Wisconsin Administrative Register

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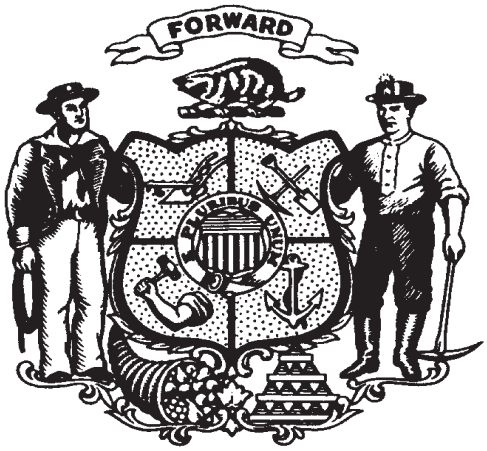

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WISCONSIN ADMINISTRATIVE REGISTER

The Wisconsin Administrative Register is published twice monthly by the Legislative Reference Bureau.

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Table of Contents

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. 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**

2. 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 (3)

Safety and Permanence, Chs. DCF 37−59

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

Exemption From Finding of Emergency

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

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

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

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

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety,

or welfare. A statement of facts constituting the emergency is:

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

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

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

Finding of Emergency

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

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

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

(See the Notice in this Register)

Commerce (2)

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

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

Exemption From Finding of Emergency

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

Publication Date:	**November 14, 2010**
Effective Dates:	**November 14, 2010 through April 12, 2011**
Extension Through:	**June 11, 2011**
Hearing Date:	**February 15, 2011**

2. 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

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**
Extension Through:	**June 26, 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**
Extension Through:	**June 26, 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**
Hearing Date:	**May 3, 2011**

Natural Resources (3)

Fish, Game, etc., Chs. NR 1—

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

Exemption From Finding of Emergency

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

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

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

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

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

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 (3)

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

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

3. EmR1102 — Rule adopted creating **Chapters RL 200 to 202**, relating to governing professional conduct of individuals licensed as sign language interpreters, and for the treatment of state resident licensure exemption requests.

Finding of Emergency

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

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

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**
Hearing Date: **April 4, 2011**

Regulation and Licensing — Veterinary Examining Board

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

Finding of Emergency

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

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

(See the Notice in this Register)

Revenue (2)

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

Finding of Emergency

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

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

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

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

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

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

Finding of Emergency

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

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

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

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

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

Scope Statements

Agriculture, Trade and Consumer Protection

Subject

Revises Chapter ATCP 53, relating to Farmland Preservation Program – Agricultural Enterprise Area (AEA) Designation.

Objective of the Rule

This rule will designate Agricultural Enterprise Areas (AEAs) under s. 91.84, Wis. Stats. An AEA is a contiguous land area, devoted primarily to agricultural use, which is locally targeted for agricultural preservation and agricultural development. DATCP may designate AEAs based on local petitions.

The designation of an AEA does not, by itself, control or restrict land use. However, farmers within a designated AEA are eligible to enter into voluntary farmland preservation agreements with DATCP under s. 91.69, Stats. Under a farmland preservation agreement, the farmer may claim income tax credits under s. 71.613, Stats., in return for keeping land in agricultural use. Under current law, *only* farmers located within an AEA are eligible to enter into farmland preservation agreements with DATCP.

Policy Analysis

AEAs are designed to preserve agricultural land and promote agricultural development, including agriculture−related business, investment and innovation. An AEA may be part of a broader local strategy to promote agriculture and related development.

The land area comprising an AEA must be located within a farmland preservation area designated in the county's certified farmland preservation plan. An AEA may include non−agricultural as well as agricultural land, but must be primarily devoted to agricultural use.

DATCP may designate an AEA based on a local petition. The petition must be signed by at least 5 farm owners within the AEA (other interested persons, including other farmers, businesses and community groups, may also sign the petition as cooperators). A resolution in support of the AEA petition must be passed by every affected county, town and municipality. Other farms may be included within the AEA, and the owners of those farms may enter into farmland preservation agreements with DATCP, regardless of whether the farm owners signed the original petition to create the AEA.

A petition must comply with s. 91.86, Stats., and must show that the proposed AEA complies with applicable requirements under s. 91.84, Stats. This rule will designate AEAs selected by DATCP based on competing local petitions. DATCP will designate AEAs in consultation with a panel that includes independent reviewers. DATCP may choose among competing petitions, and may reject petitions as it deems appropriate.

Policy Alternatives

The AEA program is a key part of the Working Lands Initiative enacted in 2009 Wis. Act 28. If DATCP takes no action to implement the AEA program, the full benefits of the Working Lands Initiative will not be realized. The Working Lands initiative is designed to preserve farmland, promote agricultural and related development, encourage sound land use planning, minimize land use conflicts, promote soil and water conservation, encourage agricultural investment, and help farms stay economically viable.

Under current law, only farmers in designated AEAs may enter into farmland preservation agreements with DATCP and obtain tax credits under those agreements. If DATCP fails to designate AEAs by rule, as contemplated by current law, farmers will be deprived of that opportunity. Local governments and agriculture−related businesses will also be deprived of a significant land use and business development tool.

Statutory Alternatives

None at this time.

Statutory Authority

Section 91.84, Stats.

Comparison with Federal Regulations

None.

Entities Affected by the Rule

Farmers and Other Landowners

This rule will benefit farmers and landowners in the designated AEA's. The designation of an AEA does not, by itself, control or restrict land use. However, an owner of farmland in an AEA may enter into a voluntary farmland preservation agreement with DATCP. Under a farmland preservation agreement, the landowner may claim income tax credits under s. 71.613, Stats., in return for keeping land in agricultural use and implementing soil and water conservation practices. An agreement remains in effect for 15 years, and applies only to the land covered by the agreement.

Designation of an AEA may be part of a broader local strategy to protect farmland and promote agricultural development. Designation may foster agricultural investment, and promote collaborative working relationships among landowners, agriculture−related businesses and local governments. It may also promote a more secure and attractive climate for agricultural continuity and agriculture−related investment. Farmland preservation and conservation practices may also benefit other landowners.

Counties, Towns and Municipalities

This rule will benefit counties, towns and municipalities in which AEAs are designated. DATCP will only designate AEAs in counties, towns and municipalities that affirmatively support the AEA designation (as indicated by the resolutions passed in support of the AEA designation).

An AEA designation may be part of a broader local strategy to protect farmland and promote agricultural and related

development. County and local governments can use the AEA designation to support local farmland preservation and development plans. County and local governments may adopt zoning ordinances, offer economic development incentives, and take other local actions to supplement the AEA and foster agricultural preservation and development.

Agriculture−Related Business

This rule may benefit a wide range of agriculture−related businesses. This rule may benefit businesses, such as food processing and farm supply businesses, which may be located in or attracted to a designated AEA. By protecting and promoting agriculture, this rule may also benefit a wide range of agricultural service providers, regardless of whether those providers maintain facilities in the AEA. For example, this rule may benefit farm supply organizations, nutrient management planners, soil testing laboratories, agricultural engineers, construction contractors, food processors, testing laboratories, and agri−tourism interests.

Estimate of Time Needed to Develop the Rule

DATCP estimates that it will use the equivalent of 0.5 FTE staff to develop this rule. This anticipates investigation and analysis, rule drafting, preparing related documents, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

DATCP Board Authorization

DATCP may not begin drafting this rule until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after the scope statement is presented to the Board, the scope statement is considered approved. Before DATCP holds public hearings on this rule, the Board must approve the hearing draft. The Board must also approve the final draft rule before the department adopts the rule.

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

Subject

This scope statement creates the promulgation of administrative rules by the Landscape Architects Section pursuant to 2009 Wisconsin Act 123. Specifically, this scope statement addresses the amended requirements to practice landscape architecture.

Objective of the Rule

2009 Wisconsin Act 123 amends and creates provisions within chapter 443 of the Wisconsin Statutes. A person may not offer to practice landscape architecture unless they are duly registered or have a permit under Wis. Stat. sec. 443.10(1)(d).There is an amended provision which clarifies change of name by persons who practice landscape architecture. Also of significant change is the new provision which states that a person may not call themselves a landscape architect unless they have duly registered or have in effect a permit under Wis. Stat. sec. 443.10(1)(d). The promulgation of administrative rules pursuant to the changes that have been established in 2009 Wisconsin Act 123 will be necessary to implement better practice standards for registration as a landscape architect.

Statutory Authority

Wis. Stats. §§ 443.01; 443.02; 443.443.11; 443.14; 443.16; 443.18.

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

Unlicensed persons who have held themselves out as landscape architects and have engaged in the practice of landscape architecture prior to the passage of 2009 Wisconsin Act 123.

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.

Veterans Affairs

Subject

The Board has identified a need to create uniform rate setting procedures in relation to the skilled nursing and assisted living facilities currently operated by the department in King and Union Grove and prospectively operated by the department in Chippewa Falls. The Board seeks to identify all facts and assumptions necessary to determine "the estimated costs of care" and to provide a uniform formula for calculating "Charges for actual care and maintenance" on a prospective basis. The proposed creation and amending of administrative code within CH VA 6 has been identified as necessary to accomplish these requirements.

Objective of the Rule

The Board is seeking to define the terms and assumptions associated with "the estimated costs of care" and develop an appropriate process (formula) which may be used in determining the applicable "charges for actual care and maintenance" for the facilities.

Description of policy issues

The current rule [***CH VA 6.01(16)***] directs the department to determine the charge for care and maintenance of its members in the following manner: ***"(16) CHARGES FOR CARE AND MAINTENANCE. Charges for care and maintenance shall be computed every January for the various categories of care provided by the home. The computations shall be based upon the estimated costs of care to be incurred by the home for the succeeding annual period. The department may update charges in July to reflect changes in costs during the year. Charges shall be made for actual care and maintenance provided to a member."*** The rule does not specify a specific set of definitions and assumptions be used in calculating "the estimated costs of care", nor is the model for calculating such costs specified. The department had determined and the Legislative Audit Bureau confirmed that disparities in the determination of such costs had occurred within the same facility (Wisconsin Veterans Home−Union Grove) and between both Homes. The Board and Legislative Audit Bureau had directed the

department to review the basis of determining the "the estimated costs of care" and develop definitions and a process that would be viable for use at both existing facilities and the planned facility at Chippewa Falls.

