

Wisconsin Administrative Register

No. 626



Publication Date: February 29, 2008

Effective Date: March 1, 2008



Legislative Reference Bureau
<http://www.legis.state.wi.us/rsb/code.htm>

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

Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590
email: bruce.hoesly@legis.state.wi.us

The Wisconsin Administrative Register and Administrative Code
may be obtained from the
Department of Administration
Office of Document Sales
(608) 266-3358
and may be accessed on the internet at:
<http://www.legis.state.wi.us/rsb/code.htm>

Table of Contents

Emergency Rules Now in Effect.**Pages 5 to 10**

Agriculture, Trade and Consumer Protection:

Revising ch. ATCP 10, relating to diseases of fish and farm-raised deer.

Creating subch. IV of ch. ATCP 161, relating to the “buy local” grant program. **EmR 0804** [First Appearance]

Commerce:

Licenses, Certifications, etc., Ch. Comm 5

Revising ch. Comm 5, relating to licensing of elevator contractors and installers.

Financial Resources for Businesses and Communities, Chs. Comm 104–135Creating ch. Comm 132, relating to implementing a program for certifying applicants and allocating dairy manufacturing facility investment tax credits, and affecting small businesses. **EmR 0802**

Employment Relations Commission:

Revising s. ERC 10.08, relating to increased filing fees.

Government Accountability Board:

Repealing ss. Eth 3.01 and 3.04, and amending s. EIBd 10.01, relating to written communications, transcripts of proceedings, and procedures for complaints to the former State Elections Board. **EmR 0803** [First Appearance]

Health and Family Services:

Health, Chs. HFS 110—

Creating s. HFS 115.04 (14), relating to including the condition known as Severe Combined Immunodeficiency (SCID) and related conditions of immunodeficiency to the list of disorders and disorder types found in s. HFS 115.04.

Natural Resources:

Fish and Game, etc., Chs. NR 1—

Revising chs. NR 19 and 20, relating to control of fish diseases and invasive species.

Environmental Protection–Water Regulation, Chs. NR 300—

Revising chs. NR 320, 323, 328, 329, 341, 343, and 345, relating to general permit criteria requiring decontamination of equipment for invasive species and viruses.

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

Creating s. NR 462.015, relating to national emission standards for hazardous air pollutants for industrial, commercial and institutional boilers and process heaters and potentially affecting small business.

Public Instruction:

Creating ch. PI 33, relating to grants for nursing services.

Creating ch. PI 31, relating to grants for science, technology, engineering, and mathematics programs. **EmR 0801**

Revenue:	Amending s. Tax 2.505, relating to the computation of the apportionment fraction by multistate professional sports clubs.
	Revising s. Tax 8.63, relating to liquor wholesaler warehouse facilities.
Transportation:	Creating ch. Trans 178, relating to the unified carrier registration system.
Workforce Development:	<i>Family Supports, Chs. DWD 12 to 59</i> Revising s. DWD 56.01, relating to child care rates.
	<i>Public Works Construction Contracts, Chs. DWD 290 to 294</i> Amending ss. DWD 290.155 and 293.02, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements and affecting small businesses.
Scope Statements.	Pages 11 to 14
Administration:	Creating ch. Adm 70, relating to electronic recording of documents in the office of the county register of deeds.
Commerce:	<i>Licenses, Certifications and Registrations, Ch. Comm 5</i> Revising ch. Comm 5, relating to licenses, certifications and registrations mandated as a result of legislation enacted during the 2007–2008 session.
Insurance:	Revising s. Ins 2.07, relating to replacement of life insurance of annuity contracts, disclosure requirements, and affecting small business.
Natural Resources:	<i>Fish, Game, etc., Chs. NR 1—</i> Revising s. NR 47.70, relating to the county forest administration grant program.
	Revising subch. IX of ch. NR 47, relating to gypsy moth suppression.
	Revising ch. NR 47, relating to the public access grant program.
Submittal of Rules to Legislative Council Clearinghouse.	Pages 15 to 16
Employee Trust Funds:	Revising ch. ETF 70, relating to the start date for phasing out funds under the Wisconsin deferred compensation plan and emergency withdrawals for beneficiaries.
Financial Institutions – General:	Creating ch. DFI–Gen 2, relating to small business enforcement discretion
Natural Resources:	<i>Fish, Game, etc., Chs. NR 1—</i> Revising chs. NR 20, 21, 22 and 23, relating to fishing on the inland, outlying, and boundary waters of Wisconsin. CR 08–010
	Revising chs. NR 10, 11, 17, 19 and 45, relating to hunting and trapping regulations and the use of department managed lands. CR 08–011

Revising chs. NR 20 and 21, relating to hook and line harvest of lake sturgeon. **CR 08-012**

Revising chs. NR 10, 12, and 19, relating to deer hunting as it relates to the management of chronic wasting disease. **CR 08-013**

Revising ch. NR 58, relating to the implementation and administration of grants for endangered resources. **CR 08-014**

Rule-Making Notices.

Pages 17 to 26

Employee Trust Funds:

Hearing to consider rules revising ch. ETF 70, relating to the start date for phasing out funds under the Wisconsin deferred compensation plan and to emergency withdrawal for beneficiaries. **CR 08-016**

Financial Institutions – General:

Hearing to consider rules creating ch. DFI-Gen 2, relating to small business enforcement discretion. **CR 08-015**

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Hearings to consider rules revising chs. NR 10, 11, 17, 19, and 45, relating to hunting and trapping regulations and the use of department managed lands; and revising chs. NR 20 to 23, relating to fishing on the inland, outlying and boundary waters of Wisconsin. **CR 08-010, CR 08-011**

Hearings to consider rules revising chs. NR 20 and 21, relating to hook and line harvest of lake sturgeon. **CR 08-012**

Hearings to consider rules revising chs. NR 10, 12, and 19, relating to deer hunting as it relates to the management of chronic wasting disease. **CR 08-013**

Hearing to consider rules revising ch. NR 58, relating to the implementation and administration of grants for endangered resources. **CR 08-014**

Public Instruction:

Hearing to consider emergency and permanent rules creating ch. PI 31, relating to grants for science, technology, engineering, and mathematics programs. **CR 08-007**

Submittal of Proposed Rules to the Legislature.

Page 27

Administration:

Creating ch. Adm 49, relating to plan review fees. **CR 07-106**

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Amending ch. NR 25, relating to commercial fishing for yellow perch in zone 1 (Green Bay). **CR 07-075**

Air Pollution Control, Chs. NR 400—

Creating s. NR 462.015, relating to national emission standards for hazardous air pollutants for industrial, commercial and institutional boilers and process heaters and potentially affecting small business. **CR 07-088**

Creating ch. NR 433 and s. NR 484.04 (11m), relating to identification of sources subject to the BART requirements and the determination of BART for those sources. **CR 07-017**

Regulation and Licensing:	Revising chs. RL 83, 86 and 87, relating to the USPAP for real estate appraisers. CR 07-098
Transportation:	Revising ch. Trans 131, relating to the vehicle emission inspection program. CR 07-114
Rule Orders Filed with the Legislative Reference Bureau.	Page 28
Agriculture, Trade and Consumer Protection:	Revising ch. ATCP 21, relating to firewood in Wisconsin state parks and voluntary certification, treatment, labeling, and sales representations of firewood. CR 07-085
Commerce:	<i>Small Business Enforcement Discretion, Ch. Comm 200</i> Creating ch. Comm 200, relating to small business enforcement discretion and affecting small businesses. CR 07-005
Employee Trust Funds:	Amending ch. ETF 11, relating to hearsay evidence in administrative appeal hearings. CR 07-066 Creating s. ETF 20.37, relating to determining death benefits for Wis. Retirement System participants. CR 07-068
Funeral Directors Examining Board:	Revising s. FD 4.04, relating to continuing education requirements. CR 07-049
Insurance:	Revising chs. Ins 6, 26, and 28, relating to a limited line of authority for travel insurance, exempting an applicant for a managing general agent's license from examination, and clarifying the application procedure for a resident intermediary agent license. CR 07-096
Natural Resources:	<i>Fish, Game, etc., Chs. NR 1—</i> Revising ch. NR 8, relating to implementation of the wildlife violator compact. CR 07-056
Public Instruction:	Revising ch. PI 8, relating to identification of gifted and talented pupils. CR 07-057
Workforce Development:	<i>Unemployment Insurance, Chs. DWD 100-150</i> Revising ch. DWD 128, relating to the determination of a claimant's ability and availability for work. CR 07-054
Rules Published with this Register and Final Regulatory Flexibility Analyses.	Pages 29 to 30
Sections Affected by Rule Revisions and Corrections.	Pages 31 to 33
Sections Affected by Corrections Not Published.	Page 34
Executive Orders.	Page 35

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: EmR 0801. 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 & Consumer Protection (2)

1. Rules adopted revising **ch. ATCP 10**, relating to diseases of fish and farm-raised deer.

Finding of Emergency

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers Wisconsin’s animal health and disease control programs, including programs to control diseases of fish and farm-raised deer.

Disease Testing of Fish

(2) DATCP regulates fish farms, including fish farms operated by the Wisconsin Department of Natural Resources (“DNR”). DATCP also regulates the import, movement and disease testing of fish.

(3) Viral hemorrhagic septicemia (VHS) is a serious disease of fish. VHS was first reported in Wisconsin on May 11, 2007, after the Wisconsin Veterinary Diagnostic Laboratory confirmed positive samples from freshwater drum (sheepshead) in Little Lake Butte des Mortes (part of the Lake Winnebago system). VHS was subsequently found in Lake Winnebago, and in Lake Michigan near Green Bay and Algoma. The source of VHS in these wild water bodies is not known. VHS has not yet been reported in any Wisconsin fish

farms. VHS can be fatal to fish, but is not known to affect human beings.

(4) Current DATCP rules require health certificates for fish and fish eggs (*including bait*) imported into this state, for fish and fish eggs stocked into waters of the state, and for fish and fish eggs (including bait species) moved between fish farms in this state. *Import* health certificates must include VHS testing if the import shipment includes salmonids (salmon, trout, etc.) or originates from a state or province where VHS is known to occur. VHS testing is *not* currently required for fish or fish eggs stocked into waters of the state from Wisconsin sources, for bait fish or eggs originating from Wisconsin sources, for fish or fish eggs moved between fish farms in Wisconsin, or for non-salmonids imported from states where VHS has not yet been found.

(5) Because VHS has now been found in waters of the state, it is necessary to expand current VHS testing requirements. Because of the urgent need to minimize the spread of VHS in this state, it is necessary to adopt VHS testing requirements by emergency rule, pending the adoption of a “permanent” rule.

Disease-Free Herd Certification of Farm-Raised Deer Herds

(6) DATCP registers farm-raised deer herds in this state. DATCP also regulates the import, movement and disease testing of farm-raised deer. Under current DATCP rules, DATCP may certify a deer herd as brucellosis-free or tuberculosis-free, or both, based on herd test results provided by the deer keeper. Certification is voluntary, but facilitates sale and movement of deer.

(7) Under current rules, a tuberculosis-free herd certification is good for 3 years, but a brucellosis-free herd certification is good for only 2 years. There is no compelling veterinary medical reason for the difference. A rule change (extending the brucellosis-free certification term from 2 to 3 years) is needed to harmonize the certification terms, so that deer farmers can conduct simultaneous tests for both diseases. Simultaneous testing will reduce testing costs and limit stress on tested deer. An emergency rule is needed to avoid some unnecessary costs for deer farmers this year, pending the adoption of permanent rules.

Publication Date: October 31, 2007

Effective Date: October 31, 2007

Expiration Date: March 29, 2008

Hearing Date: January 14, 2008

2. **EmR 0804** – Creating **subch. IV of ch. ATCP 161**, relating to the “buy local” grant program created under s. 93.48, Stats.

Exemption From Finding of Emergency

DATCP has general authority under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. Section 93.48 (1), Stats., specifically requires DATCP to adopt rules for the “buy local” grant program. Section 9103(3i) of 2007 Wisconsin Act 20 (biennial budget act) authorizes DATCP to adopt temporary emergency rules without the normal “finding of emergency,” pending the adoption of “permanent” rules. This temporary emergency rule implements the “buy local” grant program on an interim basis, pending the adoption of “permanent” rules.

Publication Date: February 22, 2008
Effective Date: February 22, 2008
Expiration Date: May 1, 2009

Commerce

Licenses, Certifications, etc., Ch. Comm 5

Rules adopted revising **ch. Comm 5**, relating to licensing of elevator contractors and installers.

Exemption From Finding of Emergency

Under the nonstatutory provisions of 2005 Wis. Act 456, the Department of Commerce was directed to issue emergency rules that implement provisions of the Act. The Act specifically states: "Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection."

The Act mandates the licensing of elevator contractors and installers. Under the Act no person may engage in the business of installing or servicing conveyances or working on a conveyance unless licensed as of June 1, 2007. These emergency rules are being adopted in order to provide the elevator industry the ability to comply with licensing aspects of the Act and continue working until permanent rules are implemented.

