

Wisconsin Administrative Register

No. 635



Publication Date: November 30, 2008

Effective Date: December 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.wisconsin.gov

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**

Children and Families:

(Formerly Workforce Development)

Creates ss. DWD 40.02 and 40.05 and DWD 40 Appendix D, relating to the establishment of birth cost orders based on child support guidelines. **EmR0821**

Commerce:

*Uniform Dwelling, Chs. Comm 20–25**Wisconsin Commercial Building Code, Chs. Comm 60–66*

Revises Chs. Comm 20, 21, 62 and 66, relating to carbon monoxide alarms and affecting small business. **EmR0826**

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

Revises Ch. Comm 108 and s. Comm 154.06 (intro.), relating to emergency assistance grants in the community development block grant program, and affecting small businesses. **EmR0823**

Creates s. Comm 113.03 (4), relating to allocation of volume cap on tax-exempt private activity bonds. **EmR0831**

Corrections:

Creates s. DOC 332.20, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking. **EmR0835** *[First Appearance]*

Financial Institutions — Securities:

Revises Chs. DFI–Sec 4, 5 and 10, relating to misleading designations or certifications regarding special expertise in the financial or retirement needs of seniors. **EmR0829**

Government Accountability Board:

Repeals and recreates Ch. GAB 4, relating to observers at a polling place or other location where votes are being cast, counted or recounted. **EmR0830**

Health Services:

(Formerly Health and Family Services)

Mgmt. & Technology & Strategic Finance, Chs. HFS 1—

Revises Ch. HFS 12, relating to background checks of individuals who provide personal care services, and affecting small businesses. **EmR0832**

Revises s. DHS 10.23, relating to confidentiality requirements of the Family Care program. **EmR0834** *[First Appearance]*

Health, Chs. HFS 110—

Creates Ch. HFS 119, relating to training and qualifications for EMTs, first responders, and individuals providing instruction. **EmR0825**

Military Affairs — Wisconsin Emergency Management:

Revises Ch. WEM 1, relating to fee revisions to facilities housing hazardous chemicals, hazardous substances, and extremely hazardous substances. **EmR0836** *[First Appearance]*

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Revises ss. NR 10.01 (1) and 10.06 (5), relating to the 2008 migratory game bird seasons and waterfowl hunting zones. **EmR0824**

	<p><i>Environmental Protection — General, Chs. NR 100—</i> Revises Ch. NR 198, relating to grants for the control of aquatic invasive species. EmR0809</p>
Public Instruction:	<p>Revises Ch. PI 37, relating to grants for national teacher certification and master educator licensure. EmR0813</p> <p>Revises Ch. PI 30, relating to state special education aid for certain pupil services personnel. EmR0816</p>
Regulation and Licensing:	<p>Revises s. RL 161.04, relating to examinations for substance abuse professionals. EmR0819</p> <p>Creates s. RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker. EmR0827</p> <p>Revises ss. RL 180.02 and 181.01, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife. EmR0828</p>
Revenue:	<p>Creates ss. Tax 8.03 and 8.05, relating to registration of wine collectors and the creation and organization of small winery cooperative wholesalers. EmR0820</p>
Transportation:	<p>Creates Ch. Trans 263, relating to multiple trip overweight permits for vehicles transporting granular roofing materials. EmR0818</p> <p>Revises Chs. Trans 325, 326 and 327, relating to motor carrier safety, and hazardous material transportation safety. EmR0833</p>
Scope Statements.	Pages 11 to 15
Health Services:	<p><i>Health, Chs. HFS 110—</i> Revises Ch. HFS 137, relating to forms for organ and tissue donation to include rules governing a new donor registry for the state.</p>
Natural Resources:	<p><i>Fish, Game, etc., Chs. NR 1—</i> Revises Ch. NR 46, relating to annual adjustments in timber stumpage values and other related changes to the management of forest law.</p> <p><i>Environmental Protection — Air Pollution Control, Chs. NR 400—</i> Revises Chs. NR 405, 406, 407, 408, 409 and 439, incorporating updates from statutory changes, federal rules, providing consistency within the rules, updating outdated language and providing clarification where appropriate.</p> <p>Revises Ch. NR 433, relating to Best Available Control Technology (BART), for certain major stationary sources that adversely affect visibility.</p> <p><i>Environmental Protection — Solid Waste Management, Chs. NR 500—</i> Revises Chs. NR 502 and 518, relating to compost use and facility standards.</p>

Transportation:	Revises Ch. Trans 102, relating to the validity periods of DOT issued identification cards and for purposes of implementing the Federal REAL ID Act.
Submittal of Rules to Legislative Council Clearinghouse.	Page 16
Corrections:	Revises s. DOC 332.20, relating to a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking. CR 08-105
Military Affairs — Wisconsin Emergency Management:	Revises Ch. WEM 1, relating to fee revisions for facilities housing hazardous chemicals, hazardous substances, and extremely hazardous substances as defined in s. WEM 1.02 (5). CR 08-106
Rule-Making Notices.	Pages 17 to 26
Corrections:	Hearings to consider emergency rules and permanent rules revising s. DOC 332.20, relating to a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking. EmR0835 — CR 08-105
Health Services:	Health, Chs. HFS 110— Hearing to consider emergency rules and permanent rules creating Ch. HFS 119, relating to training requirements on the use of automated external defibrillators for emergency medical technicians, first responders, and their instructors, and affecting small businesses. EmR0825 — CR 08-082
Military Affairs — Wisconsin Emergency Management:	Hearings to consider emergency rules and permanent rules revising Ch. WEM 1, relating to fee revisions for facilities housing hazardous chemicals, hazardous substances, and extremely hazardous substances as defined in s. WEM 1.02 (5). EmR0836 — CR 08-106
Submittal of Proposed Rules to the Legislature.	Page 27
Employee Trust Funds:	Revises s. ETF 40.01, relating to continued group health insurance coverage of an insured dependent after the death of the insured employee or annuitant. CR 08-079
Rule Orders Filed with the Legislative Reference Bureau.	Page 28
Agriculture, Trade and Consumer Protection:	Creates Ch. ATCP 106, relating to price gouging during an emergency. CR 07-004 Revises Chs. ATCP 99, 100 and 101, relating to agricultural producer security. CR 07-073 Revises Chs. ATCP 74 and 75, relating to local agents regulating retail food establishments for the Department. CR 07-093 Revises Ch. ATCP 123, relating to electronic communications services. CR 08-027
Rules Published with this Register and Final Regulatory Flexibility Analyses.	Pages 29 to 33

Sections Affected by Rule Revisions and Corrections.

Pages 34 to 37

Sections Affected by Corrections Not Published.

Page 38

Executive Orders.

Page 39

Notice of Nonacquiescence.

Page 40

Workforce Development:

Milwaukee Kickers Soccer Club, Inc. v. Labor and Industry Review Commission

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Children and Families

(Formerly Workforce Development)

Family Supports, Chs. DWD 12 to 59

EmR0821 — Rules adopted creating **ss. DWD 40.02 (12m), 40.05, and DWD 40 Appendix D**, relating to establishment of birth cost orders based on child support guidelines.

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:

The federal Office of Child Support Enforcement (OCSE) has notified Wisconsin that OCSE will not certify the state's request for federal income tax refund offset for birth cost orders that have not been set in accordance with the child support guidelines in Chapter DWD 40, which take into consideration the payer's ability to pay.

Federal income tax refund offset is one of the primary tools for collection of birth cost orders owed to the State of

Wisconsin. In calendar year 2007, the child support program collected \$11,481,000 in birth costs through federal income tax refund offset. Of the nearly \$11.5 million collected, approximately \$6.62 million was returned to the federal government to reimburse Medicaid costs, \$1.72 million was used by county child support agency programs to benefit children in the state, and the remaining \$3.14 million was returned to the state Medicaid program.

Publication Date: June 27, 2008

Effective: June 27, 2008 through
November 23, 2008

Hearing Date: July 29, 2008

Extension Through: December 31, 2008

Commerce

Uniform Dwelling, Chs. Comm 20–25 Wisconsin Commercial Building Code, Chs. Comm 60–66

EmR0826 — Rules adopted to renumber **s. Comm 66.0911**; to amend **s. Comm 20.24 (1) and (2)**; and to create **ss. Comm 21.095, 20.24 Table 20.24–14, 62.1200, 62.3500 (3) (e), 66.0911 (title) and (2)**, relating to carbon monoxide alarms and affecting small business.

Exemption From Finding of Emergency

Under the nonstatutory provisions of 2007 Wisconsin Act 205, the Department of Commerce is 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, neither the department of commerce or the department of health services is 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 installation and maintenance of carbon monoxide alarms in buildings accommodating certain types of residential occupancies and within which fuel burning appliances are located. Residential occupancies include tourist rooming houses, bed and breakfast establishments, and any public building that is used for sleeping or lodging, such as, hotels, motels, condominiums, apartment buildings, dormitories, fraternities, sororities, convents, seminaries, community based residential facilities, home shelters, but not hospitals and nursing homes. The Act requires the installation of carbon monoxide alarms in new buildings as of October 1, 2008. The owners of existing buildings will have until April 1, 2010 to install the carbon monoxide alarms. The Act also provides for the omission of carbon monoxide alarms in certain instances which are further clarified by the administrative rules.

Publication Date: September 10, 2008

Effective: October 1, 2008 through
February 27, 2009

Hearing Date: October 14, 2008

Commerce (2)

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

1. **EmR0823** — Rules adopted amending **Comm Table 108.6–1, sections Comm 108.07 (5), 108.22 (1), and 154.06 (intro.)**, relating to emergency assistance grants in the community development block grant program, 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 health, safety, and welfare. The facts constituting the emergency are as follows.

Currently under sections Comm 108.06, 108.07, and 108.22 of the Wisconsin Administrative Code, as promulgated under sections 560.04, 560.045, and 560.9809 of the Statutes, the Department may annually use up to 5 percent of its federal Community Development Block Grant (CDBG) funds to repair or replace public infrastructure or facilities, or for emergency services necessitated by a natural disaster or catastrophic event. Also under sections Comm 108.07 and 108.22, the maximum amount of CDBG funds that the Department can award to any local government for a natural disaster or catastrophic event is \$500,000.

Currently under section Comm 154.06, as promulgated under sections 560.02 (4) and 560.9809 (2) of the Statutes, the Department may annually use up to \$2,000,000 of CDGB funds to address emergency housing needs caused by natural disasters or catastrophic events.

Because of the unprecedented levels of damage to public infrastructure and facilities from the severe storms and widespread flooding that occurred throughout the State in June 2008, the need for emergency assistance to communities far exceeds the \$1.35 Million of CDBG funding that results from the above 5–percent limit, and the need for emergency housing assistance for low and moderate income households far exceeds the above \$2,000,000. Communities and households in 28 of the 30 counties where the Governor has declared a state of emergency are eligible for this CDBG program assistance.

This emergency rule repeals the above limits of 5 percent, \$500,000 and \$2,000,000. This will enable the Department to (1) use any available CDBG funds for emergency assistance with repairing or replacing public infrastructure and facilities, and with repairing or replacing homes damaged by the severe storms and flooding; and (2) base the award amounts on the scope of the damages and destruction in the community and on the funds available.

Publication Date: July 16, 2008
Effective: July 16, 2008 through
 December 12, 2008
Hearing Date: August 27, 2008
Extension Through: February 10, 2009

2. **EmR0831** — Rules adopted creating section **Comm 113.03 (4)**, relating to allocation of volume cap on tax–exempt private activity bonds.

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. Because of widespread disruption of the housing markets, Congress has enacted the Housing and Economic Recovery Act of 2008 (the “Act”), which contains various relief measures relating to housing. Section 3021 of the Act creates a special one–time additional allocation of volume cap for calendar year 2008, to be used for the issuance of single–family housing bonds and multifamily housing bonds no later than December 31, 2010.

Under section 560.032 of the Statutes, the Department of Commerce is charged with allocating to Wisconsin issuers the private activity bond volume cap allocated to Wisconsin under the Internal Revenue Code of 1986, 26 USC 146. This emergency rule is necessary to implement the special allocation of volume cap under the Act, as described above.

Pursuant to section 227.24 of the Statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Legislative Reference Bureau.

Publication Date: September 27, 2008
Effective: September 27, 2008
 through February 23, 2009
Hearing Date: October 27, 2008

Corrections

EmR0835 — Rules adopted creating **s. DOC 332.20**, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking.

Finding of Emergency

The department of corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

Under 2005 WI Act 431, section 8, the legislature requires certain persons who have been convicted of a serious child sex offense, who have been found not guilty of a serious child sex offense by reason of mental disease or mental defect, or who are the subject of notification under s. 301.46 (2m) (am), Stats., to be placed on lifetime tracking under a global positioning system (GPS) or a passive positioning system (PPS). The legislature also authorized the department to establish a rule to require persons who are subject to GPS tracking or PPS tracking to pay the cost of tracking.

If the rule is not created promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of the tracking program, which could result in a lessening of tracking due to budget limitations.

The purpose of the emergency rule is to require all persons who are subject to tracking to pay the tracking fee which is used to offset the costs of the tracking program. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of tracking fees while permanent rules are being developed.

Publication Date: November 12, 2008
Effective: November 12, 2008
 through April 10, 2009
Hearing Date: December 11, 2008

Financial Institutions — Securities

EmR0829 — Rules adopted to amend s. DFI–Sec 4.06 (2) (i) and to create ss. DFI–Sec 4.06 (1) (v), 5.06 (14) and Chapter DFI–Sec 10, relating to making it a dishonest or unethical practice for securities licensees to make use of misleading designations or certifications purporting to demonstrate special expertise in the financial or retirement needs of seniors.

Finding of Emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

The Division is taking immediate, emergency–rule action to protect seniors in Wisconsin from being misled through the use by securities licensees of designations and credentials that imply or represent that a person has special expertise, certification, or training in financial planning for seniors, but where such designations and/or credentials are either non–existent or do not involve significant education, testing, training or experience, and in reality are marketing ploys.

Publication Date: September 15, 2008
Effective: September 15, 2008
 through February 11, 2009

Government Accountability Board

EmR0830 — Rules adopted repealing and recreating Chapter GAB 4, relating to observers at a polling place or other location where votes are being cast, counted or recounted.

