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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (3)

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

Finding of emergency

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

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

the first confirmed infestation east of the Mississippi River, the native range of the black walnut tree.

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

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

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

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

Publication Date:	November 1, 2010
Effective Dates:	November 1, 2010 through March 30, 2011
Hearing Date:	January 26, 2011

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

Exemption from Finding of Emergency

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

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

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

3. EmR1048 — Rule adopted to repeal and recreate **Chapter ATCP 20**, relating to seed labeling and sales.

Finding of Emergency

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

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

Publication Date: January 1, 2011
Effective Dates: January 1, 2011 through July 1, 2011
Hearing Date: January 11, 2011

Children and Families (2)

Safety and Permanence, Chs. DCF 37–59

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

Exemption From Finding of Emergency

Section 14m (b) of 2009 Wisconsin Act 335 provides that the department is not required to provide evidence that promulgating a rule under s. 48.625 (1g), Stats., as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

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

Publication Date: September 2, 2010
Effective Dates: September 2, 2010 through the date permanent rules become effective
Hearing Date: October 21, 2010

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

Finding of Emergency

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

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

meet this deadline and subsequent dependent deadlines in the remaining 2 years of the program improvement plan.

Publication Date: January 1, 2011
Effective Dates: January 1, 2011 through May 30, 2011
Hearing Dates: February 8, 15, 28, 2011

Commerce (4)

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

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

Finding of Emergency

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

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

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

Because of enactment of 2009 Wisconsin Act 295, a number of entities that may be eligible for the tax credits have contacted the Department with inquiries concerning the process for applying for the credits, for expenditures that have been or will be incurred during taxable years that began after December 31, 2009. In addition, section 71.07 (3rm) of the Statutes includes a \$1,000,000 tax-credit allocation that became available on May 27, 2010, and expires on June 30, 2010.

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

Publication Date: June 8, 2010
Effective Dates: June 8, 2010 through November 4, 2010
Extension Through: March 11, 2011
Hearing Date: August 17, 2010

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

Exemption From Finding of Emergency

The Legislature, by Section 45 (1) (b) of 2009 Wisconsin Act 265, exempts the Department from providing evidence

that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through November 28, 2010
Extension Through: March 28, 2011
Hearing Date: October 13, 2010

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

Exemption From Finding of Emergency

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

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

4. EmR1044 — Rule adopted to revise **Chapter Comm 139**, relating to rural outsourcing grants.

Exemption From Finding of Emergency

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

Publication Date: November 28, 2010
Effective Dates: November 28, 2010 through April 26, 2011
Hearing Date: February 16, 2011

Government Accountability Board (3)

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

Finding of Emergency

Pursuant to s. 227.24, Stats., the Government Accountability Board finds an emergency exists as a result of the United States Supreme Court decision *Citizens United v. FEC*, 558 U.S. ___, (No. 08-205)(January 21, 2010). Within the context of ch. 11, Stats, the rule provides direction to organizations receiving contributions for independent disbursements or making independent disbursements. Comporting with *Citizens United*, this emergency rule order does not treat persons making independent disbursements as full political action committees or individuals under s. 11.05, Stats., for the purposes of registration and reporting. With respect to contributions or in-kind contributions received, this emergency rule order requires organizations to disclose only donations “made for” political purposes, but not donations received for other purposes.

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

Publication Date: May 20, 2010
Effective Dates: May 20, 2010 through October 16, 2010
Extension Through: February 13, 2011
Hearing Date: August 30, 2010

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

Finding of Emergency

The Government Accountability Board repeals and recreates chapter GAB 4, Election observers, to establish guidelines for election inspectors and observers alike regarding observation by “any member of the public” of the public aspects of the voting process and regarding the conduct of observers at polling places and other locations where observation of the public aspects of the voting process may take place. The Board finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

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

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

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

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

Finding of Emergency

The Government Accountability Board amends s. GAB 1.28(3)(b), Wis. Adm. Code, relating to the definition of the term “political purpose.” Section GAB 1.28 as a whole continues to clarify the definition of “political purposes”

found in s. 11.01(16)(a)1., Stats., but repeals the second sentence of s. GAB 1.28(3)(b) which prescribes communications presumptively susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

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

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

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

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

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

advance of the 2011 Spring Election and any other future elections.