Publication Date: June 1, 2007
Effective Date: June 1, 2007
Expiration Date: See section 7 (2), 2005 Wis. Act 456
Hearing Date: June 27, 2007

Commerce

Financial Resources for Businesses and Communities, Chs. Comm 104–135

EmR 0802 – Creating **ch. Comm 132**, relating to implementing a program for certifying applicants and allocating dairy manufacturing facility investment tax credits, and affecting small businesses.

Finding of Emergency

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

The facts constituting the emergency are as follows. Under sections 71.07 (3p) (b), 71.28 (3p) (b), and 71.47 (3p) (b) of the Statutes, as created in 2007 Wisconsin Act 20, a taxpayer may claim a dairy manufacturing facility investment credit for dairy manufacturing modernization or expansion during taxable years beginning after December 31, 2006. Sections 71.07 (3p) (a) 3., 71.28 (3p) (a) 3., and 71.47 (3p) (a) 3. of the Statutes define dairy manufacturing modernization or expansion as "constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for dairy manufacturing . . . if acquired and placed in service in this state during taxable years that begin after December 31, 2006, and before January 1, 2015." Section 71.07 (3p) (c) 2m. a. of the Statutes states that the maximum amount of credits that may be claimed in fiscal year 2007–08 is \$600,000.

Section 560.207 of the Statutes, as likewise created in 2007 Wisconsin Act 20, requires the Department to (1) implement a program for certifying taxpayers as eligible for the dairy manufacturing facility investment credit, (2) determine the amount of credits to allocate to those taxpayers, and (3) in consultation with the Department of Revenue, promulgate rules to administer the program. No other provisions are established in the Statutes regarding the specific process for taxpayers to use in applying for the credits, and for the Department of Commerce to use in certifying eligible taxpayers and in allocating the credits.

Because of enactment of 2007 Wisconsin Act 20, a number of entities that may be eligible for the tax credits have contacted the Department with inquiries concerning the process for applying for the credits, for expenditures that have been incurred during taxable years that began after December 31, 2006.

Entities that may be eligible for the tax credits for the 2007–08 fiscal year face near-term time constraints for filing their tax returns with the Department of Revenue. Although the Department of Commerce has begun promulgating the permanent rule that is required by 2007 Act 20, the time periods in chapter 227 of the Statutes for promulgating permanent rules preclude the permanent rule from becoming effective in time to readily accommodate claiming the tax credits for the 2007–08 fiscal year. This emergency rule will enable the Department of Commerce to establish an application, certification, and tax credit allocation process for the entities that need to soon file their tax returns for taxable years beginning after December 31, 2006.

Publication Date: February 4, 2008
Effective Date: February 4, 2008
Expiration Date: July 3, 2008

Employment Relations Commission

Rule adopted amending **s. ERC 10.08 (1), (2), (3), (4), and (5)**, relating to increased filing fees.

Finding of Emergency

The Employment Relations Commission finds that an emergency exists and that the attached rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

1. The Employment Relations Commission has a statutory responsibility in the private, municipal and state sectors for timely and peaceful resolution of collective bargaining disputes and for serving as an expeditious and impartial labor relations tribunal.

2. 2003 Wisconsin Act 33 eliminated \$400,000 in General Program Revenue (GPR) and 4.0 GPR supported positions from the Commission's 2003–2005 budget and increased the number of Program Revenue (PR) filing fee supported positions by 2.0, from 3.0 to 5.0. The same legislation also abolished the Personnel Commission and transferred certain of that agency's former responsibilities to the Employment Relations Commission, without additional staff or funding.

3. The 2005–07 budget maintained the same reduced GPR funding and position levels and the additional PR positions as authorized in 2003 Wisconsin Act 33. The Governor's proposed budget for 2007–09 maintains the same number of GPR and PR funded positions as the previous two budgets.

4. In order to support the 5.0 PR positions provided in the state budgets since 2003, the Employment Relations Commission doubled its filing fees in August, 2003. Despite that increase, filing fee income has averaged \$381,359 over

the past four fiscal years, an amount that was approximately \$130,350 less each year than the average budget-authorized PR position expenditures for those same years. As a result the Commission's PR fund balance has been reduced to a level that is wholly insufficient to meet current PR expenditures.

5. Unless the emergency rule making procedures of s. 227.24, Stats., are utilized by the Employment Relations Commission to provide the increased filing fee revenue needed to support the 5.0 positions provided in the PR portion of the Commission's budget, the Commission's ability to provide timely and expeditious dispute resolution services will be significantly harmed.

Publication Date: December 19, 2007
Effective Date: January 2, 2008
Expiration Date: May 31, 2008
Hearing Date: November 12, 2007

Government Accountability Board

EmR 0803 – Repealing s. Eth 3.01, relating to the filing of all written communications and documents intended for the former Ethics Board; repealing s. Eth 3.04, relating to transcripts of proceedings before the former Ethics Board; and amending s. EIBd 10.01, relating to procedures for complaints with the former State Elections Board.

Finding of Emergency

The Government Accountability Board adopts this rule to clarify the complaint procedure applicable to complaints that will be filed with the Board under ethics, lobbying, contract-disclosure and campaign finance law and the separate complaint procedure applicable to complaints filed under elections law and the Help America Vote Act.

The Government Accountability Board finds that an emergency exists in the 2007 change in Wisconsin law that establishes the Wisconsin Government Accountability Board (effective January 10, 2008). Under 2007 Wisconsin Act 1, a statutory procedure or framework for investigation of complaints related to ethics, lobbying, contract disclosure and campaign finance, was established. That framework does not include the necessity of the filing of a complaint. Under the rules of the former Elections Board, Chapter EIBd 10, however, an investigation will not be commenced without the filing of a verified complaint. The Government Accountability Board finds that an emergency exists in the possible confusion that potential complainants may find in attempting to file a complaint with the Government Accountability Board and, as a result of that confusion, those complainants may be dissuaded from filing a complaint over which the Board has jurisdiction, or, because of that confusion, may fail to file that complaint in a timely fashion.

Publication Date: February 10, 2008
Effective Date: February 10, 2008
Expiration Date: July 19, 2008

Health and Family Services

Health, Chs. HFS 110—

Rules adopted revising s. HFS 115.04, to include the condition known as Severe Combined Immunodeficiency (SCID) and related conditions of immunodeficiency to the list of disorders and disorder types found under s. HFS 115.04.

Finding of Emergency

The early identification of particular congenital and metabolic disorders that are harmful or fatal to persons with the disorders is critical to mitigating the negative effects of such disorders. Therefore, s. 253.13, Wis. Stats., requires that every infant born be subjected to blood tests for congenital and metabolic disorders, as specified in administrative rules promulgated by the Department; however, parents may refuse to have their infants screened for religious reasons. The Department has issued ch. HFS 115, Screening of Newborns for Congenital and Metabolic Disorders, to administer this statutory requirement. Currently, s. HFS 115.04 lists 13 congenital and metabolic disorders and types of disorders, for a total of 47 different disorders, for which the state hygiene laboratory must test newborn blood samples.

In determining whether to add or delete disorders from the list under s. HFS 115.04, s. HFS 115.06 directs the Department to seek the advice of persons with expertise and experience concerning congenital and metabolic disorders. For this purpose, the Department has established the Wisconsin Newborn Screening Umbrella Advisory Group. Section HFS 115.06 also lists 6 criteria on which the Department must base its decision to add or delete disorders from s. HFS 115.04. These criteria are as follows:

1. Characteristics of the specific disorder, including disease incidence, morbidity, and mortality.
2. The availability of effective therapy and potential for successful treatment.
3. Characteristics of the test, including sensitivity, specificity, feasibility for mass screening and cost.
4. The availability of mechanisms for determining the effectiveness of test procedures.
5. Characteristics of the screening program, including the ability to collect and analyze specimens reliably and promptly, the ability to report test results quickly and accurately and the existence of adequate follow-up and management programs.
6. The expected benefits to children and society in relation to the risks and costs associated with the testing for the specific condition.

In consideration of these criteria, the Wisconsin Newborn Screening Advisory Umbrella Advisory Group has recently recommended the Department add the condition known as Severe Combined Immunodeficiency (SCID) and related conditions of immunodeficiency to the 13 disorders and types of disorders currently screened for and listed in s. HFS 115.04. Persons with SCID are extremely vulnerable to infections, to the degree that the condition is universally fatal without treatment within the first year of life. With an estimated prevalence of 1 in 66,000, and a Wisconsin annual birth rate around 71,000, the failure to screen for SCID could result in the death of 1–2 infants in the state every year.

The Advisory Group also recommended the Department begin screening newborns for SCID and related conditions of immunodeficiency as soon as possible. Before the screening can begin, the Department needs to add these conditions to the list in s. HFS 115.04. Therefore, it is proposed to put an emergency rule in effect first, to be followed by an identical proposed permanent rule to replace the emergency rule.

The Department will immediately promulgate identical permanent rules to replace these emergency rules.

Publication Date: December 27, 2007
Effective Date: January 1, 2008
Expiration Date: May 30, 2008
Hearing Date: March 6, 2008

Natural Resources

Fish, Game, etc., Chs. NR 1—

Rules adopted affecting **chs. NR 19 and 20**, relating to control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists Viral Hemorrhagic Septicemia (VHS) as a "notifiable" disease, meaning that outbreaks must be reported immediately. On May 11, the Department received notice that freshwater drum collected from Little Lake Butte des Morts (part of the Lake Winnebago system) were infected with the VHS virus. On May 23, May 24, and June 1, respectively, the Department learned that brown trout from Lake Michigan, smallmouth bass from Sturgeon Bay, and lake whitefish from Lake Michigan had tested positive for the virus.

Earlier, VHS had been discovered in the Great Lakes, and was known to be moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage basin. Information obtained pursuant to an emergency rule that took effect May 17 revealed that 88 bait dealers harvest live wild minnows from a large number of state waters, including waters that are near or connected to the Mississippi river, the Lake Winnebago system, Green Bay and Lakes Michigan and Superior.

Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. It is expected the USDA APHIS will soon expand its emergency order limiting the interstate transportation of these species to apply to all fish species. The VHS virus can be transported from infected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in Wisconsin is therefore a threat to the public health or safety or to the environment.

Publication Date: November 2, 2007
Effective Date: November 2, 2007
Expiration Date: March 31, 2008
Hearing Date: December 3, 2007

Natural Resources

Environmental Protection – Water Regulation, Chs. NR 300—

Rules adopted revising **chs. NR 320, 323, 328, 329, 341, 343 and 345**, relating to general permit criteria requiring decontamination of equipment for invasive species and viruses.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the

regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken under a general permit. There are no statutory general permits standards that require decontamination of equipment for invasive species and viruses. Without emergency rules to create new general permit standards, any condition imposed would be limited to individual permits only with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish general permits standards to be in effect for the 2007 summer season, with specific standards that require decontamination of equipment for invasive species and viruses.

In addition, 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: The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a "notifiable" disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

Publication Date: July 12, 2007
Effective Date: July 12, 2007
Expiration Date: December 9, 2007
Hearing Date: August 13, 2007
Extension Through: April 5, 2008

Natural Resources

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

Rules adopted creating **s. NR 462.015**, relating to national emission standards for hazardous air pollutants for industrial, commercial and institutional boilers and process heaters and potentially 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 rule into effect prior to the time that it would take if the department complied with the normal procedures. Federal regulations that are the basis for ch. 462, Wis. Adm. Code, were vacated on July 30, 2007 by the U.S.

Court of Appeals. Both the vacated federal regulations and ch. NR 462 contain a date for compliance of September 13, 2007. This order is designed to bring state rules into conformity with the court-ordered vacatur of the federal regulations. Normal rule-making procedures will not allow implementation of ch. NR 462 to be stayed before September 13, 2007.

Publication Date: September 13, 2007
Effective Date: September 13, 2007
Expiration Date: February 10, 2008
Hearing Date: October 26, 2007
Extension Through: April 10, 2008

Public Instruction (2)

1. A rule is adopted creating **ch. PI 33**, relating to grants for nursing services.

Finding of Emergency

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

The school nursing grant program under s. 115.28 (47), Stats., was created under 2007 Wisconsin Act 20. The Act became effective October 27, 2007, and appropriated \$250,000 annually beginning in the 2007-08 school year. In order for school districts to develop applications and for the department to review the applications and grant awards in time for the program to operate in the second semester of the school year, rules must be in place as soon as possible to establish application criteria and procedures.

Publication Date: November 24, 2007
Effective Date: November 24, 2007
Expiration Date: April 23, 2008
Hearing Date: February 21, 2008

2. **EmR 0801** – Creating **ch. PI 31**, relating to grants for science, technology, engineering, and mathematics programs.

Finding of Emergency

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

The STEM program under s. 115.28 (46), Stats., was created under 2007 Wisconsin Act 20. The Act became effective October 27, 2007, and appropriated \$61,500 annually beginning in the 2007-08 school year. In order for school districts to develop applications and for the department to review the applications and grant awards in time for the program to operate in the second semester of the school year, rules must be in place as soon as possible to establish application criteria and procedures.

