

# Wisconsin Administrative Register

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Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590  
email: [bruce.hoesly@legis.wisconsin.gov](mailto:bruce.hoesly@legis.wisconsin.gov)

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## Table of Contents

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**Emergency Rules Now in Effect.****Pages 4 to 7**

## Children and Families:

***Family and Economic Security, Chs. DCF 101–153***Revises Ch. DCF 120, relating to emergency assistance for needy families. **EmR0906*****Family and Economic Security, Chs. DCF 101–153******Early Care and Education, Chs. DCF 201–252***Revises s. DCF 101.09 (3) (b), and creates ss. 101.26 (3) and 201.08 (2) (g), relating to Wisconsin Works and Wisconsin Shares disregard of temporary census income. **EmR0908**

## Commerce:

***Fee Schedule, Ch. Comm 2***Revises s. Comm 2.68, relating to public swimming pool and water attraction plan review and inspection fees. **EmR0837*****Licenses, Certifications and Registrations, Ch. Comm 5***Revises s. Comm 5.30, relating to building contractor registration. **EmR0904*****Financial Resources for Businesses and Communities, Chs. Comm 104—***Creates Ch. Comm 100, relating to tax benefits for job creation, capital investment, employee training, and corporate headquarters. **EmR0910**

## Financial Institutions — Banking:

Creates Ch. DFI–Bkg 47 and repeals Ch. DFI–Bkg 41, relating to the transition from a registration system to a license system. **EmR0907**

## Government Accountability Board:

Amends s. GAB 6.05, relating to filing campaign finance reports in electronic format. **EmR0902**

## Pharmacy Examining Board:

Revises s. Phar 4.02 (2), relating to the practical examination. **EmR0903**

## Regulation and Licensing:

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**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**

## Revenue:

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**

## Transportation:

Revises s. Trans 315.03 (1) (a) and (c), relating to safety belt medical use exemption. **EmR0909**

## Veterans Affairs:

Revises s. VA 2.01, relating to the assistance to needy veterans grant program. **EmR0911**

## Wisconsin Technical College System Board:

Revises Ch. TCS 17, relating to training program grant funds appropriated in 2009 Wisconsin Act 2. **EmR0905**

**Scope Statements.****Pages 8 to 11**

Agriculture, Trade and Consumer Protection:

Revises a number of chapters to make technical changes (non-substantive or minor substantive changes) to correct, clarify and update current rules.

Revises Ch. ATCP 20, relating to agricultural and vegetable seeds.

Insurance:

Revises s. Ins 3.36, relating to the treatment of autism spectrum disorders and affecting small business.

Revises Ch. Ins 57, relating to care management organizations and affecting small business.

Natural Resources:

***Environmental Protection — Water Regulation, Chs. NR 300—***

Revises Chs. NR 335 and 336, relating to dam maintenance, repair, modification, abandonment, removal aid program, and to small and abandoned dam removal grant programs.

Transportation:

Creates Ch. Trans 148, relating to the requirement for non-individual lien holders to file and release electronically a security interest statement.

Wisconsin Technical College System Board:

Revises s. TCS 10.03 (3), related to statutory residents.

**Submittal of Rules to Legislative Council Clearinghouse.****Page 12**

Agriculture, Trade and Consumer Protection:

Revises Ch. ATCP 1, relating to administrative orders and contested cases. **CR 09-054**

Commerce:

***Fee Schedule, Ch. Comm 2 Plumbing, Chs. Comm 81-87***

Revises Chs. Comm 2 and 82, relating to permit to operate, registration and filing fees. **CR 09-050**

Natural Resources:

***Fish, Game, etc., Chs. NR 1—***

Revises Chs. NR 19 to 23, relating to minor, non-substantive “housekeeping” changes to fishing regulations on the inland, outlying and boundary waters of Wisconsin. **CR 09-051**

Revises Chs. NR 12 and 16, relating to feral or wild swine, wolf-dog hybrids and mute swans as captive wild animals. **CR 09-052**

Revises Ch. NR 10, relating to deer management unit population goals. **CR 09-053**

**Rule-Making Notices.****Pages 13 to 23**

Agriculture, Trade and Consumer Protection:

Hearing to consider rules to revise Ch. ATCP 1, relating to administrative orders and contested cases. **CR 09-054**

Commerce:

***Fee Schedule, Ch. Comm 2 Plumbing, Chs. Comm 81-87***

Hearing to consider rules to revise Chs. Comm 2 and 82, relating to permit to operate, registration and filing fees. **CR 09-050**

Natural Resources:

***Fish, Game, etc., Chs. NR 1—***

Hearing to consider rules to revise Chs. NR 19 to 23, relating to minor, non-substantive “housekeeping” changes to fishing regulations on the inland, outlying and boundary waters of Wisconsin. **CR 09-051**

Hearings to consider rules to revise Chs. NR 12 and 16, relating to feral or wild swine, wolf-dog hybrids and mute swans as captive wild animals. **CR 09-052**

Hearings to consider rules to revise Ch. NR 10, relating to deer management unit population goals. **CR 09-053**

**Submittal of Proposed Rules to the Legislature.**

**Page 24**

Natural Resources:

***Fish, Game, etc., Chs. NR 1—***

Revises Chs. NR 19, 20 and 24, relating to fishing and clamming regulation changes. **CR 09-018**

Revises Ch. NR 46, relating to stumpage values used to collect yield taxes for lands entered under the Forest Crop Law and Managed Forest Law programs. **CR 09-031**

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

Creates Ch. NR 528, relating to the management of accumulated sediment from storm water management structures. **CR 08-111**

Veterans Affairs:

Revises s. VA 2.01, relating to needy veterans grant program. **CR 09-026**

**Rule Orders Filed with the Legislative Reference Bureau.**

**Page 25**

Agriculture, Trade and Consumer Protection:

Revises Ch. ATCP 139, relating to consumer product safety. **CR 09-002**

Natural Resources:

***Fish, Game, etc., Chs. NR 1—***

Creates Ch. NR 40, relating to the identification, classification and control of invasive species. **CR 08-074**

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

Revises Ch. NR 428, relating to the control of nitrogen oxide emissions and to SIP approvability and miscellaneous implementation issues. **CR 08-103**

Public Instruction:

Revises Ch. PI 22, relating to precollege scholarships. **CR 09-011**

**Rules Published with this Register and Final Regulatory Flexibility Analyses.**

**Pages 26 to 27**

**Sections Affected by Rule Revisions and Corrections.**

**Pages 28 to 29**

**Sections Affected by Corrections Not Published.**

**Page 30**

**Executive Orders.**

**Page 31**

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## Emergency Rules Now in Effect

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*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](http://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.*

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### Children and Families

#### *Family and Economic Security, Chs. DCF 101–153*

**EmR0906** — Rule adopted revising ss. **DCF 120.05, 120.07 and 120.08**, relating to emergency assistance for needy families.

#### **Finding of Emergency**

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

The recent large increase in foreclosures has caused tenants living in rental properties that are in foreclosure to lose their housing. Under the current rule, these tenants are not eligible for Emergency Assistance due to impending homelessness and would only be able to receive assistance if they became homeless. This emergency rule will allow these tenants to receive assistance for impending homelessness and avoid the additional expense and trauma of homelessness.

The current maximum payment amounts for Emergency Assistance due to homelessness and impending homelessness are insufficient to allow a smaller family to obtain or retain a permanent living accommodation. Increasing the payments

for smaller households immediately will help them obtain or retain a permanent living accommodation with fewer resources from other sources and may prevent homelessness for these families.

The current rule has no maximum payment amount for Emergency Assistance due to an energy crisis. All other categories of assistance have a maximum payment based on group size. This emergency rule requires that families first exhaust resources available through the Wisconsin Home Energy Program and sets a maximum payment amount for assistance available for Emergency Assistance due to energy crisis to make better use of the program's limited funds.

**Publication Date:** April 9, 2009  
**Effective:** April 22, 2009 through September 18, 2009  
**Hearing Date:** June 11, 2009

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### Children and Families

#### *Family and Economic Security, Chs. DCF 101–153 Early Care and Education, Chs. DCF 201–252*

**EmR0908** — Rules adopted amending s. **DCF 101.09 (3) (b) and creating ss. DCF 101.09 (3) (b) 1. b., 101.26 (3), and 201.08 (2) (g)**, relating to Wisconsin Works and Wisconsin Shares disregard of temporary census income.

#### **Finding of Emergency**

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

Disregarding income earned from temporary employment with the U.S. Census Bureau in determining Wisconsin Works and Wisconsin Shares eligibility and child care copayments is necessary for the public welfare to ensure Wisconsin has a broad pool of available workers to help ensure an accurate Census count, particularly in historically undercounted low-income neighborhoods. Census work is currently ongoing.

**Publication Date:** May 28, 2009  
**Effective:** June 1, 2009 through October 28, 2009  
**Hearing Date:** July 14, 2009

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### Commerce

#### *Fee Schedule, Ch. Comm 2*

**EmR0837** — Rule adopted revising s. **Comm 2.68**, relating to public swimming pool and water attraction plan review and inspection fees.