Policy Analysis

Under current administrative rules, the department is charged with calculating the "charges for care and maintenance" based on the "0estimated costs of care to be incurred by the home for the succeeding annual period." The term "estimated costs of care" is not defined in statute or code and the two existing homes have not uniformly used the same estimated costs or underlying assumptions in the calculation of these charges. In addition, the remainder of CH VA 6 currently compels the department to provide the following: ***"CH VA 6.01 (11) CLOTHING AND COMFORT ITEMS. Clothing, toiletries, and necessary aids to good grooming, including barber and beautician services, shall be furnished to members as their needs may require."*** The items required under this administrative code provision are not required to be provided under either state or federal law. Likewise, the provisions of ***CH VA 6.01 (12)*** require the following: ***"MEDICAL AND NURSING CARE. Medical and nursing care, including physician's services, nursing care, hospitalization, medications, special diets, dental care including dental prosthesis, eye glasses, braces, hearing aid batteries and repairs, and ancillary medical care services will be furnished members as their needs may require."*** Disparities on the charges for some of these services have been noted, by both the Board and the Legislative Audit Bureau, between the current Homes operated by the department. Identifying the appropriate "estimated costs of care" and the process for calculating that estimate has not been consistently applied within the department's Union Grove facility and between the two facilities (Union Grove and King) operated by the department.

The Board has directed the creation of specific definitions for the appropriate costs to be included in the term "estimated costs of care". A process for the calculation of "the estimated costs of care", including the permissible underlying assumptions, has also been directed by the Board.

The contemplated creation and amending of the administrative code would include definitions necessary to ensure a unified set of "estimated costs", the appropriate formula for using those costs, and include specific assumptions related to occupancy, level of care and type of facility to generate an accurate estimate of the "actual costs of care and maintenance". The process of determining "the estimated costs of care" include calculating private pay rates based on the average cost per resident, estimated by summing the weighted average cost of direct care per member using Department of Health Services data on cost differences for differing levels of nursing care plus the average non−direct care cost estimated by dividing projected non−direct care operating expenditures for the coming year by the projected number of members. The "charges for care and maintenance" and the formula for private pay rate setting would be defined by rule and associated occupancy and projected patient days by level of care rates setting variables would be specified by policy. Rates would be considered approved when calculated.

Statutory Authority

Section 45.03 (2), Stats.

Section 45.50 (1) (a), Stats.

Section 45.50 (2), Stats.

Section 45.51 (2) (b) 5., Stats.

Section 45.51 (7) (b), Stats.

Comparison with Federal Regulations

There is no existing or proposed federal regulation that has any direct bearing upon the proposed rule.

Entities Affected by the Rule

The rules created and amended under this authority will affect individuals residing in, or applying for residence in, any Home after the effective date of implementation.

Estimate of Time Needed to Develop the Rule

Approximately 25 hours of Department of Veterans Affairs staff time will be needed to promulgate the rule.

Submittal of Rules to Legislative Council Clearinghouse

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

Children and Families
Safety and Permanence, Chs. DCF 35−59
CR 11−026

On April 14, 2011, the Department of Children and Families submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect DCF 52, 54, and 57, relating to regulation of rates charged by residential care centers for children and youth, child−placing agencies, and group homes.

Agency Procedure for Promulgation

A public hearing is required and will be held in Milwaukee on May 18, 2011. The organizational unit responsible for the promulgation of the proposed rules is the Division of Safety and Permanence.

Contact Information

Elaine Pridgen
Telephone: (608) 267−9403
Email: elaine.pridgen@wisconsin.gov

Regulation and Licensing — Veterinary Examining Board
CR 11−025

On April 6, 2011, the Veterinary Examining Board submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule−making order revises Chapters VE 2 and 3, relating to the requirements for the initial licensure of veterinarians, specifically, the procedures for, and the types of examinations required.

Agency Procedure for Promulgation

A public hearing is required and will be held May 25, 2011 at 9:30 a.m. at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Information

Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, (608) 261−2385, Kristine1.Anderson@wisconsin.gov.

Revenue
CR 11−023

On April 4, 2011, the Department of Revenue submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates section Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

Agency Procedure for Promulgation

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

Contact Information

Dale Kleven
Income, Sales and Excise Tax Division
Phone: (608) 266−8253
Email: dale.kleven@revenue.wi.gov

Revenue
CR 11−024

On April 4, 2011, the Department of Revenue submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates section Tax 3.05, relating to income and franchise tax deductions for job creation.

Agency Procedure for Promulgation

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

Contact Information

Dale Kleven
Income, Sales and Excise Tax Division
Phone: (608) 266−8253
Email: dale.kleven@revenue.wi.gov

Rule−Making Notices

Notice of Hearing
Children and Families
Safety and Permanence, Chs. DCF 35−59
EmR1106, CR 11−026

NOTICE IS HEREBY GIVEN that pursuant to sections 48.67 (intro.), (3) (b) and (d), 49.343 (4), and 227.11 (2) (a), Stats., the Department of Children and Families proposes to hold a public hearing to consider emergency rules and proposed permanent rules revising Chapters DCF 52, 54, and 57, relating to regulation of rates charged by residential care centers for children and youth, child−placing agencies, and group homes.

Hearing Information

Date and Time	Location
May 18, 2011	Milwaukee State Office Building
Wednesday	819 N. 6th Street, Room 40
at 1:30 P.M.	Milwaukee, WI 53203

If you have special needs or circumstances regarding communication or accessibility at a hearing, please call (608) 267−9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available on request to the fullest extent possible.

Appearances at the Hearing

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Copies of Proposed Rule

A copy of the proposed rules is available at http://adminrules.wisconsin.gov. This site allows you to view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rule or fiscal estimate by contacting:

Elaine Pridgen
Office of Legal Counsel
Department of Children and Families
201 E. Washington Avenue
Madison, WI 53707
(608) 267−9403
dcfpublichearing@wisconsin.gov

Submittal of Written Comments

Written comments on the proposed rules received at the above address, email, or through the http://adminrules.wisconsin.gov website no later than **May 19, 2011**, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Children and Families

Statute(s) interpreted

Sections 48.67, 49.343, and 938.357 (4) (a) and (c) 1. and 2., Stats.

Statutory authority

Sections 48.67 (intro.), (3) (b) and (d), 49.343 (4), and 227.11 (2) (a), Stats.

Related statute or rule

Sections 48.60, 48.61, 48.625, 49.34, 101.149, 101.647, 347.48, and 938.34 (4d), Stats.

Explanation of agency authority

Section 49.343, Stats., provides that the department shall establish the per client rate that a residential care center for children and youth or a group home may charge for its services, and the per client administrative rate that a child welfare agency may charge for the administrative portion of its foster care services. The department shall determine the levels of foster care under ch. DCF 56 to which rate regulation applies.

Section 49.343 (4), Stats., provides that the department shall promulgate rules to implement s. 49.343, Stats. Those rules shall include rules providing for all of the following:

- Standards for determining whether a proposed rate is appropriate to the level of services to be provided, the qualifications of a provider to provide those services, and the reasonable and necessary costs of providing those services.
- Factors for the department to consider in reviewing a proposed rate.
- Procedures for reviewing proposed rates, including procedures for ordering a rate when negotiations and mediation fail to produce an agreed to rate.

Section 938.357 (4) (a), Stats., provides that if the Department of Corrections (DOC) places a juvenile who is placed with DOC in a Type 2 juvenile correctional facility operated by a child welfare agency, DOC shall reimburse the child welfare agency at the rate established under s. 49.343, Stats. Section 938.357 (4) (c) 1., Stats., provides that if DOC places a juvenile who is placed with DOC in a Type 2 juvenile correctional facility operated by a child welfare agency and it appears that a less restrictive placement would be appropriate for the juvenile, the rate for the less restrictive placement would also be established under s. 49.343, Stats. Section 938.357 (4) (c) 2., Stats., provides that if a juvenile under the supervision of a county department under s. 938.34 (4d), Stats., is placed in a Type 2 residential care center, the rate for the placement is established under s. 49.343, Stats., and if there is a change in placement to a less restrictive placement, the rate for the less restrictive placement would also be established under s. 49.343, Stats.

Section 48.67 (intro.), Stats., provides that the department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county

departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees.

Section 48.67 (3) (b), Stats., provides that the department shall promulgate rules that require all staff members of a group home who provide care for the residents of the group home have current proficiency in the use of an automated external defibrillator, as defined in s. 256.15 (1) (cr), Stats., achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38), Stats., to provide such instruction.

Section 48.67 (3) (d), Stats., provides that the department shall promulgate rules that require all child welfare agencies that operate a residential care center for children and youth have in each building housing residents of the residential care center for children and youth when those residents are present at least one staff member who has current proficiency in the use of an automated external defibrillator, as defined in s. 256.15 (1) (cr), Stats., achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38), Stats., to provide such instruction.

Section 227.11 (2) (a), Stats., expressly confers rule−making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

Summary of the rule

This rule−making order affects ch. DCF 52, Residential Care Centers for Children and Youth; ch. DCF 54, Child−Placing Agencies; and ch. DCF 57, Group Foster Care.

Rate Regulation

Under this rule, the department will establish maximum rates that no group home, residential care center, or child−placing agency may exceed and will require that each individual program document that its rate is based on the reasonable and necessary costs of the services provided by that program.

For group homes and residential care centers, the regulated rate is a per client rate that each group home or residential care center may charge for costs associated with room, board, administration, service provision, and oversight of youth in the group home or residential care center. For child−placing agencies, the regulated rate is a per client administrative rate that each child−placing agency may charge for the administrative portion of its services for foster homes with a Level 3 or 4 certification under the foster care levels of care system in Emergency Rule 1050. The administrative rate is the difference between the rate charged by a child−placing agency to a purchaser of services for a foster home with a Level 3 or 4 certification and the rate paid by the child−placing agency to the foster parent for the care and maintenance of a child placed in the foster home.

