**

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 an AEA 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.

### **Fiscal Estimate**

As a result of this rule, farmers in the designated AEA’s will be able to enter into voluntary farmland preservation agreements with DATCP. That will enable them to claim farmland preservation tax credits under s. 71.613, Stats. For farms covered by agreements, farm owners may claim an income tax credit of \$5.00 per acre. If the land is *also* covered by a certified farmland preservation zoning ordinance, the farm owner may claim a tax credit of \$10.00 per acre. The tax credits, paid by the Wisconsin Department of Revenue, will be an annual cost to the State of Wisconsin. It is not possible to know exactly how many of the acres designated as an AEA will be entered into a farmland preservation agreement. An estimate of the cost of tax credits to the state assuming 40% of the acres are covered by an agreement can be found in the fiscal estimate.

The Department of Revenue will incur some added costs for personnel, supplies and services to process tax credit claim

forms and pay the tax credits. However, those costs can likely be absorbed within DOR's current operating budget.

DATCP will incur some added costs to publish in the state newspaper and for personnel, supplies and services to enter into farmland preservation agreements with farmers in the designated AEAs. However, those costs will be relatively small and can be absorbed within DATCP's current operating budget.

Farmers claiming tax credits in the designated AEAs must comply with state soil and water conservation requirements. Counties monitor compliance, and may suspend a farmer's tax credit eligibility if the farmer fails to comply. Counties in which the AEAs are located may incur some additional costs for personnel, supplies and services to monitor conservation compliance by farmers claiming tax credits pursuant to farmland preservation agreements in the designated AEAs. In many instances, that cost can be absorbed within the counties' current operating budgets.

### Agency Contact Person

Questions and comments related to this rule may be directed to:

Coreen Fallat  
Dept. of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708–8911  
Phone: (608) 224–4625  
EMail: coreen.fallat@wisconsin.gov

## Notice of Hearing

### Financial Institutions — Banking

CR 10–097

NOTICE IS HEREBY GIVEN That pursuant to s. 218.04 (7) (d) and 227.11 (2), Stats., the Wisconsin Department of Financial Institutions, Division of Banking will hold a public hearing to consider a rule to revise section DFI–Bkg 74.01 and to create section DFI–Bkg 74.18, relating to the exemption of health care billing companies from the definition of a collection agency.

### Hearing Information

**Date:** Thursday, August 26, 2010  
**Time:** 2:00 p.m.  
**Location:** Department of Financial Institutions  
345 W. Washington Avenue, 5<sup>th</sup> Floor  
Madison, Wisconsin

### Copies of Proposed Rule and Submittal of Written Comments

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency's internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708–8861, tel. (608) 267–1705, e-mail [mark.schlei@wisconsin.gov](mailto:mark.schlei@wisconsin.gov).

A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution's website, [www.wdfi.org](http://www.wdfi.org).

Written comments must be received by the conclusion of the department's hearing regarding the proposed rule.

### Analysis Prepared by the Department of Financial Institutions, Division of Banking

#### *Statute(s) interpreted*

Section 218.04 (1) (a), Stats.

#### *Statutory authority*

Sections 218.04 (7) (d) and 227.11 (2), Stats.

#### *Related statute or rule*

Section 256.01 (3), Stats., provides the definition of "ambulance service provider" as used in this rule.

#### *Explanation of agency authority*

Pursuant to s. 218.04, Stats., the department regulates collections agencies.

#### *Summary of proposed rule*

The objective of the rule is to renumber ss. DFI–Bkg 74.01(3) and DFI–Bkg 74.01(4); and create ss. DFI–Bkg 74.01(3), DFI–Bkg 74.01(5), DFI–Bkg 74.01(6) and DFI–Bkg 74.18, relating to the exemption of health care billing companies from the definition of a collection agency. The purpose of the rule is to provide definitions and requirements regarding this exemption. Pursuant to 2009 Wisconsin Act 404, the legislature has determined that the definition of a collection agency as set forth in s. 218.04(1)(a) does not include health care billing companies. The rule provides definitions related to this exemption. The rule also sets forth the criteria to qualify for an exemption as a health care billing company and certain requirements for the health care billing company to meet regarding the exemption.

