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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection

EmR1112 — Rule adopted to create **sections ATCP 99.126 (6) and ATCP 99.235 (5)** and to amend **sections ATCP 99.126 (1) and ATCP 99.235 (1)**, relating to grain dealer and grain warehouse keeper agricultural producer security fund assessments.

This emergency rule was approved by the governor on July 14, 2011.

The statement of scope for this rule, SS 002–11, was approved by the governor on July 14, 2011, published in Register 667, on July 31, 2011, and approved by The Board of Agriculture, Trade and Consumer Protection on August 12, 2011.

Finding of Emergency

In Wisconsin, grain dealers (persons who purchase grain from producers), grain warehouse keepers (persons who store grain that is owned by others), milk contractors (persons who purchase milk from producers, and vegetable contractors (persons who purchase vegetables from producers for use in processing), must obtain a license to do these activities and are collectively referred to as “contractors”. Most contractors are “contributing contractors”, which means they must pay

annual assessments into the Wisconsin Agricultural Producer Security Fund. This fund is designed to help partially reimburse producers in the event that a contractor defaults on payment to producers. The annual assessments are calculated based on the total dollar value of commodities purchased or stored, the length of time that the contractor has participated in the fund, and certain financial ratios from the contractor’s balance sheet.

All else equal, a contractor who purchases small amounts will pay lower assessments than one who purchases large amounts. All else equal, a contractor who is in a conservative financial position will pay lower assessments than one who carries higher levels of liabilities relative to their assets or equity. All else equal, a contractor who has participated in the fund for more than five years will pay lower assessments than one who has participated for less than five years. The annual assessment, calculated from the factors discussed above, vary considerably from one contractor to another. An annual assessment may be as low as \$100, or as high as several hundred thousand dollars.

The grain dealer and grain warehouse keeper license years begin on September 1 of each year. At that point, DATCP calculates the assessment for the new license year that will be due in four quarterly payments over the course of that year. Calculations are based on purchase data and financial statement data for the grain dealer or grain warehouse keeper’s most recently completed fiscal year and annual financial statement.

For the license years that will begin on September 1, 2011, a very unusual combination of business financing and recent high commodity prices has led to unusually high assessment calculations for one grain company. In fact, if the existing rule remains unmodified, there will be one individual elevator that will be charged over \$1.2 million in assessments (for both grain dealer and grain warehouse combined). This is roughly four times greater than the previous highest annual assessment and roughly six times higher than the second highest annual assessment in the grain (dealer and warehouse combined) producer security fund program. Further, this potential assessment for next license year is more than double the highest assessment that has ever occurred in the milk contractor portion of the fund. This is significant because the dollar amount of a large milk contractor’s annual purchase of milk tends to be much higher the dollar amount of a large grain dealer’s annual purchase (or store) of grain.

In the majority of cases, the assessment calculation formulas reasonably charge contractors for the overall risk that they pose to the fund in the event that they should default on amounts owed to producers. However, at least in the short term, this is not true for this one elevator. DATCP will analyze whether or not it is appropriate for this emergency rule to also be promulgated as a permanent rule, and if so, begin a separate rulemaking process at a later date.

This temporary emergency rule is necessary to protect the welfare of the many hundreds of grain farmers who do business with this grain elevator, and to help prevent major disruptions in the grain industry.

Publication Date:	September 2, 2011
Effective Dates:	September 2, 2011 through January 29, 2012
Hearing Date:	October 5, 2011

Children and Families (2)

Safety and Permanence, Chs. DCF 37–59

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

Exemption From Finding of Emergency

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

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

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

2. 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
Extension Through: October 14, 2011

Employment Relations Commission

EmR1113 — Rule adopted to create Chapters **ERC 70 to 74 and ERC 80**, relating to initial annual certification elections.

These emergency rules were approved by the Governor on September 13, 2011.

The statement of scope for this rule, SS 004–11, was approved by the governor on July 20, 2011, published in Register 667, on July 31, 2011, and approved by the Wisconsin Employment Relations Commission as required by s. 227.135 (2) on August 15, 2011.