Rate regulation is being phased in to apply to the per client rates that a residential care center or group home may charge for services provided July 1, 2011, to December 31, 2011, for a child who is first placed in a residential care center or group home or who is placed in a new residential care center or new group home on or after July 1, 2011 and the per client administrative rates that a child−placing agency may charge for services provided July 1, 2011, to December 31, 2011, for services that the agency provides for a Level 3 or 4 foster home in which a child is first placed or a child is newly placed on or after July 1, 2011. This rule will apply to all group home and residential care center per client rates and child−placing agency per client administrative rates effective January 1, 2012.

To assist with determining the reasonable and necessary costs of providing services, the department will require that each group home, residential care center, and child−placing agency submit a cost and service report and an audit report for services provided in the previous year. For rates effective July 1, 2011, the deadline for submission of this information is April 29. The department will use the information submitted by April 29 to determine both 2011 and 2012 rates. In future years, the deadline for submission of the cost information will be July 1.

The department shall notify licensees of the per client rates that no residential care center or group home may exceed and the per client administrative rate that no child−placing agency may exceed for its services. For rates effective July 1, 2011, the department released the maximum allowable rates on March 1. For rates for services provided in 2012 and future years, the maximum allowable rates will be released no later than September 1 of the preceding year.

Each group home, residential care center, and child−placing agency licensee shall submit to the department a proposed rate for services to be provided for each program that the licensee operates. In reviewing a proposed rate submitted by a licensee, the department shall consider whether the proposed rate exceeds the maximum rate determined by the department, the program's most recent cost and service report, the program's most recent audit report, whether the program's reported costs are within a range of similar costs reported by other programs for similar items and services, the program's rate in previous years, and the factors listed in s. 49.343 (2) (b), Stats. For rates effective July 1, 2011, a licensee's proposed rate shall be submitted no later than April 29. For rates effective January 1, 2012, and future years, a licensee's proposed rate shall be submitted no later than October 1 of the preceding year.

If the department determines that a licensee's proposed rate is appropriate based on the listed factors, the department shall approve the proposed rate. If the department determines that a licensee's proposed rate is not appropriate, the department shall negotiate with a licensee to determine an agreed to rate. The department's approved rate following negotiations shall be based on the listed factors and additional relevant information presented during negotiations. For rates effective July 1, 2011, the department will notify licensees of their approved rate no later than June 1. For future years, the department will notify licensees of their approved rate no later than November 1 of the preceding year. A licensee who does not agree to the department's approved rate may request mediation and a contested case hearing under ch. 227, Stats.

In addition to the rate established under the rate regulation process, a licensee may request that a county pay an extraordinary payment for a specific child in care. A request for a child−specific extraordinary payment may be approved by the county and shall be reviewed by the department. A licensee may request an extraordinary payment for a child who has service needs that are not accounted for in the maximum allowable rate determined by the department and not paid for by another source. The extraordinary payment may not be used to cover expenses that are a disallowable cost under federal regulations and cost circulars. A licensee may

not appeal the denial of a request for an extraordinary payment.

The department shall convene the rate regulation advisory committee under s. 49.343 (5), Stats., at regular intervals to consult with the department on items in s. 49.343 (5) (a) to (c), Stats.

Other Changes Affecting Residential Care Centers, Group Homes, and Child−Placing Agencies

Inspections, records, and requests for information. The rules provide that the department may visit and inspect a group home, child−placing agency, or residential care center. During this inspection, a licensee shall provide any documentation of operations requested by the department and any resident records requested by the department. A licensee shall respond promptly to requests for information from the department or any other governmental agency with statutory authority to see the information and shall ensure that information that the licensee or staff submits or shares is current and accurate. For group home and residential care center licensees, this provision also applies to requests and information submitted to or shared with a placing agency.

A group home, residential care center, or child−placing agency licensee shall maintain staff payroll records and retain the records for 5 years. A group home or residential care center licensee shall also maintain and retain written schedules of staff coverage that document the specific staff that worked each shift to meet the applicable staff−to−resident ratios.

A group home shall have written policies and procedures that indicate for each shift of resident care staff how all of the following will be documented:

•Staff arrival and departure times.

•Number and location of residents.

•Summary of each resident's behavior and program participation during the shift.

Financial records and audits. A group home, residential care center, or child−placing agency licensee shall arrange for an annual audit report by a certified public accountant. The licensee shall also establish and maintain an accounting system that accurately identifies income and disbursements for each resident or child by the cost categories that must be reported to the department for determination of rates.

Department memos. A licensee of a group home, residential care center, or child−placing agency shall register to receive department memos on child welfare licensing and child welfare policy by electronic mail.

Non−discrimination. A licensee of a group home, residential care center, or child−placing agency shall ensure that the group home, residential care center, or child−placing agency does not discriminate against a resident or child based on the resident's race or cultural identification, sex, sexual orientation, age, color, creed, ancestry, national origin, disability, political affiliations, or religious beliefs.

Other Changes Affecting Residential Care Centers and Group Homes

- Supervision of residents. Language on supervision of residents has been rewritten to emphasize supervision to ensure the safety and well−being of residents in addition to complying with minimal staff−to−resident ratios.
- Prohibited physical restraint. The rules incorporate the provisions of DSP Memo Series 2009−05 that was jointly issued by the Department of Health Services and the Department of Children and Families. It provides that resident care staff may not use any type of physical restraint on a resident unless the resident's behavior presents an imminent danger of harm to self or others and physical restraint is necessary to contain the risk and keep the resident and others safe. If physical restraint is necessary, the rules provide certain prohibited practices.
- Disaster plan. Each licensee shall file a disaster plan with the department and placing agency that would allow the department or placing agency to identify, locate, and ensure continuity of services to children under the placement and care responsibility or supervision of the placing agency who are displaced or adversely affected by a disaster. Disaster plans are required by the federal Child and Family Act of 2006.
- Child safety restraint systems. The rules incorporate the requirements of s. 347.48 (4), Stats.
- Carbon monoxide detectors. The rules incorporate the requirements in ss. 101.647 and 101.149, Stats., regarding carbon monoxide detectors. Effective February 1, 2011, s. 101.647, Stats., requires that a one− or two−unit building have a functional carbon monoxide detector installed in the basement and on each floor level, except the attic, garage, or storage area of each unit.
- Training in use of automated external defibrillator. The rules incorporate the requirements of s. 48.67 (3) (b) and (d), Stats.

Summary of factual data and analytical methodologies

The department developed this rule in conjunction with an advisory committee consisting of representatives of purchasers, county departments, the Bureau of Milwaukee Child Welfare, tribes, providers, consumers, and the Wisconsin Association of Family and Children's Agencies.

From fall 2009 to fall 2010, the department and the advisory committee were developing a policy to implement rate regulation effective January 1, 2011, with levels of care for group homes, residential care centers, and child−placing agencies that provide services for foster homes with a Level 3 to 5 certification. Each level of care would have an established rate and specific requirements regarding provision of care. In fall 2010, the department determined that we did not have sufficient information to implement that type of system. Implementation of rate regulation was delayed until July 1, 2011, and a simpler approach to rate regulation was developed without levels of care for providers.

Summary of related federal requirements

- 48 CFR Part 31 provides contract cost principles and procedures under the federal acquisition regulation. Allowability of costs incurred by commercial organizations is determined in accordance with this provision.
- Allowability of costs incurred by nonprofit organizations is determined in accordance with OMB Circular A−122, *Cost Principles for Nonprofit Organizations*.
- Allowability of costs incurred by state, local, or federally−recognized tribal governments is determined in accordance with OMB Circular No. A−87, *Cost Principles for State and Local Governments*.
- 45 CFR Part 74 provides uniform administrative requirements for awards and subawards from the federal Department of Health and Human Services to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations.

- 45 CFR Part 92 provides uniform administrative requirements for grants and cooperative agreements from the federal Department of Health and Human Services to state, local, and tribal governments.

The Legislative Audit Bureau has confirmed that the department is responsible for monitoring compliance with federal regulations and cost circulars by anyone to whom the department passes federal funds.

Comparison with similar rules in adjacent states

Illinois:

Illinois has a levels of care system group homes and residential care centers. Most residential care is subject to a hybrid rate−setting system. The rules provide that the state reimburses providers through payment made according to standard reimbursement levels that are negotiated through contract. For performance residential programs, the state sets staffing ratios and agrees upon salaries for various types of employees with the provider. Food and laundry, building, and administrative costs are based on median historical costs and are capped. This calculation of reimbursable costs provides the provider with an amount of money that the provider has discretion to use.

Iowa:

Iowa has established a weighted average rate for services providers offer. The weighted average rate was established in 1997. In 1998, existing providers had a one−time opportunity to negotiate their rates. The rates may only be changed if there is an across−the−board increase or decrease in rates. The Department of Human Services negotiates rates with a new provider or an existing provider adding an new service.

Minnesota:

Rates for residential facilities are set by a negotiation process between the facility and the county where the facility is located. Once a rate is negotiated, the facility and the county enter into a contract and the facility send the contract paperwork to the state. Facilities are also required to submit cost information each year. When the reimbursement rate is calculated, the facilities are allocated a percentage of the rate for room and board, and a percentage of the rate for administration.

Michigan:

Counties negotiate contracts with providers and the state approves the contracts.

Analysis used to determine effect on small business

The rule provides procedures to implement rate regulation that is directed by s. 49.343, Stats.

Effect on Small Business

The rule will affect small businesses, but will not have a significant economic effect on a substantial number of small businesses.

Small business regulatory coordinator

The Department's Small Business Regulatory Coordinator is Elaine Pridgen, elaine.pridgen@wisconsin.gov; (608) 267−9403.

Fiscal Estimate

State fiscal effect

Indeterminate.

Local fiscal effect

Indeterminate.