#### *Summary of and preliminary comparison with existing or proposed federal regulation*

29 CFR s. 825.125 provides the definition of "health care provider" as used in this rule.

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

Illinois, Michigan, Minnesota and Iowa do have comparable rules.

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

Because the department regulates collection agencies for the state, the division could also rely on extensive staff expertise and experience in drafting regulations for these entities. The department is also experienced with health care billing companies as collection agencies because, until the enactment of 2009 Wisconsin Act 404, the department licensed these companies as collection agencies.

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

The rule removes health care billing companies from state regulation. The rule also provides clarity in setting forth the criteria to qualify for an exemption as a health care billing company and the requirements for the health care billing company to meet regarding the exemption.

#### **Small Business Impact**

The rule does not have a significant economic impact on small business.

#### **Fiscal Estimate**

The rule places no additional duties or burdens on state government, and hence has no affect on costs to it.

**Contact Person**

For substantive questions on the rule, contact:  
 Michael J. Mach, Administrator  
 Dept. of Financial Institutions, Division of Banking  
 P.O. Box 7876  
 Madison, WI 53707–7876

**Notice of Hearing**  
**Financial Institutions — Banking**  
**CR 10–098**

NOTICE IS HEREBY GIVEN That pursuant to ss. 138.10 (2m), 138.14 (8) (b), 138.14 (14) (g), and 227.11 (2), Stats., the Department of Financial Institutions, Division of Banking will hold a public hearing to consider a rule to create Chapter DFI–Bkg 75, relating to payday lending.

**Hearing Information**

**Date:** Thursday, August 26, 2010  
**Time:** 9:00 a.m.  
**Location:** Department of Financial Institutions  
 345 W. Washington Avenue, 5<sup>th</sup> Floor  
 Madison, Wisconsin

**Copies of Proposed Rule and Submittal of Written Comments**

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency’s internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708–8861, telephone (608) 267–1705, e–mail [mark.schlei@wisconsin.gov](mailto:mark.schlei@wisconsin.gov).

A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution’s website, [www.wdfi.org](http://www.wdfi.org).

Written comments must be received by the conclusion of the department’s hearing regarding the proposed rule.

**Analysis Prepared by the Department of Financial Institutions, Division of Banking****Statute(s) interpreted**

Sections 138.10 (2m), 138.14 (8) (b) and (14) (g), Stats.

**Statutory authority**

Sections 138.10 (2m), 138.14 (8) (b), (14) (g), and 227.11 (2), Stats.

**Related statute or rule**

None.

**Explanation of agency authority**

Pursuant to 2009 Wisconsin Act 405, the department is to enact rules regarding payday lending reforms.

**Summary of proposed rule**

The objective of the rule is to create ch. DFI–Bkg 75. The purpose of the rule is to establish clear standards and requirements for payday lenders; notice and other protections to payday lending customers; and database requirements for the secure entry, retention and transmission of customer

information. The rule provides definitions; identifies transactions not deemed payday loans; lists prohibited practices; sets forth loan disclosure requirements; sets forth fees and interest, and addresses defaults; sets forth the calculations to be used to determine income; provides details on repayments and repayments loans; and provides for a database and the secure transmission of information regarding payday loans.

**Comparison with federal regulations**

None.

**Comparison with rules in adjacent states**

Illinois, Michigan, Minnesota and Iowa all now regulate payday lending.

**Summary of factual data and analytical methodologies**

In developing these rules, the department extensively reviewed payday lending laws in states across the country. The department also received input from payday lenders and consumer organizations. Because the department regulates licensed financial services for the state, the division could also rely on extensive staff expertise and experience in drafting regulations for these entities. The department is also experienced with payday loans and payday lending practices because the department licenses these lenders.