Finding of Emergency

An emergency exists because the public peace, health, safety and welfare necessitate putting these rules into effect so that the Wisconsin Employment Relations Commission can

meet its election obligations under ss. 111.70 (4) (d) 3. b. and 111.83 (3) (b), Stats., and nonstatutory provisions ss. 9132 (1) (b) and 9155 (1) (b) of 2011 Wisconsin Act 10 as amended by nonstatutory provisions ss. 3570f and 3570h of 2011 Wisconsin Act 32.

Publication Date: September 15, 2011
Effective Dates: September 15, 2011 thru February 12, 2012

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

In the lawsuit in the U.S. District Court for the Western District of Wisconsin, the parties previously executed a joint stipulation asking the Court to permanently enjoin application and enforcement of the second sentence of s. GAB 1.28 (3) (b). On October 13, 2010, the Court issued an Opinion and Order denying that injunction request. In denying the injunction, the Court noted that “G.A.B. has within its own power the ability to refrain from enforcing, or removing altogether, the offending sentence from a regulation G.A.B. itself created” and emphasized that “removing the language — for example, by G.A.B. issuing an emergency rule — would be far more ‘simple and expeditious’ than asking a federal court to permanently enjoin enforcement of the offending regulation.” *Wisconsin Club for Growth, Inc. v.*

Myse, No. 10–CV–427, slip op. at 2 (W.D. Wis. Oct. 13, 2010). The Court further noted that staying the case would give the Board time to resolve some or all of the pending issues through further rulemaking. *Id.*, slip op. at 14.

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

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

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

Natural Resources (6)

Fish, Game, etc., Chs. NR 1–

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

Exemption From Finding of Emergency

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

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

2. EmR1039 (DNR # IS–49–10(E)) — Rule adopted to create **sections NR 40.02 (7g), (7r), (25m), (28m) and (46m), 40.04 (3m) and 40.07 (8)**, relating to the

identification, classification and control of invasive bat species.

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

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

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is: Commercial trap nets in Lake Michigan pose a hazard to the

safety of recreational fishermen trolling submerged fishing lines. The preservation of public safety requires appropriate measures to assure that recreational boaters can know the location of trap nets and are able to release themselves from entanglement with the commercial nets. Accordingly, this NRB Order requires that 1) boat operators engaged in trolling with downriggers carry wire cutters on board capable of severing fishing line or downrigger cable, 2) the enhanced net marking requirements on Lake Michigan be applied to trap nets on Lake Superior, 3) all parts of trap nets set in Zone 3 of Lake Michigan between June 29 and Labor Day be within designated areas, and 4) the marking of trap nets in Lake Michigan be enhanced by the use of reflective tape on buoy staffs.

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

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

Finding of Emergency

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

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

6. EmR1111 — Rule to repeal and recreate sections NR 10.01 (1) (b), (g) and (u) and 10.32 and to amend section NR 10.01 (1) (v), relating to hunting and the 2011 migratory game bird seasons and waterfowl hunting zones.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made

available to this state until late July of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: September 3, 2011
Effective Dates: September 3, 2011 through January 30, 2012
Hearing Date: October 3, 2011

Revenue (3)

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

Finding of Emergency

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

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

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

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

Publication Date: April 7, 2011
Effective Dates: April 7, 2011 through September 3, 2011
Extension Through: November 2, 2011
Hearing Date: June 14, 2011

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

Finding of Emergency

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

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

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

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

Publication Date: April 7, 2011
Effective Dates: April 7, 2011 through
September 3, 2011
Extension Through: November 2, 2011
Hearing Date: June 14, 2011

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

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

Finding of Emergency

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

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

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

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

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

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

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

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

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

Finding of Emergency

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

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

Safety and Professional Services — Barbering and Cosmetology Examining Board

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

Finding of Emergency

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

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

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

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

Finding of Emergency

As currently written, the veterinary examining board rules regarding licensure candidates' deadlines for submission of applications to take the North American Veterinary Licensing Examination (NAVLE) do not align with the deadlines established by the National Board of Veterinary Medical Examiners (NBVME). The rules thus also conflict with the deadlines defined in the board's NBVME NAVLE agreement.