#### **Finding of Emergency**

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. Implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act necessitates most existing public

swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets.

2. The Virginia Graeme Baker Pool and Spa Safety Act has a compliance date of December 19, 2008.

3. The department estimates that 3,700 existing pools and water attractions will need to be modified in order to comply with the federal act.

4. The current department plan review fees and inspection fees under s. Comm 2.68 reflect an estimated average time and cost to provide those services. For the types of pool and water attraction modifications necessary to comply with the Virginia Graeme Baker Pool and Spa Safety Act, the department believes that the time and cost to provide the service will be below the averages reflected under the current fee structure of section Comm 2.68.

5. The department believes that a temporary fee reduction to facilitate plan review and inspection relative to the Virginia Graeme Baker Pool and Spa Safety Act is in alignment with the direction provided under s. 101.19, Stats., of keeping fees consistent with the costs of providing service.

**Publication Date:** December 15, 2008  
**Effective:** December 15, 2008 through May 13, 2009  
**Hearing Date:** January 8, 2009  
**Extension Through:** July 12, 2009

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## Commerce

*Licenses, Certifications and Registrations, Ch. Comm 5 Wis. Commercial Building Code, Chs. Comm 60–66*

**EmR0904** — Rule adopted revising **ss. Comm 5.30 and 61.295**, relating to building contractor registration.

### Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows:

1. Under Chapter 560 of the Statutes, the department of commerce is charged with facilitating the establishment and retention of business enterprises in Wisconsin, and with seeking closer cooperation and coordination between units of state government, so that the economy of the state may continue to develop fully and meet citizen and community needs.

2. Under Chapters 101 and 145 of the statutes, the department of commerce has oversight over the design, construction, alteration and maintenance of public buildings and places of employment, one- and two- family dwellings, public swimming pools and public water attractions in order to protect public safety, health and welfare and the waters of the state.

3. The department has proposed an administrative rule that would require the registration of various types of building contractors not already credentialed by the department under existing administrative rules. Under the proposed rules contractors must be registered with the department by January 1, 2010. A public hearing on that proposal was held on January 21, 2009.

4. The proposed rule has three main benefits to Wisconsin: first, it will enhance the department's ability to communicate

with and educate building contractors throughout the state about their obligations to limit safety and health risks for the citizens of Wisconsin; second, it will enhance the ability of the department to cooperate and coordinate with the Department of Workforce Development relative to their administration of unemployment insurance and workers compensation insurance programs; and third, it will enhance the ability of the department to cooperate and coordinate with the Department of Revenue relative to their administration of the state income tax program.

5. Due to the current economic circumstances, the department has determined that the implementation for building contractor registration should be July 1, 2009 in order for the benefits to be in effect for the 2009 building construction season.

**Publication Date:** March 2, 2009  
**Effective:** March 2, 2009 through July 29, 2009  
(except ss. Comm 5.30 (1) and 61.295 (2))  
**Effective:** July 1, 2009 through November 27, 2009  
**Hearing Date:** March 31, 2009

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## Commerce

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

**EmR0910** — Rule adopted to create **Chapter Comm 100**, relating to tax benefits for job creation, capital investment, employee training, and corporate headquarters.

### Exemption From Finding of Emergency

The Legislature, by section 9110 (4) in 2009 Wisconsin Act 2, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of the public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

**Publication Date:** June 30, 2009  
**Effective:** June 30, 2009 through July 1, 2010 or the date permanent rules take effect, whichever is sooner

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## Financial Institutions — Banking

**EmR0907** — Rule adopted to create **Chapter DFI–Bkg 47 and to repeal Chapter DFI–Bkg 41**, relating to the transition from a registration system to a license system.

### Exemption From Finding of Emergency

The legislature by section 9117 of 2009 Wisconsin Act 2 provides an exemption from a finding of emergency for the adoption of the rule.

**Publication Date:** May 4, 2009  
**Effective:** Section 1: 5–4–09 through 7–1–11  
Section 2: 9–1–09 through 7–1–11  
Section 3: 1–10–10 through 7–1–11  
**Hearing Date:** June 10, 2009

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## Government Accountability Board

**EmR0902** — Rule adopted amending **s. GAB 6.05**, relating to filing campaign finance reports in electronic format.

### Finding of Emergency

The Government Accountability Board amends s. GAB 6.05, Wis. Adm. Code, relating to filing campaign finance statements in electronic format. The amended rule creates a uniform requirement and restricts registrants to an “electronic format” compatible with the Board’s electronic filing system for filing campaign finance reports.