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

The mandates addressed by the rule are the result of and set forth in 2009 Wisconsin Act 405, and not by the rule. The rule does provide substantial clarity to the payday lending industry on the types of loans covered, and notice as to what practices are prohibited. The rule provides the industry with clear and itemized requirements for disclosures and repayment plans, and standard calculations for income determination. The rule provides for the safe and secure transmission of data, and the required information to be entered into the database. Permissible fees and interest are addressed, as well as default matters. Overall the information required by the rule should be readily available to payday lenders in the normal course of business. Standardizing requirements for disclosures, repayments and calculations provides both ease of transaction for the lenders and certainty for their practices. The fees, interest and default provisions likewise provide the same, and are *de minimis* in comparison with the overall operational costs and income of these entities. Overall the requirements of the rule are straight–forward for ease in compliance.

**Small Business Impact**

The rule itself does not have a significant economic impact on small business and should have a beneficial affect for both the business and consumer.

**Fiscal Estimate**

The fiscal effect may increase costs which may be possible to absorb within the agency’s budget, and may increase existing revenues.

**Contact Person**

For substantive questions on the rule, contact:  
 Michael J. Mach, Administrator  
 Dept. of Financial Institutions, Division of Banking  
 P.O. Box 7876  
 Madison, WI 53707–7876

**Notice of Hearing**  
**Government Accountability Board**  
**EmR1016, CR 10–087**

NOTICE IS HEREBY GIVEN that pursuant to ss. 5.05 (1) (f), 227.11 (2) (a), 227.16, and 227.24 (4), Stats., the Government Accountability Board will hold a public hearing to consider adoption of an emergency and permanent rule to create section GAB 1.91, Wis. Adm. Code, relating to organizations making independent disbursements.

**Hearing Information**

**Date:** August 30, 2010  
**Time:** 9:45 a.m.  
**Location:** Government Accountability Board Office  
 212 E. Washington Avenue, 3rd Floor  
 Madison, Wisconsin

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

**Submittal of Written Comments**

Comments are to be submitted to Government Accountability Board, Attn: Shane W. Falk, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707–7984, no later than **August 30, 2010**.

**Analysis Prepared by the Government Accountability Board**

***Statutes interpreted***

Sections 11.01(4) and (18m), 11.05, 11.055, 11.06, 11.09, 11.10, 11.12, 11.14, 11.16, 11.19, 11.20, 11.21(16), 11.30, 11.38, 11.513, Stats.

***Statutory authority***

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

***Explanation of agency authority***

Express rule–making authority to interpret the provisions of statutes the Board enforces or administers is conferred on it pursuant to s. 227.11(2)(a), Stats. In addition, s. 5.05(1)(f), Stats., provides that the Board may promulgate rules under ch. 227, Stats., for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration.

In *Citizens United v. FEC*, 558 U.S. \_\_\_, (No. 08–205)(January 21, 2010), the United States Supreme Court greatly expanded the rights of organizations to engage in independent expenditures and strengthened the ability of the government to require disclosure and disclaimer of the independent expenditures. Pursuant to s. 5.05(1), the Board has the responsibility for the administration of campaign finance statutes in ch. 11, Stats. Rules promulgated by the Board will ensure the proper administration of the campaign finance statutes and properly address the application of *Citizens United v. FEC*.

***Related statute(s) or rule(s)***

Chapter 11, Stats., and Chapter GAB 1, Wis. Adm. Code.

***Plain language analysis***

Within the context of ch. 11, Stats, the proposed order will provide direction to organizations receiving contributions for independent disbursements or making independent

disbursements following the U.S. Supreme Court decision in *Citizens United v. FEC*, 558 U.S. \_\_\_, (No. 08–205)(January 21, 2010). The proposed rule enumerates registration, reporting, and disclaimer requirements of provisions of ch. 11, Stats., which apply to organizations receiving contributions or making independent disbursements. Comporting with *Citizens United*, the proposed rule 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 proposed rule requires organizations to disclose only donations “made for” political purposes, but not donations received for other purposes.