The rules state that a candidate shall file a completed NAVLE application with the board at least 60 days prior to the date of the scheduled examination. However, NAVLE's deadlines require submission of applications approximately 115 days ahead of the examination date. This inconsistency between the rules and NAVLE's deadlines will likely cause significant confusion for licensure candidates. At worst, it could preclude a candidate from taking the particular NAVLE he or she applies for due to missing the application deadline. In addition, recently-passed legislation now allows foreign veterinary graduates to show evidence of successful completion of the Program for the Assessment of Veterinary Education Equivalence (PAVE) as an alternative to the American Veterinary Medical Association (AMVA) Educational Commission for Foreign Veterinary Graduates Certification (ECFVGC) program. The board adopts this emergency rule effecting the necessary changes pending the promulgation of a similar permanent rule.

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

Scope Statements

Agriculture, Trade and Consumer Protection

SS 026–11

In accordance with 2011 Wisconsin Act 21 (s. 227.135(2), Stats.), this scope statement was approved by the Governor on September 6, 2011, before DATCP took any action in proceeding with this proposed rule, including submission of this scope statement for publication.

Rule No.

Chapter ATCP 17, Wis. Adm. Code (Existing).

Relating to

Livestock premises registration.

Description of the Objective of the Rule

This proposed rule would modify current animal health rules related to livestock premises registration. This rule may explore whether all livestock premises registrations, which currently are staggered, could simultaneously end during the same three–year period. The rule may also explore whether to create an exemption to premises registration requirements for individuals with sincerely held religious beliefs against certain requirements of livestock premises registration under s. 95.51, Stats.

Description of Existing Policies Relevant to the Rule and of New Policies Proposed to be Included in the Rule and an Analysis of Policy Alternatives; the History, Background and Justification for the Proposed Rule

History and background. Wisconsin’s Livestock Premises Registration Law (2003 Wis. Act 229), went into effect on November 1, 2005. Administrative rules that implemented the livestock premises registration program (Ch. ATCP 17, Wis. Adm. Code) took effect on January 1, 2006. The law and rules were created after bovine spongiform encephalopathy (“mad cow” disease) was identified in the United States in 2003. The program was developed to protect animal health and the security of the food chain in the event of an animal disease emergency.

The current rule provides that persons who keep livestock in this state must register every three years with the Department of Agriculture, Trade and Consumer Protection (“DATCP” or “department”). To register, a person generally provides information concerning types of livestock kept, their locations, and information on whom to contact in case of an animal emergency. There is no fee to register. Registration information is confidential as specified under s. ATCP 17.03, Wis. Adm. Code. The location of livestock, or premises, is assigned a unique identification code. The department has established a database for premises information.

Proposed policies. DATCP will explore the feasibility of having *all* livestock premises registrations expire simultaneously at the end of an established three–year period as a cost savings measure, rather than having some registrations expire at the end of every year.

Mindful of the individual’s right to free exercise of religion under the United States and Wisconsin Constitutions, the

department may create a limited exemption to the livestock premises registration requirement. The department will allow those individuals who are members of a recognized religious group that have a sincerely held religious belief opposing certain existing livestock premises requirements to be exempt from those requirements, as permitted by s. 95.51 (3m), Stats. Even though information relating to locating livestock may be collected from exempt persons, the department may keep that information separate from other collected premises registration information.

Policy Alternatives. Do nothing. If the department does not alter the staggered three–year renewal process, it may prove more costly and less efficient than if all registrations are processed in one three–year period.

If the agency fails to codify a “religious” exemption, certain individuals’ rights to the free exercise of religion under the United States and Wisconsin Constitutions may not be properly upheld. Additionally, without the exemption, these individuals will not be able to obtain certain livestock–related licenses to engage in businesses such as deer farms or animal market operations, because premises registration is required for these types of licenses. They may be violating premises rules as currently written if they keep livestock for purposes such as transportation or food and those premises are not registered.

Statutory Authority for the Rule (Including the Statutory Citation and Language)

Sections 93.07 (1) and (10), and 95.51(3m) and (7), Stats.

93.07 Department duties. It shall be the duty of the department:

(1) REGULATIONS. To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

(10) ANIMAL HEALTH; QUARANTINE. To protect the health of animals located in this state and of humans residing in this state and to determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of communicable diseases among animals. For these purposes, the department may establish, maintain, enforce, and regulate such quarantine and such other measures relating to the importation, movement, and care of animals and their products, the disinfection of suspected localities and articles, and the disposition of animals, as the department determines are necessary. The definition of “communicable disease” in s. 990.01 (5g) does not apply to this subsection.