Publication Date: January 30, 2008
Effective Date: January 30, 2008
Expiration Date: June 28, 2008
Hearing Dates: March 18 and 21, 2008
 [See Notice this Register]

Revenue (2)

1. Rules adopted amending **s. Tax 2.505**, relating to the computation of the apportionment fraction by multistate professional sports clubs.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that the 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 prescribe the method to be used for apportioning the apportionable income of interstate professional sports clubs.

It is necessary to promulgate this rule order to provide the method of apportionment to be used by interstate professional sports clubs.

Publication Date: October 12, 2007
Effective Date: October 12, 2007
Expiration Date: March 10, 2008

2. A rule was adopted revising **s. Tax 8.63**, interpreting s. 125.54 (7), Stats., relating to liquor wholesale warehouse facilities.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that a 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 change the amount of floor space that a liquor wholesaler warehouse facility described in a wholesalers' permit is required to be from 4,000 to 1,000 square feet of floor space. It also creates a provision that allows the minimum square footage requirement to be waived when it is determined that a waiver is fair and equitable.

It is necessary to promulgate this rule order to remove the threat of revenue loss to bona fide liquor wholesalers as a result of having applications for issuance or renewal of permits denied solely because they do not meet the square footage requirement in the existing rule.

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 Secretary of State and Revisor of Statutes, as provided in s. 227.24, Stats.

Publication Date: October 29, 2007
Effective Date: October 29, 2007
Expiration Date: March 27, 2008
Hearing Date: January 2, 2008

Transportation

- Rule adopted creating **ch. Trans 178**, relating to the Unified Carrier Registration System.

Analysis

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

Exemption From Finding of Emergency

The Legislature, by Section 2927, as created by 2007 Wis. Act 20, provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: December 19, 2007
Effective Date: December 19, 2007
Expiration Date: May 18, 2008
Hearing Date: March 5, 2008

Workforce Development

Family Supports, Chs. DWD 12 to 59

Rule adopted amending s. **DWD 56.06 (1) (a) 1. and creating s. DWD 56.06 (1) (a) 1. r.**, relating to child care rates.

Finding of Emergency

The Department of Workforce Development 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:

2007 Wisconsin Act 20 reflects that child care rates will not be increased for the 2008–2009 biennium. Chapter DWD 56 currently provides that child care rates shall be set annually in accordance with a market rate survey and procedures described in s. DWD 56.06 (1). Historically, the rate adjustments have been effective January 1 of the new year. This emergency rule is necessary to provide that child care rates will not be adjusted for 2008 in accordance with 2007 Wisconsin Act 20. A corresponding permanent rule will provide that child care rates will not be adjusted for 2008 and 2009.

Publication Date: December 27, 2007
Effective Date: January 1, 2008
Expiration Date: May 30, 2008
Hearing Date: March 10, 2008

Workforce Development

Public Works Construction Contracts, Chs. DWD 290 to 294

Rule adopted amending **ss. DWD 290.155 (1) and 293.02 (1) and (2)**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements and affecting small businesses.

Finding of Emergency

The Department of Workforce Development 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:

Adjusting the thresholds for application of the prevailing wage rate requirements by emergency rule ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and applicability of the prevailing wage law is determined. The adjustment avoids imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. The adjustment of the thresholds for the application of the payment and performance assurance requirements avoids imposing an additional administrative burden on contractors for the same reason. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the rule-making process.

Publication Date: December 27, 2007
Effective Date: January 1, 2008
Expiration Date: May 30, 2008
Hearing Date: February 14, 2008

Scope Statements

Administration

Subject

Creating ch. Adm 70, relating to electronic recording of documents in the office of the county register of deeds.

Policy Analysis

The Department of Administration in cooperation with the Wisconsin Electronic Recording Council proposes to establish recording standards and practices, including the Property Records Industry Association (PRIA) technical standards, that achieve harmony with other jurisdictions, provide for integrity and security of transmissions, and promote efficiencies and improved service.

Statutory Authority

Section 706.25, Stats.

Entities Affected by the Rule

Wisconsin Registers of Deeds, members of the real estate community who prepare, organize and submit documents for recording (submitters), individual citizens that are served by the real estate community or who act on their own behalf to record and receive documents, vendors that provide service to submitters and local registers, and private and professional people who conduct records research in the land records systems of the register of deeds such as real estate attorneys; banks, mortgage and title companies.

Comparison with Federal Regulations

The Uniform Electronic Transactions Act (UETA) and the Uniform Real Property Electronic Recording Act (URPERA) are state model acts adopted by Wisconsin with the intention of preempting the application of the federal Electronic Signatures in Global & National Commerce Act (ESIGN). ESIGN allows states to preempt the federal act when the official text of UETA is adopted.

Estimate of Time Needed to Develop the Rule

Roughly 100 hours of attorney and other professional staff time will be required of Department of Administration to support the rule and guidance development effort.

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5

Subject

Revising ch. Comm 5, relating to licenses, certifications and registrations mandated as a result of legislation enacted during the 2007–2008 session.

Objective of the Rule

Currently, legislative proposals involve the licensing of electricians, building contractors and subcontractors, thermal insulators, fireworks sellers and propane distributors.

On its own initiative the department is considering the licensing of fire inspectors, public swimming pool installers and cross connection control surveyors and possible modifications under chapter Comm 5 to reflect process efficiencies. The purpose of licensing fire inspectors would

be on a voluntary basis to recognize delegation of the responsibilities to accomplish the fire inspections mandated under s. 101.14, Stats. The purpose of licensing pool installers would be for assigning the responsibility of facilitating or overseeing code compliance during construction. The purpose of licensing the cross connection control surveyors would be to compliment and assist the Department of Natural Resources to protect safe water supplies as directed by the federal government.

The objectives of this rule project may be incorporated into more than one rule package.

Policy Analysis

Chapter Comm 5 establishes licensing, certification and registration programs for a variety of building trades, both for individuals and businesses. Currently under ch. Comm 5, no licensing program exists for thermal insulators, fireworks sellers, propane distributors, public swimming pool installers and cross connection control surveyors. With the exception of dwelling contractors, electrical contractors, and HVAC contractors, the department does not have a licensing program for building contractors and subcontractors.

Section 101.14, Stats., mandates local fire chiefs to accomplish annual fire inspection in order to eliminate potential fire hazards. In practice, fire chiefs typically this responsibilities to fire inspectors.

Failure to implement the statutory licensing mandates would be contrary to these legislative mandates.

If the department chooses not to license public swimming pool contractors and cross connection control surveyors the status quo would continue relative to individuals engaged in those activities.

Statutory Authority

Chapters 101, 145 and 167, Stats., as affected by 2007–2008 legislation.

Entities Affected by the Rule

If all of the proposed legislation were to be enacted, it is anticipated that at least the following businesses and individuals would be affected by the rules: all contractors and subcontractors associated with building construction, electrical contractors, propane distributors, fireworks sellers, public swimming pool installers, electricians, thermal insulators, and individuals providing cross connection control surveys for municipal water purveyors. The licensing of fire inspectors may potentially impact private fire inspection contractors.

Comparison with Federal Regulations

An internet-based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to the licensing activities to be regulated under the rules. Under 40 CFR 142.10 (b) (2), states are required to have a systematic program for conducting sanitary surveys of public water systems.

Estimate of Time Needed to Develop the Rule

The department estimates approximately 1,000 hours will be needed to perform the review and develop any needed rule changes. This time includes forming and meeting with an advisory councils, if necessary, drafting the rule changes and processing the changes through public hearings, legislative

review, and adoption. The department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

Insurance

Subject

Revising s. Ins 2.07, relating to replacement of life insurance of annuity contracts; disclosure requirements and affecting small business.

Objective of the Rule

The purpose of this rule is to protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct and procedures to be observed in replacement and financed purchase transactions.

Policy Analysis

This rule expands and updates coverage of marketing practices addressed under current rules to assure that purchasers receive adequate information and to reduce the opportunity for misrepresentation and incomplete disclosure. The rule will enhance uniformity as it will be based upon an NAIC model that has been adopted by a significant number of other states.

Statutory Authority

Sections 601.41 (3) and 628.34, Stats.

Entities Affected by the Rule

The proposed rule will affect insurers that offer life insurance and annuity products and producers who market them.

Comparison with Federal Regulations

The office is unaware of any proposed or existing federal regulation that is intended to address the activities to be regulated by this proposed rule.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revising s. NR 47.70, relating to the county forest administration grant program.

Objective of the Rule

The change makes eligible for cost-sharing, a county's dues to a non-profit agency that represents the collective interests of counties in the county forest program and that serves as a liaison to the Department of Natural Resources.

Policy Analysis

The Department has had an ongoing partnership with the County Forest program for nearly 80 years. Wisconsin's County Forest system encompasses over 2.35 million acres in 29 counties. Collectively, this land base comprises approximately 44% of the public forest land in Wisconsin. Responsibilities outlined in s. 28.11 Wis. Stats. require the Department to approve all timber sales and provide general oversight of the program.

Encouraging counties to hire professional foresters has long been a focus of the Department. Earlier versions of this grant program have been in operation since 1994. Prior to

that, DNR cost-shared administrator positions were on staff in seven counties. The objective of this grant program will continue to be to promote and encourage the Counties to employ forestry professionals in the management of their forests. The rule revision will rename the grant program (formerly the County Forest Administrator Grant). The name change was made to accommodate the new opportunity for a county to receive 50% grant funding for dues that they pay towards a nonprofit organization that provides leadership and counsel to county forest administrators and that functions as an organizational liaison to the Department. This change will continue to promote the professionalism of the individual counties and provide efficiencies to the Department in interacting with the county forests. Prior grant funding for salary / benefits of a professional forester in the role of County Forest Administrator will continue under the new format.

Statutory Authority

Section 28.11 (5m), Stats.

Entities Affected by the Rule

This rule will affect all of the twenty nine counties participating in the County Forest program. All of these counties currently pay dues to the Wisconsin County Forests Association (WCFA).

Comparison with Federal Regulations

There are no existing or proposed federal regulations that are impacted by this rule change.

Estimate of Time Needed to Develop the Rule

It is anticipated that rule development will require 60 hours of staff time in total (Forestry & Legal).

Contact Person

Jeff Barkley – County Forest Specialist
101 S. Webster, Box 7921
FR/4
Madison, WI. 53707
Phone: (608) 264-9217
Email: Jeffrey.barkley@wisconsin.gov

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revising subch. IX of ch. NR 47, relating to gypsy moth suppression.

Objective of the Rule

The objective of the rule is to specify emergencies on department owned lands over which the chief state forester shall have management authority as required by the legislature in 2005 WI Act 166, section 23.114, Stats. Emergencies described shall include but are not limited to, invasive species or pest infestation, disease and damage to timber from fire, snow, hail, ice or wind. This rule provides additional authority of the chief state forester to manage emergencies on department owned forest land. The rule specifies the procedure the chief state forester will take in making the decision to act in response to an emergency including considering advice from other state agencies and identified affected or involved parties. This procedure is similar to that described in s. NR 30.06 (4), Wis. Adm. Code, dealing with emergency fire restrictions. The rule also describes the procedure for notifying the public of the emergency situation, what actions will be taken as a result, and when the state of emergency is lifted similar to the

procedure described in s. NR 30.06 (3) (a), Wis. Adm. Code.

Policy Analysis

The legislature requires the department to define emergencies on department forest lands over which the chief state forester would have management authority. This rule provides additional authority to the chief state forester to properly respond to forest health emergencies. For example, we are now faced with the threat of invasion by the emerald ash borer, a foreign pest which kills all ash trees it attacks. The only treatment currently available to eradicate pioneering colonies of the borer is to cut down and destroy all infested ash as well as all ash within a ½ mile which are potentially infested though may not show any signs of infestation. This appropriate response might be hindered by s. 26.30 (2), Stats., prohibiting the department from using silvicultural methods, such as the selective cutting described here, to control forest pests. The proposed rule would allow an exception to use silvicultural methods only on department managed forest lands. This proposed rule would also allow the chief state forester to take actions in response to emergencies that might be at odds with the master plan for a property. For example, early harvest of a stand badly damaged by a tornado.

Statutory Authority

This rule is being developed in response to a requirement of the legislature in 2005 WI Act 166, section 23.114, Stats.

Entities Affected by the Rule

Businesses and individuals that harvest wood from, as well as users of, state lands could be affected either positively or negatively depending on the circumstances and response to the emergency. The complexity of the potential impacts makes developing a procedure to involve the input from affected or involved parties an important component of this rule.

Comparison with Federal Regulations

The drafter is not aware of any existing or proposed federal regulations that are similar to this proposed rule.

Estimate of Time Needed to Develop the Rule

We estimate it will take 40 hours of staff time to finalize the rule text. Public review hearings have already been completed.