Publication Date: January 7, 2011
Effective Dates: January 7, 2011 through June 5, 2011
Hearing Date: February 16, 2011

Insurance (3)

1. EmR1042 — Rule to create **section Ins 3.35**, relating to colorectal cancer screening coverage and affecting small business.

Finding of Emergency

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

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

Publication Date: November 29, 2010
Effective Dates: November 29, 2010 through April 27, 2011
Hearing Date: January 25, 2011

2. EmR1043 — Rule to amend **section Ins 3.37 (1) to (5) (intro)**; and to create **sections Ins 3.37 (2m), (3m), (4m) and (5m), and 3.375**, relating to health insurance coverage of nervous and mental disorders and substance use disorders, and affecting small business.

Exemption From Finding of Emergency

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

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

Publication Date: November 29, 2010
Effective Dates: November 29, 2010 through April 27, 2011
Hearing Date: January 25, 2011

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

Finding of Emergency

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

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

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

Publication Date: February 9, 2011
Effective Dates: February 9, 2011 through July 8, 2011

Natural Resources (4)
Fish, Game, etc., Chs. NR 1—

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

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

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

2. EmR1037 — Rule adopted to create **section NR 27.03 (3) (a)** relating to adding cave bats to Wisconsin’s threatened species list.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Wis. Stats., is necessary and justified in establishing rules to protect the public welfare. The proposed rule change seeks to provide protection to Wisconsin cave bat species, which face the

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

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

3. EmR1039 (DNR # IS-49-10(E)) — Rule adopted to create **sections NR 40.02 (7g), (7r), (25m), (28m) and (46m), 40.04 (3m) and 40.07 (8)** relating to the identification, classification and control of invasive bat species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health, safety or welfare necessitates putting the rule into effect prior to the time it would take effect if the agency complied with the procedures. However, s. 23.22 (2t) (a), Stats., authorizes the department to promulgate emergency rules to identify, classify, or control an invasive species without having to provide evidence that an emergency rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency. **In addition, such emergency rules may remain in effect until whichever of the following occurs first: the first day of the 25th month beginning after the effective date of the emergency rule, the effective date of the repeal of the emergency rule, or the date on which the permanent rule identifying, classifying, or controlling the invasive species, promulgated under s. 23.22 (2) (b) 6., Stats., takes effect.**

Publication Date: November 3, 2010
Effective Dates: November 3, 2010 through *See bold text above*
Hearing Date: November 29, 2010

4. EmR1045 (DNR # IS-07-11(E))— Rule to repeal **section NR 40.02 (28m)**; to amend **section NR 40.04 (3m)**, and to repeal and recreate **section NR 40.07 (8)**, (all as created by Natural Resource Board emergency order EmR1039, DNR # IS-49-10(E)), relating to the identification, classification and control of invasive species.

Exemption From Finding of Emergency

Section 227.24 (1) (a), Stats., authorizes state agencies to promulgate a rule as an emergency rule without complying with the notice, hearing and publication requirements under ch. 227, Stats., if preservation of the public peace, health,

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

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

Natural Resources

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

EmR1046 (DNR # AM-48-10(E)) — The Wisconsin Natural Resources Board proposes an emergency order to amend **section NR 407.02 (4) (b) (intro.), and Table 3 in 407.05 (5)** and to create **sections NR 400.02 (74m), 400.03 (3) (om), and (4) (go) and (ki), 405.02 (28m), 405.07 (9), 407.02 (8m) and 407.075**, relating to major source permitting thresholds for sources of greenhouse gas emissions and affecting small business.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Preservation of the public welfare necessitates putting the forgoing rules into effect prior to the time that it would take if the Department complied with normal procedures.

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

Without the proposed changes, the existing rules would have the potential to overwhelm DNR permitting staff, divert resources away from significant environmental issues, and delay issuance of construction permits for critical projects for expanding businesses.

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

Publication Date: December 15, 2010
Effective Dates: December 15, 2010 through
 May 15, 2011
Hearing Date: January 21, 2011

Public Instruction

EmR1051 — Rule adopted to create **Chapter PI 46**, relating to training requirements for individuals administering nonprescription and prescription drug products to pupils.