95.51 Livestock premises registration.

(3m) EXEMPTIONS. The department may promulgate rules specifying exemptions from sub. (2), including exemptions based on the number or type of livestock kept by a person or on the type of locations where a person keeps livestock.

(7) RULES. The department may promulgate rules for the administration of this section. The department shall

promulgate rules to govern the release of aggregate information under this section by the department.

Estimate of the Amount of Time that State Employees will Spend to Develop the Rule and of Other Resources Necessary to Develop the Rule

DATCP estimates that it will use approximately 0.50 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Description of All Entities that may be Impacted by the Rule

Certain livestock premises registrants at the time the rule goes into effect may have their premises registration period modified during the duration of one three–year period to make all registrations end simultaneously at the end of a designated three–year registration period. Since there is no fee for the registration, this modification would not have a fiscal impact on any of the premises registrants.

This rule may also affect individuals who provide evidence that they are members of recognized religious group that has a sincerely held religious belief opposing certain livestock premises registration requirements under s. 95.51, Stats. Without an exemption, these individuals may find that they cannot come into compliance with current premises registration law without violating the tenets or teachings of their religious group(s).

Summary and Preliminary Comparison of any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Rule

At the national level, livestock premises registration is voluntary but supported by USDA. The national program runs concurrently with mandatory and voluntary livestock premises registration programs in numerous states. The information obtained in the voluntary federal program is largely identical to the information obtained in the Wisconsin program.

Datcp Board Authorization and Governor’s Approval

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. Before DATCP holds public hearings on this rule, the department must prepare an economic impact analysis and the Board must approve the hearing draft. The Governor and the Board must also approve the final draft rule before the rule can be adopted.

Contact Person

Paul McGraw, DVM, Assistant State Veterinarian, DATCP; Phone (608) 224–4884.

Children and Families

Early Care and Education, Chs. DCF 201–252

SS 025–11

This statement of scope was approved by the governor on September 26, 2011.

Subject

Revising Chapter DCF 201, relating to circumstances for waiver to allow child care subsidy payments for a parent who is a provider.

Objective and Policy Analysis

The proposed rule will specify the circumstances, or standards for determining the circumstances, under which a child care administrative agency will grant a waiver under s. 49.155 (3m) (d), Stats.

Statutory Authority

Section 49.155 (3m) (d), Stats., as affected by 2011 Wisconsin Act 32, provides that no child care subsidy funds may be used for child care services that are provided for a child by a child care provider who is the parent of the child or who resides with the child. In addition, no child care subsidy funds may be used for child care services that are provided by another child care provider if the child’s parent is a child care provider.

This prohibition does not apply if the child’s parent has applied for, and been granted, a waiver of by the county department, agency, or by the department. Section 49.155 (3m) (d) 4., Stats., directs the department to promulgate rules that specify the circumstances, or standards for determining the circumstances, under which a local agency or the department will grant a waiver.

Section 227.11 (2) (a) (intro.), Stats., expressly confers rule–making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Entities that may be Affected by the Rule

Child care providers, low–income parents who are child care providers.

Summary of Federal Requirements

None.

Staff Time Required

80 hours.

Contact Information

Jim Bates, Division of Early Care and Education, (608) 266–6946, jim.bates@wisconsin.gov.

Insurance

SS 027–11

This rule was approved by the governor on September 30, 2011.

Rule No.

Agency No. 145 – Emergency Rule to revise Ch. Ins 18.

Relating to

Grievances and independent review requirements.

Description of the Objective of the Rule

The Office of the Commissioner of Insurance’s objective for an emergency rule is to modify ch. Ins 18 to comply with necessary portions of the Public Health Service Act as amended, and as implemented by regulation. Amending ch. Ins 18 to comply with federal requirements will allow the State of Wisconsin to retain regulatory oversight of the

internal grievance process and external independent review process. Publication of an emergency rule will need to occur as soon as possible as the US Department of Health and Human Services must determine whether a state's process is compliant with federal law and regulation prior to January 1, 2012 in order for that state to retain regulatory jurisdiction over insurers and independent review organizations.