Assumptions used in arriving at fiscal estimate

2009 Wisconsin Act 28 directed the Department to implement rate regulation effective January 1, 2011. Prior to the passage of Act 28, the rates charged by Group Home and Residential Care Centers (RCCs) varied widely. Group Homes and RCCs were able to set their own rates and to charge those rates to the Department and County Child Welfare agencies. From 1998 to 2009, the cost of a Group Home placement grew an average of 5.8% annually and the cost of a RCC placement grew an average of 6.1% annually. At the same time, the Consumer Price Index grew an average of 2.4% annually. The current system lacks transparency, predictability and consistency across counties. In addition, the cost of a placement is not related to the complexity or quality of care provided to a child.

By regulating rates, the Department expects to achieve cost containment, transparency, and consistency across counties. In addition, the rate regulation initiative will enable the Department to align rates with the complexity and quality of care provided to a child. The fiscal impact to the Department and county child welfare agencies cannot be determined because individual provider rates have not been certified.

Agency Contact Person

Ron Hermes, Director, Bureau of Permanence and Out−of−Home Care, Division of Safety and Permanence, (608) 267−3832, ron.hermes@wisconsin.gov.

Notice of Hearing
Regulation and Licensing — Veterinary Examining Board
EmR1103, CR 11−025

NOTICE IS HEREBY GIVEN that pursuant to the authority vested in the Veterinary Examining Board, the board will hold a public hearing at the time and place indicated below to consider an emergency order and an order adopting permanent rules to amend sections VE 2.01 (2); 3.03 (intro.) and (5), relating to the requirements for the initial licensure of veterinarians, specifically, the procedures for, and the types of examinations required.

Hearing Information

Date and Time	Location
May 25, 2011	Room 121A
Wednesday	1400 E. Washington Avenue
at 9:30 A.M.	Madison, WI 53703

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Even if appearing at the hearing in person, you are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Veterinary Examining Board at the Department of Regulation and Licensing, Division of Board Services, P.O. Box 8935, Madison, Wisconsin 53708.

Submittal of Written Comments

Comments may be submitted to Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box

8935, Madison, WI 53708−8935, or by email to kristine1.anderson@wisconsin.gov. Written comments must be received on or before the date and time of the hearing to be included in the record of rule−making proceedings.

Copies of Proposed Rule

Copies of this proposed rule are available upon request to Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Kristine1.Anderson@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing

Statute(s) interpreted

Sections 453.06 (1) and 453.065, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 453.03, and 453.06 (1), Stats.

Related statute or rule

Emergency Rule 1103, containing the same provisions as those proposed for this permanent rule, was published on March 28, 2011. There are no related statutes or rules other than the emergency rule and those indicated above.

Explanation of agency authority

The veterinary examining board is authorized under Wis. Stat. sections 453.03 and 453.06 (1) to promulgate rules relating to licensure qualifications, including determining the qualifications licensure candidates must meet to sit for the licensing examination, as well as establishing procedures for taking the examination.

Plain language analysis

This proposed rule−making first clarifies the date by which a Wisconsin veterinary licensure candidate who has not yet graduated from veterinary school must graduate to be eligible to take the North American Veterinary Licensing Examination (NAVLE). It also makes the deadline for submitting NAVLE applications to the board earlier to comply with the National Board of Veterinary Medical Examiner's (NVBME) requirements and to allow adequate time for departmental processing prior to the board's notification of approved examination applicants to the NBVME.

The NAVLE is offered twice per year, during a four−week "testing window" in November−December and a two−week window in April. The precise dates of the testing windows vary from one year to the next. Section VE 2.01 (2), Wis. Admin. Code, currently provides that to be eligible to sit for the NAVLE, a licensure applicant who has not already graduated from veterinary college must expect to graduate in not more than 8 months. However, Rule VE 2.01 (2) does not specify the date an applicant should use for calculating the 8−month deadline. The proposed amendment to the rule clarifies that the 8−month period begins on the last day of the applicable testing window.

Next, per NBVME procedures, all NAVLE examination applicants must file two applications, one directly to NAVLE, and one through the applicant's state or regional licensing agency. In Wisconsin, NAVLE applicants submit their state applications to the veterinary examining board. The board's agreement with the NBVME calls for the board to provide the NVBME with a list of eligible examination applicants either by August 11 for the November−December testing window or by January 13 for the April window. The current version of Wis. Admin. Code s. VE 3.03 (intro.) specifies deadlines for applicants' examination applications to the board that do not allow the board to comply with the terms of its NBVME agreement. The proposed amendment to the introductory section of VE 3.03 resolves the conflict between the rule and the agreement.

Finally, this proposed rule−making implements the legislation enacted by 2009 Wis. Act 396, which became effective on June 2, 2010. Act 396 affords licensure candidates who are graduating from a foreign veterinary college or one not approved by the Wisconsin veterinary examining board, the option of showing successful completion of the program for the Assessment of Veterinary Education Equivalence (PAVE) as an alternative to the requirement of having successfully completed the American Veterinary Medical Association (AMVA) Education Commission for Foreign Veterinary Graduates Certification (ECFVGC) program. The amendment to Wis. Admin. Code s. VE 3.03 (5) provides that alternative.

SECTION 1 requires that a Wisconsin veterinary licensure candidate who has not yet graduated from veterinary school must have an expected graduation date no later than eight months after the last day of the applicable NAVLE testing window.

SECTION 2 requires that veterinary licensure candidates file their state NAVLE applications with the veterinary examining board at least 140 days before the first day of the applicable testing window.

This section further allows a licensure candidate who has graduated from a foreign veterinary college or one not approved by the board to present evidence of successful completion of either the ECFVGC program or PAVE. This section additionally requires that if a licensure candidate has not yet graduated from veterinary college, the dean of his or her school must provide evidence directly to the board that the applicant has an expected graduation date no later than eight months after the last day of the applicable NAVLE testing window.

Summary of related federal requirements

There are no existing or proposed federal regulations addressing the deadlines for state veterinary licensure candidates to submit applications to take the NAVLE or regarding a state's acceptance of successful completion of PAVE as an alternative to the ECFVGC requirement for graduates of foreign veterinary colleges.

Comparison with similar rules in adjacent states

Illinois:

Illinois licensure candidates who have graduated from an approved program must file an examination application at least 60 days before the date of examination. 68 Ill. Admin. Code 1500.10 a).

A candidate not yet graduated from an approved veterinary program may take the licensure examination prior to graduation by providing certification of his or her upcoming graduation from the college being attended. If certification of graduation is not received within 90 days after the scheduled graduation date, the results of the examination are void. 68 Ill. Admin. Code 1500.10 b) 1).

A person applying to take the licensure examination who has graduated from an unapproved program must verify

enrollment in either PAVE or the ECFVGC program. 68 Ill. Admin. Code 1500.11 a) 1).

A candidate enrolled in an unapproved veterinary program may take the licensure examination prior to graduation if the applicant provides certification of graduation from the college, along with verification of enrollment in either PAVE or the ECFVGC program. If certification of graduation is not received within 90 days after the scheduled graduation date, the results of the licensure examination are void. 68 Ill. Admin. Code 1500.10 c) 1).

Iowa:

Iowa licensure candidates must submit their state NAVLE applications to the NBVME according to rules established by the NBVME. The Iowa Board of Veterinary Medicine requires candidates to provide it with proof of having completed the NBVME NAVLE application process according to NBVME rules. Iowa Admin. Code s. 811—6.1(1). The NBVME must receive candidates' NAVLE applications by August 1 for the November−December examination, and January 3 for the April 2011 examination. Thus, Iowa candidates must complete their NAVLE application process approximately 115 days before both the December−November and April testing windows.

An Iowa licensure candidate who has graduated from a foreign veterinary college that is only AVMA−*listed*, as opposed to AVMA−*accredited*, must also have successfully completed the ECFVGC program or PAVE. Iowa Admin. Code s. 811—6.4(2), (4).

Iowa licensure candidates attending an AVMA−accredited school, but who have not yet graduated, may qualify to take the NAVLE if their expected date of graduation is within 6 months of the examination date. Iowa Admin. Code s. 811—6.1(1). No information about the precise date from which to calculate the 6−month period is available. The Iowa code does not address pre−graduation NAVLE applicants expecting to graduate from a non−AMVA−accredited school.

Michigan:

Michigan's administrative code governing the licensure of veterinarians is out of date, and is undergoing revision. The information in the immediately following paragraph comes from an on−line licensure application packet, published on the veterinary medicine page of the Michigan Department of Community Health's (MCDH) website at: http://michigan.gov/documents/mdch_vet_full_appkt_88535_7.pdf.

Michigan licensure candidates who have graduated from an AMVA−approved college must submit their state NAVLE applications to the NBVME according to rules established by the NBVME.

Both as currently written and under the proposed revisions, the Michigan code requires that candidates for veterinary licensure who have graduated from a foreign veterinary college must take the NAVLE, and must have successfully completed the ECFVGC program. Michigan does not accept PAVE certification for graduates of foreign colleges. Michigan Admincode R 338.4902, Rule 2 (1).

Also both as currently written and under the proposed revisions, the Michigan code does not address licensure for candidates who have not yet graduated from veterinary college, whether AMVA−approved or not.

Minnesota:

Minnesota's administrative code on veterinary licensure addresses only application fees (a) for licensure; (b) to take to "the national veterinary licensing examination"; and (c) to take the Minnesota Veterinary Jurisprudence Examination. Minn. Admincode s. 9100.0400, Subparts 1. and 3. The code does not identify a specific national examination, and it makes no reference to ECFVGC or PAVE.

The Minnesota statutes provide that to qualify for veterinary licensure, all candidates must either have graduated from an accredited or approved veterinary college, or successfully completed the ECFVGC program or PAVE. Minn. Stat. s. 156.02, subd. 1., subd. 2. (2). If a licensure candidate has not yet graduated from an accredited or approved college, he or she must be a last−year student in good standing. Minn. Stat. s. 156.02, subd. 1. (3). The licensure application must be filed at least 60 days prior to the date of "the examination," where no specific examination is named. Minn. Stat. s. 156.02, subd. 1.