Finding of Emergency

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

Section 118.29 (6), Stats., requires the department to approve training in administering nonprescription drug products and prescription drugs. The statute also specifies that no school bus driver, employee, or volunteer may administer a nonprescription drug product or prescription drug, use an epinephrine auto-injector, or administer glucagon unless he or she has received such training. Because the statutory requirement becomes effective March 1, 2011, administrative rules must be in place as soon as possible so that training programs can be established prior to the effective date of the statutes.

Publication Date: December 28, 2010
Effective Dates: December 28, 2010 through
 May 26, 2011
Hearing Date: January 12, 2011

Regulation and Licensing (4)

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

Exemption From Finding of Emergency

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

Publication Date: September 10, 2008
Effective Dates: September 10, 2008 through the date on which the final rules take effect
Hearing Dates: November 26, 2008
 April 13, 2009

2. EmR0828 — Rules adopted to amend section **RL 181.01 (2) (c)**; and to create sections **RL 180.02 (1m), (3m) and (11), 181.01 (1) (d), (2) (c) 1. and 2.**, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

Publication Date: August 25, 2010
Effective Dates: September 1, 2010 through January 28, 2011
Extension Through: March 29, 2011
Hearing Date: September 20, 2010

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

Exemption From Finding of Emergency

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

Publication Date: August 26, 2010
Effective Dates: September 1, 2010 through January 28, 2011
Extension Through: March 29, 2011
Hearing Date: September 20, 2010

Regulation and Licensing — Barbering and Cosmetology Examining Board

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

Finding of Emergency

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

Publication Date: December 23, 2010
Effective Dates: December 23, 2010 through May 21, 2011

Technical College System Board

EmR1025 — Rule adopted to amend **Chapter TCS 17**, relating to training program grant funds.

Finding of Emergency

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

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

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

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

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through November 28, 2010
Extension Through: March 28, 2011
Hearing Date: September 28, 2010

Scope Statements

Employee Trust Funds

Subject

Revises sections ETF 10.08 and 20.02 for clarification and to maintain compliance with the Internal Revenue Code's (IRC) requirements for a bona fide termination of employment prior to receiving retirement benefits and a minimum break in service in the event the annuitant returns to work with an employer participating in the Wisconsin Retirement System (WRS).

Objective of the Rule

ETF intends to maintain compliance with the IRC by clarifying how the Department administers IRC conditions under section 401 (a) as codified in ss. ETF 10.08, 20.02, and as governed by s. 40.23 (1) (a) 1., Stats.

Policy Analysis

As the administrator of the WRS, ETF is responsible for ensuring that the WRS complies with all applicable provisions of the IRC in order to maintain the pension plan's tax-qualified status. Section 401 (a) of the IRC requires that an annuitant may only receive retirement distributions following a "good faith" termination of employment. ETF must ensure that retirement distributions follow a Section 401 (a) "good faith" termination.

Termination from WRS employment is administered under Wis. Adm. Code s. ETF 10.08, and governed by s. 40.23 (1) (a) 1., Stats. A compliant termination from employment requires that all the rule's listed conditions of valid termination be met and that the annuitant fulfill a minimum break in service under s. ETF 10.08 (2) (c). If an annuitant returns to WRS-covered employment following a separation from service, s. ETF 20.02 requires the annuitant to have concluded a valid termination from employment under s. ETF 10.08, and to complete a minimum break in service.

Therefore, the requirements governing 1) separation from service in s. ETF 10.08, and 2) annuitant rehire in s. ETF 20.02, overlap significantly. However, the specific language in the two sections fails, in large part, to reflect their relationship. As a result, both sections should be amended to ensure clarity of meaning, compliance with the IRC, as well as to provide for a more transparent interrelationship.

In addition, ETF plans to examine possible changes to other language in ss. ETF 10.08 and 20.02 to ensure that the provisions accurately and clearly reflect the meaning of "good faith intention to sever employment" under IRC 401 (a) and associated IRS rulings. IRS rulings indicate that a primary criterion evidencing good faith, in the context of separation from employment, is the absence of any pre-separation intent (on the part of the employee and the employer) that the person return to employment with that employer. Sections ETF 10.08 and 20.02, Wis. Adm. Code, are written to ensure WRS compliance with the IRC in this respect, and to provide notice and guidance to employers and employees that they must truly intend to completely sever employment in order to maintain IRC compliance and therefore protect and ensure their retirement disbursements.

Statutory Authority

Sections 40.03 (2) (i), (t) and 227.11 (2), Stats.