***Comparison with federal regulations***

At the federal level, the FEC provides rules at 11 CFR 109.10, which regulate persons who are not a committee and make independent expenditures. An independent expenditure statement and reports quarterly are required for any person making independent expenditures in excess of an aggregate \$250.00 in a calendar year. If a person makes an independent expenditure of \$10,000.00 or more, an independent expenditure statement and report must be filed within 48 hours of the expenditure. Any person making an independent expenditure of \$1,000.00 or more within 20 days of an election must file an independent statement and report within 24 hours of the expenditure. The independent expenditure statement must include the identity of the person making the expenditure, any contributions received in excess of \$200.00, and the candidate benefitted by the expenditure. In addition, a disclaimer is required for any communication resulting from an independent expenditure.

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

***Illinois:***

Section 5/9–1.5, Ill. Adm. Code, defines “expenditure” generally and to include an electioneering communication regardless of whether the communication is made in concert or cooperation with, or at the request, suggestion or knowledge of a candidate, a candidate’s authorized local political committee, a State political committee, or any of their agents. Sections 5/9–1.7 and 1.8, Ill. Adm. Code, define local and State political committees to include a candidate, individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which accept contributions or make expenditures on behalf of or in opposition to a candidate and exceeding an aggregate of \$3,000.00 in any 12 month period. Persons making independent expenditures in Illinois are by definition committees and subject to substantially similar registration, reporting, and disclaimer requirements as committees in Wisconsin.

***Iowa:***

Chapter 351–4.27 of the Iowa Administrative Code sets forth requirements for registration and reporting of independent expenditures and it applies to any person, other than a candidate or registered committee, that makes one or more independent expenditures in excess of \$100.00 in the aggregate. 351–4.27, Iowa Adm. Code. A person subject to filing an independent expenditure statement must identify the person making the expense and for whom it benefits. 351–4.27(2), Iowa Adm. Code. There is no requirement to file a statement of organization registering a committee or public disclosure reports. 351–4.27(7), Iowa Adm. Code.



A disclaimer on communications is required. 351—4.27(6), Iowa Adm. Code.

*Michigan:*

Michigan statutes regulate independent expenditures, but the administrative rules do not specifically address them. Michigan Statutes s. 169.208 provides a definition for an “independent committee,” which upon exceeding \$500.00 in contributions or expenditures is subject to substantially similar registration, reporting, and disclaimer requirements as committees in Wisconsin.

*Minnesota:*

Minnesota statutes regulate independent expenditures, but the administrative rules do not specifically address them.

**Summary of factual data and analytical methodologies**

Adoption of the rule was predicated on state statutes and federal case law.

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

The rule may have a minimal effect on small businesses that will participate in receiving contributions or making independent disbursements. The economic impact of this effect is minor. Businesses may have a filing fee of \$100.00, if the amount of aggregate independent disbursements made in any year exceeds \$2,500.00.

**Small Business Impact**

The creation of this rule may have a minimal effect on small businesses as explained above.

**Initial regulatory flexibility analysis**

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

**Fiscal Estimate**

The creation of this rule has minimal fiscal effect. There may be additional registrants filing reports with the Board and potentially additional enforcement actions that may require staff action. The extent of this potential fiscal impact is undetermined.

**Text of Proposed Rule**

SECTION 1. GAB 1.91 is created to read:

1.91 Organizations Making Independent Disbursements. (1) In this section:

- (a) “Contribution” has the meaning given in s. 11.0 1(6), Stats.
- (b) “Disbursement” has the meaning given in s. 11.01 (7), Stats.
- (c) “Filing officer” has the meaning given in s. 11.01 (8), Stats.
- (d) “Incurred obligation” has the meaning given in s. 11.01 (11), Stats.
- (e) “Person” includes the meaning given in s. 990.01 (26), Stats.
- (f) “Organization” means any person other than an individual, committee, or political group subject to registration under s. 11.23, Stats.
- (g) “Independent” means the absence of acting in cooperation or consultation with any candidate or authorized committee of a candidate who is supported or opposed, and is not made in concert with, or at the request or suggestion of,

any candidate or any agent or authorized committee of a candidate who is supported or opposed.