According to its website, the Minnesota Board of Veterinary Medicine requires that candidates for initial licensure must pass both the NAVLE and the Minnesota Veterinary Jurisprudence Examination. The Minnesota board's rules for licensure application can be found at its website: http://www.vetmed.state.mn.us/beta/Default.aspx?tabid=807. The website directs candidates to the NBVME website to find NAVLE applications. The NVBME's NAVLE page indicates that Minnesota candidates must submit their state NAVLE applications directly to the NBVME by NAVLE deadlines.

Summary of factual data and analytical methodologies

These proposed rules are for the purpose of first, resolving the inconsistency between the current rules in Wisconsin regarding NAVLE application deadlines and those prescribed by the NBVME; and second, implementing recent legislation allowing foreign veterinary graduates applying for Wisconsin licensure to show evidence of successful completion of PAVE as an alternative to the ECFVGC. Accomplishing those objectives did not require analysis of factual data.

Effect on Small Business

These proposed rules have been reviewed by the department's Small Business Review Advisory Committee to determine whether the rules will have any significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Small business regulatory coordinator

The Department's Regulatory Review Coordinator may be contacted by email at john.murray@wisconsin.gov, or by calling (608) 266−2112.

Fiscal Estimate

The department estimates that the proposed rule will have no significant fiscal impact.

Anticipated costs incurred by the private sector

The department finds that these amendments to sections VE 2.01 and 3.03 will have no significant fiscal effect on the private sector.

Agency Contact Person

Kris Anderson, Paralegal, Department of Regulation and Licensing, Division of Board Services, 1400 E. Washington Ave., Rm. 151, P.O. Box 8935, Madison, Wisconsin, 53708;

Telephone: 608−261−2385;
E−mail: Kristine1.Anderson@Wisconsin.gov.

Notice of Hearing

Revenue

CR 10−129

NOTICE IS HEREBY GIVEN that, pursuant to sections 73.03 (66) and 227.11 (2) (a) Stats., the Department of Revenue will hold a public hearing to consider permanent rules repealing Chapter Tax 53 and repealing and recreating Chapter Tax 20, relating to the lottery and gaming and school levy tax credits and plat review fees.

Hearing Information

The hearing will be held:

Date and Time	Location
May 16, 2011	Events Room
Monday	State Revenue Building
at 9:30 A.M.	2135 Rimrock Road
	Madison, WI 53713

Handicap access is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the person listed below no later than **May 23, 2011**, and will be given the same consideration as testimony presented at the hearing.

Stan Hook
Department of Revenue
Mail Stop 6−97
2135 Rimrock Road
PO Box 8971
Madison, WI 53708−8971
Telephone: (608) 261−5360
E−mail: stanley.hook@revenue.wi.gov

Analysis Prepared by the Department of Revenue

Statute(s) interpreted

Sections 66.0435 (3), 79.10 (4), (5), (6m), (7m) (b) and (cm), (9) (bm), (10), and (11), 79.11 (3) (b), 79.175, and 79.18, Stats.

Statutory authority

Sections 73.03 (66) and 227.11 (2) (a),,Stats.

Explanation of agency authority

Section 73.03 (66), Stats., requires the department to promulgate rules to ensure that the payments under s. 79.10 (4), Stats., made from the appropriation account under s. 20.835 (3) (qb), Stats., are used exclusively for school levy tax credits granted to state residents. Section 227.11 (2) (a), Stats., provides that each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule

There are no other applicable statutes or rules.

Plain language analysis

This proposed rule does the following:

- Provides definitions related to the lottery and gaming credit and establishes procedures to assist in the management of the lottery and gaming credit program at the state, county, town, village, and city level.
- Provides restrictions for the distribution of the school levy tax credit − lottery fund.
- Removes obsolete provisions relating to plat review fees.

Summary of related federal requirements

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

Comparison with similar rules in adjacent states

The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies

The department issues hundreds of millions of dollars in school levy tax and lottery and gaming credits each year, including hundreds of thousands of dollars in lottery and gaming late claim credits. The documentation required to issue and audit these distributions must be uniform, accurate, and complete to ensure the department has the information necessary to successfully manage these credit programs. This rule order has also been created to provide further guidance to municipalities and counties to ensure qualifying properties within their districts are receiving the credits available to them.

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

The provisions of the proposed rule order concerning the school levy tax credit are as required under s. 73.03 (66), Stats. The rule itself does not impose any significant financial or other compliance burden on small business.

The provisions of the proposed rule order concerning the lottery and gaming credit affect individuals applying for and receiving the credit, and counties and municipalities that manage the lottery and gaming credit program. There is not an effect on small business.

Effect on Small Business

This proposed rule does not have a significant effect on small business.

Initial regulatory flexibility analysis

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

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

The proposed rule modifies two chapters of the Department of Revenue's Administrative Code.

The repeal and recreation of Tax 20 of the Administrative Code is intended to accomplish the following: (a) add language required under sec. 73.03 (66) specifying that the portion of the school levies credit for each municipality that is funded from the lottery fund shall not exceed the school levies credit amount paid to state residents, (b) eliminate outdated references to "precertification" and "interim" years with regard to lottery and gaming credit; and (c) reorganize and clarify other points concerning the distribution of the

lottery and gaming credit. These changes have no fiscal effect on the state or on local governments.

The repeal of Tax 53 regarding plat review fees has no fiscal effect on the state or on local governments. These fees were once administered by the Department of Revenue, but are now administered by the Division of Intergovernmental Relations in the Department of Administration.

State fiscal effect

No state fiscal effect.

Local fiscal effect

No local government costs.

Anticipated costs incurred by the private sector

This proposed rule does not have a significant fiscal effect on the private sector.

Agency Contact Person

Please contact Dale Kleven at (608) 266−8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this proposed rule.

Text of Rule

SECTION 1. Chapter Tax 20 is repealed and recreated to read:

PROPERTY TAX CREDITS

Subchapter I – School Levy Tax Credit, Lottery Fund

Tax 20.01 Purpose. The purpose of this subchapter is to, as required under s. 73.03 (66), Stats., provide restrictions for the distribution of the school levy tax credit, lottery fund, under s. 79.10 (4), Stats.

Tax 20.02 Definitions. In this subchapter:

(1) "Department" means the department of revenue.

(2) "Domicile" has the meaning given in s. 71.01 (1n), Stats.

(3) "Municipality" means a town, village, or city.

(4) "Resident individual" means either of the following:

(a) A natural person whose domicile is in this state.

(b) A natural person who lives in this state for more than six months of the year.

Tax 20.03 Distribution of credit. A payment to a municipality under s. 79.10 (4), Stats., made from the appropriation under s. 20.835 (3) (qb), Stats., may not, as determined by the department, exceed the amount of the school levy credit paid to resident individuals in that municipality.

Subchapter II – Lottery and Gaming Credit

Tax 20.04 Purpose. The purpose of this subchapter is to provide definitions related to the lottery and gaming credit and establish procedures to assist in the management of the lottery and gaming credit program at the state, county, town, village, and city level.

Note: Department of Revenue forms mentioned throughout this subchapter are located on the department's web site at www.revenue.wi.gov.

Tax 20.05 Definitions. In this subchapter:

(1) "Application" means the form used to claim the lottery and gaming credit.

(2) "Approved property" means taxable real estate or an item of personal property that contains the primary residence of an owner whose application for a lottery and gaming credit has been timely filed under s. Tax 20.07 or 20.11, and has not been disqualified by the department.

(3) "Certification date" means January 1 of the year the tax is levied. For manufactured and mobile homes placed in a manufactured or mobile home community after January 1, the certification date is determined under s. 66.0435 (3) (c) 2., Stats.

(4) "Credit" means the lottery and gaming credit under ss. 66.0435 (3) (c) 8. and 79.10, Stats.

(5) "Department" means the department of revenue.

(6) "Dwelling" means a structure or that part of a multidwelling or multipurpose structure occupied as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from outside the building or through a common hall. "Dwelling" does not include a structure which is exempt from property taxes under s. 70.111 (19) or 70.112 (5), Stats., in the year of the credit.

(7) "Manufactured home" has the meaning given in s. 66.0435 (1) (cm), Stats.

(8) "Maximum credit value" or "MCV" means the value of property calculated by the department as provided in s. 79.10 (11) (c), Stats., for purposes of computing the lottery and gaming credit.

(9) "Mobile home" has the meaning given in s. 66.0435 (1) (d), Stats.

(10) "Monthly municipal permit fee" means the fee calculated under s. 66.0435 (3) (c), Stats., collected by the local taxing authority or community operator, as defined in s. 66.0435 (1) (c), Stats., from each occupied space or lot in a manufactured or mobile home community located in the licensing authority's boundaries.

(11) "Municipality" means any town, village or city.

(12) "Owner" means:

(a) A person named as an owner on the title instrument for that person's primary residence which is recorded in the records of the register of deeds for the county in which that person's primary residence is located.

(b) A person related as husband or wife to a person under par. (a), (d), (f), (g), or (h).

(c) A partner of a partnership under s. 178.03 (1), Stats., or shareholder of a tax−option corporation as defined in s. 71.34 (2), Stats., or a shareholder of a small business corporation as defined in s. 1361 (b) of the Internal Revenue Code, if that partnership or corporation owns property that is the primary residence of the partner or shareholder.

(d) A buyer in possession under a land contract of property which is the primary residence of the buyer, provided that the land contract or the instrument evidencing the existence of a land contract is notarized no later than 6 months after the certification date.

(e) A trustee, as defined in s. 701.01 (8), Stats., of a trust in property, as defined in s. 701.01 (7), Stats., where a beneficiary of that trust, as defined in s. 701.01 (1), Stats., uses the property as his or her primary residence.

(f) A member, as defined in s. 185.01 (5), Stats., of a cooperation as defined in s. 185.01 (2), Stats., that owns property that is the primary residence of the member.

(g) A person holding a property interest for life under s. 700.02 (3), Stats., in property on which that person's primary residence is located, provided that the life interest is notarized no later than 6 months after the certification date.

(h) An owner of a manufactured or mobile home.

(i) A lawfully authorized agent of an owner described under pars. (a) to (h) acting on behalf of that owner.