Contact Person

Andrea Diss-Torrance
Plant Pest & Disease Specialist
Division of Forestry
Phone: (608) 264-9247
Email: Andrea.DissTorrance@Wisconsin.gov

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revising ch. NR 47, relating to the public access grant program.

Objective of the Rule

The 2007–09 Biennial Budget (2007 Wis. Act 20) authorizes and requires the creation of rules for an Outdoor Recreational Activities Land Acquisition Grant Program with funding of \$1,000,000 annually.

The grant program would provide grants to cities, villages, towns, counties, non profit conservation organizations and to

DNR for the purpose of acquiring conservation easements or purchasing land for approved outdoor recreational activities including hunting, fishing, hiking, sightseeing, cross-country skiing, and other compatible uses. Funding for this program comes from Managed Forest Law (MFL) lands closed to public access acreage fees.

Policy Analysis

The Department has been directed in 2007 Wis. Act 20 to promulgate rules for the public access grants program. Rule development will include:

Developing a priority system to evaluate applications. 2007 Wis. Act 20 identifies the following priorities to be developed in rule:

1. A requirement that the board give higher priority to counties over other grant applicants in awarding grants under this section.
2. A requirement that, in awarding grants to counties under this section, the board gives higher priority to counties that have higher number of acres that are designated as closed under the MFL program.
3. A requirement that, in awarding grants to towns under this section, the board gives higher priority to towns that have a higher number of acres that are designated as closed under the MFL program.
4. A requirement that no grant may be awarded under this section without it being approved by the board of each county in which the land to be acquired is located.
5. Requirements concerning the use of sound forestry practices on land acquired under this section.

Evaluating whether a minimum length of time should be established in which grantees would be required to keep (not sell) the property if acquired using these funds to include a requirement to return some or all of the funds if this time frame is not met.

Investigating options for when grantees determine that it is no longer desirable to hold lands or interests in lands acquired with these funds.

Establishing a system for record keeping

Establish a grant application time frame and process.

Evaluating whether rules should be consistent with other related programs (Forest Legacy, Stewardship Fund).

Investigating systems for monitoring and/or auditing by the Department

Evaluating options for appraisal standards

Investigate opportunities for requiring matching funds (cash or other land)

Statutory Authority

Section 77.895, Wis. Stats.

Entities Affected by the Rule

Any party wishing to sell land or a conservation easement to the DNR that will be purchased with public access grant funds.

Any party wishing to sell land or a conservation easement to a local unit of government (city, village, town or county) or nonprofit conservation organization.

Any local unit of government or nonprofit conservation organization wishing to acquire land or conservation easement with grant funds from the public access grant program.

Any citizen interested in the preservation of the states natural resources and the accessibility of those resources for

public use for approved recreational activities (including hunting, fishing, hiking, sightseeing, cross-country skiing).

Comparison with Federal Regulations

There are no known federal rules which apply to the creation of a public access grant program.

Estimate of Time Needed to Develop the Rule

The Department estimates that approximately 142 hours of existing staff time will be needed to develop this rule. This time includes meeting with the Managed Forest Land Board, collecting public input at listening sessions, drafting the rule,

taking the rule to public hearings, preparation with the Natural Resource Board, legislative review, and rule adoption.

Contact Person

Nicole Potvin
Wisconsin Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison WI53707-7921
Phone: (608) 266-2388
Email: Nicole.Potvin@wisconsin.gov

Submittal of Rules to Legislative Council Clearinghouse

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

Employee Trust Funds CR 08–016

On February 12, 2008, the Department of Employee Trust Funds submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order amends ss. ETF 70.08 (3) and 70.10 and creates s. ETF 70.02 regarding the start date for phasing out funds under the Wisconsin deferred compensation plan and emergency withdrawals for beneficiaries.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 19, 2008. The Department's deferred compensation section is primarily responsible for this rule.

Contact Person

David H. Nispel, Deputy Chief Counsel
Phone: (608) 264–6936
Email: david.nispel@etf.state.wi.us

Financial Institutions – General CR 08–015

On February 14, 2008, the Department of Financial Institutions submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates ch. DFI–Gen 2, relating to small business enforcement discretion.

Agency Procedure for Promulgation

A hearing on the proposed rule will be held on March 13, 2008. The organizational unit responsible for the promulgation of the rule is the Department of Financial Institutions, Office of the Secretary.

Contact Person

Mark Schlei
Deputy General Counsel
Phone: (608) 267–1705

Natural Resources *Fish, Game, etc., Chs. NR 1–* CR 08–010

On February 8, 2008, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises chs. NR 20, 21, 22 and 23, relating to fishing on the inland, outlying, and boundary waters of Wisconsin.

Agency Procedure for Promulgation

The Bureau of Fisheries Management and Habitat Protection is responsible for promulgation of the rules. Public hearings will be held on April 14, 2008.

Contact Person

Joe Hennessy
Bureau of Fisheries Management and Habitat Protection
Email: Joseph.Hennessy@Wisconsin.gov

Natural Resources *Fish, Game, etc., Chs. NR 1–* CR 08–011

On February 8, 2008, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises chs. NR 10, 11, 17, 19 and 45, relating to hunting and trapping regulations and the use of department managed lands.

Agency Procedure for Promulgation

The Bureau of Wildlife Management is responsible for promulgation of the rules. Public hearings will be held on April 14, 2008.

Contact Person

Scott Loomans
Bureau of Wildlife Management
Phone: (608) 267–2452
Email: Scott.Loomans@wisconsin.gov

Natural Resources *Fish, Game, etc., Chs. NR 1–* CR 08–012

On February 12, 2008, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises chs. NR 20 and 21, relating to hook and line harvest of lake sturgeon.

Agency Procedure for Promulgation

Public hearings are scheduled for March 12, 13, and 14, 2008. The Bureau of Fisheries Management and Habitat Protection is primarily responsible for promulgation of the rules.

Contact Person

Karl Scheidegger
Bureau of Fisheries Mgt. and Habitat Protection
Email: Karl.Scheidegger@Wisconsin.gov

Natural Resources

Fish, Game, etc., Chs. NR 1—
CR 08–013

On February 12, 2008, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises chs. NR 10, 12, and 19, relating to deer hunting as it relates to the management of chronic wasting disease.

Agency Procedure for Promulgation

Public hearings are scheduled for March 18, 19, 20, and 24, 2008. The Bureau of Wildlife Management is primarily responsible for promulgation of the rules.

Contact Person

Scott Loomans
Bureau of Wildlife Management
Phone: (608) 267–2452
Email: Scott.Loomans@wisconsin.gov

Natural Resources

Fish, Game, etc., Chs. NR 1—
CR 08–014

On February 12, 2008, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises ch. NR 58, relating to the implementation and administration of grants for endangered resources.

Agency Procedure for Promulgation

A public hearing is scheduled for March 12, 2008. The Bureau of Endangered Resources is primarily responsible for promulgation of the rules.

Contact Person

Heidi Nelson
Bureau of Endangered Resources
Email: Heidi.Nelson@wisconsin.gov

Rule–Making Notices

Notice of Hearing Employee Trust Funds CR 08–016

The Wisconsin Department of Employee Trust Funds proposes an order to amend ss. ETF 70.08 (3) and 70.10, and to create s. ETF 70.02, relating to the start date for phasing out funds under the Wisconsin deferred compensation plan and to emergency withdrawals for beneficiaries.

Hearing Information

A public hearing on this proposed rule will be held on **March 19, 2008** at 1:30 p.m. in Conference Room GB at the offices of the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin. Persons wishing to attend should come to the reception desk up the stairs (or by elevator) from the main entrance to the building.

Agency Contact Person

Please direct any questions about the proposed rule to David Nispel, Deputy Chief Counsel, Department of Employee Trust Funds, P. O. Box 7931, Madison, WI 53707. The email address: david.nispel@etf.state.wi.us. The telephone number is: (608) 264–6936.

Copies of Proposed Rule

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

Submission of Written Comments

Written comments on the proposed rule may be submitted to David Nispel, Deputy Chief Counsel, Department of Employee Trust Funds, 801 W. Badger Road, P. O. Box 7931, Madison, WI 53707. Written comments must be received at the Department of Employee Trust Funds no later than 4:30 p.m. on Thursday, March 20, 2008.

Analysis Prepared by the Department of Employee Trust Funds

Statute interpreted

Section 40.80, Wis. Stats.

Statutory authority

Sections 40.03 (2) (ir) and 227.11 (2) (a), Wis. Stats.

Explanation of agency authority

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

Related statute or rule

Ch. ETF 70, Wis. Admin. Code, establishes a procedure for administration of the deferred compensation program as provided by s. 40.80, Wis. Stats. There are no other related administrative rules or statutes.

Plain language analysis

The purpose of this rule is to adjust the start date for phasing out a primary or alternate plan in order to reduce complications associated with the phase out and to expand financial emergency hardship withdrawals to include hardships for a named beneficiary.

Comparison with federal regulations

FUND CLOSURE: There are no known existing or proposed federal regulations that are intended to address the fund closure start date or timeline regulated by this proposed rule.

FINANCIAL HARDSHIPS AND BENEFICIARIES: The proposed rule would be in conformance with changes to federal regulations made by s. 826 of the federal Pension Protection Act of 2006, which expanded financial emergency hardship withdrawals to include hardships for a named beneficiary.

Comparison with rules in adjacent states

FUND CLOSURE: A query to adjacent states and the National Association of Government Defined Contribution Administrators list serve revealed that Wisconsin is unique in providing a specific start date and timeline for fund closures. Most other state programs have not formalized this process or provided a specific timeframe. Based on the query, it appears that the fund closeout process can take, on average, 30 to 90 days, and begins whenever a plan's governing body makes the decision to remove a fund.

FINANCIAL HARDSHIPS AND BENEFICIARIES: In order to be in compliance with recent federal regulations, most states and other s. 457 plan providers are in the process of modifying or already have modified their definition of financial emergency hardship withdrawals to include hardships for a named beneficiary.

Summary of factual data and analytical methodologies

Currently s. ETF 70.08 (3) requires that phase one of the twelve month investment fund removal process begin on January 1 of the year following the deferred compensation board's decision to remove a fund from the Wisconsin deferred compensation program. Starting the process on January 1st and ending the process on December 31st of that calendar year presents many difficulties, including reconciliation requirements and other end of calendar year activities, and additional days that the financial markets are closed for holidays. By eliminating the January 1st start date and permitting the process to begin six months after the board has made a fund removal decision many of these complications will be eliminated.

The proposed revision would create a rolling fund closure window outside of end of the calendar year complications, but retain the 12–month time frame to notify participants of the pending closure.

Financial emergency hardship withdrawals from the deferred compensation program are permitted under s. ETF 70.10. The federal Pension Protection Act of 2006 expanded financial emergency hardship withdrawals to include hardships for a named beneficiary. While the Wisconsin Deferred Compensation Plan and Trust Document already provides for this type of hardship withdrawal, there is not a similar provision in the Wisconsin administrative code. It is

necessary to revise the administrative rule in order to allow hardship withdrawals for named beneficiaries, which could be done by adding the word “beneficiary” to the applicable subsections of s. ETF 70.10. The definition of “beneficiary” in this rule is the same as in s. 40.02 (8), Stats.

Analysis and supporting documents used to determine effect on small business

The rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin deferred compensation program. The deferred compensation program is an optional, supplementary retirement plan covering only governmental employees.

Initial Regulatory Flexibility Analysis

There is no effect on small business.

Fiscal Estimate

The rule will have no effect on county, city, village, town, school district, technical college district or sewerage district fiscal liabilities or revenues. The rule will have no effect on state funds.

Notice of Hearing

Financial Institutions – General

CR 08–015

NOTICE IS HEREBY GIVEN That pursuant to ss. 895.59 (2) and 227.11 (2), Stats., and interpreting s. 895.59, Stats., the Department of Financial Institutions will hold a public hearing at the Department of Financial Institutions, Office of the Secretary, 345 W. Washington Avenue, 5th Floor, in the City of Madison, Wisconsin, on the **13th day of March, 2008**, at 1:00 p.m. to consider a rule to create ch. DFI—Gen 2 relating to small business enforcement discretion.

Contact Person, Copy of Rule, and Submission of Written Comments

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, for substantive questions on the proposed rule, and for questions regarding the agency’s internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708–8861, tel. (608) 267–1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution’s website, www.wdfi.org. Written comments regarding the proposed rule may also be submitted via the department’s website contact page, e–mail the secretary. Written comments must be received by the conclusion of the department’s hearing regarding the proposed rule.

Analysis Prepared by the Wis. Department of Financial Institutions, Office of the Secretary

Statute(s) interpreted

Section 895.59, Stats.

Statutory authority

Section 895.59 (2), and 227.11 (2), Stats.

Related statute or rule

None.

Explanation of agency authority

Pursuant to s. 895.59 (2), Stats., the legislature directed that the department promulgate a rule that discloses in advance the discretion that the agency will follow in the enforcement of rules and guidelines against a small business.