(h) “Designated depository account” means a depository account specifically established by an organization to receive contributions and from which to make independent disbursements.

(2) A corporation, or association organized under ch. 185 or 193, Stats., is a person and qualifies as an organization that is not prohibited by s. 11.38 (1) (a) 1., Stats., from making independent disbursements until such time as a court having jurisdiction in the State of Wisconsin rules that a corporation, or association organized under ch. 185 or 193, Stats., may constitutionally be restricted from making an independent disbursement.

(3) Upon accepting contributions made for, incurring obligations for, or making an independent disbursement exceeding \$25 in aggregate during a calendar year, an organization shall establish a designated depository account in the name of the organization. Any contributions to and all disbursements of the organization shall be deposited in and disbursed from this designated depository account. The organization shall select a treasurer for the designated depository account and no disbursement may be made or obligation incurred by or on behalf of an organization without the authorization of the treasurer or designated agents. The organization shall register with the board and comply with s. 11.09, Stats., when applicable.

(4) The organization shall file a registration statement with the appropriate filing officer and it shall include, where applicable:

(a) The name, street address, and mailing address of the organization.

(b) The name and mailing address of the treasurer for the designated depository account of the organization and any other custodian of books and accounts for the designated depository account.

(c) The name, mailing address, and position of other principal officers of the organization, including officers and members of the finance committee, if any.

(d) The name, street address, mailing address, and account number of the designated depository account.

(e) The registration statement shall be signed by the treasurer for the designated depository account of the organization and shall contain a certification that all information contained in the registration statement is true, correct and complete.

(5) The designated depository account for an organization required to register with the Board shall annually pay a filing fee of \$100.00 to the Board as provided in s. 11.055, Stats.

(6) The organization shall comply with s. 11.05 (5), Stats., and notify the appropriate filing officer within 10 days of any change in information previously submitted in a statement of registration.

(7) An organization making independent disbursements shall file the oath for independent disbursements required by s. 11.06(7), Stats.

(8) An organization receiving contributions for independent disbursements or making independent disbursements shall file periodic reports as provided ss. 11.06, 11.12, 11.19, 11.20 and 11.21 (16), Stats., and include all contributions received for independent disbursements, incurred obligations for independent disbursements, and independent disbursements made. When applicable, an

organization shall also file periodic reports as provided in s. 11.513, Stats.

(9) An organization making independent disbursements shall comply with the requirements of s. 11.30 (1), (2) (a) and (d), Wis. Stats., and include an attribution identifying the organization paying for any communication, arising out of independent disbursements on behalf of or in opposition to candidates, with the following words: “Paid for by” followed by the name of the organization and the name of the treasurer or other authorized agent of the organization followed by “Not authorized by any candidate or candidate’s agent or committee.”

#### **Agency Contact Person**

Shane W. Falk, Staff Counsel  
Government Accountability Board  
212 E. Washington Avenue, 3<sup>rd</sup> Floor  
P.O. Box 7984  
Madison, WI 53707–7984  
Phone: (608) 266–2094  
Email: Shane.Falk@wisconsin.gov

### **Notice of Hearing**

#### **Natural Resources**

*Fish, Game, etc., Chs. NR 1—  
EmR1028*

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 227.11, and 227.24, Stats., the Department of Natural Resources will hold public hearings on an emergency rule to revise Chapter NR 10, Wis. Adm. Code, relating to the use of archery deer hunting licenses. The State Natural Resources Board adopted this rule after public hearings on June 23, 2010. This hearing is being held on the emergency rule version, which the Board also adopted on June 23, 2010, in order to be able to implement the rule for the 2010 seasons.