Description of Existing Policies Relevant to the Rule and of New Policies Proposed to be Included in the Rule and an Analysis of Policy Alternatives; the History, Background and Justification for the Proposed Rule

Wisconsin currently regulates the conduct of insurers and independent review organizations relating to an insured's right to file grievances with his or her insurer and seek independent review of coverage denial determinations. Sections 632.83 and 632.835, Stats., as implemented by ch. Ins 18, provide the structure and requirements for processing grievances and requests for independent review. The law and regulations have provided structure for insurers, guidance for insureds and oversight of independent review organizations.

With amendments to the Public Health Service Act and promulgation of regulations to implement those changes regarding internal appeals and independent external review, states must demonstrate compliance with the amended federal law and regulations in order to retain regulatory authority over insurers and independent review organizations related to the internal and external review processes. To achieve compliance, Wisconsin's grievance and independent review processes and independent review organization certification must be reviewed and modified. If conflicts are identified, an emergency rule will be needed to resolve the conflict. The goal will be to maintain the balance that currently exists in the Wisconsin regulatory structure.

There is no other option than an emergency rule if Wisconsin is to retain regulatory oversight of insurers and independent review organizations, as compliance must be obtained prior to plan years beginning January 1, 2012.

Statutory Authority for the Rule (Including the Statutory Citation and Language)

The statutory authority for this rule is s. 601.41 (3), 609.20, 628.34, 632.73, 632.76, 632.81, 632.83, and 632.835, Wis. Stat.

Estimate of the Amount of Time that State Employees will Spend to Develop the Rule and of Other Resources Necessary to Develop the Rule

200 hours and no other resources are necessary.

Description of all Entities that may be Impacted by the Rule

Nearly all entities related to health insurance are affected by the changes to the Public Health Service Act, as amended, including intermediaries, insurers, independent review organizations and third-party administrators. Affected entities will either have to comply with federal regulations or state regulations.

Summary and Preliminary Comparison of any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Rule

The Public Health Service Act, as amended, (42 USC 300gg et seq.) provides insureds a right to grieve an adverse benefit determination and request an independent external review of the determination. The US Department of Health and Human Services (DHHS) in conjunction with the National Association of Insurance Commissioners (NAIC) issued and amended federal regulations (45 CFR 147.136) implementing portions of the Public Health Service Act as amended. The regulations in large part incorporate the NAIC Uniform Health Carrier External Review Model Act (NAIC Model Act). In addition to the regulations, the DHHS issued four technical guidance documents between July 2010 and June 2011 to assist states, insurers and consumers with understanding the requirements for compliant internal appeal and external independent review processes.

Sections 632.83 and 632.835, Stats., provide the framework with ch. Ins 18, Wis. Adm. Code, implementing the law that provide unique options for insureds, insurers and independent review organizations not contained in the NAIC Model Act. However Wisconsin's law and regulations contain provisions that directly conflict with the federal requirements and several provisions that only partially comply. With conflicting provisions or provisions not fully in compliance, Wisconsin is at risk for losing regulatory oversight of internal and external review processes.

An emergency rule will be needed in order to comply with federal requirements that are necessary for the State of Wisconsin to retain regulatory jurisdiction over insurers and independent review organizations implementing grievance and independent review processes. The DHHS will issue final determinations of states compliance with federal law and regulation on or before October 1, 2011, but will reconsider that determination up until January 1, 2012 when insurers and independent review organizations will need to be in compliance with either a compliant state program or the federal requirements. Publication of an emergency rule that is applicable beginning January 1, 2012 will be necessary in order for Wisconsin to be in compliance and retain regulatory jurisdiction.

Contact Person

Julie E. Walsh, Attorney, 608–264–8101.

Submittal of Rules to Legislative Council Clearinghouse

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

Agriculture, Trade and Consumer Protection

CR 11-046

(DATCP # 10-R-10)

The Wisconsin Department of Agriculture, Trade and Consumer Protection announces that on September 26, 2011 it referred the following proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, pursuant to s. 227.15, Stats.

This rule is not subject to s. 227.135 (2), as affected by 2011 Wis. Act 21. The statement of scope for this rule, published in Register No. 659, on November 14, 2010, was sent to the Legislative Reference Bureau prior to the effective date of

2011 Wis. Act 21.

Analysis

The proposed rule revises Chapter ATCP 30 Appendix A, relating to updating maps relating to pesticide product restrictions.

Agency Procedure for Promulgation

The department will hold a public hearing on November 8, 2011. The department's Division of Agricultural Resource Management is primarily responsible for this rule.