Finding of Emergency

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

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

Publication Date: September 26, 2008
Effective: September 26, 2008
 through February 22, 2009
Hearing Date: November 11, 2008

Health Services (2)

(Formerly Health and Family Services)

Management & Technology & Strategic Finance, Chs. HFS (DHS) 1—

1. **EmR0832** — Rule adopted to repeal s. HFS 12.03 (15) and to create ss. HFS 12.03 (20m), 12.115 and Table HFS 12.115, relating to background checks of individuals who provide personal care services, and affecting small businesses.

Finding of Emergency

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

2007 Wisconsin Act 172 requires the department to specify by rule, the crimes, a conviction of which an entity must disclose to a client or a client's guardian before the caregiver provides the client with personal care services in the client's home. Act 172 also requires the department to define the term "substitute caregiver". Under s. 50.065 (2m) (d), Stats., as created by 2007 Wisconsin Act 172, the department created a list of crimes required and also as required defined the term "substitute caregiver".

Effective November 1, 2008, entities, including home health agencies and temporary employment agencies, are required under s. 50.065 (2m) (d), Stats., to disclose to the client or the client's guardian, the assigned caregiver's convictions of crimes specified by the department by rule.

Publication Date: October 20, 2008
Effective: November 1, 2008 through
 March 31, 2009

2. **EmR0834** — Rules adopted amending s. HFS (DHS) 10.23 (2) (d) 2., relating to confidentiality requirements of the Family Care program that prohibit benefit specialists from disclosing personally identifying information about a client without the client's informed consent, unless required by law.

Finding of Emergency

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

Chapter HFS 10 is the department's rule that guides the implementation of the department's Family Care program. Included in these provisions are standards for confidentiality which prohibit disability benefit specialists from disclosing personally identifying information about a client without the client's consent unless required by law. Because disability benefit specialists are permissive reporters, and thus not required to report abuse, neglect, or financial exploitation of elder adults and adults at risk under ss. 46.90 (4) (ar) and 55.043 (1m) (br), Stats., s. HFS 10.23 (2) (d) 2., effectively prevents disability benefits specialists from making such disclosures.

Amending s. HFS 10.23 (2) (d) 2., to allow disability benefit specialists to report abuse, neglect, or financial exploitation under ss. 46.90 (4) (ar) and 55.043 (1m) (br),

Stats., would help to ensure that elder adults and adults-at-risk who may have been abused, neglected, or financially exploited are brought to the attention of the abuse, neglect and exploitation response systems outlined under ss. 46.90 and 55.043, Stats.

Publication Date: November 3, 2008
Effective: November 3, 2008 through April 1, 2009

Health Services

(Formerly Health and Family Services)

Health, Chs. HFS 110—

EmR0825 — Rule adopted creating **Chapter HFS 119**, to require emergency medical technicians, first responders, and individuals who provide instruction to emergency medical technicians and first responders to complete training on the use of automated external defibrillators and to specify the content of the training, qualifications of providers, and frequency with which training is to be completed, and affecting small businesses.

Exemption From Finding of Emergency

The legislature by 2007 Act 104 provides the department with an exemption from a finding of emergency to adopt these emergency rules.

Publication Date: August 29, 2008
Effective: September 1, 2008 through January 28, 2009
Hearing Date: December 11, 2008

Military Affairs —

Wisconsin Emergency Management

EmR0836 — Rule adopted revising **Chapter WEM 1**, relating to fee revisions to facilities housing hazardous chemicals, hazardous substances, and extremely hazardous substances as defined in s. WEM 1.02 (5).

Finding of Emergency

The Wisconsin Division of Emergency Management (WEM)/State Emergency Response Commission finds that an emergency exists and that a rule revision is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting an emergency is as follows:

Emergency response to and planning for accidental or purposeful releases of dangerous chemicals will be compromised by a significant reduction of money available to fund emergency management activities at the county level. County emergency management agencies will be unable to fully comply with state and federal laws. Wisconsin Emergency Management would also experience substantial reductions in capabilities to assist local units of government with their state and federally required responsibilities. Sufficient funding of the county grant program and WEM activities is necessary to protect and defend the citizens of Wisconsin from accidental releases and releases caused by terrorist actions.

Publication Date: December 1, 2008
Effective: December 1, 2008 through April 29, 2009
Hearing Dates: December 18 and 19, 2008

Natural Resources

Fish, Game, etc., Chs. NR 1—

EmR0824 — Rule adopted revising ss. **NR 10.01 (1) (b), (g), (h), (u) and (v) and 10.06 (5)**, relating to the 2008 migratory game bird seasons and waterfowl hunting zones.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: August 30, 2008
Amendment: September 26, 2008
Effective: August 30, 2008 through January 26, 2009
Hearing Date: October 27, 2008

Natural Resources

Environmental Protection – General, Chs. NR 100—

EmR0809 — Rule adopted to repeal s. **NR 198.15 (2)**, to renumber s. **NR 198.12 (6) to (10)**, to amend ss. **NR 198.11, 198.14 (1) (e) and (f) 2., 198.23 (5) to (7), 198.33 (5), and 198.44 (5)** and to create ss. **NR 198.12 (6) and (7), 198.33 (6) and subch. V of ch. NR 198**, relating to grants for the control of aquatic invasive species.

Finding of Emergency

The substantial increase in grant funding is a strong message from the Legislature that concern over the welfare of our public waters is growing, along with the expectation that these additional funds be put to work as soon as possible. The appropriation from which these funds are spent is a biennial appropriation, meaning that any unspent funds at the end of the biennium automatically lapse back to the Water Resources Account of the Conservation Fund. The timeline for permanent rule promulgation and the lack of staff to provide support to eligible sponsors may impede the Department's ability to fully and responsibly invest the authorized spending by the end of the biennium because of the current rule's limitations. An emergency rule will help to minimize or eliminate the amount of funds that are lapsed.

Publication Date: April 7, 2008
Effective: July 1, 2008 through November 27, 2008
Hearing Dates: July 22 to August 5, 2008
Extension Through: January 26, 2009

Public Instruction (2)

1. **EmR0813** — A rule is adopted revising **Ch. PI 37**, relating to grants for national teacher certification and master educator licensure.

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 new provisions modifying the grants for the national teacher certification program under 2007 Wisconsin Act 20, the biennial budget bill, took effect October 27, 2007. In order to establish the new application criteria and procedures to award grants to eligible applicants in the 2007–08 school year, emergency rules must be in place as soon as possible.

Publication Date: May 17, 2008
Effective: May 17, 2008 through October 13, 2008
Hearing Date: July 23, 2008
Extension Through: December 12, 2008

2. **EmR0816** — A rule adopted revising **Ch. PI 30**, relating to state special education aid for certain pupil services personnel.

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 new provisions under 2007 Wisconsin Act 221 modifying the percentage of the salaries of licensed school nurses, licensed school social workers, licensed school psychologists, and licensed school counselors that are eligible for state aid reimbursement first applies to state aid distributed in the 2008–09 school year. In order to establish instructions this spring as to how school districts are to account for these pupil services staff on special education claim forms, rules must be in place as soon as possible.

Publication Date: May 30, 2008
Effective: May 30, 2008 through October 26, 2008
Hearing Date: July 14, 2008
Extension Through: December 25, 2008

Regulation and Licensing (3)

1. **EmR0819** — A rule adopted revising **s. RL 161.04**, relating to examinations for substance abuse professionals.

Finding of Emergency

The department has made a finding of emergency. The current rules require an applicant for a clinical substance abuse counselor credential to pass an oral examination. The company that produced that examination is not giving that examination after June 1, 2008. This emergency rule creates a time period for a transition to enable a category of applicants to get a clinical substance abuse counselor credential. Persons holding a clinical substance abuse counselor credential can apply for a supervisory credential. There is a strong need for

more supervisors in this field because services can only be provided under supervision. This rule will enable more applicants to receive a supervisor credential and is therefore necessary to maintain the health, safety and welfare of the public.

Publication Date: June 18, 2008
Effective: June 18, 2008 through November 14, 2008
Hearing Date: November 11, 2008
Extension Through: January 14, 2009

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

Exemption From Finding of Emergency

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

Publication Date: September 10, 2008
Effective: September 10, 2008 through February 6, 2009
Hearing Date: November 26, 2008

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

Exemption From Finding of Emergency

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

Publication Date: September 10, 2008
Effective: September 10, 2008 through February 6, 2009
Hearing Date: November 26, 2008

Revenue

EmR0820 — Rule adopted creating **ss. Tax 8.03 and 8.05**, relating to the registration of wine collectors, establishing standards of eligibility for registration as a wine collector, specifying the form and manner of notice required prior to the sale of wine by a wine collector, and the creation and organization of small winery cooperative wholesalers.

Exemption From Finding of Emergency

The legislature by Section 50 of 2007 Wisconsin Act 85 provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: June 26, 2008
Effective: June 26, 2008 through July 1, 2010 or the date on which permanent rules take effect, whichever is sooner.

Transportation (2)

1. **EmR0818** — A rule adopted creating **Ch. Trans 263**, relating to multiple trip overweight permits for vehicles transporting granular roofing materials.

Exemption From Finding of Emergency

The Legislature, by 2007 Wisconsin Act 171, Section 6 (2), provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: July 1, 2008
Effective: July 1, 2008 through July 1, 2009 or the date on which permanent rules take effect, whichever is sooner.
Hearing Date: July 30, 2008

2. **EmR0833** — Rule adopted revising **Chs. Trans 325, 326 and 327**, relating to motor carrier safety, and hazardous material transportation safety.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. Recently enacted commercial motor carrier safety regulations apply to drivers and carriers transporting property and passengers by commercial vehicles in interstate commerce and enhance highway safety. It is imperative the industry operates under a single set of safety regulations to minimize confusion that could result in inadvertent noncompliance or application of an outdated safety standard. Also pursuant to 49 CFR 350.331(d), States are required to adopt compatible laws or rules to remain eligible for Motor Carrier Safety Assistance Program funding. Currently, Wisconsin receives approximately \$4 million in such funding, which is used to administer various highway safety programs, and that funding and the safety programs it supports will be in jeopardy if Wisconsin does not implement these changes immediately. The Motor Carriers Association has urged the Department to implement these changes as it will help ensure uniformity and increased highway safety.

Publication Date: November 5, 2008
Effective: November 5, 2008 through April 3, 2009
Hearing Date: December 2, 2008

Scope Statements

Health Services

Health, Chs. HFS 110—

Subject

Amends Chapter HFS 137, relating to forms for organ and tissue donation to include rules governing a new donor registry for the state.

Policy Analysis

Wisconsin is one of a handful of states that does not have a donor registry for people who wish to sign on to be organ and tissue donors. While the WI Department of Transportation has asked people if they wish to be recorded as donors since the early 1970's, and the response is contained in the driver's record, the connection between what a person said and the person asking about donation in the hospital is absent. In addition, WI residents may choose to renew their license only every eight years so the response may be dated.

In August, 2008, the Bureau of Community Health Promotion of the Division of Public Health was awarded grant funding to establish a registry by the federal Department of Health and Human Services -- Health Resources and Services Administration. This funding will allow the state to build a web-based look-up to read a potential donor's driver's record and a new, public-facing website to allow people to make informed decisions about organ, tissue and eye donation 24/7. The grant requirements specify minimum data items and other elements of a donor registry.

Members of the general public will be the users of the new public-facing website. They will have the option of making an informed decision about organ and tissue donation and having this decision included on their driver's record.

Statutory Authority

In April, 2007 Wisconsin Act 106 was signed into law. This legislation revised the State's anatomical gift statutes and included a provision for the development of a registry:

Section 157.06 (20), Wis. Stats.: "Donor Registry. The Department of Health Services may establish a donor registry. If the department of health services establishes a donor registry under this subsection, the department of transportation shall cooperate with the department of health services in establishing the donor registry. The department of health services shall promulgate administrative rules governing any donor registry established under the paragraph."

Comparison with Federal Regulations

There are federal regulations regarding the recovery and distribution of donated organs, tissues and eyes. For organs, regulation includes the 1984 — National Organ Transplant Act (NOTA — P.L. 98-507). Among other things, NOTA established the framework for the Organ Procurement and Transplantation Network (OPTN) within the United States, the Scientific Registry of Transplant Recipients, a government unit within the Public Health Service (Division of Transplantation) to oversee contractual activities of the OPTN, and prohibited the buying and selling of organs. The

regulation and distribution of donated tissue is governed by the FDA.

However, these rules and regulations govern the distribution of organs and tissues once recovered—rules regarding registries and consent for donation are determined by states.

In applying for and accepting HRSA grant funding for a registry, Wisconsin agreed to follow the requirements, criteria and minimum data set specified in the grant guidance, CFDA No. 93.134.

Entities Affected by the Rule

Organ, tissue and eye recovery organizations that work with people in Wisconsin; hospitals; donation and transplantation professionals and advocates.

Estimate of Time Needed to Develop the Rule

It is estimated that the lead staff person for this project will spend approximately 5 hours each week on the rules-making portion of this project, for a total of between 200 and 250 hours.

Contact Information

Martha Mallon
Division of Public Health
608-261-6854

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revises Chapter NR 46, relating to annual adjustments in timber stumpage values and other related changes to the management of forest law.

Objective of the Rule

Amendments to Ch. NR 46 are being requested to update the annual adjustments of timber stumpage values, create a stumpage table based on weight (tons), create a definition of woody biomass, clarify how lands in multiple municipalities will be administered, created a date when management plans must be received for the first review with the July 1 application deadline, change the date when management plans must be signed and returned to DNR, and require that land owners with large accounts have an approved annual allowable harvest.

Policy Analysis

Amendments to Ch. NR 46 occur on an annual basis to update timber stumpage values. Stumpage values are used to collect the proper yield and severance tax from landowners enrolled in the Managed Forest Law (MFL) and Forest Crop Law (FCL) programs as payment of deferred property taxes when timber is harvested. Stumpage tables based on weight are needed since up to 75% of the mills purchase stumpage based on weight instead of the traditional cord wood volume. Biomass is a coming market, making it necessary to create a definition on how yield and stumpage taxes will be calculated for this timber market.

Additional administrative changes are requested to make the Managed Forest Law program easier to explain, enter and enforce. Changes include:

1. Clarification of how a landowner's forest land located in multiple municipalities is administered under the MFL. 2005 Wisconsin Act 7 allowed for Managed Forest Law lands to cross municipal lines to allow for lands that would not normally be eligible for the program to meet eligibility requirements in conjunction with the adjacent lands in a neighboring municipalities. NR 46 was changed in 2007 to eliminate references to municipal lines. Inadvertently by eliminating the municipal line reference, all lands owned by a single landowner and applied for entry into MFL in one year are required to be placed under the same order number, regardless of where the land is located within the state. The proposed rule change would clarify when the lands requested to be entered in the MFL lie across a municipal boundary line they will be treated as one unit. If the lands requested to be entered in the MFL are in two or more municipalities but do not touch they will be treated as separate units or orders of entry. This change will make the Managed Forest Law program easier for landowners to enter and understand the MFL program.