Comparison with Federal Regulations

Federal regulations do not contain a definitive rule on a proper "separation from service" (or termination from employment) as set forth in IRC section 401. The meaning is instead explained in revenue rulings and case law. The basic rule is that, in order to receive a distribution, the annuitant must have experienced a good-faith, or bona fide termination of employment in which the employer/employee relationship is completely severed. Wisconsin enacted s. 40.23 (1) (a) 1., Stats. to remain in compliance with federal law as set forth in these rulings and case law. The Wisconsin Statutes establish a minimum break in service, which ETF has codified in ETF 10.08, Separation from Service, and ETF 20.02, Rehired Annuitants.

Entities Affected by the Rule

The proposed amendments will affect WRS-covered employees, annuitants, and WRS employers.

Estimate of Time Needed to Develop the Rule

State employees will spend an estimated 80 hours to develop these rules.

Employee Trust Funds

Subject

Revises Chapter ETF 11 regarding the procedures for review of appealable department determinations.

Objective of the Rule

ETF proposes to update and clarify the existing uniform system of procedures and rules in Chapter ETF 11 governing the review of appealable department determinations by the board responsible for the subject matter. This rule will promote efficiency and streamline the existing appeal procedures.

Policy Analysis

ETF has established procedures in Chapter ETF 11, that govern appeals of ETF determinations. Those determinations concern the various benefit programs administered by ETF pursuant to Chapter 40, Wis. Stats. The purpose of this rule is to update those appeal procedures to improve and clarify the process for members, the administrative law judge, the boards that decide appeals, ETF, and others who are involved in the process.

Statutory Authority

Sections 40.03 (2) (i), (ig), (ir), and 227.11 (2), Stats.

Comparison with Federal Regulations

No existing or proposed federal regulation addresses the contemplated rule changes.

Entities Affected by the Rule

The Department of Employee Trust Funds and any person appealing from a determination made by the Department of Employee Trust Funds are potentially affected by this rule. Typically, appellants are participants in the Wisconsin Retirement System, a participant's beneficiary or a dependant covered under one of the other benefit plans administered by the Department of Employee Trust Funds who has been denied a benefit, or who takes issue with the computation of the amount of the benefit or with some other aspect of the Department's administration of the benefit plan.

Estimate of Time Needed to Develop the Rule

State employees will spend an estimated 40 hours to develop these rules.

Employee Trust Funds**Subject**

Revises Chapter ETF 20 regarding dividing Wisconsin Retirement System (WRS) accounts and annuities pursuant to a qualified domestic relations order (QDRO).

Objective of the Rule

ETF proposes to amend s. ETF 20.35 to reflect statutory changes related to domestic partnerships, correct minor drafting errors, and to clarify how QDROs will be implemented in various situations that are currently not addressed in the statutes or rules.

Policy Analysis

ETF is responsible for administering the benefit programs authorized under Chapter 40 of the Wisconsin Statutes. Since s. ETF 20.35 was promulgated, Chapter 40 was amended in 2009 Wisconsin Act 28 to permit the department to honor a QDRO awarding a portion of a participant's WRS account or annuity to an alternate payee who is a former domestic partner. The purpose of this rulemaking is to amend ETF 20.35 to reflect the provisions in Wisconsin Act 28, as well as to address various situations such as multiple QDROs for the same account or annuity received out of sequence, QDROs received after an alternate payee is deceased, overpayments resulting from amended or rescinded QDROs, grace periods for processing benefit applications when a QDRO has been rejected for technical defects, interest on underpayments for retroactive QDROs, retroactive crediting of military service to alternate payees after an account has been divided, refunds due to a participant for service purchase payments, and how service is determined for calculating the actuarial reduction for an alternate when a participant has part-time service in five of the last two years prior to the decree date.

Statutory Authority

Sections 40.03 (2) (i), (t) and 227.11 (2), Stats.

Comparison with Federal Regulations

No existing or proposed federal regulation addresses the contemplated rule changes.

Entities Affected by the Rule

The new rules will affect Wisconsin Retirement System participants and their former spouses and domestic partners.

Estimate of Time Needed to Develop the Rule

State employees will spend an estimated 40 hours to develop these rules.

Insurance**Subject**

Revises section Ins 6.07, Wis. Adm. Code, relating to readability and electronic access to insurance policies.