(13) "Primary residence" means the dwelling where an individual lives most of the time and to which, when temporarily away, the individual returns, except that no individual may have more than one primary residence at any time. "Primary residence" includes a dwelling located in this state lived in by an individual for more than 6 months during a year in which the individual lived only part of the year in this state.

Note: Eligibility for the lottery credit will not be denied to an owner who is a temporary resident of a facility such as a health care facility if it is the intent of the owner to return to his or her primary residence.

(14) "School tax rate" means the rate computed by the department as the total amount levied by the school district in which the property is located divided by the full value of the school district excluding tax incremental district value increments.

(15) "Taxation district" has the meaning given in s. 74.01 (6), Stats.

(16) "Taxing jurisdiction" has the meaning given in s. 74.01 (7), Stats.

Tax 20.06 Computing the lottery and gaming credit. (1) For owners of taxable property, the credit is computed as the estimated fair market value, not to exceed the maximum credit value, of the approved property multiplied by the school tax rate for the school district in which the approved property is located.

(2) For owners of manufactured and mobile homes subject to a monthly municipal permit fee, the credit is computed as the fair market value minus the tax exempt household furnishings of the manufactured or mobile home, as established by the assessor under s. 66.0435 (3) (c), Stats., for January 1, not to exceed the maximum credit value, multiplied by the school tax rate for the school district in which the manufactured or mobile home is located.

(3) The amount of property tax or monthly municipal permit fee due after subtracting the lottery and gaming credit may not be less than zero.

Tax 20.07 How to claim the credit. (1) TAXABLE PROPERTY. (a) An owner of taxable property who qualifies for the lottery and gaming credit may claim the credit on an application form prescribed by the department. The application form shall require the claimant to attest to, as of the certification date, owning the property described on the application form and using it as a primary residence. The completed application form shall be filed with the county treasurer except that in a city that collects taxes under s. 74.87, Stats., the application form shall be filed with the city treasurer. A claim made under this paragraph is valid until no longer eligible, at which time the claim shall be withdrawn by the claimant as required under sub. (3), except as provided under s. Tax 20.12 (2).

Note: The various application forms used to claim the lottery and gaming credit are available on the department's web site at www.revenue.wi.gov.

(b) If more than one owner qualifies for and claims a credit on taxable property, each owner shall claim the credit under par. (a) on a separate application form. The number of credits claimed on a property may not exceed the number of dwellings on the property. Total credits for each dwelling are limited by s. Tax 20.06 (3).

Note: Examples of owners whose primary residence is on the same property as another owner include co−owners of agricultural land on which each owner has a primary residence or co−owners of a duplex in which each dwelling is occupied by one of the owners.

(c) An owner who qualifies for the credit against taxes but whose tax bill does not reflect the credit may claim the credit until January 31 following the issuance of the tax bill by filing the application form under par. (a) with the treasurer collecting the taxes. If the application form is approved, the treasurer shall proceed under s. Tax 20.08 (1) (e). Requests made after January 31 shall be filed with the department no later than October 1 following the issuance of the person's property tax bill, on the appropriate late claim application form, for processing under s. Tax 20.11 (2). The department will notify the applicable treasurer of those late claims approved by the department. The treasurer shall then enter the property on the next tax role as property that qualifies for a lottery and gaming credit. The owner should also file an application under par. (a), with the applicable treasurer, to apply for the credit for subsequent years. A claim made under this paragraph is valid until no longer eligible, at which time the claim shall be withdrawn by the claimant as required under sub. (3), except as provided under s. Tax 20.12 (2).

(d) 1. If a property transferred qualifies for the credit because a previous owner used the property as his or her primary residence on the certification date, the new owner of the property may apply for the credit on a form prescribed by the department, or by indicating on the real estate transfer return that the property will be used by the owner as their primary residence. Requests made under this paragraph shall be filed with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, Stats., with the treasurer of that city.

2. A claim made under par. (a) is valid until no longer eligible, at which time the claim shall be withdrawn by the claimant, except as provided under s. Tax 20.12 (2). If the claimant under this paragraph does not own or use the property as his or her primary residence on the certification date of any year subsequent to the year of the claim, the claimant shall withdraw the claim as required under sub. (3).

(e) Requests made after January 31 of the year following the year of the credit shall be filed with the department no later than October 1 following the issuance of the person's property tax bill for processing under s. Tax 20.11 (2) on the appropriate late claim application form. The submission of a late claim application form with the department does not certify the owner for future credits. The department will notify the applicable treasurer of those late claims approved by the department. The treasurer shall then enter the property on the next tax role as property that qualifies for a lottery and gaming credit. The owner shall also file an application under par. (a) with the applicable treasurer to apply for the credit for subsequent years. A claim made under this paragraph is valid until no longer eligible, at which time the claim shall be withdrawn by the claimant as required under sub. (3), except as provided under s. Tax 20.12 (2).

(2) MANUFACTURED AND MOBILE HOMES. (a) The owner of a manufactured or mobile home, subject to a monthly municipal permit fee, who qualifies for the credit as of January 1, may claim the credit on an application form prescribed by the department. The application form shall

require the claimant to attest to, as of the certification date, owning the manufactured or mobile home described on the application and using it as a primary residence. The completed application form must be filed with the taxation district treasurer no later than February 10 of the year the owner is eligible for the credit. A claim made under this paragraph is valid until no longer eligible, at which time the claim shall be withdrawn by the claimant as required under sub. (3), except as provided under s. Tax 20.12 (2).

(b) The taxation district treasurer shall compute the amount of the lottery and gaming credit under s. Tax 20.06 (2). One−twelfth of the credit computed under this paragraph shall be subtracted from each monthly municipal permit fee otherwise due for the parking site occupied by the owner under par. (a) on January 1.

(c) The amount of the lottery and gaming credit received for months in which a fee is not due for the parking site of an owner under par. (a) shall be recorded by the taxation district treasurer and returned to the department by January 20 of the following year. The taxation district treasurer may charge back to the school district the corresponding credits previously settled for under s. Tax 20.10.

(3) WITHDRAWING A CLAIM. Within 30 days of the date on which the claimant no longer owns the taxable real or personal property or the manufactured or mobile home subject to a monthly municipal permit fee on which a claim was based, or no longer uses the property as a primary residence, the claimant shall inform the treasurer administering the credit under this section that the claimant is no longer eligible to claim a credit for the property. Failure to do so may subject the owner to penalties under s. Tax 20.12 (2).

Tax 20.08 Responsibilities of county treasurer and taxation district treasurer. (1) CERTIFICATION OF LOTTERY AND GAMING CREDIT. (a) The treasurer administering the credit under s. Tax 20.07 (1) (a) shall prepare application forms for properties likely to qualify for the lottery and gaming credit or upon request. Prepared application forms shall include the property identification number and the physical address of the property address or other description of the property. The prepared application for the lottery and gaming credit shall be distributed to the owner of the property for their certification as to whether the property qualifies for the credit.

(b) The treasurer administering the credit under s. Tax 20.07 (1) (a) shall accept application forms for the lottery and gaming credit for taxable property through the October 31 prior to issuance of the tax bill. The treasurer shall accept facsimiles of application forms or other documents evidencing a claim that include all the information contained in the application form prescribed by the department if such facsimiles or other documents are received by the treasurer by October 31. The treasurer may not accept application forms postmarked earlier than the certification date.

(c) If a treasurer receives an application without an owner's signature, the claim for the credit may not be granted. The treasurer shall attempt to contact the owner and advise of the need to sign the application.

(d) If a treasurer has reason to question a signed application form, the treasurer shall approve the claim but shall mark the property for audit by the department. The treasurer shall advise the department of all properties marked for audit on the March 1 report under sub. (4) (c).

(e) The treasurer administering the credit under s. Tax 20.07 (1) (a) shall remove the credit from a property as of the next January 1 after the filing of a real estate transfer return, unless one of the following applies:

1. The real estate transfer return indicates that the property will be used as the primary residence of the new owner.

2. An application form is filed by the new owner.

(f) An owner who qualifies for the lottery and gaming credit but whose tax bill does not reflect the credit, may claim the credit until January 31 following the issuance of the tax bill by filing the application form under s. Tax 20.07 (1) (a) with the treasurer responsible for collecting the January payment of the owner's property taxes. The treasurer shall compute the credit, subtract the calculated credit from the amount of taxes due to the extent allowed under s. Tax 20.06 (3), for the approved property of the owner, and make an appropriate entry in the tax roll. If the tax has been paid in full, the treasurer shall provide a refund for the amount of the credit, not to exceed the amount of tax paid. The treasurer shall, on or before settlement under s. 74.25 or 74.30, Stats., convey to the county treasurer the property identification number, property address or other description of the property, credit amount, and the name and mailing address for each claim accepted under this paragraph.

(g) The treasurer administering the credit under s. Tax 20.07 (1) (a) shall, by July 1 in each year ending in a four or nine, submit to the department a copy of the procedures used to conduct their verification of the eligibility of credits claimed within their territory under the requirements of s. 79.10 (10) (f), Stats. The procedures shall include methods used by the treasurer to identify properties receiving the credit based on a certification received by a previous owner and notification of property owners that potentially qualify for the credit that are not currently receiving the credit. A summary of the results from the latest verification of eligibility conducted by the treasurer shall be submitted with the procedures.

Example: A treasurer is required to submit the information specified in par. (g) by July 1 of 2014 and July 1 of 2019.

(2) TAX ROLL ENTRIES. The tax roll shall indicate the amount of lottery and gaming credits extended to approved properties.

(3) PROPERTY TAX BILLS. (a) The treasurer under s. Tax 20.07 (1) (a) shall cause the lottery and gaming credit to appear on tax bills for approved properties for which an application has been received under sub. (1) (b). Except as provided in par. (b), the total amount of the lottery and gaming credit shall be deducted from the net property tax included in the first installment. If the lottery and gaming credit exceeds the amount of net property taxes included in the first installment, the excess shall be deducted from subsequent installments, but no installment may be reduced below zero.