2. Create a new draft plan deadline date for certified plan writers (CPW's) to submit a final draft of the MFL forest management plan to the Department for review and modification if necessary prior to the final deadline for processing applications received for the July 1 application deadline. Currently certified plan writers must submit a "completed and approved (by the Department)" management plan to the Department by the 2nd July 1 after the landowner's initial application is received. A high percentage of the CPW prepared management plans need minor adjustments or slight corrections before they can be approved. Creating a draft plan deadline date would allow for any corrections to be made prior to the final deadline. This change to NR 46 would suggest a June 1 draft deadline date and allow "completed and approved" plans to be returned on or before August 15. It would actually increase the time available to CPW's to finalize the work.

3. Landowners with management plans prepared by DNR foresters must return their signed plans by August 1. A change in this deadline to August 15 is proposed to make the certified plan writer and DNR deadline the same for landowners to turn in completed management plans.

4. Large block (industrial) landowners must follow an approved management commitment when harvesting their timber on forest lands enrolled in either the MFL or FCL. The management commitment indicates the general management practices that will take place within each timber type without site specific or property wide details. DNR has seen roughly 90% of the large block owners change hands in the last 8 years. Most of the ownership changes have shifted from primary wood using facilities owning the lands they relied on for a portion of their raw materials to investment organizations such as Real Estate Investment Trusts or Timber Investment Management Organizations. Some large block owners accelerate harvest levels to generate higher returns for their share holders, pay down the principle on debt or to extract the maximum value from harvesting in advance of land sales. Other large block landowners take the opposite approach and do not harvest nearly any available timber

hoping to build value for a future land sale. These large block landowners are not harvesting and regenerating the forests when timber reaches a biological rotation age and thus the trees fall over and die. Neither extreme is desirable or acceptable for lands enrolled under a tax law.

Sustainable forestry strives to provide an even and relatively constant flow of forest benefits, including timber to society. Forests that do not have a balanced age structure are managed so that some trees are harvested as soon as they reach maturity and some trees are held (i.e. not harvested) until a future date. The net result is that the entire forest or ownership is not harvested within a few years so that nothing is left for the future years. Thereby a forest would harvest equal amount of timber harvested every year, beginning with the oldest timber first. This forestry practice is called managing by an annual allowable harvest and is done to even out of the flow of timber harvested. It is how all public forests are managed to insure long term sustainable benefits to society.

Under the current management commitment requirements, a large block owner enrolled in MFL does not have to manage by an annual allowable harvest. This proposed rule change would require that large block owners prepare an annual allowable harvest similar to public forests to optimize the flow of forest benefits for their lands in the short and long term.

Statutory Authority

Sections 77.06 (2), 77.82 (1), 77.82 (3), 77.91 (1), and 227.11 (2)(a), Wis. Stats.

Comparison with Federal Regulations

There are no existing or proposed federal regulations to compare with Wisconsin's Managed Forest Law or Forest Crop Law programs.

Entities Affected by the Rule

All private landowners under the Managed Forest Law and Forest Crop Law programs are affected by changes in the stumpage values when they harvest their timber. Landowner may be pay more or less yield and severance tax depending on individual stumpage values. Local municipalities will also be affected by changes in stumpage values since they receive the money collected from landowners for yield and stumpage taxes. Certified plan writers, DNR foresters and landowners are affected by the changes to the deadlines to review management plans and to submit completed work. The changes allow additional time for this work to be completed and provide a date for initial work to be submitted for review. Large (industrial) block owners will be affected by the change to require an annual allowable harvest. This change may receive the most controversial.

Estimate of Time Needed to Develop the Rule

5 months.

Contact Information

Kathryn J. Nelson, Forest Tax Section Chief
 Department of Natural Resources
 FOREST TAX SECTION – FR/4
 P.O. Box 7921
 Madison, WI 53707-7921
 Ph: 608/266-3545
 e-mail: Kathryn.Nelson@Wisconsin.gov

Natural Resources

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

Subject

Revises Chapters NR 405, 406, 407, 408, 409 and 439, Wis. Adm. Code, incorporating updates from statutory changes, federal rules, providing consistency within the rules, updating outdated language and providing clarification where appropriate.

Objective of the Rule

The main objective of the proposed rule is to update permit language in chapters NR 406 and NR 407 regarding federal Generally Available Control Technology (GACT) rules for hazardous air pollutants. The current rules do not exempt certain source categories from the federal standard as is done on the federal level.

Also, current regulations require that operation permit renewal applications be submitted 12–18 months prior to the expiration date for the operation permit. A statutory revision has changed the 12–18 timeframe to no later than six months prior to expiration of the operation permit.

Biodiesel fuel will be added as an alternate clean fuel, not requiring a permit modification in order for a facility to burn it.

The proposal would also amend current rule language to require two copies of permit application materials be submitted to the Bureau of Air Management. This would include requests for exemptions from permitting, and construction permit waivers. The requirement of two copies would not apply to Asbestos Abatement Notifications which also require a review for construction permit exemption purposes.

Other changes would be for consistency, updating outdated rule language and providing clarification where needed.

Policy Analysis

The USEPA periodically promulgates corrections, updates and new standards. The Department is required by statute to promulgate similar standards. While some changes may be necessary to accommodate our Administrative Code structure, the state rules will be essentially the equivalent to the Federal rules already in effect. Some substantive changes will be proposed, as mentioned above.

Statutory Authority

Sections 227.11 (2) (a), 285.11 (1), (6) and (16), 285.60 (6), 285.67 and 285.69 (1) (a), Stats. The State Implementation Plan developed under s. 285.11 (6), Stats., will be revised.

Comparison with Federal Regulations

A major purpose of this proposed rule package is to amend Wisconsin's regulations to update them from statutory language and to be consistent with federal standards which is required under s. 285.21 (1) (a), Stats.

Entities Affected by the Rule

All facilities that are required to get an Air Pollution Control Permit, and sources regulated by the federal standards will be affected by this proposed rule.

Estimate of Time Needed to Develop the Rule

Approximately 150 hours of agency staff time is being budgeted to this proposed rule action.

Contact Information

Joe Brehm
DNR – Bureau of Air Management
PO Box 7921
Madison, WI 53704
608–267–7541
joseph.brehm@wisconsin.gov

Natural Resources

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

Subject

Revises Chapter NR 433, relating to Best Available Control Technology (BART), for certain major stationary sources that adversely affect visibility.

Objective of the Rule

The existing state BART rule allows the owner or operator of electric generating units that would otherwise be affected by BART to avoid completing assessments for SO₂ and NO_x, if the units comply with the Federal Clean Air Interstate Rule (CAIR). However, in light of the vacatur of the Federal CAIR in Federal Court, these electric generating units are now BART affected sources and the owner or operator must complete BART assessments. The objective of the proposed rule changes is to provide additional time and flexibility for compliance with BART for these units due to the size and complexity of SO₂ and NO_x control equipment for electric generating units. Additionally, the Department may make minor changes to the existing BART rule to improve clarity.

Policy Analysis

BART requires a source by source engineering analysis to determine what controls are necessary to improve visibility at certain National Parks and other scenic areas. EPA's BART rule allows for emissions averaging programs that would improve visibility more than the application of source-specific BART. The Department is proposing to add that flexibility to the State's existing BART rule. The Board has previously adopted rules that allow emissions averaging or emissions trading for electric power producers including the State's rule to implement CAIR, Reasonably Available Control Technology for NO_x and the multi-pollutant control option in the mercury rule. Adding this flexibility to the existing BART rule is consistent with the Board's previous policy.

Installation of BART control equipment for the electric utilities is likely to take longer than for industrial boilers, because the equipment is very large compared to industrial applications, the need to maintain electric reliability, and the power producers also need approval from the Public Service Commission. The proposed rule changes would allow additional time for compliance.

Statutory Authority

Section 227.11 (2) (a), Stats., gives state agencies general rulemaking authority. Sections 285.11 (1), Stats., gives the Department the authority to develop rules consistent with chapter 285, Stats. Section 285.11 (6), Stats., authorizes the Department to develop and revise the State Implementation Plan for prevention, abatement and control of air pollution.

Comparison with Federal Regulations

The proposed changes to the existing BART rule are allowed under EPA's visibility protection rules.

Entities Affected by the Rule

Major electric power producers and large paper mills are the only entities affected by the rule.

Estimate of Time Needed to Develop the Rule

Rule development will take between 400 and 500 hours of staff time.

Contact Information

Larry Bruss
101 S. Webster Street
Madison, WI 53703
608-267-7543
larry.bruss@wisconsin.gov

Natural Resources

Environmental Protection — Solid Waste Management, Chs. NR 500—

Subject

Revises Chapters NR 502 and 518, relating to compost use and facility standards.

Objective of the Rule

This proposed rulemaking would add numerical quality standards for compost derived from source separated yard materials, food scraps and nonrecyclable paper to ch. NR 518, Wis. Adm. Code. It would also modify existing compost facility standards in s. NR 502.12, Wis. Adm. Code to facilitate composting these organic materials to meet the numerical quality standards while maintaining necessary environmental and public health protections.

Policy Analysis

The Associated Recyclers of Wisconsin (AROW) petitioned the department's Division of Air & Waste for rulemaking to establish compost use standards for compost made from certain well-defined and uncontaminated feedstocks such as food scraps—which may include certain compostable plastic food service items such as plates and cups—yard materials and compostable paper. AROW believes that a lack of numerical compost quality standards has created a significant barrier to increased diversion of these materials from landfills into higher value uses such as compost. Increasing diversion of materials from landfills is an important goal for Wisconsin, in part because composting organic materials results in a net reduction of greenhouse gas emissions. Current rules set siting and operation requirements for compost facilities but do not provide standards for the composted material.

The use of compost derived from mixtures of these source-separated materials is governed by a solid waste low-hazard exemption process. AROW maintains this has held back the expansion of composting in Wisconsin due to the unwieldiness of the exemption process, the uncertainty regarding the quality standards that would be applied in each specific instance, and the stigma associated with the term "low-hazard waste." Minnesota's 10-year-old compost classification system is perceived to have facilitated an expansion in the compost industry's ability to divert organic materials from that state's landfills and create a high-value-added product, "Class I Compost," for which there is strong demand.

Statutory Authority

Chapters 287 and 289, Wis. Stats.

Comparison with Federal Regulations

Comparable federal regulations that establish compost use or quality standards do not exist. The federal Clean Water Act, Part 503, contains numerical quality standards for wastewater biosolids destined for landspreading, which have served as the basis for Minnesota's Class I Compost classification.

Entities Affected by the Rule

Parties most affected by the proposed rule changes include compost facility operators; generators of yard waste materials; large scale generators of food scraps such as grocery stores, restaurants and institutional food service providers; and landfill owners due to possible diversion of these materials away from landfill disposal. In addition, potential compost users such as landscaping and horticulture businesses, the agricultural industry, departments of transportation and public works, and home gardeners in Wisconsin would have an interest in these rule changes.

Estimate of Time Needed to Develop the Rule

Approximately 600 hours of staff time will be needed to complete the rule revision.

Contact Information

Kate Cooper
Bureau of Waste and Materials Management
P.O. Box 7921
Madison, WI 53707
(608) 267-3133
CatherineE.Cooper@Wisconsin.gov

Brad Wolbert
Bureau of Waste and Materials Management
P.O. Box 7921
Madison, WI 53707
(608) 264-6286
Brad.Wolbert@Wisconsin.gov

Transportation

Subject

Revises Chapter Trans 102, relating to changes made in 2007 Wisconsin Act 20 to the validity periods of DOT issued identification cards and for purposes of implementing the Federal REAL ID Act.

Policy Analysis

2007 Wisconsin Act 20 (the budget bill) made changes to the validity period of DOT issued identification cards, lengthening the period of issuance from 4 years to 8 years. This rule making will amend components of ch. Trans 102 that are rendered out of date by those changes.

Act 20 also included provisions for the implementation of the Federal REAL ID Act. Additionally, the Department of Homeland Security published regulations for REAL ID implementation in January 2008. This rule making will amend components of ch. Trans 102 pertaining to photograph exemptions, design of operator's licenses and identification cards, photograph specifications, special photo requirements, proof of identification and lawful status, temporary operator's licenses or driver receipts, and any other area affected by the Federal REAL ID Act and related federal regulations.

Statutory Authority

Section 343.02 (1), Stats.

Comparison with Federal Regulations

In accordance with the Federal REAL ID Act of 2005, the Department of Homeland Security established standards for State-issued driver licenses and identification cards. The Department of Homeland Security published the final

regulation (6 CFR Part 37) in January 2008.

Entities Affected by the Rule

All Wisconsin residents who hold or wish to hold a driver license or identification card.

Estimate of Time Needed to Develop the Rule

Four weeks.

Submittal of Rules to Legislative Council Clearinghouse

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

Corrections CR 08–105

On November 6, 2008, the Department of Corrections submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section DOC 332.20, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for December 11, 2008. The Department of Corrections, Division of Community Corrections, is primarily responsible for promulgation of the rule.

Contact Information

Kathryn R. Anderson, Chief Legal Counsel
Phone: 608–240–5049
FAX: 608–240–3306
Email: kathryn.anderson@wisconsin.gov

Military Affairs — Wisconsin Emergency Management CR 08–106

On November 14, 2008, Wisconsin Emergency Management of the Department of Military Affairs, submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter WEM 1, relating to fee revisions for facilities housing hazardous chemicals, hazardous substances, and extremely hazardous substances as defined in s. WEM 1.02 (5).

Agency Procedure for Promulgation

Public hearings are scheduled for December 18 and 19, 2008.

Contact Information

William Clare, Planning Section Supervisor
Phone: 608–242–3220
Email: william.clare@wisconsin.gov

Rule-Making Notices

Notice of Hearing Corrections

EmR0835 and CR 08-105

NOTICE IS HEREBY GIVEN that pursuant to section 227.11 (2), Stats., and interpreting s. 301.48 (4), Stats., the Department of Corrections will hold public hearings to consider:

- Emergency rule DOC 332.20, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking; and
- Proposed permanent rule DOC 332.20, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking.