Objective of the Rule

The Office of the Commissioner of Insurance (Office) proposes to repeal s. Ins 6.07 (4) (a) 8., (4) (d), (9), Wis. Adm. Code, repeal and recreate s. Ins. 6.07 (4) (a) (intro.), 1., 2. and 5., Wis. Adm. Code.

Policy Analysis

The Office recently modified this rule. The proposed rule would reinstate prior Flesch score requirements for policies and returns print type and listing of exclusions and limitations to their 2010 form. Additionally, the proposed rule would repeal modification to requirements for active voice in policy form language and the necessity to post notices on insurer's websites for accessing insureds' policies.

Statutory Authority

Sections 600.01 (2), 601.41 (3), 601.42, 628.34 (12), 631.22 (2), 631.61, Stats.

Comparison with Federal Regulations

There is no federal regulation of insurance standardizing readability or electronic access to insurance policies.

Entities Affected by the Rule

Licensed insurance companies and insurance intermediaries.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Insurance**Subject**

Revises sections Ins 17.01 (3), 17.28 (3) (c) and (6), Wis. Adm. Code, relating to fiscal year 2012 fund fees, provider classifications, and mediation panel fees and affecting small business.

Objective of the Rule

To establish the annual fees that participating health care providers must pay to the Injured Patients and Families Compensation Fund as required by s. 655.27 (3), Wis. Stat., for the fiscal year beginning July 1, 2011. The proposed rule will update the listing of provider specialties (ISO Codes) by assessment class and will establish the mediation panel fees for fiscal year 2012 commencing on July 1, 2011.

Policy Analysis

Existing policies are set forth in the statutes cited in the next section and in the rules themselves.

Statutory Authority

Sections 601.41 (3), 655.27 (3) (bg), and 655.61, Wis. Stats.

Comparison with Federal Regulations

There is no existing or proposed federal regulation addressing any medical malpractice fund like the Wisconsin Injured Patients and Families Compensation Fund.

Entities Affected by the Rule

All health care provider participants in the fund as set forth in s. 655.002 (1), Wis. Stat.

Estimate of Time Needed to Develop the Rule

100 hours estimated state employee time to promulgate this rule; other resources will include the review and recommendation of the board's actuarial committee based on the actuarial analysis and recommendation of the fund's actuaries and the director of state courts.

Regulation and Licensing — Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Subject

Creates rules by the Professional Engineers Section relating to education and work experience requirements for registration as a professional engineer and examinations for professional engineering standards.

Objective of the Rule

2009 Wisconsin Act 350 has amended and created new education and work experience requirements for registration as a professional engineer and examinations for professional engineering standards. The promulgation of administrative rules pursuant to the changes that have been established in 2009 Wisconsin Act 350 will be necessary to implement standards for applications for registration as a professional engineer, engineering experience, education as an experience equivalent for registration, examinations and any additional provisions authorized under chapter 443 of the Wisconsin Statutes deemed necessary by the Professional Engineers Section.

Statutory Authority

Sections 443.04 and 443.09, Stats.

Comparison with Federal Regulations

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by this rule.

Entities Affected by the Rule

Professional Engineer applicants that apply for a professional engineering credential after May 27, 2010 (the effective date of the new law).

Estimate of Time Needed to Develop the Rule

Total hours: 120. This estimate is based on the time spent by staff and possibly an advisory committee to prepare documents, coordinate public hearings, prepare fiscal estimates and conduct other work related to the promulgation of the administrative rules for this profession.

Regulation and Licensing — Barbering and Cosmetology Examining Board

Subject

Revises rules of the Barbering and Cosmetology Examining Board pursuant to 2009 Wisconsin Act 189, relating to amended requirements regarding supervision of barber/cosmetologist apprentices.

Objective of the Rule

2009 Wisconsin Act 189 amends and creates a provision within chapter 454, Stats., that allows for a licensed manager to delegate supervisory authority of apprentices to a licensed practitioner that has at least 2000 hours of practical experience. The promulgation of administrative rules pursuant to the changes that have been established in 2009 Wisconsin Act 189 will be necessary to implement better practice standards for the training and supervision of barbering/cosmetology apprentices.

Statutory Authority

Section 454.10 (3) (a), (b), Stats.

Comparison with Federal Regulations

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by this rule.