Summary of proposed rule

The objective of the rule is create ch. DFI—Gen 2. Pursuant to s. 895.59 (2), Stats., the legislature directed that the department promulgate a rule that discloses in advance the discretion that the agency will follow in the enforcement of rules and guidelines against a small business. Pursuant to s. 895.59 (2), Stats., the purpose of this rule is to disclose the discretion the department will follow in the enforcement of rules and guidelines against a small business. The rule sets forth situations when the department shall and shall not exercise discretion in the enforcement of rules or guidelines against a small business.

Summary of and preliminary comparison with existing or proposed federal regulation

None known.

Comparison with rules in adjacent states

None known.

Summary of factual data and analytical methodologies

The department reviewed the requirements of s. 895.59, Stats., and similar rules promulgated by other Wisconsin state agencies.

Analysis and supporting documentation used to determine effect on small business

The rule sets forth, as mandated by the legislature in s. 895.59, Stats., existing department policies. The rule creates no additional requirements on small business.

Fiscal Estimate

The rule’s requirements place no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 08–010, CR 08–011

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.09 (2) (b), 23.11, 27.01 (2) (j), 29.014, 29.041, 29.192 (3), 169.20 and 169.21, Stats., interpreting ss. 23.09 (2) (b), 23.11, 27.01 (2) (j), 29.014, 29.192 (3), 160.20 and 169.21, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 10, 11, 17, 19 and 45, Wis. Adm. Code, relating to hunting and trapping regulations and the use of department managed lands.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to ss. 29.014 (1), 29.039, 29.041, 29.053 and 227.11 (2) (a), Stats., interpreting ss. 29.014 (1), 29.039, 29.041, 29.053, 29.531 and 29.533, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 20, 21, 22 and 23, Wis. Adm. Code, relating to fishing on the inland, outlying and boundary waters of Wisconsin.

NOTICE IS HEREBY FURTHER GIVEN that at 7:00 p.m. on Monday, April 14, 2008, the Wisconsin Conservation Congress will hold its election of county delegates in each county. Upon completion of the delegate elections, the joint Spring Hearing/Conservation Congress meeting will convene to take comments on the foregoing rule modifications.

Hearing Information

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on **Monday, April 14, 2008** at 7:00 p.m. at the following locations:

Adams	Adams County Courthouse, Board Room 402 Main Street, Friendship	Jackson	Black River Falls Middle School, LGI, 1202 Pierce Street, Black River Falls
Ashland . . .	Ashland Senior High School, Auditorium, 1900 Beaser Avenue, Ashland	Jefferson . . .	Jefferson County Fairgrounds, Activity Center, 503 N. Jackson Ave. Jefferson
Barron	Old Courthouse Building Lower Level 330 E. LaSalle Ave., Barron	Juneau	Olson Middle School, Auditorium, 508 Grayside Avenue, Mauston
Bayfield . . .	Bayfield County Old Courthouse, Second Floor, 117 E. 5 th , Washburn	Kenosha . . .	Bristol Grade School, Gymnasium, 20121 83 rd Street, Bristol
Brown	Franklin Middle School, Auditorium, 1234 W. Mason, Green Bay	Kewaunee . .	Kewaunee High School, Auditorium, 911 2 nd Street, Kewaunee
Buffalo	Alma High School, Gymnasium, S1618 STH 35, Alma	La Crosse . .	Onalaska High School, Field House, 700 Hilltop Place, Onalaska
Burnett	Siren Government Center, Room 165, 7410 County Road K, Siren	Lafayette . .	Darlington High School, 11838 Center Hill Road, Darlington
Calumet . . .	Calumet County Courthouse, B025, 206 Court Street, Chilton	Langlade . .	Antigo High School, Volm Theater, 1900 10 th Avenue, Antigo
Chippewa . .	Chippewa Falls Middle School, 750 Tropicana Blvd., Chippewa Falls	Lincoln	Tomahawk Elementary School, 1048 East Kings Road, Tomahawk
Clark	Greenwood High School, West Gymnasium, 306 W. Central Ave., Greenwood	Manitowoc . .	UW Manitowoc, Theater, 705 Viebahn Street, Manitowoc
Columbia . .	Columbia County Courthouse, Community Room, 400 DeWitt St., Portage	Marathon . .	D.C. Everest Middle School, 9302 Schofield Avenue, Schofield
Crawford . .	Crawford County Courthouse, Court Room, 220 N. Beaumont Road, Prairie du Chien	Marinette . .	Crivitz High School, Auditorium, 400 South Ave, Crivitz
Dane	Dane County Alliant Energy Center, Exhibition Hall, 1919 Alliant Energy Way, Madison	Marquette . .	Montello High School, Community Room, 222 Forest Lane, Montello
Dodge	Horicon City Hall, 404 E. Lake Street, Horicon	Menominee . .	Menominee County Courthouse, Basement, Courthouse Lane, Keshena
Door	Sturgeon Bay High School, Auditorium, 1230 Michigan, Sturgeon Bay	Milwaukee . .	Greenfield High School, 4800 South 60 th Street, Greenfield
Douglas . . .	Springs High School, 8993 E. Baldwin Ave., Solon Springs	Monroe	Sparta High School, Auditorium, 506 N. Black River Street, Sparta
Dunn	Dunn County Fish And Game Club, 1900 Pioneer Ave., Menomonie	Oconto	Suring High School, Cafeteria, 411 E. Algoma St., Suring
Eau Claire . .	South Middle School, Auditorium, 2115 Mitscher Ave., Eau Claire	Oneida	James Williams Middle School, 915 Arcadia, Rhinelander
Florence . . .	Florence Natural Resources Center, Highway 70/101, Florence	Outagamie . .	Riverview Middle School, Auditorium, 101 Oak Street, Kaukauna
Fond du Lac	Theisen Middle School, 525 E Pioneer Road, Fond du Lac	Ozaukee . . .	Webster Middle School, Commons, W75 N624 Wauwatosa Road, Cedarburg
Forest	Crandon High School, Auditorium, 9750 USH 8 W, Crandon	Pepin	Pepin County Government Center, County Board Room, 740 7th Avenue W., Durand
Grant	Grant Co. Youth & Ag Building, 916 E. Elm Street, Lancaster	Pierce	Ellsworth Senior High School, Auditorium, 323 Hillcrest, Ellsworth
Green	Monroe Middle School 1510 13 th Street, Monroe	Polk	Unity High School, Gymnasium, 1908 150th Street/Hwy 46, Balsam Lake
Green Lake .	Green Lake High School, Small Gym, 612 Mill St., Green Lake	Portage	Ben Franklin Middle School, Auditorium, 2000 Polk Street, Stevens Point
Iowa	Dodgeville High School, Gymnasium, 912 West Chapel Street, Dodgeville	Price	Price County Courthouse, County Board Rm., 126 Cherry Street, Phillips
Iron	Mercer Community Center, 2648 W. Margaret Street, Mercer	Racine	Union Grove High School, Gymnasium, 3433 S. Colony Ave., Union Grove
		Richland . . .	Richland County Courthouse, 181 West Seminary, Richland Center
		Rock	Janesville Moose Lodge, 2701 Rockport Ave., Janesville
		Rusk	Ladysmith High School, Auditorium, 1700 Edgewood Ave., East Ladysmith

Sauk	UW Baraboo, R.G. Brown Theater, 1006 Connie Road, Baraboo
Sawyer	Winter High School, Auditorium, 6585 West Grove Street, Winter
Shawano . . .	Shawano Middle School, LGI Room, 1050 S. Union Street, Shawano
Sheboygan .	Sheboygan Falls High School, 220 Amherst Avenue, Sheboygan Falls
St. Croix . . .	WI Indianhead Technical College, Cashman Conf. Room, 1019 S. Knowles Ave. New Richmond
Taylor	Taylor Co. Fairgrounds, Multipurpose Bldg., State Hwy 13 and Hwy 64 Intersection, Medford
Trempealeau	Whitehall City Center, Gymnasium, 36245 Park Street, Whitehall
Vernon	Viroqua High School 100 Blackhawk Drive, Viroqua
Vilas	Plum Lake Community Center, Golf Course Road, Sayner
Walworth . .	Delavan/Darien High School, Auditorium, 150 Cummings, Delavan
Washburn . .	WI Ag Research Station W6646 Hwy 70, Spooner
Washington .	Washington County Fair Park, Exhibit Hall, 3000 Hwy PV, West Bend
Waukesha . .	Waukesha Co. Tech. College (WCTC), Richard T. Anderson Bldg., 800 Main St., Pewaukee
Waupaca . . .	Waupaca High School, Auditorium, E2325 King Road, Waupaca
Waushara . .	Waushara County Court House, 2 nd Floor Old Courtroom 209 S. St. Marie, Wautoma
Winnebago .	Webster Stanley Auditorium, 915 Hazel Street, Oshkosh
Wood	Pittsville High School, Auditorium, 5459 Elementary Ave., Pittsville

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kari Lee-Zimmermann at (608) 266-2952 with specific information on your request by April 7, 2008.

Agency Contact Person, Copy of Rule, and Submission of Written Comments

The proposed rules and fiscal estimates may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed hunting and trapping regulations may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Written comments on the proposed fishing regulations may be submitted via U.S. mail to Mr. Joe Hennessy, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707. Written comments shall be postmarked not later than April 15, 2008. Written comments whether submitted electronically or by U.S. mail will NOT, however, be counted as spring hearing votes.

Analysis Prepared by the Department of Natural Resources

The proposed rules, **CR 08-011**, relating to hunting and trapping, and the use of department managed land will:

1. Extend the raccoon trapping and hunting seasons by 15 days to coincide with the closing of the coyote trapping and fox trapping and hunting seasons.
2. Establish definitions for live trap and body gripping type trap.
3. Establish a new population goal for bobcat of 2,500 animals, plus-or-minus 20%.
4. Add an additional year to the experimental fall season for hunting wild turkeys with the aid of dogs in 9 counties in southwest Wisconsin.
5. Eliminate one fisher trapping closed area in Vilas, Forest and Oneida counties, another in Bayfield, Sawyer and Ashland counties, and establish unique trapping regulations to protect pine marten in those areas.
6. Allow dog training with captive wild animals by license during the period when dog training is otherwise prohibited in the northern restricted zone.
7. Prohibit paintball activity on department-managed lands except when approved by the department.
8. Establish a fee of \$2.75 for a duplicate copy of the trapper education course certificate of accomplishment and make them available from any DNR license vendor.

The proposed rules, **CR 08-010**, relating to fishing on inland, outlying and boundary waters of Wisconsin will:

1. Reduce daily bag limits from 2 fish to 1 fish and possession limits from 10 fish to 2 fish for flathead catfish taken from Winnebago system waters and implement a 30-inch minimum size restriction for flathead catfish taken from these waters, with an additional provision prohibiting harvest of flathead catfish between 36 and 42 inches in length.
2. Clarify the difference between landing nets and dip nets and how landing nets may be used for fishing in inland, outlying, and boundary waters of the state.
3. Require that anglers use artificial lures with barbless hooks while fishing for bass during a catch-and-release season for bass.
4. Establish a special catch-and-release season for muskellunge in inland waters north of US highway 10 and require that anglers use artificial lures with barbless hooks while fishing for muskellunge during a catch-and-release season for muskellunge.
5. Extend the end of the open season for muskellunge in waters south of US highway 10 from November 30 to December 31.
6. Remove special regulations for walleye in English lake, Ashland county.
7. Implement a 3 fish aggregate daily bag limit for largemouth and smallmouth bass in Big Dummy and Little Dummy lakes, Barron county, with no minimum size limit but no fish between 14 and 18 inches may be kept and only one fish larger than 18 inches may be kept.
8. Implement a 2 fish daily bag limit for northern pike, with a 26 inch minimum size restriction.
9. Establish Manger lagoon, Brown county, as an urban fishing water, Note: Complaint forms are available from the Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department's website at: <http://drl.wi.gov>.