Hearing Information

Date & Time	Location
December 11, 2008 10:00 a.m.	Conference Room 116 State Office Building 819 North 6 th Street Milwaukee, Wisconsin
December 11, 2008 2:30 p.m.	St. Croix Conference Room — First Floor Department of Administration 101 East Wilson Street Madison, Wisconsin

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received by Friday, December 19, 2008. Written comments should be addressed to: Kathryn R. Anderson, DOC, P.O. Box 7925, Madison, WI 53707-7925, or by email kathryn.anderson@wisconsin.gov.

The public hearing sites are accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact Kathryn Anderson, DOC, P.O. Box 7925, Madison, WI 53707-7925, email kathryn.anderson@wisconsin.gov, telephone (608) 240-5049 by December 4, 2008.

Emergency Rule — EmR0835

Under the authority vested in the Department of Corrections by s. 227.11 (2), Stats., the Department of Corrections hereby promulgates an emergency rule relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking.

Finding of Emergency

The department of corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public peace, health, safety and

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

Under 2005 WI Act 431, section 8, the legislature requires certain persons who have been convicted of a serious child sex offense, who have been found not guilty of a serious child sex offense by reason of mental disease or mental defect, or who are the subject of notification under s. 301.46 (2m) (am), Stats., to be placed on lifetime tracking under a global positioning system (GPS) or a passive positioning system (PPS). The legislature also authorized the department to establish a rule to require persons who are subject to GPS tracking or PPS tracking to pay the cost of tracking.

If the rule is not created promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of the tracking program, which could result in a lessening of tracking due to budget limitations.

The purpose of the emergency rule is to require all persons who are subject to tracking to pay the tracking fee which is used to offset the costs of the tracking program. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of tracking fees while permanent rules are being developed.

Analysis Prepared by Department of Corrections

Statute interpreted

Section 301.48 (4), Stats.

Statutory authority

Section 227.11 (2), Stats.

Explanation of agency authority

Under s. 301.48, Stats., the department of corrections is responsible for the program of tracking by global positioning system or passive positioning system the location of persons who have committed a serious child sex offense.

Plain language analysis

The rule establishes a fee to recover the costs of tracking a person subject to global positioning system (GPS) tracking or passive positioning system (PPS) tracking under § 301.48, Stats., based on the person's ability to pay. The department has established a tracking fee which is based on the gross household monthly income and the person's ability to pay. The fee structure is similar to the one used by the department for assessing monthly supervision fees under § DOC 328.045, Wis. Adm. Code. Specifically, for persons who have a gross household monthly income of less than \$800.00, there is no monthly fee; for persons who have a gross household monthly income from \$800.00 to \$1,500.99, the monthly fee is \$50.00; for persons who have a gross household monthly income from \$1,501.00 to \$2,400.00, the monthly fee is \$120.00; and for persons who have a gross household monthly income greater than \$2,400.00, the monthly fee is \$240.00.

Persons subject to GPS tracking or PPS tracking are required to produce financial information about their gross household income, including financial institution statements, wage statements, and tax returns. The department will use this financial information to determine the appropriate fee. If a person fails to provide the requested documentation, the

department may assess a fee up to and including the full cost of tracking the person.

The department will review the tracking fee determination at least annually. Each time the department performs a review, it may request financial information.

The department has set forth the tracking fee structure in a table which will be published as part of the rule. The department recognizes that the table may need to be revised periodically. In the proposed rule the department will publish adjustments to the table in the Wisconsin Administrative Register if the adjustments constitute less than a ten (10) percent increase. If the increase is ten (10) percent or greater, the department will promulgate an administrative rule to make the necessary adjustments.

The department will establish procedures for notifying persons subject to the tracking fee of the procedures relating to the assessment and collection of fees. The department will record all tracking fees which are paid and provide the person making the payment a record of the payment.

The department has identified methods it can use to collect tracking fees in the case that a person fails to make payments when required to do so. For example, if the person is on probation, parole, or extended supervision, the methods include counseling, wage assignment and steps which might affect the level of supervision. If the person is not on community supervision, the methods include wage assignment, use of a collection agency, and tax refund intercept.

Text of Emergency Rule

SECTION 1. Section DOC 332.20 is created to read:

DOC 332.20 Tracking fee. (1) **APPLICABILITY.** A person who is subject to GPS tracking or PPS tracking under s. 301.48, Stats. shall be charged a fee to offset the costs of the tracking, based on the person’s ability to pay.

(2) **DEFINITIONS.** In this section:

(a) “Global positioning system tracking” or “GPS tracking” has the meaning given in s. 301.48 (1) (b), Stats.

(b) “Passive positioning system tracking” or “PPS tracking” has the meaning given in s. 301.48 (1) (dm), Stats.

(c) “Tracking cost” means the monthly cost for tracking a person subject to GPS tracking or PPS tracking.

(d) “Tracking fee” means the fee which a person who is subject to either GPS tracking or PPS tracking is required to pay to offset the costs of tracking.

(3) **TRACKING FEE.** (a) A person who is subject to either GPS tracking or PPS tracking shall pay the tracking fee in accordance with procedures established by the department.

(b) The department shall set a tracking fee for a person who is subject to either GPS tracking or PPS tracking, based on the person’s ability to pay, and shall do all of the following:

1. Determine the person’s ability to pay the tracking fee. The department will base the determination on the person’s documented monthly gross household income. The department may require the person to produce financial documentation to establish household income, including tax returns, financial institution account statements, and wage information.

a. The department will review the determination of the person’s ability to pay the tracking fee at least annually. The department may require production of financial information for each review.

b. If a person fails to provide the requested financial documentation, the department may assess the person a tracking fee up to and including the full tracking cost.

2. Charge a tracking fee in accordance with the following table:

Table DOC 332.20

Income Category	Tracking Fee
<\$800.00	\$00.00
\$800.00 – \$1500.99	\$50.00
\$1501.00 – \$2400.00	\$120.00
>\$2400.00	\$240.00

a. The department shall publish adjustments to Table DOC 332.20 in the Wisconsin administrative register.

b. If the department proposes to make adjustment to the tracking fee by ten (10) percent or more, the department shall promulgate an administrative rule to make the adjustments. The department will not issue an emergency rule to implement the adjustments under this subsection before providing advance public notice of at least one month.

3. Establish a tracking fee schedule including the following:

a. A grace period for the initial tracking fee payment.

b. A deadline for receipt of each monthly tracking fee payment.

4. Approve procedures for the collection of tracking fees.

5. Provide the person who is required to pay a tracking fee with a copy of the tracking fee payment procedures.

6. Record all costs incurred as part of the tracking cost for monitoring a person on GPS tracking or PPS tracking.

7. Record all tracking fees paid by a person.

8. Provide the person with access to a copy of the record of payments to verify receipt of the payments.

9. Advise the person of nonpayment of tracking fees.

10. Credit the moneys collected to the appropriation account under s. 20.410 (1) (gk), Stats.

11. Audit the record of payments of tracking fees.

(4) **DEPARTMENT ACTION WHEN A PERSON ON PROBATION, PAROLE, OR EXTENDED SUPERVISION FAILS TO PAY TRACKING FEE.** The department may use any of the following actions in any order when a person who is required to pay a tracking fee and who is on probation, parole, or extended supervision fails to pay the tracking fee:

(a) Counseling.

(b) Wage assignment.

(c) Review of supervision or custody level to determine if more restrictive sanctions are needed, including an increase in the level of supervision, increase in the security level of custody, or detention in a jail, correctional facility or house of correction.

(d) Issue a recommendation for revocation of parole, probation, or extended supervision for the person’s willful failure to pay the tracking fee.

(e) Any other appropriate means of obtaining the tracking fee.

(5) **DEPARTMENT ACTION WHEN A PERSON NOT ON PROBATION, PAROLE OR EXTENDED SUPERVISION FAILS TO PAY TRACKING FEE.** The department may use any of the following actions in any order when a person who is required to pay a tracking fee but who is not on probation, parole, or extended supervision fails to pay the tracking fee:

(a) Wage assignment.

(b) Intercept of the person's Wisconsin income tax refund or Wisconsin lottery winnings.

(c) Submission of the debt to a state contracted collection agency.

(d) Any other appropriate means of obtaining the tracking fee.

Small Business Impact

The Department of Corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.

Fiscal Estimate

See the Fiscal Estimate in the Permanent Rule portion of this Notice.

Permanent Rule — CR 08–105

The Wisconsin Department of Corrections proposes an order to create s. DOC 332.20, relating to establishing a reimbursement fee to offset the costs of monitoring persons subject to global positioning system tracking or passive positioning system tracking.

Analysis Prepared by Department of Corrections

Statute interpreted

Section 301.48 (4), Stats.

Statutory authority

Section 227.11 (2), Stats.

Explanation of agency authority

Under s. 301.48, Stats., the department of corrections is responsible for the program of tracking by global positioning system or passive positioning system the location of persons who have committed a serious child sex offense.

Plain language analysis

The rule establishes a fee to recover the costs of tracking a person subject to global positioning system (GPS) tracking or passive positioning system (PPS) tracking under § 301.48, Stats., based on the person's ability to pay. The department has established a tracking fee which is based on the gross household monthly income and the person's ability to pay. The fee structure is similar to the one used by the department for assessing monthly supervision fees under § DOC 328.045, Wis. Adm. Code. Specifically, for persons who have a gross household monthly income of less than \$800.00, there is no monthly fee; for persons who have a gross household monthly income from \$800.00 to \$1,500.99, the monthly fee is \$50.00; for persons who have a gross household monthly income from \$1,501.00 to \$2,400.00, the monthly fee is \$120.00; and for persons who have a gross household monthly income greater than \$2,400.00, the monthly fee is \$240.00.

Persons subject to GPS tracking or PPS tracking are required to produce financial information about their gross household income, including financial institution statements, wage statements, and tax returns. The department will use this financial information to determine the appropriate fee. If a person fails to provide the requested documentation, the department may assess a fee up to and including the full cost of tracking the person.

The department will review the tracking fee determination at least annually. Each time the department performs a review, it may request financial information.

The department has set forth the tracking fee structure in a table which will be published as part of the rule. The department recognizes that the table may need to be revised periodically. In the proposed rule the department will publish adjustments to the table in the Wisconsin Administrative Register if the adjustments constitute less than a ten (10) percent increase. If the increase is ten (10) percent or greater, the department will promulgate an administrative rule to make the necessary adjustments.

The department will establish procedures for notifying persons subject to the tracking fee of the procedures relating to the assessment and collection of fees. The department will record all tracking fees which are paid and provide the person making the payment a record of the payment.

The department has identified methods it can use to collect tracking fees in the case that a person fails to make payments when required to do so. For example, if the person is on probation, parole, or extended supervision, the methods include counseling, wage assignment and steps which might affect the level of supervision. If the person is not on community supervision, the methods include wage assignment, use of a collection agency, and tax refund intercept.

Comparison with federal regulations

Under 42 USC § 16981 the US Department of Justice may award grants to states, local governments, and Indian tribal government to establish a GPS monitoring program for sex offenders. There are no federal regulations which address the issue of assessing a fee for the costs of electronic monitoring or global positioning system tracking.

Comparison with rules in adjacent states

Illinois:

Illinois State law sections 730 ILCS 5/5–6–3.1 (persons on community supervision), 730 ILCS 5/5–7–1 (persons subject to periodic imprisonment), and 725 ILCS 207/40 (Sexually Violent Persons Commitment Act) provide for the Chief Judge of the county where the person was convicted or committed to assess reasonable fees for all costs incidental to electronic monitoring in accordance with the person's ability to pay. The fees are paid to the county clerk to defray the costs of the monitoring program. There are no state administrative regulations which address this issue.

Iowa:

Iowa does not have either statutory or regulation provisions assessing a fee for electronic monitoring or global positioning system tracking of sex offenders.

Michigan:

Under MCLA 791.285, Michigan statutes establish a lifetime electronic monitoring program for certain offenders. Under MCLA 791.285 (2), an individual who receives a sentence which includes lifetime electronic monitoring is required to reimburse the State of Michigan for the costs related to the program. The MI Department of Corrections has not developed rules concerning the lifetime electronic monitoring program.

Minnesota:

Under MSA § 631.425 subd. 4, Minnesota statutes provide that a sheriff may assess the cost of electronic monitoring when an offender is released for work. There is not a similar statute for the electronic monitoring of sex offenders.

Summary of factual data and analytical methodologies

This rule does not affect small businesses. The rule imposes a fee on persons whom the Department monitors under GPS tracking or PPS tracking.

Small Business Impact

The department does not anticipate any effect on small businesses.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

This rule establishes a fee to partially offset the costs of monitoring global positioning system [GPS] tracking for the lifetime of an offender.

Certain sex offenders as defined in s. 301.48 (2), Wis. Stats., are required to be placed on mandatory lifetime GPS. Additionally, persons who commit a serious child sex offense as defined in s. 301.48 (1) (e), or a person under supervision under the interstate corrections compact for a serious child sex offense committed outside Wisconsin, may be subject to lifetime GPS depending upon the findings of a standardized risk assessment instrument.

The Department currently contracts with a vendor to provide and install GPS equipment worn by each offender. The vendor also provides automated alerts to the Department when an offender violates a personally assigned exclusion zone or leaves a personally assigned inclusion zone. The Department is charged \$7.99 per day per GPS unit.

The Department has established an offender fee schedule to recoup a portion of the costs the Department pays the vendor. If an offender’s gross household income is below \$800 per month, the offender will not be charged any portion of the \$7.99/day GPS equipment costs. If the income level is between \$800 and \$1,500 per month, the offender will be charged \$50 per month; between \$1,502 and \$2,400 per month incurs a \$120 fee and over \$2,400 totals the full \$240 per month cost.

The Department currently estimates there will be 331 offenders on GPS by June 30, 2009. Probation and Parole agents will determine the offender’s monthly income if the offender is being actively supervised in local communities. If the offender has been terminated from supervision yet is still required to be on lifetime GPS, the monthly income will be determined by the Department’s business offices.

Automated monthly invoices will be sent to each offender. In addition, if a payment is received during a month, a receipt will be sent to each offender monthly.

During FY09 equipment costs are expected to be approximately \$611,800. Given the Department’s income schedule shown above, and the Department’s historical collection rates, the Department anticipates recouping approximately \$30,600 in revenues during the first fiscal year. Revenues and costs will continue to grow incrementally thereafter.

The Department has incurred one-time costs to create the automated billing system to track these payments. Those costs totaled approximately \$69,000.

State fiscal effect

Increase existing revenues. Increase in costs may be possible to absorb within agency’s budget.