Entities Affected by the Rule

Barbering/cosmetology managers, practitioners, and apprentices.

Estimate of Time Needed to Develop the Rule

Total hours: 100. This estimate is based on the time spent by staff and possibly an advisory committee to prepare documents, coordinate public hearings, prepare fiscal estimates and conduct other work related to the promulgation of the administrative rules for this profession.

Regulation and Licensing — Medical Examining Board

Subject

Revises section RL 4.08 (1) and creates sub. (2) to authorize the Department of Regulation and Licensing ("DRL") to require applicants for the Medicine and Surgery license to provide fingerprints and undergo state and federal criminal background checks prior to DRL granting licenses to the applicants.

Objective of the Rule

DRL seeks the ability to utilize its authority to require applicants for the Medicine and Surgery license to provide fingerprints and undergo state and federal criminal background checks prior to DRL granting licenses to the applicants. DRL is seeking the rule change to better protect the public, to conform to the Federation of State Medical Boards' policy position that background checks should be conducted as part of the licensure process and to comply with the regional expedited endorsement requirements that are being developed through DRL's American Recovery and Reinvestment Act ("ARRA") Grant Program. The Medical Examining Board is motivated, in part, by the ARRA Grant Program and is on record as being in favor of requiring applicants to undergo criminal background checks.

Policy Analysis

The revisions will be based on s. 440.03 (13) (c), Wis. Stats., current trends in the laws and regulations in other states, and the Medical Examining Board's assessment of necessary improvements to enforce the protection of public health and safety.

Statutory Authority

Sections 227.11(2) and 440.03 (13), Wis. Stats.

Comparison with Federal Regulations

None.

Entities Affected by the Rule

The entities affected by the rule include DRL Staff, Medical Examining Board, Wisconsin Department of Justice, Federal Bureau of Investigation, Pearson VUE (DRL's designated fingerprint service vendor), applicants for the Medicine and Surgery license and health care consumers.

Estimate of Time Needed to Develop the Rule

Total: 150 Hours.

Submittal of Rules to Legislative Council Clearinghouse

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

Insurance CR 10–149

Reprinted from Mid-January 2011 Register No. 661
(Incorrectly identified as CR 10–150)

On December 20, 2010, the Office of the Commissioner of Insurance submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules create section Ins 3.375, relating to health insurance coverage of nervous and mental disorders and substance use disorders and affecting small business.

Agency Procedure for Promulgation

A public hearing will be held January 27, 2011. This will serve as the public hearing for both the emergency rule that was published November 29, 2010 and the permanent rule attached.

Contact Information

A copy of the proposed rule may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, Office of the Commissioner of Insurance, at (608) 264–8110. For additional information, please contact Julie E. Walsh at (608) 264–8101 or e-mail at julie.walsh@wisconsin.gov in the OCI Legal Unit.

Insurance CR 10–150

Reprinted from Mid-January 2011 Register No. 661
(Incorrectly identified as CR 10–149)

On December 20, 2010, the Office of the Commissioner of Insurance submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules create section Ins 3.35, relating to colorectal cancer screening coverage and affecting small business.

Agency Procedure for Promulgation

A public hearing will be held January 25, 2011. This will serve as the public hearing for both the emergency rule that was published November 29, 2010 and the permanent rule attached.

Contact Information

A copy of the proposed rule may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, Office of the Commissioner of Insurance, at (608) 264–8110. For additional information, please contact Julie E. Walsh at (608) 264–8101 or e-mail at julie.walsh@wisconsin.gov in the OCI Legal Unit.

Public Notices

Department of Natural Resources Notice of Availability of Proposed Regional Haze State Implementation Plan

Under section 285.14 (2), Wis. Stats., the Department of Natural Resources is required to publish a notice of availability of a proposed state implementation plan (SIP) that has been submitted to the standing committees of the legislature with jurisdiction over environmental matters. The proposed Regional Haze SIP was submitted to the Senate Committee on Natural Resources and Environment and the Assembly Committee on Natural Resources on January 19, 2011 and is available for review on the Department's website at <http://dnr.wi.gov/air/aq/particles/vishaze.htm>.

The Department developed the proposed SIP in accordance with 40 CFR section 51.308. The Department intends to hold a public hearing on the proposed SIP in March, 2011 and submit the final SIP to the U.S. Environmental Protection Agency in April, 2011.

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