Contact Information

If you have questions, you may contact Rick Graham at (608) 224-4502.

Rule–Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

CR 11–046

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) announces that it will hold a public hearing on a rule change to Appendix A of Ch. ATCP 30, relating to pesticide product restrictions map updates. DATCP proposes to create updated maps in Appendix A (Atrazine Prohibition Areas) using modern technology.

Hearing Information

DATCP will hold a public hearing at the date and location shown below.

Date: Tuesday, November 8, 2011
Time: 3:00–4:00 P.M.
Location: Department of Agriculture, Trade and Consumer Protection
Conference Room 266
2811 Agriculture Drive
Madison, WI 53718

Hearing–impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by **November 4, 2011**, by writing to Claire Fried, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, by emailing to Claire.Fried@wisconsin.gov, or calling (608) 224–4523. Alternatively, you may contact the DATCP TDD at (608) 224–5058. Handicap access is available at the hearing.

Appearances at the Hearing and Submittal of Written Comments

DATCP invites the public to attend the hearing and comment on the proposed rule. Following the hearing, the hearing record will remain open until Tuesday, **November 15, 2011**, for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address above, or by email to Rick.Graham@wisconsin.gov, or to <https://health.wisconsin.gov/admrules/public/Home>.

To provide comments or concerns relating to small business, you may contact DATCP’s small business regulatory coordinator Keeley Moll at the address above, by emailing to Keeley.Moll@wisconsin.gov, or calling (608) 224–5039.

Copies of Proposed Rule

You may obtain free copies of the proposed rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708–8911. You may also obtain copies by calling (608) 224–4502 or emailing Rick.Graham@wisconsin.gov. Copies will also be available at the hearing. To view the proposed rule online, go to <https://health.wisconsin.gov/admrules/public/Home>.

Analysis Prepared by Department of Agriculture, Trade and Consumer Protection

In order to protect Wisconsin groundwater, the Department of Agriculture, Trade and Consumer Protection (“DATCP”) administers rules concerning atrazine pesticide application rates. The current rules prohibit atrazine applications in areas where groundwater contamination levels attain or exceed state enforcement standards adopted by the Department of Natural Resources (“DNR”). Based on advancements in computer mapping software introduced since the rule was first promulgated in 1991, this rule updates existing maps in Ch. ATCP 30 Appendix A (“Atrazine Prohibition Areas”).

Statutes interpreted

Sections 94.69, 160.19 (2), and 160.21 (1), Stats.

Statutory authority

Sections 93.07 (1), 94.69 (1), 160.19 (2), and 160.21 (1), Stats.

Explanation of statutory authority

DATCP has broad authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. DATCP has authority to adopt pesticide rules under s. 94.69 (1), Stats. Under ss. 160.19 (2) and 160.21 (1), Stats., DATCP must regulate pesticide use, as necessary, to prevent groundwater contamination and restore groundwater quality.

Related rules or statutes

Under the state groundwater law, ch. 160, Stats., DATCP must regulate pesticide use as necessary to prevent groundwater contamination and restore groundwater quality. DATCP has adopted general rules for its groundwater protection program under ch. ATCP 31, Wis. Adm. Code. DNR has adopted groundwater enforcement standards and preventive action limits for atrazine and its metabolites under ch. NR 140, Wis. Adm. Code.

This rule is consistent with the state groundwater law (ch. 160, Stats.) and DATCP’s general groundwater protection rules (ch. ATCP 31, Wis. Adm. Code), and is designed to attain compliance with the groundwater enforcement standards and preventive action specified by DNR rules (ch. NR 140, Wis. Adm. Code).

Background

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 to half 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 approximately 100 designated prohibition areas, including in the lower Wisconsin River Valley and much of Dane and Columbia Counties. Within an Atrazine Prohibition Area, atrazine may not be applied. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface that complies with s. ATCP 29.45, Wis. Adm. Code.

Rule content

This rule will update existing maps in Ch. ATCP 30, Wis. Adm. Code Appendix A (“Atrazine Prohibition Areas”). These maps show areas where use of atrazine is prohibited because testing of local groundwater for the pesticide atrazine indicates that state standards have been attained or exceeded.