10. Remove special regulations for walleye in Boot, Long, and McDermott lakes, Iron county.
11. Increase the maximum allowable size for catfish in Yellowstone lake, Lafayette county, from 18 to 24 inches.
12. Simplify muskellunge regulations on the Black river in LaCrosse, Monroe, and Trempealeau counties by increasing the minimum length restriction to 40 inches.
13. Establish Remington lake, Langlade county, as an urban fishing water, in which only children younger than 16 years of age or disabled persons may fish, and implement a 1 fish aggregate daily bag limit for largemouth and smallmouth bass, northern pike, walleye, sauger or hybrid, a 10 fish aggregate daily bag limit for panfish, and a 3 fish aggregate daily bag limit for trout.
14. Increase the minimum size restriction for muskellunge harvest from 34 to 50 inches in Enterprise lake, Langlade and Lincoln counties.
15. Change walleye regulations in Enterprise lake, Langlade and Lincoln counties, replace a restriction that only 1 fish larger than 14 inches may be kept with a restriction that no fish between 14 and 18 inches may be kept but that 1 larger than 18 inches may be kept. Also reduce the daily bag limit from 5 walleye to 3 walleye in Enterprise lake.
16. Establish Mirror lake, Lincoln county, as an urban fishing water, in which only children younger than 16 years of age or disabled persons may fish, and implement a 1 fish aggregate daily bag limit for largemouth and smallmouth bass, northern pike, walleye, sauger or hybrid, a 10 fish aggregate daily bag limit for panfish, and a 3 fish aggregate daily bag limit for trout.
17. Remove the continuous open season for bass, northern pike, and walleye, sauger and their hybrids in the Wisconsin river in Lincoln and Oneida counties, downstream from the St. Regis dam in Oneida county, and place those waters under the department's standard fishing seasons for those species.
18. Increase the minimum size restriction for brook trout in the Prairie river, Lincoln county, from R & H road downstream to STH 17, from 8 to 12 inches, increases the minimum size restriction for brown trout from 12 to 18 inches, and reduces the daily bag limit from 3 trout to 1 trout, until April 1, 2011.
19. Increase the minimum size restriction for muskellunge harvest from 40 to 50 inches in Bone lake, Polk county.
20. Increase the minimum size restriction for muskellunge harvest from 45 to 50 inches in the Chippewa flowage, Sawyer county.
21. Reduce the minimum size restriction for walleye in Sand lake, Sawyer county, from 28 inches to 18 inches and increases the daily bag limit from 1 fish to 3 fish.
22. Increase the minimum size restriction for largemouth and smallmouth bass from 14 inches to 18 inches on Big Portage, Presque Isle, Van Vliet, Averill, and Star lakes, Vilas county, and reduce the daily bag limit from 5 fish to 1 fish.
23. Extend the sunset clause on special regulations for muskellunge and walleye in Sparkling lake, Vilas county from 2008–09 to 2013–14.
24. Remove special regulations for trout in Long lake (Town of Saxeville), Waushara county.
25. Clarify regulations on Green Bay tributaries by increasing the daily bag limit for walleye, sauger and hybrids from 3

fish to 5 fish and increasing the minimum size restriction from no minimum to 15 inches.

26. Increase the daily bag limit for sauger in Lake Winnebago system waters from 0 fish to 1 fish.

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266–1959.

Environmental Impact

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

Fiscal Estimate for CR 08–011, relating to hunting and trapping, and the use of department managed land.

Summary

This rule proposal will have a negligible fiscal impact. The department already enforces trapping regulations during the period in February when raccoon hunting and trapping will be allowed. Trap type definitions and increased bobcat population goals will update furbearer management programs but do not significantly alter department activities. The department already enforces turkey hunting regulations and regulations related to firearms and airgun discharge on public lands.

New signs will be needed to indicate that dryland trapping is allowed in the Marten Closed Area. Dependable department partners, the Wisconsin Trappers Association, have volunteered to assist the department by placing new signs. It is anticipated that new signs and posts will cost approximately \$800.

State fiscal effect

Indeterminate

Local fiscal effect

None

Fund sources affected

SEG

Affected Chapter 20 Appropriations

Section 20.370 (1) (mu), Stats.

Long-range fiscal implications

No long range fiscal implications are anticipated. These rule proposals modify and modernize management and enforcement activities but do not require significant new efforts.

Fiscal Estimate for CR 08–010, relating to fishing on inland, outlying and boundary waters of Wisconsin

State fiscal effect

None

Local fiscal effect

None

Long-range fiscal implications

None

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1— **CR 08–012**

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 29.014, 29.041 and 29.192(3), Stats., interpreting ss. 23.09 (2) (intro.), 29.014 (1), 29.041 and 227.11 (2) (a), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 20 and 21, Wis. Adm. Code, relating to hook and line harvest of lake sturgeon.

Hearing Information

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

March 12, 2008 Wednesday at 3:00 p.m.	Conference Room DNR Office 875 South 4 th Avenue Park Falls
March 13, 2008 Thursday at 3:00 p.m.	Conference Room DNR Office 300 W. Clairemont Avenue Eau Claire
March 14, 2008 Friday at 3:00 p.m.	Room G09 GEF #2 State Office Bldg. 101 S. Webster Street Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Karl Scheidegger at (608) 267-9426 with specific information on your request at least 10 days before the date of the scheduled hearing.

Agency Contact Person, Copy of Rule, and Submission of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Karl Scheidegger, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until March 14, 2008. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Scheidegger.

Analysis Prepared by Department of Natural Resources

The proposed rule change would increase the minimum length limit of lake sturgeon from its current 50" limit to a 60" limit and reduce the season length from 6 weeks to 4 weeks on all inland waters where lake sturgeon are now harvested and the lower St. Croix River on the Minnesota–Wisconsin boundary waters. The regulation change would significantly reduce the number of lake sturgeon harvested each year (up to 80%). The rule change would likely affect sturgeon anglers' (both resident and nonresident) opportunities to harvest a fish, but will ultimately provide protection of Wisconsin's sturgeon populations.

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

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

Fiscal Estimate

State fiscal effect

None

Local fiscal effect

None

Long-range fiscal implications

None

Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1— **CR 08–013**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.063, 29.177 and 227.11, Stats., interpreting ss. 29.063 and 29.177, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 10, 12 and 19, Wis. Adm. Code, relating to deer hunting as it relates to the management of chronic wasting disease.

Hearing Information

NOTICE IS HEREBY FURTHER GIVEN that the Department will hold an open house from 5:00 p.m. to 7:00 p.m. prior to each hearing. Department staff will be available to answer questions regarding the proposed rules.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held at 7:00 p.m. on:

March 18, 2008 Tuesday	Oak Hall Conf. Room Fitchburg Community Center 5510 Lacy Road Fitchburg
	Big Bend/Vernon Fire Station No. 3 W223 S7475 Woodland Lane Big Bend
March 19, 2008 Wednesday	A4 Lecture Hall UW–Baraboo–Sauk Co. Campus 1001 Connie Road Baraboo
	Black Hawk Tech. College Central Campus–Main Entrance 6004 S. County Road G Janesville

March 20, 2008
Thursday
Room CB123 & C&D
Northeast Wis. Tech College
2740 W. Mason
Green Bay (parking in Lot F)

James Williams Middle School
915 Acacia Lane
Rhineland

Dodger Bowl
318 King Street
Dodgeville

March 24, 2008
Monday
Conference Room
DNR Service Center
1300 W. Clairemont
Eau Claire

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

Agency Contact Person, Copy of Rule, and Submission of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Alan Crossley, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until March 25, 2008. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Crossley.

Analysis Prepared by Department of Natural Resources

This rule order includes the following proposed changes in the CWD hunting rules:

1. Combine the Disease Eradication Zone (DEZ) and Herd Reduction Zone (HRZ) into one zone, called the CWD Management Zone (CWD-MZ) whose outer boundary is defined by the current HRZ boundary.
2. Instead of a deer population goal of 5 deer/square mile in the DEZ and 10 deer/square mile in the HRZ, establish interim deer population goals for each DMU contained within the CWD-MZ. Those interim deer population goals would be established through a 20% reduction in the goal for those DMUs in 2001, with the exception that DMUs that had goals less than 20 in 2001, remain unchanged.
3. Authorize the use of rifles within the CWD Management Zone with the exception of metro units.
4. Restrict the import of whole cervid carcasses (deer, elk & moose) into Wisconsin from states or provinces that have CWD and restrict whole deer carcass movement from the CWD-MZ to elsewhere in the state. The Department recommends that the effective date of the carcass movement restrictions be delayed until September 1, 2009 to allow hunters time to research and evaluate their options for complying with the movement restriction if they live outside of the CWD-MZ.

5. Allow the harvest of white and albino deer in the entire CWD-MZ (formerly restricted to the DEZ)
6. Allow the shooting of deer from a farm tractor or implement of husbandry in the entire CWD-MZ (formerly restricted to the DEZ)
7. Establish a deer season framework in the CWD-MZ that is more consistent with the season framework that has been used for DMUs that are over goal in the rest of the state. Under this proposal, hunters in the CWD Zones could expect the following season framework in 2008:
 - Archery season: September 13 to January 4
 - Youth hunt: October 4-5
 - Early firearm season: antlerless only October 16-19
 - 9-day firearm deer season: November 22-30
 - 10-day muzzleloader season: December 1-10
 - Late firearm season: antlerless only December 11-14
 - Holiday firearm season: antlerless only December 26-January 4
 - Unlimited Earn-a-buck regulations in effect with pre-qualification

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

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

Fiscal Estimate

Summary

Since 2002 the department has had rules in place to manage and control CWD. In previous years the department has added significant areas of southern Wisconsin to one of the designated CWD management zones which may have added to added costs or reduced revenues to the department. However, this year the department is combining two zones into one but is not expanding the area of the state where CWD is managed in the deer herd. The zones will have consistent seasons and regulations and no new costs are expected. This change will reduce simplify regulations, reduce confusion, and may improve department efficiency.

Another provision of this rule would prohibit the importation of cervid animal carcasses from the CWD management zone or other states where CWD has been identified. The importation of meat, hides, antlers, and cleaned skull would be allowed however, so this provision is not expected to significantly influence the spending or travel activities of hunters.

These proposed modifications do not result in an increase or decrease in appropriations, revenues, or costs for the department.

State fiscal effect

None

Local fiscal effect

None

Long-range fiscal implications

Long range costs are dependant on the duration of department efforts and whether the size of the area impacted by CWD regulations shrinks or expands.

Notice of Hearing**Natural Resources****Fish, Game, etc., Chs. NR 1—
CR 08-014**

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 23.09 (2) and 227.11 (2) (a), Stats., interpreting s. 23.09 (2), Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 58, Wis. Adm. Code, relating to the implementation and administration of grants for endangered resources.

Hearing Information

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on:

March 12, 2008 Room 613
Wednesday at 4:00 p.m. GEF #2 State Office Bldg.
101 South Webster Street
Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Heidi Nelson at (608) 267-0797 with specific information on your request at least 10 days before the date of the scheduled hearing.

Agency Contact Person, Copy of Rule, and Submission of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Heidi Nelson, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until March 19, 2008. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Nelson.

Analysis Prepared by Department of Natural Resources

The Department is revising ch. NR 58, the Endangered Resources Small Grants administrative rule, to add provisions establishing a grant program to provide financial assistance to the public, nongovernmental organizations, and public agencies to protect species of greatest conservation need and their habitat.

The State Wildlife Grants Program, funded through a grant from the U.S. Fish and Wildlife Service, will provide funding for projects that protect species of greatest conservation need and their habitat, and that implement the Wildlife Action Plan. The ultimate goal of the program is to prevent the decline of wildlife species to a point where they are endangered. Projects funded by this grant program will also help protect and restore important land and water resources, allow for the

collection and evaluation of information necessary to be able to determine which wildlife species are in trouble, and support efforts to establish and maintain partnerships. By emphasizing a proactive approach, the State Wildlife Grants Program supports efforts to take action to protect declining wildlife species before they become too rare and costly to protect.

The new program will provide a 50% to 100% cost share to agencies, landowners and organizations who meet the criteria of the program.

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

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

Fiscal Estimate**Summary**

The U.S. Fish and Wildlife Service (USFWS) is providing funding for states through the State Wildlife Grants Program. The program requires the Department to provide a 25% match for planning projects and a 50% match for implementation projects.

The Department currently has a grant agreement with USFWS for federal funding of \$1,806,196 over a two year period. Of this amount, an estimated \$1,079,924, or \$539,962 annually will be used for administrative, development and implementation costs of the program (\$434,962 salary and fringe benefit costs, and \$105,000 in other state operations costs annually). With the proposed rule amendment, the Department will establish and implement Wisconsin's State Wildlife Grants Program to provide funding through a grant process to governmental agencies, educational institutions, nonprofit organizations and individuals. Funding will be used to protect Species of Greatest Conservation Need and their habitats and help implement the Wildlife Action Plan. Total funding for grants is estimated to be \$726,272 over the 2-year period, or \$363,136 annually.

The grants may include a match of up to 50% by grantees which is expected to cover much of the state match for the federal grant. The remaining state match will be provided through: 1) existing staff time spent on administration of the State Wildlife Grants Program, including outreach and assistance to grant applicants, 2) existing staff time spent on projects to protect Species of Greatest Conservation Need and their habitats, and 3) a land bank that was established specifically for the purpose of helping match the federal State Wildlife Grant. State matching costs are indeterminate and not identified here, but are within existing budgets that may be re-directed to support grant activities.

State fiscal effect

There will be an increase in existing revenues. Increased costs may be possible to absorb within the agency's budget.

Local fiscal effect

None

Long-range fiscal implications

None

Notice of Hearing**Public Instruction****CR 08-007**

NOTICE IS HEREBY GIVEN That pursuant to s. 227.11 (2) (a), Stats., and interpreting s. 115.28 (46), Stats., the Department of Public Instruction will hold public hearings as follows to consider proposed emergency and permanent rules creating Chapter PI 31, relating to grants for science, technology, engineering, and mathematics programs.