#### **Hearing Information**

**Date:** Monday, August 30, 2010  
**Time:** 3:00 p.m.  
**Location:** Room G09, Natural Resources State Office Building (GEF–2)  
101 South Webster Street  
Madison, Wisconsin

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267–2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

#### **Copies of Proposed Rule and Submittal of Written Comments**

The proposed rule and fiscal estimate may be reviewed at the following Internet site: <http://adminrules.wisconsin.gov>. A personal copy of the proposed rule and fiscal estimate may be obtained from Scott Loomans by email or U.S. mail. Written comments on the proposed rule may be submitted by email to [scott.loomans@wisconsin.gov](mailto:scott.loomans@wisconsin.gov) or via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until **August 30, 2010**. Written comments whether submitted

electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings.

#### **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.

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

##### *Statutes interpreted*

Sections 29.014, 29.171, and 227.11, Stats.

##### *Statutory authority*

Sections 29.014, 227.11, and 227.24, Stats.

##### *Plain language rule analysis*

The Bureau of Wildlife Management recommends promulgating administrative rules that modify a section of ch. NR 10 related to game and hunting and the use of archery deer hunting licenses.

Currently, each license which authorizes archery deer hunting includes one carcass tag that is valid for taking an antlered buck in any management unit and one tag which is valid for one antlerless deer in any management unit. This proposal would limit the areas where the antlerless carcass tag is valid to only management units for which an antlerless deer harvest quota has been established and CWD units.

Firearm deer hunters who hold Class A or C permits for hunters with disabilities can currently harvest deer of either sex. So that archery hunting regulations are consistent with firearm deer hunting regulations, Class A and C archery hunters would also continue to be able to harvest an antlerless deer with their (non-herd control) archery antlerless deer carcass tag in any unit statewide, including units with no antlerless deer quota.

##### *Related statute or rule*

There are no state statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order. An identical, permanent version of this rule order is being promulgated at the same time that this emergency order is in effect.

##### *Comparison with federal regulations*

These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies.

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

These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations

and rules in place for the management and recreational use of wild game that are established based on needs that are unique to that state's resources and public desires.

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

The harvest of antlerless deer is managed by the department in order to achieve overwinter goals established in NR 10.104, Wis. Adm. Code.

In management units where the deer population is below goal, the department may restrict antlerless deer harvest or establish an antlerless quota of zero. When the quota is zero in a unit, most firearm deer hunters may not harvest antlerless deer. Only archers, first year hunter safety graduates, and disabled permit holders are allowed to harvest antlerless deer when no quota has been established.

Eliminating archery hunter's ability to harvest antlerless deer in zero quota units would make regulations more consistent between the firearm and archery seasons.

#### **Environmental Impact**

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

#### **Small Business Impact**

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule. Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses.

The Department's Small Business Regulatory Coordinator may be contacted at [SmallBusiness@dnr.state.wi.us](mailto:SmallBusiness@dnr.state.wi.us) or by calling (608) 266-1959.

#### **Fiscal Estimate**

##### ***Assumptions used in arriving at fiscal estimate***

This proposed rule does not create license types or new license issuance procedures. It will require updating printed instructions on carcass tags which can be done when annual updates are made and will result in no fiscal impact. It is not anticipated that this change will have an impact on license sales because the harvest of antlered bucks is still allowed in all units statewide. The ability to harvest an antlered deer is, for most hunters, the primary feature of the archery deer hunting license. Additionally, the harvest of antlerless deer will still be allowed in most units.

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

None.