Local government fiscal effect

None

Fund sources affected

PRO

Affected Chapter 20 appropriations

Section 20.410 (1) (gd), Stats.

Contact Person

Kathryn R. Anderson, Chief Legal Counsel, Department of Corrections, 3099 East Washington Avenue, P.O. Box 7925, Madison, WI 53707-7925, telephone: (608) 240-5049, FAX: (608) 240-3306, email: kathryn.anderson@wisconsin.gov

Text of Proposed Rule

SECTION 1. Section DOC 332.20 is created to read:

DOC 332.20 Tracking fee. (1) **APPLICABILITY.** A person who is subject to GPS tracking or PPS tracking under s. 301.48, Stats. shall be charged a fee to offset the costs of the tracking, based on the person’s ability to pay.

(2) **DEFINITIONS.** In this section:

(a) “Global positioning system tracking” or “GPS tracking” has the meaning given in s. 301.48 (1) (b), Stats.

(b) “Passive positioning system tracking” or “PPS tracking” has the meaning given in s. 301.48 (1) (dm), Stats.

(c) “Tracking cost” means the monthly cost for tracking a person subject to GPS tracking or PPS tracking.

(d) “Tracking fee” means the fee which a person who is subject to either GPS tracking or PPS tracking is required to pay to offset the costs of tracking.

(3) **TRACKING FEE.** (a) A person who is subject to either GPS tracking or PPS tracking shall pay the tracking fee in accordance with procedures established by the department.

(b) The department shall set a tracking fee for a person who is subject to either GPS tracking or PPS tracking, based on the person’s ability to pay, and shall do all of the following:

1. Determine the person’s ability to pay the tracking fee. The department will base the determination on the person’s documented monthly gross household income. The department may require the person to produce financial documentation to establish household income, including tax returns, financial institution account statements, and wage information.

a. The department will review the determination of the person’s ability to pay the tracking fee at least annually. The department may require production of financial information for each review.

b. If a person fails to provide the requested financial documentation, the department may assess the person a tracking fee up to and including the full tracking cost.

2. Charge a tracking fee in accordance with the following table:

Table DOC 332.20

Income Category	Tracking Fee
<\$800.00	\$00.00
\$800.00 – \$1500.99	\$50.00
\$1501.00 – \$2400.00	\$120.00
>\$2400.00	\$240.00

a. The department shall publish adjustments to Table DOC 332.20 in the Wisconsin administrative register.

b. If the department proposes to make adjustment to the tracking fee by ten (10) percent or more, the department shall promulgate an administrative rule to make the adjustments. The department will not issue an emergency rule to implement the adjustments under this subsection before providing advance public notice of at least one month.

3. Establish a tracking fee schedule including the following:

a. A grace period for the initial tracking fee payment.

b. A deadline for receipt of each monthly tracking fee payment.

4. Approve procedures for the collection of tracking fees.
5. Provide the person who is required to pay a tracking fee with a copy of the tracking fee payment procedures.
6. Record all costs incurred as part of the tracking cost for monitoring a person on GPS tracking or PPS tracking.
7. Record all tracking fees paid by a person.
8. Provide the person with access to a copy of the record of payments to verify receipt of the payments.
9. Advise the person of nonpayment of tracking fees.
10. Credit the moneys collected to the appropriation account under s. 20.410 (1) (gk), Stats.
11. Audit the record of payments of tracking fees.

(4) DEPARTMENT ACTION WHEN A PERSON ON PROBATION, PAROLE, OR EXTENDED SUPERVISION FAILS TO PAY TRACKING FEE. The department may use any of the following actions in any order when a person who is required to pay a tracking fee and who is on probation, parole, or extended supervision fails to pay the tracking fee:

- (a) Counseling.
- (b) Wage assignment.
- (c) Review of supervision or custody level to determine if more restrictive sanctions are needed, including an increase in the level of supervision, increase in the security level of custody, or detention in a jail, correctional facility or house of correction.
- (d) Issue a recommendation for revocation of parole, probation, or extended supervision for the person's willful failure to pay the tracking fee.
- (e) Any other appropriate means of obtaining the tracking fee.

(5) DEPARTMENT ACTION WHEN A PERSON NOT ON PROBATION, PAROLE OR EXTENDED SUPERVISION FAILS TO PAY TRACKING FEE. The department may use any of the following actions in any order when a person who is required to pay a tracking fee but who is not on probation, parole, or extended supervision fails to pay the tracking fee:

- (a) Wage assignment.
- (b) Intercept of the person's Wisconsin income tax refund or Wisconsin lottery winnings.
- (c) Submission of the debt to a state contracted collection agency.
- (d) Any other appropriate means of obtaining the tracking fee.

Notice of Hearing

Health Services

Health, Chs. HFS 110— EmR0825 and CR 08-082

NOTICE IS HEREBY GIVEN that pursuant to sections 256.15 (9m) and (13) and 227.11 (2), Stats., Stats., and interpreting sections 256.15 (9m) and 227.11 (2), Stats., Stats., the Wisconsin Department of Health Services will hold a public hearing on its emergency rules and corresponding proposed permanent rules creating Chapter HFS 119, relating to requiring emergency medical technicians, first responders, and individuals who provide instruction to emergency medical technicians and first responders to complete training on the use of automated external defibrillators and to specify the content of the training, qualifications of providers, and frequency with which training is to be completed, and affecting small businesses.

Hearing Information

Date and Time

December 11, 2008

1:00 to 2:00 PM

Location

Department of Health Services

1 W. Wilson Street

Room B141

Madison, WI 53701

The hearing site is fully accessible to people with disabilities. If you are hearing impaired, do not speak English or have circumstances that might make communication at a hearing difficult; you require an interpreter or a non-English large print or taped version of the proposed rules, contact the person at the address or telephone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Submission of Written Comments

Written comments may be submitted at the public hearing or submitted to the contact person listed below. Comments may also be made using the Wisconsin Administrative Rule Website at <http://adminrules.wisconsin.gov>.

The deadline for submitting comments to the Department is 4:30 p.m. on December 11, 2008.

Analysis Prepared By the Department of Health Services

Statutes interpreted

Sections 256.15 (9m) and 227.11 (2), Stats.

Statutory authority

Sections 256.15 (9m) and (13) and 227.11 (2), Stats.

Explanation of agency authority

Section 256.15 (13) (a) Stats., permits the department to promulgate rules necessary to administer s. 256.15 relating to licensing, certifying and training emergency medical services personnel.

Section 256.15 (9m), Stats., requires the department to promulgate rules that require emergency medical technicians, first responders, and individuals who provide instruction to emergency medical technicians and first responders to complete training on the use of automated external defibrillators. Section 256.15 (9m), Stats., also requires the department to specify, in rules, the content of the training, qualifications of providers, and frequency with which training is to be completed.

Section 227.11 (2), Stats., provides state agencies with general rulemaking authority.

Related statute or rule

Section 256.15 (6g), Stats., and chs. HFS 110, 111, 112, and 113 (soon to be renumbered DHS 110, 111, 112, and 113).

Plain language analysis

Section 256.15 (9m), Stats., requires the department to promulgate rules that require emergency medical technicians, first responders, and individuals who provide instruction to emergency medical technicians and first responders to complete training on the use of automated external defibrillators. Section 256.15 (9m), Stats., also requires the department to specify, in rules, the content of the training, qualifications of providers, and frequency with which training is to be completed.

Emergency medical services professionals already generally receive instruction on the use of automated external defibrillators as part of their standard training and certification. The requirements, however, are not in administrative rules.

Comparison with federal regulations

There appear to be no existing or proposed federal regulations that address the activities to be regulated under the proposed rules.

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

Iowa, under 131 IAC, requires emergency medical services personnel to maintain current written recognition given for training and successful course completion of CPR which includes training on the use of an AED.

Illinois:

Illinois, under 77 Ill. Adm. Code 525.300 and 525.400, requires the department of public health to approve courses that meet the course objectives for the American Heart Association or the American Red Cross courses and that require at least the same number of hours for completion. To be recognized as an AED user in Illinois the code requires an individual to be trained as an instructor in the use of AEDs, or be licensed to practice medicine in all its branches under Illinois statute. These requirements are comparable to the requirements under this rule where training in the use of an AED is to be provided by the American Heart Association, American Red Cross, and other organizations who have similar training objectives, except that the proposed rule does not require emergency medical professionals to be trained as instructors, or be licensed to practice medicine.

Michigan:

Michigan, under Mich. Adm. Code R. 325, requires emergency medical services personnel to have a department of community health-approved cardiac pulmonary resuscitation (CPR) program for a health care provider or highest equivalent level of training. This rule is similar to the training approved and required for emergency medical professional under the proposed rule. The training required under the proposed rule is at the professional level of training which is intended for persons in the health care field.

Minnesota:

Minnesota does not have administrative rules that are similar to the proposed rules.

Summary of factual data and analytical methodologies

Emergency medical services professionals are already required by the department to receive instruction on the use of AEDs as part of their standard training for licensure and certification. The requirements, however, are not in administrative rules. Section 256.15 (9m), Stats., requires the department to promulgate rules that require emergency medical technicians, first responders, and individuals who provide instruction to emergency medical technicians and first responders to complete training on the use of automated external defibrillators. Section 256.15 (9m), Stats., also requires the department to specify, in rules, the content of the training, qualifications of providers, and frequency with which training is to be completed.

Small Business Impact

The fiscal effect of the proposed rules on private and public sector ambulance service providers who employ emergency medical services professionals should be minimal, as the emergency medical professionals and instructors are already required by the department to receive the instruction required under s. 256.15 (9m), Stats. However, the fiscal effect may vary and depends on whether the provider or the individual pays for the course. Instruction on the use of AEDs is

generally taught in a course that combines CPR and AED training. The cost of a certification course at one of the approved providers, e.g. the American Heart Association, American Red Cross, American Safety and Health Institute, American Academy of Orthopedic Surgeons, and Medic First Aid is approximately \$50. Instruction is required at least every two years under the proposed rule.

Small business regulatory coordinator

Rosie Greer

Greerrj@dhfs.state.wi.us

608-266-1279

Fiscal Estimate

The fiscal effect of the proposed rule on the department is expected to be minimal. The fiscal effect of the proposed rules on private and public sector ambulance service providers who employ emergency medical services professionals should also be minimal, as the emergency medical professionals and instructors are already required by the department to receive the instruction required under s. 256.15 (9m), Stats. However, the fiscal effect is varied and depends on whether the provider or the individual pays for the course. Instruction on the use of AEDs is generally taught in a course that combines CPR and AED training. The cost of a certification course at one of the approved providers, e.g. the American Heart Association, American Red Cross, American Safety and Health Institute, American Academy of Orthopedic Surgeons, and Medic First Aid is approximately \$50.

Copies of Proposed Rules and Fiscal Estimate

A copy of the full text of the rules and the fiscal estimate can be obtained at no charge from the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> or from the department by contacting the person listed below.

Contact Person

Brian D. Litza, EMS Section Chief

1 W. Wilson St., Room 133

Madison, WI 53701

(608) 261-6870

Brian.Litza@Wisconsin.gov

Notice of Hearing

***Military Affairs —
Wisconsin Emergency Management
EmR0836 and CR 08-106***

NOTICE IS HEREBY GIVEN that pursuant to authority vested in Wisconsin Emergency Management and State Emergency Response Commission in ss. 227.17 and 227.18, Stats., Wisconsin Emergency Management will hold public hearings to consider an order adopting emergency rules and a permanent rule to amend ss. WEM 1.03 and 1.04 (7) (a) to (j) in order to establish fee revisions to facilities housing hazardous chemicals, hazardous substances and extremely hazardous substances as defined in s. WEM 1.02 (5).

Hearing Information

The first hearing will be held:

Date: Thursday, December 18, 2008

Time: 9:30 a.m.

Location: Wisconsin Emergency Management
2400 Wright St.
Witmer Hall
Madison, WI 53704

The second hearing will be held:

Date: Friday, December 19, 2008
Time: 1:00 p.m.
Location: University of Wisconsin – Marathon County
 Conference Room # 5
 212 River Drive
 Wausau, WI. 54403–5476

(For directions go to www.marathon.uwex.edu)

The hearings will be held in handicapped accessible facilities. If you are in need of accommodations that may simplify your efforts to hear, see and access the facility, please contact Sharon Edwards–Billings at (608) 242–3224 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent available upon a request from persons with physical challenges.

Submission of Written Comments

Comments may be submitted to Sharon Edwards–Billings, EPCRA Planning Specialist, Wisconsin Emergency Management; 2400 Wright Street, Room 213, P.O. Box 7865, Madison, WI 53708–7865. Telephone: (608) 242–3224. Email: sharon.edwardsbillings@wisconsin.gov.

Comments must be received on or before December 18, 2008 to be included in the record of rule–making proceedings.

Emergency Rule — EmR0836

Relating to a fee change for facilities storing hazardous materials and extremely hazardous substances under the emergency planning & community right–to–know act (EPCRA)

Finding Of Emergency

The Wisconsin Division of Emergency Management (WEM)/State Emergency Response Commission finds that an emergency exists and that a rule revision is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting an emergency is as follows:

Emergency response to and planning for accidental or purposeful releases of dangerous chemicals will be compromised by a significant reduction of money available to fund emergency management activities at the county level. County emergency management agencies will be unable to fully comply with state and federal laws. Wisconsin Emergency Management would also experience substantial reductions in capabilities to assist local units of government with their state and federally required responsibilities. Sufficient funding of the county grant program and WEM activities is necessary to protect and defend the citizens of Wisconsin from accidental releases and releases caused by terrorist actions.

Analysis Prepared by Wisconsin Emergency Management

Statutes interpreted

Sections 166.20 generally, 166.20 (5), 166.20 (7), and 166.21, Stats.

Statutory authority

Sections 166.20 generally, 166.20 (5), and 166.20 (7), Stats.

Plain language summary

The proposal to amend WEM 1.03 and WEM 1.04 (7) (a) through (j) would establish fee revisions to facilities housing

hazardous chemicals, hazardous substances and extremely hazardous substances as defined in WEM 1.02 (5).

Facilities and certain small businesses which have 10 or more full–time employees and store hazardous materials, hazardous substances and extremely hazardous substances are assessed a fee based on the types and numbers of chemicals present. Fees have not increased since the initial implementation of the fee structure in 1990.

Wisconsin Emergency Management has been successful in stretching dwindle dollars over the years but projections indicate that a change in fees is necessary to avoid substantial reductions of services at the county and state levels of emergency management.