Hearing Information

The hearings will be held as follows:

March 18, 2008 Madison
3:00 p.m. – 5:00 p.m. GEF 3 Building
125 South Webster Street
Room 041

March 21, 2008 Madison
11:00 a.m. – 1:00 p.m. GEF 3 Building
125 South Webster Street
Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Sharon Wendt, Director, Career and Technical Education, at (608) 267-9251, sharon.wendt@dpi.wi.gov, or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copy of Rule

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.wi.gov or by writing to:

Lori Slauson
Administrative Rules and Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Submission of Written Comments

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than March 27, 2008, will be given the same consideration as testimony presented at the hearing.

Agency Contact Person

Sharon Wendt, Director, Career and Technical Education, (608) 267-9251, sharon.wendt@dpi.wi.gov.

Analysis by the Department of Public Instruction**Statute interpreted**

Section 115.28 (46), Stats.

Statutory authority

Section 227.11 (2) (a), Stats.

Explanation of agency authority

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Section 115.28 (46), Stats., is a new grant program created under 2007 Wisconsin Act 20, that provides \$61,500 annually to school districts for science, technology, engineering, and mathematics programs.

Because this is a grant program, rules need to be in place so applicants know what criteria are being used in the awarding of funds.

The department will promulgate these rules as emergency rules effective January 30, 2008, in order to establish application criteria and procedures in time for the program to operate in the second semester of the school year.

Related statute or rule

None.

Plain language analysis

2007 Wisconsin Act 20, the biennial budget bill, created a new competitive grant program under s. 115.28 (46), Stats., appropriating \$61,500 annually for school districts to: 1) develop innovative instructional programs in science, technology, engineering and mathematics; 2) support pupils who are typically underrepresented in these subjects; and 3) increase the academic achievement of pupils in those subjects.

A new rule chapter must be created to implement this grant program.

Emergency rules were promulgated effective January 30, 2008, in order to establish application criteria and procedures in time for the program to operate in the second semester of the school year.

Comparison with federal regulations

N/A

Comparison with rules in adjacent states

Illinois – does not currently have a rule relating to grant programs for STEM. It does have a rule that awards grants to school districts to provide classroom computers and student lap tops.

Minnesota, Iowa and Michigan do not have rules relating to grant programs for STEM.

Summary of factual data and analytical methodologies

Wisconsin faces the challenge of developing an economy that is more knowledge based than is presently the case. Encouraging a significantly higher number of students to consider careers in science, technology, engineering and math (STEM) could be an important step in remedying this situation. Equally important, given STEM-related advances and the influence of those advances on the economy, there is a great need for all Wisconsin students to have a solid foundation in these areas of study. Finally and perhaps most critically, there are troublesome participation gaps in STEM that have the potential to widen the achievement gap if they are not successfully addressed.

Section 115.28 (46), Stats., allows grants to be awarded to school districts to, in part, increase the participation of underserved students and the academic achievement of pupils in STEM. In order to overcome some of the issues resulting in achievement and participation gaps in STEM courses and career pursuits, and to better prepare Wisconsin students for meaningful careers in STEM-related fields, the rules expand the definition of “academic achievement” to include the achievement of pupils in STEM courses, career or technical applications.

Because 2007 Wisconsin Act 20 creating this grant program became effective October 27, 2007, the rule established an application deadline of February 15 to expedite the awarding of funds in 2007–08. In subsequent years, applications will be due May 1 to coincide with application timelines established for other grants awarded by the department.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Fiscal Estimate**Summary**

Under s. 20.255 (2) (fz), Stats., 2007 Wisconsin Act 20

appropriated \$61,500 annually for school districts to 1) develop innovative instructional programs in science, technology, engineering and mathematics; 2) support pupils who are typically underrepresented in these subjects; and 3) increase the academic achievement of pupils in those subjects.

The rules establish criteria and procedures for awarding grants under this program. The rules will have no fiscal effect on local governments or small businesses as defined in s. 227.114 (1) (a), Stats.

The costs associated with administering this grant program will be absorbed by the department.

Anticipated costs incurred by private sector

None.

Submittal of Proposed Rules to the Legislature

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

Administration

CR 07–106

A rule-making order creating ch. Adm 49, relating to plan review fees.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 07–075

A rule-making order amending s. NR 25.06 (2) (b) 1., relating to commercial fishing for yellow perch in zone 1 (Green Bay).

Natural Resources

Air Pollution Control, Chs. NR 400—

CR 07–088

A rule-making order creating s. NR 462.015, relating to national emission standards for hazardous air pollutants for industrial, commercial and institutional boilers and process heaters and potentially affecting small business.

Natural Resources

Air Pollution Control, Chs. NR 400—

CR 07–017

A rule-making order creating ch. NR 433 and s. NR 484.04 (11m), relating to identification of sources subject to the Best Available Retrofit Technology (BART) requirements for visibility protection and the determination of BART for those sources.

Regulation and Licensing

CR 07–098

A rule-making order revising ch. RL 87, Appendix I; and creating notes following ss. RL 83.01 (3) and 86.01 (2), relating to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

Transportation

CR 07–114

A rule-making order revising ch. Trans 131, relating to the vehicle emission inspection program.

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 07-085**

A rule-making order creating ss. ATCP 21.01 (6p), (6r), and (9), and 21.20, relating to firewood in Wisconsin state parks, voluntary certification of firewood dealers, voluntary treatment of firewood, labeling of treated firewood, and firewood sales representations.
Effective 4-1-08.

Commerce *Small Business Enforcement Discretion,* *Ch. Comm 200* **CR 07-005**

A rule-making order creating ch. Comm 200, relating to small business enforcement discretion, and affecting small businesses.
Effective 4-1-08.

Employee Trust Funds **CR 07-066**

A rule-making order amending ss. ETF 11.06 (1) and 11.12 (2) (b), relating to hearsay evidence in administrative appeal hearings.
Effective 4-1-08.

Employee Trust Funds **CR 07-068**

A rule-making order creating s. ETF 20.37, relating to the status of a non-annuitant Wisconsin Retirement System participant at death, for purposes of determining the applicable death benefit.
Effective 4-1-08.

Funeral Directors Examining Board **CR 07-049**

A rule-making order revising s. FD 4.04, relating to continuing education requirements.
Effective 4-1-08.

Insurance **CR 07-096**

A rule-making order revising ss. Ins 6.50, 6.59, 26.04, and 28.04, relating to creating a limited line of authority for travel insurance, exempting an applicant for a managing general agent's license from examination, and clarifying the procedure for applying for a resident intermediary agent license.
Effective 4-1-08.

Natural Resources *Fish, Game, etc., Chs. NR 1—* **CR 07-056**

A rule-making order revising ch. NR 8 (title) and creating ch. NR 8 subch. I (title) and subch. II, relating to implementation of the wildlife violator compact.
Effective 4-1-08 or on the date on which the department of natural resources becomes a "participating member" under s. 29.03 (8), Stats., whichever is later.

Public Instruction **CR 07-057**

A rule-making order amending s. PI 8.01 (2) (t) 2., relating to the identification of gifted and talented pupils.
Effective 4-1-08.

Workforce Development *Unemployment Insurance, Chs. DWD 100-150* **CR 07-054**

A rule-making order revising ss. DWD 128.01 and 128.03, and repealing s. DWD 128.02, relating to unemployment insurance rules for determining a claimant's ability and availability for work.
Effective 4-1-08.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in the February 29, 2008, 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.

Cemetery Board CR 07-050

A rule-making order repealing chs. RL 50 and 51, and creating chs. CB 1 and 2, relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were reported.

Commerce CR 06-120

A rule-making order revising chs. Comm 5, 7, 10, 14, 16, 18, 61 to 65, 75 and 82, creating ch. Comm 66 and repealing chs. Comm 9 and 70, relating to the Fire Prevention Code, the Wisconsin Commercial Building Code, and related codes. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

The requirements of the Fire Prevention Code and the Commercial Building Code impact all businesses, regardless of size, utilizing public buildings and places of employment in Wisconsin. The codes impact a variety of businesses, including small businesses, particularly those businesses that design, build, or maintain commercial buildings; provide or produce building materials or components; own commercial buildings; or occupy commercial buildings. It is indeterminable how many small businesses may be impacted by the rules in some manner.

The potential effects of the codes occur on two basic levels, administrative and technical. The codes dictate certain administrative procedural requirements that are to be followed in order to acquire various approvals. For the most part, the codes establish numerous technical standards that are to be adhered to when designing, constructing, using, operating or maintaining a commercial building in order to protect public health, safety and welfare.

The proposed rule revisions do not substantially modify the current administrative requirements of the Fire Prevention Code or the Commercial Building Code. Therefore, this type of impact on small businesses will not substantially change.

How the codes' technical standards may impact small businesses is dependent upon many variables. The proposed revisions for the Commercial Building Code do not apply retroactively to existing buildings. The proposed revisions would apply when a new building or modification to an

existing building is proposed. The various advisory councils did not identify major economic concerns with the proposed technical revisions updating the Fire Prevention Code or the Commercial Building Code to the latest national model codes as amended in this proposal.

Summary of Comments by Legislative Review Committees

The Assembly Committee on Housing pursuant to s. 227.19 (4) (d) 6., Stats., objected in part to the proposed rules relating to automatic fire sprinkler protection for residential occupancies.

Commerce CR 07-069

A rule-making order revising chs. Comm 5 and 82, relating to the assessment of forfeitures for violating plumbing licensing requirements, the installation of tracer wire for locating non-metallic underground pipe, and affecting small businesses. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

Section 145.02, Stats., grants the Department of Commerce general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective standards for plumbing including the licensing of individuals to install plumbing. Section 145.06, Stats., specifies when and what types of plumbing licenses are needed for various plumbing activities. Section 145.12 (5), Stats., as affected by 2005 Wisconsin Act 182, allows the Department to directly assess forfeitures to individuals who violate the licensing provisions of s. 145.06, Stats. Section 182.0175 (2r), Stats., as affected by 2005 Wisconsin Act 425 requires the installation of tracer wire or some equally-effective means of locating non-metallic underground sewer and water laterals.

Summary of Comments by Legislative Review Committees

No comments were reported.

Commerce CR 07-086

A rule-making order revising ch. Comm 34, relating to amusement rides and affecting small businesses. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

The rules under the Amusement Ride Code, chapter Comm 34, are intended to facilitate and promote the statutory objective of protecting the safety of amusement ride patrons. The rules establish field attachment or connection redundancy provisions for amusement rides where

passengers donning harnesses are elevated. The rules also require amusement ride owners and operators to obtain liability insurance for their operations.

Summary of Comments by Legislative Review Committees

No comments were reported.

Health and Family Services

CR 07-077

A rule-making order revising ch. HFS 144, relating to the statewide immunization program and affecting small business. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

Day care centers are organized as small businesses [about 95% of the 2,485 group (9 or more children) day care centers in the state are small businesses, as are all of the 3,122 family (4-8 children) day care centers]. Day care centers will experience some increase in workload in tracking compliance with the requirement for pneumococcal conjugate vaccine (PCV), reporting compliance to the Department, and in referring noncompliant students to the district attorney or corporation counsel for enforcement action. It is not known how much workload will increase or its impact, if any, on costs. However, since 85% of children in Wisconsin have already received PCV, the vast majority of day care center students will be compliant with the requirement when it takes effect and will not require warning letters from day care centers or enforcement action by district attorneys. Additionally, the tracking and reporting burden on day care centers will be mitigated by requiring fewer than the maximum number of doses of PCV. Day care centers for many years have been checking for compliance with required immunizations for school entry. They are part of the system for protecting children against diseases that are preventable through administration of approved vaccines.

Day care centers are the only small businesses that the proposed rules will affect. Pursuant to the foregoing analysis, the Department believes that these rules will not have a significant economic impact on day care centers.

Summary of Comments by Legislative Review Committees

No comments were reported.

Health and Family Services

CR 07-090

A rule-making order revising ch. HFS 145, relating to communicable disease list revisions and reporting

communicable diseases, and affecting small business. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

This rulemaking is unlikely to have a significant economic impact on the private sector generally, and any health care facilities or laboratories that may meet the definition of small business in s. 227.114 (1), Stats., in particular. It includes no fees, failure to comply with the rulemaking carries no penalties and communicable disease reporting mechanisms are already in place. Usual costs to the private sector include completing and mailing communicable disease case report forms, or keying-in and transmitting data electronically, to local health departments or the Department. These tasks are frequently performed by the infection control practitioner or clerical staff. Since the largest laboratories will be reporting automatically through electronic laboratory reporting, there will be minimal impact on these laboratories. Requests from the State Epidemiologist or the Local Health Officer for negative test results to justify release from isolation or quarantine are anticipated to be infrequent, as are requests from the State Epidemiologist that specimens to be forwarded to a public health laboratory for confirmatory or investigation purposes.

Summary of Comments by Legislative Review Committees

No comments were reported.