##### ***Anticipated private sector costs***

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

#### **Agency Contact Person**

Scott Loomans  
101 South Webster Street  
PO Box 7921  
Madison, WI 53707-7921  
Phone: (608) 267-2452  
Email: [scott.loomans@wisconsin.gov](mailto:scott.loomans@wisconsin.gov)

### **Notice of Proposed Rulemaking Transportation CR 10-099**

NOTICE IS HEREBY GIVEN that pursuant to the authority of s. 194.407 (1) and (3), Stats., as created by 2007 Wis. Act 20, and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending Chapter Trans 178 without public hearing unless, within 30 days after publication of this notice on August 14, 2010, the Department of Transportation 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 which will be affected by the rule.

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

A copy of the rule may be obtained upon request from Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P.O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: [carson.frazier@wisconsin.gov](mailto:carson.frazier@wisconsin.gov). Copies of the proposed rule may also be obtained on the Department's administrative rules internet website at: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

#### **Submission of Petition for Hearing**

Questions or petitions for hearing should be submitted to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P.O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: [carson.frazier@wisconsin.gov](mailto:carson.frazier@wisconsin.gov).

To view the proposed amendment to the rule, view the current rule, or submit a petition for hearing via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

#### **Analysis Prepared by the Department of Transportation *Statutes interpreted***

Section 194.407, Stats., as created by 2007 Wis. Act 20.

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

Section 194.407 (1) and (3), Stats., as created by 2007 Wis. Act 20.

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

Section 194.407, Stats., authorizes the Department to implement and administer a unified registration system for motor carriers consistent with 49 USC 13908 and 14504a, and to prescribe annual fees for that registration.

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

Section 194.407, Stats., 49 USC 13908 and 14504a, 49 CFR 367.

***Plain language analysis***

Chapter Trans 178 establishes the fees to be charged under the Unified Carrier Registration (UCR) system, and establishes a method for counting the number of vehicles so that an entity knows whether it is required to register under UCR and, if so, which fee bracket applies to the entity.

The Federal Motor Carrier Safety Administration published in the Federal Register on April 27, 2010 a changed schedule of fees. As provided in s. Trans 178.03(2), on May 6, 2010, the Department sent notice of the changed fees to the chairpersons of the standing committees of the legislature having jurisdiction over transportation. Neither committee chairperson notified the secretary of transportation within 14 working days after that notice that the committee had scheduled a meeting for the purpose of reviewing the fees. The Department implemented the new fees on May 27, 2010. The proposed rule replaces the prior fee schedule with the new fee schedule.

In addition, the proposed rule removes the reference to towed vehicles in the definition of commercial motor vehicle for the purposes of the UCR to conform to federal law. Originally, UCR included towed vehicles (trailers) in the definition of commercial motor vehicles for the purposes of UCR; subsequently, federal law eliminated towed vehicles from the definition.

***Comparison with federal regulations***

This proposed rule complies and is consistent with federal law and regulations pertaining to the Unified Carrier Registration system.

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

Michigan participates in UCR. Michigan charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

***Minnesota:***

Minnesota participates in UCR. Minnesota charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

***Illinois:***

Illinois participates in UCR. Illinois charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

***Iowa:***

Iowa participates in UCR. Iowa charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

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

This proposed rule is derived solely from federal law, federal regulation and Unified Carrier Registration Agreement, both of which are authorized by 49 USC 13908 and 14504a and implement those sections. If Wisconsin does not follow federal law, federal regulation, and the Unified Carrier Registration Agreement, Wisconsin may not participate in the UCR program. If Wisconsin does not

participate in the UCR program, Wisconsin will forfeit revenues from carrier registration pursuant to federal law.

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

This proposed rule is derived solely from federal law, federal regulation, and Unified Carrier Registration Agreement. Any effect on small businesses is a result of federal law, federal regulation and the Unified Carrier Registration Agreement.