The fees collected fund the grant program which assists county emergency management with planning, response, exercising and training activities as they relate to accidental or purposeful release of hazardous materials, hazardous substances or extremely hazardous substances.

The fees collected fund planning, response, exercise and training activities by the state which supports county emergency management activities.

The changes in this emergency rule will fund the program at the present level for one year to ensure that citizens are protected from the affects of accidental or purposeful release of chemicals at the present level. The permanent rule is being drafted.

SECTION 1. WEM 1.03 is amended to read:

WEM 1.03 An owner or operator who has made an emergency planning notification required under 166.20 (5) (a) 1., Stats., shall submit a fee of \$800 per facility no later than 2 months after February 1, 1990. Except as provided under s. WEM 1.06, an owner or operator shall submit a fee of ~~\$800~~945 per facility with the emergency planning notification required under s. 166.20 (5) (a) 1., Stats. The planning notification fee statement shall be submitted one time to the division.

SECTION 2. WEM 1.04 (7) (a) through (j) is amended to read:

(7) Except as provided under s. WEM 1.07, the appropriate inventory form fee required under this section is:

(a) For facilities submitting an inventory form listing one hazardous chemical subject to inventory form fee calculations and a maximum daily amount of less than 100,000 pounds, ~~\$150~~180. Facilities with an actual maximum daily amount of 100,000 or more, ~~\$180~~210

(b) For facilities submitting an inventory form listing 2 to 10 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$300~~355. Facilities with an actual maximum daily amount of 100,000 or more, ~~\$360~~425.

(c) For facilities submitting an inventory form listing 11 to 100 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$450~~530. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$540~~635.

(d) For facilities submitting an inventory form listing 101 to 200 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$550~~650. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$660~~780.

(e) For facilities submitting an inventory form listing 201 to 300 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount

of less than 100,000 pounds, \$650765. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$780920.

(f) For facilities submitting an inventory form listing 301 to 400 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$750885. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$9001060.

(g) For facilities submitting an inventory form listing 401 to 500 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$8501005. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$10201205.

(h) For facilities submitting an inventory form listing over 500 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$9501120. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$11401345.

(i) For temporary construction facilities, \$2024.

(j) For batch plants, \$2024.

Note: Facilities that have submitted Tier II and Inventory Fee Statements in 2008 for chemicals in 2007 will receive preprinted forms in the mail on or about January 1, 2009. These forms can also be obtained through the Wisconsin Emergency Management website at emergency_management@wisconsin.gov or call 608-242-3221.

Permanent Rule — CR 08-106

The Wisconsin Division of Emergency Management proposes an order to amend WEM 1.03 and WEM 1.04 relating to fees.

Analysis Prepared by Wisconsin Emergency Management

Statutes interpreted

Sections 166.20 generally, 166.20 (5), 166.20 (7), and 166.21 Stats.

Statutory authority

Sections 166.20 generally, 166.20(5), and 166.20(7) Stats.

Explanation of agency authority

The Department of Military Affairs, through its Division of Emergency Management (WEM)/State Emergency Response Commission, is required under s. 166.20 (7), Stats. to promulgate and adopt rules establishing a one-time fee when a facility makes the planning notification requirement under s. 166.20 (7) (a) 1. The Division of Emergency Management is also required under s. 166.20 (7) to promulgate and adopt rules establishing an annual inventory fee when a facility submits the emergency and hazardous chemical inventory forms required under s. 166.20 (5) (a) (3).

Related rule or statute

There are no other related statutes or rules other than those listed above.

Plain language analysis

The proposal to amend WEM 1.03 and WEM 1.04 (7) (a) through (j) would establish fee revisions to facilities housing hazardous chemicals and extremely hazardous substances as defined in WEM 1.02 (5).

The federal government created and adopted the Emergency Planning and Community Right-to-Know Act

(EPCRA) 22 years ago and required states to participate with emergency planning, response, exercising and training. Since Wisconsin is a home rule state, the responsibility to plan for chemical emergencies falls to local units of government/Local Emergency Planning Committees (LEPCs). To alleviate the burden of another unfunded mandate to local government, the legislature implemented a fee collection program to facilities which store hazardous materials and extremely hazardous substances. WEM was instructed by the legislation to implement a fee structure in order to fund the program. The current fee structure was implemented in 1990 and has not been modified since its inception. The fees collected are designated to fund the grant program to counties/LEPCs and a small portion is designated to WEM to fund programs designed to assist local units of government.

Emergency planning needs have evolved and become more complex since the initial implementation of EPCRA. Planning for and emergency response to accidental and purposeful releases of dangerous chemicals will be compromised by a significant reduction of money available to fund activities at the county level of emergency management. County emergency management agencies will be unable to protect citizens and to fully comply with state and federal laws if adequate funds are not available to counties to support the grant program. Wisconsin Emergency Management would also experience substantial reductions in capabilities to assist local units of government.

Facilities and certain small businesses which have 10 or more full-time employees and submit emergency planning notification when the threshold planning quantity of an extremely hazardous substance is present must submit a one-time fee. Facilities and certain small businesses which have 10 or more full-time employees and store hazardous chemicals must submit an annual fee based on the types and numbers of chemicals present.

Wisconsin Emergency Management (WEM) has been successful in stretching dwindle dollars over the years but projections indicate that a change in fees is necessary to avoid substantial reductions of services at county and state levels of emergency management.

The fees assessed to facilities would increase by 35%. Fees have not increased since the initial implementation of the fee structure in 1990. It is anticipated that the fee revision will fund the program for through the year 2014

Comparison with rules in adjacent states

Illinois:

Does not have a fee assessed to facilities.

Iowa:

Does not have a fee assessed to facilities.

Michigan:

Does not have a fee assessed to facilities.

Minnesota:

The EPCRA Program collects fees related to hazardous materials storage and release. The fees are used to prepare communities for emergencies that are the result of hazardous materials incidents/accidents.

A. The hazardous Chemical Inventory Fee

1. Facilities reporting the storage of hazardous materials under Section 312 of the federal EPCRA law are required to pay a fee based on the number of chemicals they store. Fees range from \$25.00 to \$1,000.00 within 3 categorical fee ranges.

B. The Hazardous Materials Incident Response Act Fee

1. Minnesota law authorizes the establishment of up to five Regional Hazardous Materials Response Teams and creates fee structure to support these teams.
 - a. Facilities that report the storage of an extremely hazardous substance (EHS) under Section 302 of the federal EPCRA law are required to pay a fixed annual fee of \$75.00 per facility
 - b. Facilities that report releases and/or transfers under Section 313 of the federal EPCRA law are required to pay an annual fee based on the amount released and transferred. These fees range from \$200.00 to \$800.00 in 3 categorical fee ranges.

Summary of factual data and analytical methodologies

WEM performed numerous fiscal analogies to determine the best course of action to keep the county grant program and state services to counties operating at a level consistent with changing and diverse needs. Several options were developed to cope with the fact that the fund would be depleted if changes were not implemented:

- Increase EPCRA fees at a specified percentage. This would fund the program to meet local and state needs.
- Increase the Petroleum Environmental Cleanup Fund Act (PECFA) transfer to the EPCRA fund. Additional funding, such as the state disaster fund has been taken out of PECFA, and currently the fund may not have sufficient money.
- Increase the EPCRA fees and the PECFA transfer. This would have the benefit of reducing the overall increase in EPCRA fees and the PECFA transfer. However, if the PECFA fund does not have a surplus, then it would not be a viable option.
- Obtain additional funding from another source. At this time no other viable funding source has been identified.

After reviewing the options, it was determined that a 35% increase in facility reporting fees and the emergency planning fee was the appropriate option to increase funding in the grant allocation to counties and WEM expenditure levels to take into account increases to the cost of living. Operating costs for both the counties and state have been increasing with no increase to the allocation since 1990. This option will increase support at a level that should keep the fund solvent through 2014.

Small Business Impact

Facilities with 10 or more employees would experience a fee change. Under s. 166.20 (7) (d), Stats., facilities with fewer than the equivalent of 10 full-time employees are exempt from inventory fees and the one-time emergency planning fee.

Initial regulatory flexibility analysis

Types of small businesses that will be affected by the rule:

Small businesses as defined s. 227.114 (5), Stats. and s. 166.20 (5) – (5m) and do not meet the fee exemption un s. 166.20 (7) (d).

Reporting, bookkeeping and other procedures required for compliance with the rule:

No new reporting, bookkeeping and other procedures are required for compliance with the rule.

Types of professional skills

No new professional skills are necessary for compliance with the rule.

Rules have a significant impact on small business?

No. Most small businesses with 10 or more employees are now paying the minimum annual inventory fee of \$150.00 and will see that increase by 35% annually. Small businesses with 10 or more employees who must submit the one-time planning notification will expect an increase in the fee of 35%.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

The emergency rule will increase fees by eighteen percent for one year until the permanent rule goes into effect.

The increase will support local and state programs at the present rate.

State fiscal effect

Increase to existing revenues.

Increase to existing appropriation.

Local government fiscal effect

No local government costs.

Fund sources affected

PRO

Affected Chapter 20 appropriations

Section 20.465 (3) (i), Stats.

Long-range fiscal implications

None.

Agency Contact Person

William Clare, Planning Section Supervisor
Wisconsin Emergency Management
2400 Wright Street, Room 213
P.O. Box 7865
Madison, WI 53708-7865
Telephone: (608) 242-3220
Email: william.clare@wisconsin.gov

Text of Proposed Rule

SECTION 1. WEM 1.03 is amended to read:

WEM 1.03 An owner or operator who has made an emergency planning notification required under 166.20 (5) (a) 1, Stats., shall submit a fee of ~~\$800~~1080 per facility no later than 2 months after February 1, 1990. Except as provided under as provided under s. WEM 1.06, an owner or operator shall submit a fee of ~~\$800~~1080 per facility with the emergency planning notification required under s. 166.20 (5) (a) 1., Stats. The planning notification fee statement shall be submitted one time to the division.

SECTION 2. WEM 1.04 (7) (a) through (j) is amended to read:

(7) Except as provided under s. WEM 1.07, the appropriate inventory form fee required under this section is:

(a) For facilities submitting an inventory form listing one hazardous chemical subject to inventory form fee calculations and a maximum daily amount of less than 100,000 pounds, ~~\$450~~205. Facilities with an actual maximum daily amount of 100,000 or more, ~~\$180~~245.

(b) For facilities submitting an inventory form listing 2 to 10 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$300~~405. Facilities with an actual maximum daily amount of 100,000 or more, ~~\$360~~485.

(c) For facilities submitting an inventory form listing 11 to 100 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$450~~610. Facilities with a

cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$540~~730.

(d) For facilities submitting an inventory form listing 101 to 200 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$550~~745. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$660~~890.

(e) For facilities submitting an inventory form listing 201 to 300 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$650~~880. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$780~~1055.

(f) For facilities submitting an inventory form listing 301 to 400 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$750~~1015. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$900~~1215.

(g) For facilities submitting an inventory form listing 401 to 500 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$850~~1150. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$1020~~1375.

(h) For facilities submitting an inventory form listing over 500 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, ~~\$950~~1285. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, ~~\$1140~~1540.

(i) For temporary construction facilities, ~~\$20~~27.

(j) For batch plants, ~~\$20~~27.

Note: Facilities that have submitted Tier II and Inventory Fee Statements in 2009 for chemicals in 2008 will receive preprinted forms in the mail on or about January 1, 2010. These forms can also be obtained through the Wisconsin Emergency Management website at emergency_management@wisconsin.gov or call 608-242-3221.

Submittal of Proposed Rules to the Legislature

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

Employee Trust Funds CR 08-079

A rule-making order to repeal and recreate section ETF 40.01, relating to continued group health insurance coverage of an insured dependent after the death of the insured employee or annuitant.

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 07-004

Creates Chapter ATCP 106, relating to price gouging during an emergency.
Effective 1-1-09.

Agriculture, Trade and Consumer Protection
CR 07-093

Revises Chapters ATCP 74 and 75, relating to local agents regulating retail food establishments for the Department.
Effective 1-1-09.

Agriculture, Trade and Consumer Protection
CR 07-073

Revises Chapters ATCP 99, 100 and 101, relating to agricultural producer security.
Effective 1-1-09, except for small businesses, 3-1-09.

Agriculture, Trade and Consumer Protection
CR 08-027

Revises Chapter ATCP 123, relating to electronic communications services.
Effective 1-1-09.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in the November 30, 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.

Agriculture, Trade and Consumer Protection **CR 07-107**

Revises Chapters ATCP 10, 12 and 17, relating to animal health and disease control. Effective 12-1-08 and 7-1-09.

Summary of Final Regulatory Flexibility Analysis

Effect on Private Fish Farm Operators

DATCP estimates that VHS testing requirements under this rule will affect 30-40 private fish farms, not counting DNR "cooperator" fish farms registered by DNR (see state fiscal impact above). The combined total cost to all affected private fish farm operators will be approximately \$20,000 per year. However, some of those affected fish farmers are already performing VHS tests in order to meet federal requirements for shipping fish in interstate commerce, so the net impact of this rule may be less than \$20,000. Fish farm costs may increase if USDA finds that additional fish species are susceptible to VHS (the amount of the increase will depend on which fish species are found to be susceptible).

Effect on Bait Dealers

The VHS testing requirements under this rule will have an immediate impact on approximately 25 Wisconsin bait dealers who are currently harvesting emerald shiners from the wild (emerald shiners are the only bait species known to be susceptible to VHS at this time). VHS testing costs may deter wild harvesting of emerald shiners for sale as bait, but affected bait dealers may still harvest and sell other types of bait (emerald shiners comprise only about 10% of the bait market).

Bait dealers that are not currently harvesting emerald shiners will not be substantially affected by this rule unless USDA finds that additional bait species are susceptible to VHS. If USDA finds that other major bait species are susceptible, this rule could have a more dramatic impact on bait dealers. The impact will depend on the species that are affected.

Farm-Raised Deer Keepers

This rule will help control chronic wasting disease and other diseases, for the benefit of the entire farm-raised deer industry, and will make state rules consistent with federal rules. This rule will have minimal impact on most individual operators, and will reduce costs and facilitate deer farm operations in many cases. Some operators may have slight increased costs for fencing, record keeping or animal identification, but fencing costs may be reimbursed by USDA.

Cattle and Goat Producers

This rule allows dairy herd improvement technicians and certified veterinarian technicians to collect milk samples that are used as Johne's disease test samples. That will make it easier, and less costly, for many dairy farmers to participate in the Johne's disease herd testing and management program.