Transportation

CR 07-084

A rule-making order revising ch. Trans 129, relating to motorcycle courses. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

The rule will have minimal effect upon small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Veterans Affairs

CR 07-083

A rule-making order revising ch. VA 2, relating to the tuition reimbursement program. Effective 3-1-08.

Summary of Final Regulatory Flexibility Analysis

The rule will have no effect upon small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative rule revisions and corrections have taken place in **February 2008**, 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

Cemetery Board

Ch. CB 1 (Entire chapter)

Ch. CB 2 (Entire chapter)

Commerce

Ch. Comm 2

S. Comm 2.31 (1) (a)

S. Comm 2.52 (3) and (a), (4) and (8) (b)

Ch. Comm 3

S. Comm 3.03 (5) (d)

Ch. Comm 5

S. Comm 5.12

S. Comm 5.34 (1)

S. Comm 5.61 (1)

Ch. Comm 7 (Entire Chapter)

Ch. Comm 9 (Entire Chapter)

Ch. Comm 10

S. Comm 10.30

Ch. Comm 14 (Entire Chapter)

Ch. Comm 16

S. Comm 16.08 (1)

S. Comm 16.17 (1) (b) and (2) (a)

S. Comm 16.45 (3)

S. Comm 16.48 (2)

Ch. Comm 18

S. Comm 18.1004 (5)

Ch. Comm 34

S. Comm 34.035

S. Comm 34.04 (2)

S. Comm 34.22 (5m)

S. Comm 34.43

Ch. Comm 61

S. Comm 61.02 (3) (b) and (d)

S. Comm 61.03

S. Comm 61.04 (4) to (7)

S. Comm 61.05 (1) to (5)

S. Comm 61.22

S. Comm 61.30 (2) (d)

S. Comm 61.31 (3) (a)

S. Comm 61.36 (1) (a), (2) and (b)

S. Comm 61.38

S. Comm 61.40 (4)

S. Comm 61.41 (1)

S. Comm 61.60 (2) (a) and (7)

Ch. Comm 62

S. Comm 62.0001

S. Comm 62.0100

S. Comm 62.0202 (1) and (c), (d) and (e) to (j), (3) and (5)

S. Comm 62.0302

S. Comm 62.0303

S. Comm 62.0305

S. Comm 62.0307

S. Comm 62.0310 (1) and (2)

S. Comm 62.0400 (1), (2) (a), (b) and (c)

S. Comm 62.0403

S. Comm 62.0406 (1) and (2)

S. Comm 62.0415 (2)

S. Comm 62.0509

S. Comm 62.0603 (1) and (2)

S. Comm 62.0706

S. Comm 62.0707

S. Comm 62.0711

S. Comm 62.0712

S. Comm 62.0715

S. Comm 62.0716

S. Comm 62.0719

S. Comm 62.0720

S. Comm 62.0903 (1m), (5), (6), (6m), (11), (12), (13) and (14)

S. Comm 62.0905

S. Comm 62.0907 (3) to (7)

S. Comm 62.0909 (5) to (7)

S. Comm 62.0910 (1) and (2) and (3) to (6)

S. Comm 62.1003

S. Comm 62.1004

S. Comm 62.1005

S. Comm 62.1006

S. Comm 62.1007

S. Comm 62.1008

S. Comm 62.1009

S. Comm 62.1014

S. Comm 62.1015

S. Comm 62.1016

S. Comm 62.1017

S. Comm 62.1019

S. Comm 62.1020

S. Comm 62.1100

S. Comm 62.1101

S. Comm 62.1102

S. Comm 62.1103

S. Comm 62.1104

S. Comm 62.1105

S. Comm 62.1106
 S. Comm 62.1107
 S. Comm 62.1108
 S. Comm 62.1109
 S. Comm 62.1110
 S. Comm 62.1203
 S. Comm 62.1204
 S. Comm 62.1205
 S. Comm 62.1206
 S. Comm 62.1209
 S. Comm 62.1210
 S. Comm 62.1403
 S. Comm 62.1405 (2) (c)
 S. Comm 62.1407 (2), (3) and (4)
 S. Comm 62.1505
 S. Comm 62.1603 (1) to (6)
 S. Comm 62.1607 (1), (4) and (5)
 S. Comm 62.1608 (1), (2), (3) and (4)
 S. Comm 62.1609
 S. Comm 62.1610
 S. Comm 62.1613
 S. Comm 62.1614
 S. Comm 62.1615
 S. Comm 62.1616
 S. Comm 62.1617
 S. Comm 62.1621
 S. Comm 62.1700
 S. Comm 62.1802 (3)
 S. Comm 62.1803
 S. Comm 62.1805 (2)
 S. Comm 62.1807
 S. Comm 62.1808
 S. Comm 62.1809
 S. Comm 62.1810
 S. Comm 62.1901
 S. Comm 62.1903
 S. Comm 62.1908
 S. Comm 62.1910
 S. Comm 62.1913
 S. Comm 62.1914
 S. Comm 62.1915
 S. Comm 62.1916
 S. Comm 62.2101 (1), (2) and (3)
 S. Comm 62.2103
 S. Comm 62.2108
 S. Comm 62.2204
 S. Comm 62.2206
 S. Comm 62.2208
 S. Comm 62.2209
 S. Comm 62.2303 (1), (2) and (3)
 S. Comm 62.2304
 S. Comm 62.2306
 S. Comm 62.2308
 S. Comm 62.2406
 S. Comm 62.2407
 S. Comm 62.2408
 S. Comm 62.2701
 S. Comm 62.2900
 S. Comm 62.2901
 S. Comm 62.2902 (1) (c) and (d), (3), (4), (5) to (7), (8) and (9)
 S. Comm 62.3001 (4)

S. Comm 62.3002
 S. Comm 62.3004 (2)
 S. Comm 62.3100 (1) and (2)
 S. Comm 62.3102
 S. Comm 62.3104 (1) and (2)
 S. Comm 62.3400
 S. Comm 62.3406
 S. Comm 62.3408
 S. Comm 62.3500 (1), (2) and (3) (a) and (b) to (e)
 S. Comm 62.3600 (1)

Ch. Comm 63 (Entire Chapter)

Ch. Comm 64

S. Comm 64.0001
 S. Comm 64.0002
 S. Comm 64.0003
 S. Comm 64.0004
 S. Comm 64.0101
 S. Comm 64.0102 (1)
 S. Comm 64.0103
 S. Comm 64.0202 (1) (a), (b) and (d), (2) (a) and (b)
 S. Comm 64.0300
 S. Comm 64.0301 (3) (b), (4) and (5)
 S. Comm 64.0304
 S. Comm 64.0306
 S. Comm 64.0309
 S. Comm 64.0313 (3)
 S. Comm 64.0401 (1), (2), (3), (4) (a) and (b), (5) and (6)
 S. Comm 64.0402
 S. Comm 64.0403 (1), (2) (a), (3), (4) (a) and (b), (6) (a), (c) and (d) and (8)
 S. Comm 64.0404
 S. Comm 64.0501
 S. Comm 64.0506 (1), (2) (a), (b), (bm) and (c)
 S. Comm 64.0507
 S. Comm 64.0514
 S. Comm 64.0601
 S. Comm 64.0602
 S. Comm 64.0603
 S. Comm 64.0604
 S. Comm 64.0605
 S. Comm 64.0607
 S. Comm 64.0702 (1) and (2)
 S. Comm 64.0801 (2) and (3)
 S. Comm 64.0900
 S. Comm 64.1001
 S. Comm 64.1201
 S. Comm 64.1300
 S. Comm 64.1500 (1) and (2) (a) and (c)

Ch. Comm 65

S. Comm 65.0001
 S. Comm 65.0002
 S. Comm 65.0003
 S. Comm 65.0004
 S. Comm 65.0101
 S. Comm 65.0202
 S. Comm 65.0300
 S. Comm 65.0301 (1)
 S. Comm 65.0304
 S. Comm 65.0305
 S. Comm 65.0306
 S. Comm 65.0503
 S. Comm 65.0609

S. Comm 65.0610
 S. Comm 65.0617
 S. Comm 65.0620
 S. Comm 65.0621
 S. Comm 65.0629
 S. Comm 65.0630
 S. Comm 65.0631
 S. Comm 65.0632
 S. Comm 65.0700
 S. Comm 65.0800
 S. Comm 65.0900

Ch. Comm 66 (Entire Chapter)**Ch. Comm 70 (Entire Chapter)****Ch. Comm 75**

S. Comm 75.001 (1) (c) to (e) and (2)

Ch. Comm 82

S. Comm 82.30 (11) (h)
 S. Comm 82.36 (7) (d)
 S. Comm 82.40 (3) (e) and (8) (k)

Health and Family Services**Ch. HFS 144**

S. HFS 144.01 (1)
 S. HFS 144.02 (3), (6m) and (14)
 S. HFS 144.03 (2) (a), (f), (h), (i), (3), (3m), (10) (a)
 and (b) and Table 144.03-A
 S. HFS 144.09 (1) (d)

Ch. HFS 145

S. HFS 145.03 (19) and (20)

S. HFS 145.04 (1) (bg), (br), (cm), (2) (b), and (3) (c)
 S. HFS 145.05 (2) and (3)
 S. HFS 145.10 (1)
 S. HFS 145.22

Regulation and Licensing**Ch. RL 50 (Entire chapter)****Ch. RL 51 (Entire chapter)****Transportation****Ch. Trans 129**

S. Trans 129.01 (intro.) and (2)
 S. Trans 129.02 (1) and (2) (d)
 S. Trans 129.03 (1) (b)
 S. Trans 129.08 (1) (a)
 S. Trans 129.09 (1) (f), (2) (e) and (3)
 S. Trans 129.10 (1), (2) (b) to (e), (4) (c)
 S. Trans 129.11
 S. Trans 129.12 (1) (j)
 S. Trans 129.15 (2) (c)
 S. Trans 129.19
 S. Trans 129.20
 S. Trans 129.21
 S. Trans 129.22

Veterans Affairs**Ch. VA 2**

S. VA 2.02 (3) (b)

Editorial corrections

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

Commerce**Ch. Comm 10**

S. Comm 10.26 (2) (intro.)
 S. Comm 10.415 (5) (b)
 S. Comm 10.47 (1)
 S. Comm 10.76

Ch. Comm 34

S. Comm 34.04 (2) (a) to (c)
 S. Comm 34.23 (2) (a)
 S. Comm 34.28
 S. Comm 34.39

Ch. Comm 61

S. Comm 61.05
 S. Comm 61.60 (2) (c) and (d)

Ch. Comm 62

S. Comm 62.0202 (2) (c)
 S. Comm 62.0400 (2)
 S. Comm 62.0903 (6) (a) and (d) and (11) (a)
 S. Comm 62.0910 (2)
 S. Comm 62.1014 (2)
 S. Comm 62.1019 (3)
 S. Comm 62.2206

Ch. Comm 63

S. Comm 63.0503 (9)

Ch. Comm 64

S. Comm 64.0102 (2) (intro.)
 S. Comm 64.0202 (2)

Ch. Comm 65

S. Comm 65.0900

Ch. Comm 66

S. Comm 66.0202 (2)
 S. Comm 66.0711
 S. Comm 66.0808

Ch. Comm 82

S. Comm 82.10 (2) (b)
 S. Comm 82.50 (3) (b)

Health and Family Services**Ch. HFS 133**

S. HFS 133.09 (3) (a)

Ch. HFS 145

S. HFS 145.06 (2) (d)

Sections Affected by Corrections Not Published

Corrections made under s. 13.92 (4) (b) 7., Stats., identified in this Wis. Adm. Register.

Subscriber's note: Please make corrections (manually) in your printed code. The affected sections are shown as corrected on the Legislative Reference Bureau Internet site, [Http://www.legis.state.wi.us/rsb/](http://www.legis.state.wi.us/rsb/), and on the WisLaw® CD-ROM. Printed code will be shown as corrected in its next printing.

Location of invalid cross-reference	Invalid cross-reference	Correction
HFS 39.03 (11)	Comm 14.02 (3)	Comm 14.03 (4)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 234. 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 Jason Lemke of the United States Army Who Lost His Life While Serving His Country.

Executive Order 235. 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 Private First Class Timothy Hanson of the United States Army Who Lost His Life While Serving His Country.

Executive Order 236. 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 Sergeant First Class Matthew Pionk of the United States Army Who Lost His Life During Operation Iraqi Freedom.

Executive Order 237. 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 Private First Class Keith Lloyd of the United States Army Who Lost His Life During Operation Iraqi Freedom.

Executive Order 238. Relating to a Proclamation of a State of Emergency relating to the Transportation of Abrasives or Salt for Highway Winter Maintenance.

Executive Order 239. Relating to a Proclamation Declaring a State of Emergency.

The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, Wisconsin 53707-7840

First Class

U.S. POSTAGE PAID

Madison, Wisconsin

Permit Number 1369

First Class Mail

Dated Material. Please Do Not Delay!