***Small Business Impact***

The fees charged under federal law, federal regulation, and Unified Carrier Registration Agreement will affect some small businesses by increasing the amount of annual registration fee. The new fee schedule increases all fees by just less than 96%. These fees are established under federal law at 49 CFR 367.20 but may be revised annually by publication in the federal register. If Wisconsin does not charge these fees, small businesses that operate affected trucks and trailers outside this state will nevertheless be required to pay these same fees to other states. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

***Fiscal Estimate***

This proposed rule is derived solely from federal law, federal regulation, and Unified Carrier Registration Agreement. Any fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands is a result of federal law, federal regulation and the Unified Carrier Registration Agreement. The Unified Carrier Registration Agreement authorizes states to exempt solely intra-state carriers and qualified school buses from the registration fee, and the Department has made registration and payment of the fees optional for those entities.

***Anticipated Costs Incurred By Private Sector***

This proposed rule is derived solely from federal law, federal regulation, and Unified Carrier Registration Agreement. Any cost incurred by the private sector is a result of federal law, federal regulation and the Unified Carrier Registration Agreement. The fee schedule increases all fees by just less than 96%.

***Text of Proposed Rule***

SECTION 1. Trans 178.02 (2) is amended to read:

Trans 178.02 (2) "Commercial motor vehicle," as defined in 49 USC 31101, means a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle meets any of the following criteria:

SECTION 2. Trans 178.03 (1) is amended to read:

Trans 178.03 (1) Except as provided in sub. (2), as provided in 49 CFR 367.20, fees for registration year 2007 2010 and thereafter are as follows:

Bracket	Number of commercial motor vehicles owned or operated by exempt or non–exempt motor carrier, motor private carrier, or freight forwarder	Fee per company for exempt or non–exempt motor carrier, motor private carrier, or freight forwarder	Fee per company for broker or leasing company
B1	0–2	\$39 <del>76</del>	\$39 <del>76</del>
B2	3–5	\$116 <del>227</del>	\$39 <del>76</del>
B3	6–20	\$231 <del>452</del>	\$39 <del>76</del>
B4	21–100	\$806 <del>1,576</del>	\$39 <del>76</del>
B5	101–1,000	\$3,840 <del>7,511</del>	\$39 <del>76</del>
B6	1,001 and above	\$37,500 <del>73,346</del>	\$39 <del>76</del>

SECTION 3. Trans 178.04 (1) (a) 1. (note) is created to read:

Note: As stated in s. Trans 178.02 (2), a commercial motor vehicle for purposes of UCR does not include a towed vehicle. Therefore, a carrier should exclude any towed vehicles reported on the MCS–150.

**Agency Contact Person**

Carson Frazier, Dept. of Transportation  
P.O. Box 7911, Madison, WI 53707–7911  
Phone: 608) 266–7857  
e–mail: carson.frazier@wisconsin.gov

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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 10–027**

Creates Chapter Adm 80, relating to the administrative procedures for the Wisconsin Covenant Scholars Program.  
Effective 10–1–10.

### **Natural Resources** *Fish, Game, etc., Chs. NR 1—* **CR 10–016**

(DNR # IS–07–10)

Revises Chapter NR 40, relating to the identification, classification and control of invasive species, and affecting small business.  
Effective 9–1–10.

### **Natural Resources** *Environmental Protection — Air Pollution Control,* *Chs. NR 400—* **CR 10–012**

Revises section NR 400.02, relating to the definition of volatile organic compound.  
Effective 10–1–10.

### **Public Instruction** **CR 09–084**

Creates section PI 35.07, relating to establishing a temporary, nonrenewable waiver from the requirement that a teacher have a bachelor’s degree in order to teach in a private school under the Milwaukee Parental Choice Program.  
Effective 10–1–10.

### **Transportation** **CR 10–040**

Revises Chapter Trans 101, relating to the demerit point system and graduated driver license restriction extensions.  
Effective 10–1–10.

### **Workforce Development** *Unemployment Insurance, Chs. DWD 100–150* **CR 10–017**

Revises Chapter DWD 128, relating to the ability to work and availability for work.  
Effective 10–1–10.

### **Workforce Development** *Unemployment Insurance, Chs. DWD 100–150* **CR 10–018**

Revises Chapter DWD 129, relating to unemployment benefit claiming procedures.  
Effective 10–1–10.

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