This rule clarifies and strengthens some cattle import restrictions, for the protection of Wisconsin's livestock industry. Import rules will not have significant adverse effects on the livestock industry.

Poultry Producers

This rule will have no adverse effects on poultry producers. It will give poultry importers and exhibitors more flexible movement options, without weakening disease protection.

Animal Markets, Dealers and Truckers

This rule will simplify licensing of animal market operators, dealers and truckers, by eliminating current knowledge testing requirements. This rule will require some animal market operators, dealers and truckers to make minor changes in recordkeeping and operating procedures. Recordkeeping changes will improve disease control and traceback capability, for the benefit of the entire livestock industry. This rule will not have any significant adverse effect on animal market operators, dealers or truckers.

Persons Keeping Livestock; Premises Registration

Under current law, a person who keeps livestock at a location in this state is required to register that location with DATCP. This rule does not expand or modify current registration requirements, except that this rule will make it easier and more convenient to register. Among other things, this rule will extend the registration renewal period from one year to 3 years. This rule will not increase costs or compliance requirements for livestock operators.

Other Affected Businesses

This rule will not have any significant adverse impact on other affected businesses. This rule will clarify current rules, and improve disease control, for the benefit of the entire livestock industry.

Small Business Accommodation

DATCP has not exempted small businesses from this rule, because the risk of disease spread is unrelated to business size.

Summary of Comments by Legislative Review Committees

On August 13, 2008 DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate

Committee on Agriculture and Higher Education and to the Assembly Committee on Agriculture. The legislative review period expired on September 25, 2008.

No hearings were held and the neither committee requested any changes to the rule.

Agriculture, Trade and Consumer Protection

CR 07-116

Revises Chapters ATP 42, 55 and 57, relating to meat and inedible animal by-products. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

This rule repeals and recreates current DATCP rules related to renderers (none of which is a small business), animal food processors, grease processors, dead animal collectors and carcass dealers. These entities process and handle inedible animal carcasses and carcass materials, and produce products for *non-food* use. This rule helps these businesses by clarifying current licensing and regulations. The rule seeks to prevent diseases and food safety incidents that could threaten the entire industry. These businesses are already required to comply with federal restrictions incorporated by reference in this rule. DATCP has provided information and assistance to help them comply. This rule does not increase industry fees.

This rule incorporates current federal regulations that prohibit the feeding of protein from mammalian tissues to cattle or other ruminants. The federal regulations are designed to prevent the incidence of BSE (“mad cow disease”). DATCP is already enforcing the current federal regulations that are incorporated in this rule. This rule does not yet incorporate new federal regulations barring certain cattle materials from all animal feed, which are scheduled to take effect in April 2009, but DATCP will enforce those new federal regulations on behalf of the United States Food and Drug Administration (FDA) when they take effect.

This rule affects state-licensed meat establishments that slaughter or process meat or poultry (effects may vary, depending on the nature of the establishment’s meat slaughter or processing operations), as well as meat brokers and distributors. However, the impact on these meat establishments, brokers and distributors will be quite limited because the entities have already implemented most of the practices required by this rule. For example, meat establishments are already implementing relevant federal regulations related to nonambulatory cattle, listeria prevention plans and retained processing water. This rule also clarifies current rules related to meat brokers and meat distributors.

Consistent with recent changes in federal regulations (state rules must be at least “equal to” federal regulations), this rule now (1) prohibits, with limited exceptions, the slaughter of non-ambulatory disabled cattle for human consumption (DATCP is already enforcing this federal prohibition), (2) requires producers of “ready-to-eat” meat products to have written procedures for minimizing food safety risks related to *Listeria monocytogenes* (DATCP has already implemented this federal requirement), and (3) restricts the amount of water from post-evisceration processing that may be retained in raw meat and poultry.

This rule clarifies current recordkeeping requirements, but it does not add significant new recordkeeping requirements (except that it adds some minimal recordkeeping requirements for meat brokers and meat distributors). This rule requires regulated entities to keep records for 3 years

(instead of 2 years under current rules). Businesses will not need additional professional services to comply with this rule.

This rule will make it easier for affected businesses to understand and comply with the rules that apply to them. DATCP will send copies of the rules to all affected businesses and will offer education and training during inspections.

This rule will not have any significant adverse impacts on small business. DATCP has not exempted small businesses, because the food safety and other requirements under this rule are important for small as well as large businesses. DATCP has already adopted a rule (subch. VII of ch. ATP 1) that allows DATCP to exercise enforcement discretion for small business.

Summary of Comments by Legislative Review Committees

On July 21, 2008, DATCP transmitted this rule for legislative review. The rule was assigned to the Assembly Committee on Agriculture and the Senate Committee on Agriculture and Higher Education. No hearings were held for the rule and no modifications were requested.

Commerce

CR 07-029

Revises Chapters Comm 2, 10, 14, 47 and 48, relating to flammable, combustible and hazardous liquids. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

These rules primarily establish or refine design, construction, operation and maintenance standards for public safety, and for protecting the waters of the state from contamination by liquids that are flammable or combustible or are federally-regulated hazardous substances. These rules are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives that are the basis for the rules.

A substantial number of the issues raised during the public Hearing process may have been raised by or on behalf of small businesses, and addressed topics such as readability, retroactivity, secondary containment, periodic inspections, excessive costs, and leak detection. The Department made significant and numerous changes to the rules in response to the Hearing comments. For example, (1) wherever requirements would apply retroactively to an existing facility — and wherever they may have been misunderstood to so apply — the rule text was reviewed and modified where appropriate to more clearly convey which requirements are retroactive, and which are not; (2) wherever the Hearing draft referred to a required form or financial-responsibility document, the rule text and associated informational notes were reviewed and modified where appropriate to clearly convey which form or document is needed, and how to obtain it; (3) wherever the Hearing draft referred to a responsibility of an owner or operator or both, the rule text was reviewed and modified where needed to clearly convey who has the responsibility; (4) the tank registration and permitting processes were extensively clarified; (5) the recordkeeping requirements for aboveground tanks are no longer partly located in the subchapter for underground tanks, and both sets of recordkeeping requirements were clarified; (6) criteria for existing sumps and other secondary containment were clarified to require periodic inspection and maintenance rather than replacement, including where existing sumps are smaller than is required for new sumps; (7) requirements for sumps were clarified to recognize dispenser pans, spray-on

liners, brushed-on liners, formed-in-place containment products, and other effective secondary containment practices that are currently in use; (8) periodic inspections for aboveground steel tanks were clarified to not apply to heating oil tanks and tanks at farms and construction sites, and were changed to not apply to tank wagons or movable tanks or tank vehicles, and are no longer required for tanks that are smaller than 1,100 gallons; (9) the compliance period for installing overfill protection at existing facilities was doubled; and (10) the roles of owners, operators, contractors and delivery personnel in preventing and responding to releases were clarified.

Summary of Comments by Legislative Review Committees

No comments were received, although a hearing was held on August 20, 2008, by the Assembly Committee on Natural Resources.

Commerce CR 08-028

Revises Chapters Comm 41 and 45, relating to boilers and pressure vessels and mechanical refrigeration. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.19 (3m), Stats., the Department has determined that the rules that clarify chapter Comm 45 relating to mechanical refrigeration and that update chapter Comm 41 by adopting the latest edition of the boiler and pressure vessel codes published by the American Society of Mechanical Engineers (ASME) and modifying these standards, where necessary, to reflect any Wisconsin statutes or to improve clarity will not have a significant impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce CR 08-039

Revises Chapters Comm 2 and 5, relating to program revenue fees. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

The Division of Safety and Buildings within the Department of Commerce is responsible for administering and enforcing safety and health rules relating to the construction and inspection of dwellings, public buildings and places of employment. In the administration and enforcement of those rules, the Department provides numerous services such as plan examination, inspection and certification. The Department, by rule promulgated under chapter 227 of the Wisconsin Statutes, is required to fix and collect fees which should, as closely as possible, equal the cost of providing those services.

The rules contain fee increases for the following program areas: amusement rides and ski tows; boilers, gas systems and mechanical refrigeration; commercial buildings; elevators and lifting devices; plumbing systems plan review; public swimming, water attractions and associated slides; private onsite wastewater treatment system plan and product review; soil erosion/stormwater management; 1&2 family dwellings and manufactured homes/housing; rental weatherization, and licenses certifications and registrations.

The changes are necessary in order to bring revenues more in line with the costs of providing the services in each program area. The fee increases proposed would result in an overall increase in revenue of 17% and provide sufficient revenue for a 4 year period.

The Department believes that the rules would have a minimal direct impact on small business in light of the following:

In most cases, the annual fees associated with building equipment that require businesses to obtain permits to operate or registrations are not proposed to be increased. The majority of the fee increases relate to division services, such as plan review and inspection, which most businesses would utilize on an infrequent basis. These types of fees would not be significant to the overall operation of the business in comparison to overall expenses.

Summary of Comments by Legislative Review Committees

The committees requested a joint meeting with the department. As a result of that meeting, department submitted a germane modification that reduced the proposed increase for the fees associated with the public swimming pool program.

Government Accountability Board CR 08-024

Creates Chapter GAB 12, relating to the certification and training of municipal clerks. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

The creation of this rule does not affect business.

Summary of Comments by Legislative Review Committees

No comments were reported.

Health Services CR 08-042

Repeals Chapter HFS 129 and creates Chapter DHS 129, relating to certification and training of nurse aides, home health aides, medication aides, feeding assistants, and hospice aides. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

Based on a review of DHS licensing data, including, financial reports submitted by the entity, Medicaid reimbursement data, number of beds and whether the entity is a part of a larger health care organization, DHS has determined that the affected nursing homes, hospitals and facilities for the developmentally disabled are not small businesses as defined by section 227.114 (1) (a), Stats.

Although some nursing homes in Wisconsin meet the definition of a small business, none of the 33 nursing homes that currently provide nurse aide training meet this definition. The technical colleges, high schools, universities and 3 non profit entities in the "Other" category that provide nurse aide training do not meet the definition of a small business either. The Department has no detailed financial data regarding the remaining ten nurse aide training programs in the "Other" category and assumes these for profit entities are small businesses. Based on available data it appears 8 of the 10 nurse aide training programs categorized as "Other" will be affected by this rule change. (As noted above, 2 training programs meeting the definition of a small business already provide 120 or more training hours.) This represents 9% of all nurse aide training programs in Wisconsin. It is estimated that

any increased costs will be passed on to students in the form of higher tuition, with no significant impact on the affected entities. New training programs will be able to build the 120 hour training requirement into their business plan.

Summary of Comments by Legislative Review Committees

No comments were received.

**Natural Resources
CR 07-036**

Revises Chapters NR 439, 446 and 484, relating to the control of mercury emissions from electrical generating units. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

The requirements in the revisions do not impose regulatory requirements on small businesses in Wisconsin. The electric generating units subject to the emission reduction requirements are not small businesses. However, any costs which the electric utility industry incurs to meet the requirements will likely be passed on to their customers, which will include small businesses. For an average household, the cost is expected to be \$5 to \$12 annually.

Summary of Comments by Legislative Review Committees

The rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On August 20, 2008, the Assembly Committee on Natural Resources held a public hearing. As a result of that hearing, the Committee requested that the Department prepare an economic impact report on the rule and remove all provisions relating to nitrogen oxides and sulfur dioxide. On August 22, 2008, the Department declined to make the modifications. On September 4, 2008, Clearinghouse Rule No. 07-036 was referred to the Joint Committee for Review of Administrative Rules. The Joint Committee did not take any action on the rule.

**Natural Resources
CR 07-094**

Revises Chapters NR 320, 323, 328, 329, 341, 343 and 345, relating to general permit criteria requiring decontamination of equipment for invasive species and viruses. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

Small businesses affected by this rule will include contractors, developers, consultants, builders, public utility companies and municipalities who provide plans, design or engage in projects along public navigable waterways. Small businesses would need to do several activities to comply: 1) make a self-determination of exemption using web-based tools provided by the department or describe their activity on an exemption determination request form; and either 2) complete a general permit application; or 3) complete an individual permit application.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On August 20, 2008, the Assembly Committee on Natural Resources held a public

hearing. The Department did not receive a comments or requests for modification as a result of the hearing.

**Natural Resources
CR 07-110**

Revises Chapter NR 105, relating to surface water quality criteria. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

The Department has determined that the changes to criteria proposed in this rule package will not have a significant impact on small businesses. Of the 18 substances proposed for criteria revisions, it is estimated that no discharge permits will be affected for 14 of those substances. The only substances for which changes in permit limitations are foreseen are arsenic, copper, nickel and selenium. The number of permits that would need new or lower permit limits include 52 municipalities, 26 industries, and 7 public or privately owned treatment facilities. A small number of the 26 industries may be considered small businesses, and the changes in the municipality limits could have indirect impacts on small businesses within those communities.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On August 20, 2008, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive a comments or requests for modification as a result of the hearing.

**Natural Resources
CR 08-010**

Revises Chapters NR 20, 21, 22 and 23, relating to fishing on the inland, outlying and boundary waters of Wisconsin. Effective 12-1-08 and 4-1-09.

Summary of Final Regulatory Flexibility Analysis

The rules do not impose any compliance or reporting requirements on small businesses, nor are any design or operational standards contained in the rule. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On August 20, 2008, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive a comments or requests for modification as a result of the hearing.

**Natural Resources
CR 08-021**

Revises Chapters NR 1, 8, 10, 11, 12, 15, 16, 17 and 19, relating to hunting, trapping, captive wild animals, dog training, nuisance animal removal, wildlife rehabilitation and license issuance. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

The rules pertain to hunting and nuisance wild animal removal. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On August 20, 2008, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive a comments or requests for modification as a result of the hearing.

Pharmacy Examining Board CR 08-051

Revises Chapters Phar 12 and 13, relating to the regulation of wholesale prescription drug distributors. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The \$5,000 bond or letter of credit is estimated to cost \$200.00 to purchase.

Summary of Comments by Legislative Review Committees

No comments were reported.

Physical Therapists Affiliated Credentialing Board CR 08-049

Revises Chapters PT 2, 3 and 9, relating to examination waivers and temporary licenses. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were reported.

Public Instruction CR 08-018

Creates Chapter PI 16, relating to four-year-old kindergarten grants. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

The rules will indirectly benefit small business as priority is given to 4K programs that involve child care centers. However, the rules will not have a significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments by Legislative Review Committees

No comments were reported.