DATCP is *not adding to or changing* any of the current Atrazine Prohibition Areas on any of the maps in Appendix A. Maps presently being used contain surface features that require updating, such as new roadways, modified street names, and other features that are mapped. Moreover, current mapping software allows for reliance of data from numerous sources to provide for improved accuracy in mapping. The maps in this rule have been created within the last year and provide more accurate, up-to-date maps of the same Atrazine Prohibition Areas than are presently in ATCP 30 Appendix A.

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

Under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) and implementing regulations, pesticides and pesticide labels (submitted by pesticide manufacturers) *must be approved and registered* with the Environmental Protection Agency (“EPA”). Pesticide labels are required to provide detailed information stating how to use the pesticide products in a safe and legal manner. Pesticide labels must carry a statement indicating that it is a violation of law to use the product in a manner inconsistent with its labeling. Under FIFRA, states are permitted to have stricter requirements regarding pesticide use than those on the federally approved label.

Atrazine product labels approved by EPA under FIFRA establish an application rate of use (“label rate”) depending on factors such as crop type, timing of crop emergence, and erodibility of soils. Some approved atrazine labels indicate that atrazine has been found in groundwater and advise the user to avoid applying atrazine to sandy and loamy sand soils where groundwater is close to the surface and soils are very permeable. EPA classifies products containing atrazine as “restricted use” pesticides due to ground and surface water concerns.

EPA does not require the establishment of prohibition areas for atrazine in its regulations. Wisconsin establishes and maps prohibition areas based on groundwater data that documents atrazine presence in groundwater above state groundwater enforcement standards.

Surrounding states regulations

Wisconsin’s maximum atrazine application rates are set by administrative rule at about half the rates normally allowed under the federal label. Neighboring states are not required to map Atrazine Prohibition Areas in its regulations. Neighboring states’ regulations relating to atrazine prohibitions are as follows:

- Iowa restricts atrazine application rates to half the federal label rate in 23 counties (7 with county-wide

restrictions and 16 with restrictions in some townships).

- Minnesota has a program of voluntary use limitations when surface water or groundwater contamination exceeds a level of concern. This program suggests pesticide use restrictions or “best management practices” will reduce surface water or groundwater contamination.
- Illinois and Michigan have no atrazine regulations.

Business Impact

This rule will have a positive impact on the Wisconsin agricultural community because the rule revises maps that are becoming outdated due to the passage of time. Using updated maps that contain correct street names, new roadways, and other mapped features will reduce confusion for users of atrazine and make it easier to prevent the inadvertent applications of that pesticide where it is prohibited due to its detection in groundwater.

Accommodations for small businesses

This rule does not have any significant adverse impact on small business, so there is no special accommodation for small business needed under this rule.

Small business regulatory coordinator

DATCP’s small business regulatory coordinator is Keeley Moll, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, Keeley.Moll@wisconsin.gov, (608) 224–5039.

Conclusion

This rule will assist the agricultural community, including many small businesses, by providing improved, updated maps to maintain an established pesticide use program. This rule will have no adverse impact on affected businesses. Because this rule has no significant adverse impact on small business, it is not subject to the small business delayed effective date under s. 227.22 (2) (e), Stats.

Fiscal and Economic Impact

There will be no additional costs or economic impact to any other state agencies, local governments, or the private sector.

Environmental Impact

This rule will not have any adverse environmental impacts.

DATCP Contact

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

Rick Graham
 Department of Agriculture, Trade and Consumer
 Protection
 P.O. Box 8911
 Madison, WI 53708–8911
 Telephone: (608) 224–4502
 E-Mail: Rick.Graham@wisconsin.gov