Example: 1) A 2010 property tax bill shows the following amounts:

Property Taxes	$5,250	Lottery and Gaming Credit	$75
Special Assessments	250	First Dollar Credit	65
Special Charges	95	School Levy Credit	235
Total Amount Due Before Credits	$5,595	Total Credits	$375

Total Due: 5,595 – 375 = 5,220

The total due is paid using a two installment method. The special assessments of $250 and special charges of $95 are required to be paid with the first installment.

The first installment is $2,745, determined as follows:

Step 1 [5,250 – (65 + 235)] ÷ 2 = 2,475

Step 2 (2,475 – 75) + (250 + 95) = 2,745

The second installment is $2,475.

Example: 2) A 2010 property tax bill shows the following amounts:

Property Taxes	$500	Lottery and Gaming Credit	$75
Special Assessments	100	First Dollar Credit	40
Special Charges	50	School Levy Credit	110
Total Amount Due Before Credits	$650	Total Credits	$225

Total Due: 650 – 225 = 425

The total due is paid using a five installment method. The special assessments of $100 and special charges of $50 are required to be paid with the first installment.

The first installment is $150, determined as follows:

Step 1 [500 – (40 + 110)] ÷ 5 = 70

Step 2 (70 – 70) + (100 + 50) = 150

After applying the $5 of unused lottery and gaming credit, the second installment is $65. The final three installments are each $70.

(b) On tax bills for approved properties issued by a city that collects general property taxes under s. 74.87, Stats., the lottery and gaming credit shall be prorated over installment payments, but no installment may be reduced below zero.

(4) INFORMATION PROVIDED TO THE DEPARTMENT. (a) *March credit reimbursement report.* 1. On or before March 1, the county treasurer shall report to the department the total number and amount of credits claimed under s. Tax 20. 07 (1), including late claims made under s. Tax 20.07 (1) (c) in each taxation district in the county except that for taxation districts in a city that collects taxes under s. 74.87, Stats., the city treasurer shall report to the department. The report shall be on a form prescribed by the department and shall be submitted by or under the direction of the treasurer.

2. On or before March 1, each taxation district treasurer shall report to the department the total number and amount of credits claimed through the preceding February 10 for manufactured and mobile homes subject to a monthly municipal permit fee. The report shall be on a form prescribed by the department and shall be submitted by or under the direction of the treasurer.

(b) *Returning unused manufactured or mobile home credit.* On or before January 20, the taxation district treasurer shall report to the department, on a form prescribed by the department, the amount of unused manufactured and mobile home credits under s. Tax 20.07 (2) (c). Payment for the amount of unused credits under s. Tax 20.07 (2) (c) shall accompany the report.

(c) *Claimant report.* On or before March 1 of each year, treasurers under sub. (1) (a) shall provide the department a post−certification data file of all claims made in that year, including late claims made under sub. (1) (f). The data file shall be in a computer−readable format, and shall indicate for each individual claim the property identification number, physical property address or other description of the property, credit amount, recommendation for audit, and the name and mailing address for purposes of mailing the tax bill. The total number of credits claimed and the total amount of credit shown on this data file shall equal the number and amount of credits reported on the March Credit Reimbursement Report.

Example: On March 1, 2011 the treasurer provides the department a report of all claims made for the 2010 credit. The report includes all claims from 2009 that remain valid for the 2010 credit, new claims made in 2010, as well as late claims made in 2011 for the 2010 credit.

(d) *Corrections report.* On or before October 1, the treasurer under sub. (1) shall report to the department all corrections or adjustments made to the lottery and gaming credit claims of the previous year under s. Tax 20.11.

(5) RECORD RETENTION. (a) Except for credits extended under s. 79.10 (10) (e), Stats., each claim for a lottery and gaming credit shall be supported by a signed application or a facsimile thereof, which shall be available for inspection by the department in the office of the treasurer administering the credit under s. Tax 20.07 (1) (a) for the period the claim remains valid plus an additional 5 calendar years after the credit has been withdrawn under s. Tax 20.07 (3) or removed under s. Tax 20.12.

(b) All computer programs and records used to extend credits shall be available for inspection by the department in the office of the treasurer administering the credit for the next 5 calendar years from the year the credit was extended.

Tax 20.09 Payment of lottery and gaming credits. (1) Except as provided in sub. (2), on the 4th Monday in March the department of administration shall pay to the county

treasurer the amounts claimed under s. Tax 20.08 (4) (a) 1. and 2. by each taxation district within the county.

(2) Payment under sub. (1) shall be made directly to a municipality, if one of the following applies:

(a) The municipality, annually on or before March 1, submits to the department of administration a letter requesting direct payment of the school levy tax credit, lottery and gaming credit, and first dollar credit. The letter shall contain a statement that the municipality qualifies for direct payment under s. 79.10 (7m) (cm) 1a., Stats., and has received proper approval from the municipality's governing body.

(b) The municipality, on or before March 1, submits to the department of administration a letter of notification requesting, until further notice, direct payment of the school levy tax credit, lottery and gaming credit, and first dollar credit. The letter shall contain a statement that the municipality qualifies for direct payment under s. 79.10 (7m) (cm) 2a., Stats. Notification provided in the manner prescribed in this paragraph remains valid until the municipality notifies the department of administration that the municipality no longer wishes to receive or no longer qualifies to receive direct payment. The department may request written confirmation from a municipality that the municipality qualifies for direct payment under s. 79.10 (7m) (cm) 2., Stats. If a municipality fails to provide written confirmation as requested by the department under this paragraph, payment under sub. (1) shall be made to the county in which the municipality is located.

Tax 20.10 Settlement for lottery and gaming credits. (1) Except for lottery and gaming credit amounts received for claims under s. Tax 20.07 (2), the municipal treasurer shall settle for amounts received directly by the municipality under s. Tax 20.09 with each taxing jurisdiction within the taxation district not later than April 15. The municipal treasurer shall also distribute the amounts received for claims under s. Tax 20.07 (2) by the municipal treasurer to the appropriate school district by April 15.

(2) The county treasurer shall settle for the amounts received directly under s. Tax 20.09 with each taxation district and each taxing jurisdiction within the taxation district not later than August 20.

Tax 20.11 Corrections. (1) (a) If the department determines that the credits in a particular taxation district were not determined or calculated correctly, the department shall order an adjustment under par. (d) for each property for which the credit was incorrect.

(b) The county treasurer shall determine all of the following for each property in a taxation district under par. (a) for which a credit was claimed:

1. The credit actually claimed.

2. The correct credit amount.

3. The difference between subds. 1. and 2.

(c) The treasurer shall sum the differences under par. (b) 3. for each taxation district and shall certify those amounts to the department by October 1.

(d) The differences under par. (b) 3. shall be entered on the following year's tax roll and shall show on tax bills for each property for which the difference under par. (b) 3. is not zero.

(e) The amount certified under par. (c) for each taxation district shall be added to, or deducted from, the total lottery and gaming credits of the following year paid to the taxation district in March of the following year.

(2) If the department determines in the year of any distribution under s. Tax 20.09 (1) that there was a lottery and gaming credit due, based on an eligible claim made after January 31 and no later than October 1 following the issuance of the person's property tax bill, the department shall issue a check to the taxpayer in the amount equal to the computed credit. The department shall convey to the county treasurer the property identification number, physical property address or other description of the property, and the name and mailing address for each omitted claim. The owner shall also file an application under s. Tax 20.07 (1) (a) to claim the credit for subsequent years.

Tax 20.12 Audit; penalties. (1) The department shall audit claims for the lottery and gaming credits. The department may audit the computer programs and records of county treasurers and treasurers of a taxation district that collects taxes under s. 74.87, Stats., and records of individual property owners that have received the credit within the previous 4 years.

(2) If the department determines that a credit was extended to a property or a manufactured or mobile home subject to a monthly municipal permit fee which does not qualify for the credit, the department shall proceed as follows:

(a) *Current year audits.* 1. If the determination is prior to the time the tax roll is prepared, the department shall instruct the treasurer under s. Tax 20.08 (1) to deny the credit, and the credit shall not appear on the tax bill for that property. The treasurer shall indicate on the tax roll that a claim for credit was denied.

2. If the determination is after the tax roll is prepared, the department shall instruct the appropriate taxation district to collect the credit as a lottery special charge on the next property tax bill issued for the property, if the property owner fails to remit the denied credit amount to the department by October 1. The lottery special charge shall include the full amount of the lottery credit plus applicable interest and penalty.

(b) *Audit covering previous 4 years*. If during the audit the department determines that the credit was extended to a property or a manufactured or mobile home subject to a monthly municipal permit fee that does not qualify for the credit for any of the previous 4 years, the department shall determine the total amount of credit extended in error. If a property owner fails to, by October 1, remit to the department the amount of credit extended in error, the department shall instruct the appropriate taxation district to collect the credit as a lottery special charge on the next property tax bill issued for the property.

(c) *Handling lottery and gaming credit special charge payments.* 1. If before November 1, the department receives full or partial payment for a lottery and gaming credit previously referred to the treasurer as a special charge, the department will notify the treasurer to remove or reduce the amount of the special charge for that property.

2. If after October 31 the department receives full or partial payment for a lottery and gaming credit previously referred to the treasurer as a special charge, the department will process the payment and refund any duplicate payment received by the department to the applicable property owner or treasurer.

3. A person who under this subsection collects lottery and gaming credit special charges payments from a property owner, collects those payments as trust funds and state property. Any person who intentionally fails or refuses to pay over those funds to the state at the time required under ch. 74,

Stats., or who fraudulently withholds, appropriates, or uses any of those funds is guilty of theft under s. 943.20, Stats., punishable as specified in s. 943.20 (3), Stats., according to the amount of funds involved. This subdivision applies regardless of the person's interest in those funds.

(d) A person claiming to be adversely affected by a determination made by the department under this subsection may petition the department for a contested case hearing under s. 227.42, Stats.

SECTION 2. Chapter Tax 20 Appendix is repealed

SECTION 3. Chapter Tax 53 is repealed

Submittal of Proposed Rules to the Legislature

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

Agriculture, Trade and Consumer Protection

CR 10−106

(ATCP # 09−R−17)

Revises Chapter ATCP 69, relating to buttermaker license qualifications.