Transportation CR 08-058

Creates Chapter Trans 263, relating to multiple trip overweight permits for vehicles transporting granular roofing materials. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

This rule implements 2007 Wis. Act 171. The law will allow all businesses, including small businesses, to transport granular roofing materials at weights exceeding state load limits. This would have a beneficial effect on small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Transportation CR 08-072

Revises Chapter Trans 117, relating to the occupational licensing program. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

This rule making has no effect on small business. The rule simply codifies currently existing WisDOT practice and will not change the law or DMV's application of the law. Accordingly, any effect on small business will be the same before and after adoption of this rule amendment.

This rule will have no significant effect upon small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Workforce Development CR 08-059

Revises Chapter DWD 136, relating to wages exempt from unemployment insurance levy and affecting small businesses. Effective 12-1-08.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Sections Affected by Rule Revisions and Corrections

The following administrative rule revisions and corrections have taken place in **November 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

Agriculture, Trade and Consumer Protection

Ch. ATCP 10

ATCP 10.01 (31m), (39), (59), (63m), (71) (g)
 ATCP 10.04 (1) (a)
 ATCP 10.07 (4) (c)
 ATCP 10.08 (4), (5)
 ATCP 10.09
 ATCP 10.11 (5) (a)
 ATCP 10.15 (1) (d), (6)
 ATCP 10.19 (2), (3) (a)
 ATCP 10.22 (5) (b), (7m), (9) (b)
 ATCP 10.37 (1) (a)
 ATCP 10.40 (1) (d), (4) (b), (6) (c), (d)
 ATCP 10.41 (2), (6)
 ATCP 10.42 (1) (a)
 ATCP 10.46 (1), (3) to (5), (6) (c), (em), (7) (b), (c), (8), (9) (b), (11) (c), (12)
 ATCP 10.47 (3) (b), (4m), (7) (b)
 ATCP 10.48 (6) (c)
 ATCP 10.49 (4)
 ATCP 10.51 (1), (2), (4)
 ATCP 10.52 (1) (intro.), (3) (a), (c), (8)
 ATCP 10.53 (4) (g), (5) (f) to (i), (7) (a), (8) (b), (9) (d)
 ATCP 10.55 (3) (c), (d), (4) (b) to (d), (5)
 ATCP 10.56 (1) (d), (3) (d), (4) (b), (c)
 ATCP 10.58
 ATCP 10.60 (1), (1m)
 ATCP 10.61 (1) (intro.), (2) (intro.), (3), (5) to (7), (12)
 ATCP 10.62 (2) (b), (c), (3) (c)
 ATCP 10.63 (2)
 ATCP 10.64
 ATCP 10.645
 ATCP 10.65 (1), (4), (4m), (5) (b)
 ATCP 10.655
 ATCP 10.66 (1) (b) to (L)
 ATCP 10.75
 ATCP 10.85
 ATCP 10.90 (1)
 ATCP 10.91 (1) (intro.)
 ATCP 10.92 (1) (r)

Ch. ATCP 12

ATCP 12.02 (1), (5), (8) (j)
 ATCP 12.03 (6), (9) (i)
 ATCP 12.04 (2) (c), (5)
 ATCP 12.045 (1), (3) (a), (4)
 ATCP 12.05 (4), (6)
 ATCP 12.06 (1) (bc)

ATCP 12.08 (6)

Ch. ATCP 17

ATCP 17.01 (8), (28)
 ATCP 17.02 (1), (2) (b), (c), (4) (bm), (d), (h), (5) (d), (6) (a)

Ch. ATCP 42

ATCP 42.02 (2) (e)

Ch. ATCP 55

ATCP 55.07 (1) (a), (2) (a), (3) (a), (8)
 ATCP 55.09 (1)
 ATCP 55.12 (6)

Ch. ATCP 57 (Entire Chapter)

Commerce

Ch. Comm 2

Comm 2.02 (1) to (7)
 Comm 2.04 (1), (2m), (3) to (5), Table
 Comm 2.06 (4)
 Comm 2.11 (3), (8), Tables 1 and 2
 Comm 2.12 (1), (2), (2m) to (4), Table
 Comm 2.13 (1m) to (3), Table
 Comm 2.15
 Comm 2.17 Table
 Comm 2.18 Table
 Comm 2.20
 Comm 2.21 (3), Tables 1 and 2
 Comm 2.31 (1) (d), (e), (f), (i), (2m), (3), (5), Tables 1, 2 and 3
 Comm 2.33
 Comm 2.34 (1), (2), (4) (title), (a), (c)
 Comm 2.35 (1), (3) (a)
 Comm 2.36
 Comm 2.43 Table
 Comm 2.44 Table
 Comm 2.51 (2), Table
 Comm 2.52 (2), (3) (a), (c), (d), (5), (7), (10) (a), (b)
 Comm 2.61 (2), (3), (5)
 Comm 2.635
 Comm 2.64 (2), (3) (a), (c), Tables 1 and 2
 Comm 2.645
 Comm 2.65 (3), Table
 Comm 2.66 (1) (b) to (d), (2) (a), (b), Table
 Comm 2.67
 Comm 2.675
 Comm 2.68 (3) (d), Tables 1 and 2

Ch. Comm 5

Comm 5.02 (5) and Table 5.02

Ch. Comm 10 (Entire Chapter)**Ch. Comm 23**

Comm 23.04 (3)

Ch. Comm 41

Comm 41.01

Comm 41.02 (1)

Comm 41.03

Comm 41.04 (10) to (23), (25), (26), (32) to (40)

Comm 41.08

Comm 41.10 (2) (a) to (c)

Comm 41.16 (1) (b), (e), (2) (c), (e), (3)

Comm 41.17 (4)

Comm 41.18 (1)

Comm 41.24 (1)

Comm 41.27

Comm 41.28 (3)

Comm 41.29 (2)

Comm 41.37 (3)

Comm 41.38 (1), (3), (4)

Comm 41.41 (2) (b), (c), (4)

Comm 41.42 (2) (a), (b)

Comm 41.49

Comm 41.55 (3)

Comm 41.56

Comm 41.91

Comm 41.92

Ch. Comm 45

Comm 45.31 (4)

Ch. Comm 47

Comm 47.015 (19)

Ch. Comm 48

Comm 48.580 (1) (c), (2) (a)

Government Accountability Board**Ch. GAB 12 (Entire Chapter)****Health Services****Ch. HFS (DHS) 129 (Entire Chapter)****Natural Resources****Ch. NR 1**

NR 1.15 (intro.), (2) (d), (e)

Ch. NR 8

NR 8.01 (1)

NR 8.02

NR 8.03 (2) (c)

NR 8.04 (1)

NR 8.05 (1)

NR 8.06

Ch. NR 10

NR 10.01 (2) (f), (3) (e), (ed), (em), (ev), (ex)

NR 10.06 (8) (b)

NR 10.09 (3) (b)

NR 10.30

Ch. NR 12

NR 12.36 (1), (1m)

Ch. NR 15

NR 15.11 (1)

Ch. NR 16

NR 16.19 (8)

Ch. NR 17

NR 17.04 (3) (a)

NR 17.08 (3) (a)

Ch. NR 19

NR 19.001 (13m)

NR 19.12 (1) (d)

NR 19.73 (3) (a), (e)

NR 19.77 (2) (f)

NR 19.78 (2)

Ch. NR 20

NR 20.03 (19m), (31) (c)

NR 20.13 (9)

NR 20.20 (1) (cm), (2) (g), (3) (am), (c), (5), (10) (b), (11) (f), (13) (d), (24) (d), (25) (d), (26) (g), (27) (d), (29) (cm), (32) (cm), (33) (am), (c), (34) (a), (e), (35) (a), (b), (d), (g), (42) (bm), (44) (b), (d), (g), (49) (b), (50) (cm), (56) (e), (57) (e), (i), (62) (ae), (64) (c), (d), (h), (70) (f), (72) (cm), (73) (b), (g), (o)

Ch. NR 21

NR 21.06 (1) (b), (d)

Ch. NR 22

NR 22.06 (1) (b), (d)

Ch. NR 23

NR 23.01

NR 23.05 (1m)

NR 23.06 (1)

Ch. NR 105

Tables 2, 2A, 5, 6, 8 and 9

Ch. NR 320

NR 320.06 (1) (c), (d), (2) (c)

Ch. NR 323

NR 323.04 (1) (c), (2) (c)

Ch. NR 328

NR 328.04 (3) (j)

NR 328.05 (7) (i)

Ch. NR 329

NR 329.04 (1) (c), (2) (c)

Ch. NR 341

NR 341.08 (3) (i)

Ch. NR 343

NR 343.07 (3) (a)

Ch. NR 345

NR 345.04 (1) (c), (d), (2) (c)

Ch. NR 405

NR 405.02 (22) (c)

Ch. NR 406

NR 406.04 (intro.)

Ch. NR 408

NR 408.02 (2) (a), (4)
NR 408.04 (1)

Ch. NR 439

NR 439.075 (2) (b)

Ch. NR 446

NR 446.02 (1c), (1e), (1w)
NR 446.025
NR 446.027
NR 446.029
NR 446.03
NR 446.04
NR 446.05
NR 446.055
NR 446.06
NR 446.07
NR 446.075
NR 446.08
NR 446.09
NR 446.10
NR 446.11
NR 446.12
NR 446.13
NR 446.14
NR 446.15
NR 446.16
NR 446.165
NR 446.17
NR 446.18
NR 446.185
NR 446.19
NR 446.20
NR 446.21
NR 446.22

Ch. NR 484

NR 484.03 (7) in Table 1
NR 484.04 (20m), (20s), (20t), (26m) (a) to (d), (27) in
Table 2
NR 484.05 (9) in Table 3
NR 484.10 (47m) in Table 5

Pharmacy Examining Board**Ch. Phar 12**

Phar 12.06

Ch. Phar 13

Phar 13.02 (3m), (6), (8), (9), (11), (12)

Phar 13.03

Phar 13.04

Phar 13.05 (2)

Phar 13.055

Phar 13.06 (3)

Phar 13.08

Phar 13.09 (intro.), (3)

Phar 13.10 (3)

Phar 13.11

Phar 13.12

Phar 13.13

Phar 13.14 (1), (2)

Phar 13.15 (intro.), (1), (2) (intro.), (b), (4)

Phar 13.16

Phar 13.17 (1)

Physical Therapists Affiliated Credentialing Board**Ch. PT 2**

PT 2.04

Ch. PT 3

PT 3.01 (5)

Ch. PT 9

PT 9.02 (1), (3)

PT 9.03 (1), (2)

PT 9.04 (2), Table

Public Instruction**Ch. PI 16 (Entire Chapter)****Transportation****Ch. Trans 117**

Trans 117.03 (2) (n)

Ch. Trans 263 (Entire Chapter)**Workforce Development****Ch. DWD 136 (Entire Chapter)****Editorial Corrections**

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

Agriculture, Trade and Consumer Protection**Ch. ATCP 10**

ATCP 10.40 (6) (c)

ATCP 10.47 (4m)

ATCP 10.58

ATCP 10.92

Ch. ATCP 12

ATCP 12.02 (6) (a)

ATCP 12.03 (7)

ATCP 12.04 (6)

Children and Families

- Chs. DCF 37 to 59 (Entire Code)
- Chs. DCF 101 to 153 (Entire Code)
- Chs. DCF 201 to 252 (Entire Code)

- NR 10.40 (3) (f)
- Ch. NR 446**
- NR 446.08 (1) (b)
- NR 446.185 (3)

Commerce

- Ch. Comm 47
- S. Comm 47.015 (51)

Health Services

- Chs. HFS 1 to 18 (Entire Code)
- Chs. HFS 34 to 99 (Entire Code)

Natural Resources

- Ch. NR 10**
- NR 10.01 (3) (ed)
- NR 10.09 (1) (a)
- NR 10.104 (7), (11) (a)
- NR 10.105 (2)
- NR 10.106 (2) (g)

Workforce Development

- Ch. DWD 12 (Entire Chapter)**
- Ch. DWD 15 (Entire Chapter)**
- Ch. DWD 16 (Entire Chapter)**
- Ch. DWD 17 (Entire Chapter)**
- Ch. DWD 18 (Entire Chapter)**
- Ch. DWD 40 (Entire Chapter)**
- Ch. DWD 41 (Entire Chapter)**
- Ch. DWD 42 (Entire Chapter)**
- Ch. DWD 43 (Entire Chapter)**
- Ch. DWD 44 (Entire Chapter)**
- Ch. DWD 142 (Entire Chapter)**
- Ch. DWD 805 (formerly ILHR 805) (Entire Chapter)**
- Ch. DWD 811 (formerly ILHR 811) (Entire Chapter)**
- Ch. DWD 816 (formerly ILHR 816) (Entire Chapter)**
- Ch. DWD 820 (formerly ILHR 820) (Entire Chapter)**
- Ch. DWD 830 (formerly ILHR 830) (Entire Chapter)**

Sections Affected by Corrections Not Published

Corrections under s. 13.92 (4) (b), 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/>, 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
NR 811.16 (4) (d) 4. and 6.	Comm 10.10	ch. Comm 10
RL 25.03 (3) (q) 4.	Comm 10.74 to 10.805	ch. Comm 10
RL 25.035 (2) (f) 1.	Comm 10.74 to 10.805	ch. Comm 10

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 269. Relating to the Creation of the Governor's State Advisory Council on Early Childhood Education and Care.

Notice of Nonacquiescence

**STATE OF WISCONSIN
LABOR AND INDUSTRY REVIEW COMMISSION**

In the matter of the contribution liability, or status, under Chapter 108, Wis. Stats., of MILWAUKEE KICKERS SOCCER CLUB, INC. UI Account No. 401841	: : : :	Hearing No. S0600023MW
--	------------------------------	------------------------

PLEASE TAKE NOTICE that the Wisconsin Department of Workforce Development (department) pursuant to Wis. Stat. § 108.10 (7) (b), has chosen to nonacquiesce in the decision of the Labor and Industry Review Commission (commission) dated October 23, 2008, identified above, Hearing No. S0600023MW, and requests that the Legislative Reference Bureau obtain publication of this Notice in the Wisconsin Administrative Register pursuant to Wis. Stat. § 108.10 (7) (b). The department’s nonacquiescence extends to that portion of the commission’s decision which concludes that the services of the individuals at issue were performed in independently established trades, businesses or professions in which the individuals were customarily engaged within the meaning of Wis. Stat. § 108.02 (12) (c) 2. Although the decision is binding on the parties to the case, the commission’s conclusions of law, the rationale and construction of the statutes in the case are not binding on the department in other cases.

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 Mail

Dated Material. Please Do Not Delay!