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS		
Type of Estimate and Analysis		
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected		
Administrative Rule Chapter, Title and Number		
Ch. ATCP 30, Pesticide Product Restrictions Appendix A (“Atrazine Prohibition Areas”)		
Subject		
Updating the Maps in Ch. ATCP 30 Appendix A Using Computerized Mapping Technology		
Fund Sources Affected		Chapter 20, Stats. Appropriations Affected
GPR FED PRO PRS <input checked="" type="checkbox"/> SEG SEG–S		20.115 (7) (r), Stats.
Fiscal Effect of Implementing the Rule		
<input checked="" type="checkbox"/> No Fiscal Effect Indeterminate	Increase Existing Revenues Decrease Existing Revenues	Increase Costs <input checked="" type="checkbox"/> Could Absorb Within Agency’s Budget Decrease Costs
The Rule Will Impact the Following (Check All That Apply)		
State’s Economy Local Government Units	Specific Businesses/Sectors Public Utility Rate Payers	
Would Implementation and Compliance Costs Be Greater Than \$20 million?		
Yes <input checked="" type="checkbox"/> No		
Policy Problem Addressed by the Rule		
<p>Chapter ATCP 30 of the Wisconsin Administrative Code describes prohibitions on pesticide use. Appendix A to ch. ATCP 30 consists of maps that show Atrazine Prohibition Areas where atrazine currently may not be applied as a pesticide, primarily due to the fact that groundwater samples tested in those areas have attained or exceeded a regulatory standard under ch. NR 140, Wis. Adm. Code.</p> <p>DATCP is <u>not adding to or changing</u> any of the current Atrazine Prohibition Areas on any of the maps in Appendix A. This rule merely replaces existing (in many cases outdated) maps with updated maps that have been created in the past year using computerized mapping technology. Because the maps in this proposed rule are current and more accurate (containing changes such as roadways that have been added since the existing maps were made, modified street names, and adjustments to other surface features shown on maps), the possibility of inadvertently using atrazine within an Atrazine Prohibition Area is less likely to occur.</p>		
Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)		
There will be no economic or fiscal impact.		
Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule		
An alternative to the rule is to do nothing. Implementing the rule will decrease the possibility of atrazine users inadvertently using atrazine within an Atrazine Prohibition Area.		

Long Range Implications of Implementing the Rule
None.
Compare With Approaches Being Used by Federal Government
<p>Atrazine product labels approved by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (and implementing regulations) identify the legal application rate of product use (“label rate”), depending on factors such as crop type, timing of crop emergence, and erodibility of soils. EPA does not require the establishment of prohibition areas for atrazine in its regulations.</p> <p>Wisconsin’s maximum atrazine application rates are set by administrative rule at about half the rates normally allowed under the federal label. Wisconsin restricts atrazine use based on the actual testing and finding of groundwater contamination in an area and then maps the areas where atrazine is prohibited. Maps are shown in Appendix A of ch. ATCP 30 of the Wisconsin Administrative Code.</p>
Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
<p>None of the surrounding states generates maps relating to atrazine prohibitions in its administrative rules. Relating to atrazine prohibitions: Iowa restricts atrazine application rates to half the federal label rate in 23 counties; Illinois and Michigan do not have state regulations concerning atrazine; and Minnesota has a voluntary use limitation program when surface water or groundwater contamination exceeds a level of concern.</p>

Submittal of Proposed Rules to the Legislature

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

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 10–127

(DATCP # CF–28–09)

Revises Chapter NR 51, relating to Stewardship Grants.

This rule is not subject s. 227.185, Wis. Stats. The statement of scope for this rule, published in Registers No. 646 and 656 on November 1, 2009 and August 14, 2010, and were sent to the Legislative Reference Bureau prior to the effective date of 2011 Wisconsin Act 21.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 11–030

(DATCP # WM–02–11)

Revises Chapters NR 10, 15, 19, and 45, relating to 2011 annual wildlife management housekeeping rule relating to game and hunting, game refuges, miscellaneous fur, fish, game and outdoor recreation, and the use of department properties.

This rule is not subject s. 227.185, Wis. Stats. The statement of scope for this rule, published in Register No. 660 on December 14, 2010, was sent to the Legislative Reference Bureau prior to the effective date of 2011 Wisconsin Act 21.

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

(Authority for this rule was transferred from the Department of Commerce by 2011 Wisconsin Act 32)

CR 11-010

Creates Chapter ATCP 166, relating to investment tax credits for harvesting or processing woody biomass, and affecting small business.
Effective 12-1-11.

inland, outlying, and boundary waters of Wisconsin.
Effective 11-1-11 in part and 4-1-12 in part.

Revenue

CR 11-023

Creates section Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.
Effective 12-1-11.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 11-006

(DNR # FH-03-11)

Revises Chapters NR 20 and 26, relating to fishing on the

Revenue

CR 11-024

Creates section Tax 3.05, relating to income and franchise tax deductions for job creation.
Effective 12-1-11.

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