Commerce

Financial Resources for Businesses and Communities, Ch. Comm 100−149

CR 11−004

Creates Chapter Comm 103, relating to disabled veteran−owned business certification program.

Natural Resources

Fish, Game, etc., Chs. NR 1—

(DNR # FR−38−10)

CR 10−131

Revises Chapter NR 45, relating to golf cart rules at Governor Thompson State Park and Peshtigo River State Forest.

Rule Orders Filed with the Legislative Reference Bureau

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

Agriculture, Trade and Consumer Protection
CR 10−100

(ATCP # 9−R−19)

Revises section ATCP 10.06 and creates Chapter ATCP 16, relating to the licensing and regulation of dog dealers, dog breeders, dog breeding facilities, animal control facilities and animal shelters.
Effective 6−1−11.

Commerce
Financial Resources for Businesses and Communities, Chs. Comm 100−149
CR 10−108

Renumbers section Comm 129.09 (5) to (11), relating to tax credits for angel investments and early stage seed investments, and affecting small businesses.
Effective 6−1−11.

Commerce
Financial Resources for Businesses and Communities, Chs. Comm 100−149
CR 10−113

Creates Chapter Comm 139, relating to rural outsourcing grants, and affecting small businesses.
Effective 6−1−11.

Commerce
Financial Resources for Businesses and Communities, Chs. Comm 100−149
CR 10−116

Revises Chapter Comm 133, relating to administering a film production accreditation program, and affecting small businesses.
Effective 6−1−11.

Financial Institutions — Banking
CR 10−098

Creates Chapter DFI−Banking 75, relating to payday lending.
Effective 6−1−11.

Health Services
Community Services, Chs. DHS 30—
CR 10−145

Repeals section DHS 88.06 (4), relating to resource center referrals by licensed adult family homes.
Effective 6−1−11.

Health Services
Community Services, Chs. DHS 30—
CR 10−146

Revises Chapter DHS 1, relating to records status and retention period for records of clients who have unpaid liability to the Department or counties.
Effective 6−1−11.

Transportation
CR 10−099

Revises Chapter Trans 178, relating to the Unified Carrier Registration System.
Effective 6−1−11.

Rules Published with this Register and Final Regulatory Flexibility Analyses

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

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

Agriculture, Trade and Consumer Protection
CR 10−110

(ATCP # 9−R−13)

Revises Chapter ATCP 30 Appendix A, relating to pesticide product restrictions. Effective 5−1−11.

Summary of Final Regulatory Flexibility Analysis

Atrazine is a widely used agricultural herbicide that has been found in groundwater throughout the state. Current DATCP rules under ch. ATCP 30, Wis. Adm. Code, limit atrazine application rates throughout the state to ½ the current federal label rate. The current rules also *prohibit* the use of atrazine where atrazine contamination of groundwater has attained or exceeded the state groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 101 designated areas, including major prohibition areas in the lower Wisconsin River Valley and much of Dane and Columbia counties.

Based on new groundwater sampling data, this rule expands and joins 2 current atrazine prohibition areas in Columbia County, and creates a new atrazine prohibition area in Sauk County adjacent to the Lower Wisconsin River Valley PA. These changes will increase the total statewide acreage of atrazine prohibition areas by approximately 8,640 acres. By joining 2 prohibition areas and adding one new prohibition area, this number of atrazine prohibition areas will remain at 101. This rule includes maps describing the revised prohibition areas.

The changes to ch. ATCP 30, Wis. Adm. Code, will affect small businesses, as defined by s. 227.114 (1)(a), Stats., in Wisconsin. The greatest small business impact of the changes will be on farmers, in the expanded prohibition areas, who currently use atrazine to control weeds in corn. Between 20 and 25 farmers will be affected, depending on their corn acreage and their reliance on atrazine products. Those farmers will no longer be able to use atrazine; however other effective weed control products are available.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require some assistance. In the past, this type of assistance has been provided by University of Wisconsin Extension personnel and farm chemical dealers. Also, many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates that these three groups will continue to be the primary sources of information about areas where atrazine cannot be used and the best alternatives for each situation.

Summary of Comments by Legislative Review Committees

On December 20, 2010, DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate Committee on Agriculture, Forestry and Higher Education on January 6, 2011 and to the Assembly Committee on Agriculture on January 18, 2011. The Senate Committee on Agriculture, Forestry and Higher Education did not hold a hearing and took no action. The Assembly Committee on Agriculture held a hearing on February 10, 2011, but took no subsequent action. The legislative review period expired March 19, 2011.

Controlled Substances Board
CR 10−112

Creates section CSB 2.35, relating to the scheduling of a schedule II controlled substance, lisdexamfetamine under Ch. 961, Stats., of the Uniform Controlled Substances Act. Effective 5−1−11.

Summary of Final Regulatory Flexibility Analysis

An order of the Controlled Substances Board to create CSB 2.35, relating to the scheduling of a schedule II controlled substance, lisdexamfetamine under ch. 961, Stats., of the Uniform Controlled Substances Act.

Summary of Comments by Legislative Review Committees

No comments were reported.

Regulation and Licensing
CR 10−101

Revises Chapters RL 110 to 116, relating to the regulation of professional boxing contests. Effective 5−1−11.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed by the department's Small Business Review Advisory Committee to determine if the rules will have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The rules may have some impact as described above in the "Analysis and supporting documents used to determine the effect on small business" section.

Summary of Comments by Legislative Review Committees

No comments were reported.

Regulation and Licensing
CR 10−102

Revises Chapters RL 192 to 196, relating to the regulation of mixed martial arts sporting events. Effective 5−1−11.

Summary of Final Regulatory Flexibility Analysis

These proposed rules were reviewed by the department's Small Business Review Advisory Committee to determine if the rules will have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The rule may have some impact as described above in the "Analysis and supporting documents used to determine effect on small business" section.

Summary of Comments by Legislative Review Committees

No comments were reported.

Regulation and Licensing
CR 10−133

Revises Chapter PD 3, relating to determining, collecting and processing the payments received from persons as payment for legal representation. Effective 6−19−11.

Summary of Final Regulatory Flexibility Analysis

None.

Summary of Comments by Legislative Review Committees

No comments were reported.

Regulation and Licensing
CR 10−134

Revises Chapter PD 6, relating to determining, collecting and processing the payments received from persons as payment for legal representation. Effective 6−19−11.

Summary of Final Regulatory Flexibility Analysis

None.

Summary of Comments by Legislative Review Committees

No comments were reported.

Technical College System Board
CR 10−096

Revises section TCS 17.06, relating to training program grants. Effective 5−1−11.

Summary of Final Regulatory Flexibility Analysis

Positive effect — without the 25% match requirement, small businesses may be better able to take advantage of the training or education funding opportunities provided by this grant. Small businesses may access training or education through the training program grants, but there is no mandated participation in the program.

Summary of Comments by Legislative Review Committees

No comments were reported.

Sections Affected by Rule Revisions and Corrections

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

Revisions

Agriculture, Trade and Consumer Protection

Ch. ATCP 30

Appendix A

Controlled Substances Board

Ch. CSB 2

CSB 2.35

Public Defender Board

Ch. PD 3

PD 3.01
PD 3.015
PD 3.02
PD 3.03
PD 3.038
PD 3.039
PD 3.04
PD 3.05 (1), (2), (3)
PD 3.055 (1), (2)
PD 3.06
PD 3.07

Ch. PD 6

PD 6.01
PD 6.015 (title), (1) (a), (b), (c)
PD 6.02 (title), (1), (2), (3)
PD 6.025 (1), (2) (a), (3)
PD 6.03 (1) (intro.), (3)
PD 6.04 (intro.), (2), (3), 4), (5)
PD 6.045
PD 6.05
PD 6.055
PD 6.06
PD 6.07

Regulation and Licensing

Ch. RL 110

(Entire Chapter)

Ch. RL 111

(Entire Chapter)

Ch. RL 112

RL 112.005
RL 112.01 (intro.)
RL 112.03 (1)
RL 112.04
RL 112.08 (2)

Ch. RL 113

RL 113.005
RL 113.01 (1)
RL 113.02 (1) (a) to (g), (4), (5)
RL 113.04

Ch. RL 114

RL 114.005
RL 114.09
RL 114.095
RL 114.10

Ch. RL 115

RL 115.005
RL 115.02 (1) (a)

Ch. RL 116

RL 116.005
RL 116.01 (1) (intro.), (b) to (g), (2), (3) (intro.), (d) to (d), (f) to (m), (4)
RL 116.02
RL 116.03

Ch. RL 192

(Entire Chapter)

Ch. RL 193

(Entire Chapter)

Ch. RL 194

(Entire Chapter)

Ch. RL 195

(Entire Chapter)

Ch. RL 196

(Entire Chapter)

Technical College System Board

Ch. TCS 17

TCS 17.06

Editorial Corrections

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

Children and Families

Ch. DCF 43

DCF 43.04 (1)

Natural Resources

Ch. NR 149

NR 149.19 (6) (b), (c), (d)

Ch. NR 167

NR 167.09 (3)

Public Defender Board

Ch. PD 6

PD 6.025 (2) (a)
PD 6.05 (1) (b)

Regulation and Licensing

Ch. RL 110

RL 110.05 (2) (c)
RL 110.06 (2) (b)
RL 110.07 (2) (b)
RL 110.10 (1) (intro.)

Ch. RL 112

RL 112.04 (4)

Ch. RL 116

RL 116.01 (3) (i) to (m)
RL 116.02
RL 116.03

Ch. RL 196

RL 196.01 (3) (n)

Waste Facility Siting Board

Ch. WFSB 8

WFSB 8.04 (3)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 21. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half−Staff as a Mark of Respect for Police Officer Craig Birkholz of the Fond du Lac Police Department.

Executive Order 22. Relating to the Creation of the Governor's Read to Lead Task Force.

Executive Order 23. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half−Staff as a Mark of Respect for Corporal Justin David Ross of the United States Army Reserve Who Lost His Life While Serving His Country During Operation Enduring Freedom – Afghanistan.

Executive Order 24. Relating to the Creation of the Governor's Council on Financial Literacy.

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