Pursuant to s. 227.24, Stats., the Government Accountability Board finds an emergency exists because the Board’s January 18, 2008 decision to implement the use of a new electronic filing system, and the technical requirements thereof, conflicts with the technical electronic format filing permitted by the previous rule. In effect, the current electronic filing system cannot work without a uniform and restricted electronic format that is compatible with the new electronic filing system.

The Board adopts the legislature’s policy findings of s. 11.001, Stats., emphasizing that one of the most important sources of information to voters about candidates is available through the campaign finance reporting system. The Board further finds that it is necessary to codify a uniform electronic format filing requirement to ensure the proper operation of the current electronic filing system so that the campaign finance information is available to voters. The amended rule, GAB 6.05, must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

**Publication Date:** February 5, 2009  
**Effective:** February 5, 2009 through July 4, 2009  
**Hearing Date:** March 20, 2009

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## Pharmacy Examining Board

**EmR0903** — A rule adopted repealing **s. Phar 4.02 (2)**, relating to the practical examination.

### Finding of Emergency

The Pharmacy Examining Board finds that, under s. 227.24 (1), Stats., the repeal of s. Phar 4.02 (2) is required for the preservation of the public peace, health, safety and welfare.

Currently, under s. Phar 4.02 (2), the board administers a practical examination to determine an applicant’s competence in compounding and dispensing medications, which includes consultation of patients. The board has determined that this examination is no longer needed because the competencies tested in the examination are also tested in two other national examinations that applicants are required to take in order to obtain a license in Wisconsin. The board has also determined that the practical examination requirement may contribute to the shortage of pharmacists in Wisconsin.

First, under s. Phar 4.02 (1) and (3), an applicant is required to take and pass the Multi-State Pharmacy Jurisprudence Examination (MPJE) and the North American Pharmacist Licensure Examination (NAPLEX). Both of these examinations test competencies that relate to subject areas that are also tested in the practical examination. As a result, applicants are required to take an additional examination, and pay an additional examination fee. In some instances, this

step may also result in a delay in the processing of applications for licensure.

Second, in reference to the shortage of pharmacists in Wisconsin, the board has found that populations in rural areas and in certain city neighborhoods are underserved. The board believes that, because of its practical examination requirement, potential applicants from other states are declining to seek licensure in Wisconsin. Wisconsin is one of only four states that require a practical examination. None of the states that border Wisconsin have a practical examination requirement.

**Publication Date:** February 28, 2009  
**Effective:** February 28, 2009 through July 27, 2009  
**Hearing Dates:** April 8, 2009

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## Regulation and Licensing (2)

1. **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 the date on which the final rules take effect  
**Hearing Dates:** November 26, 2008  
 April 13, 2009

2. **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 the date on which the final rules take effect  
**Hearing Date:** November 26, 2008

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## 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.

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## Transportation

**EmR0909** — Rule adopted amending section **Trans 315.03 (1) (a) and (c)**, relating to safety belt medical use exemption.

### Finding of Emergency

The Department of Transportation finds that an emergency exists and that the attached rule is necessary for the immediate preservation of public health and safety. Current federal law at 23 USC 406 provides safety belt performance grants to a state that has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles. A grant of federal funds estimated at roughly \$15,000,000 are available if this state is eligible on or before September 30, 2009; a secondary grant based on “share of unallocated funds,” estimated at not more than \$1,000,000, may be available if this state is eligible on or before June 30, 2009. The Wisconsin Legislature is currently deliberating a primary safety belt use law as part of the executive biennial budget bill, 2009 Assembly Bill 75, with the aim of qualifying for safety belt performance grants. Were the law timely enacted, this state could remain ineligible for safety belt performance grants because Department rules allow persons other than physicians to grant medical exemptions from safety belt use requirements. Immediate action is necessary to avoid forfeiting approximately \$16,000,000 in federal funds for highway safety activities. Increased use of safety belts has been shown to reduce the severity of injuries sustained in motor vehicle collisions, and limiting the medical use exemption to physicians would increase use of safety belts.

**Publication Date:** June 25, 2009  
**Effective:** June 25, 2009 through November 21, 2009  
**Hearing Date:** September 8, 2009

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## Veterans Affairs

**EmR0911** — Rule adopted to revise section VA 2.01, relating to the assistance to needy veterans grant program.

## Finding of Emergency

The Wisconsin Department of Veterans Affairs 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 facts constituting the emergency is: The economic recession in effect for the last fiscal year has adversely affected the veteran population. Many veterans have lost their employment or had their scope of employment reduced. In addition to losing employment, many veterans have seen their health care reduced or eliminated. In order to serve the largest population of veterans and ensure minimal health care for that population, the department is requesting emergency rules to define “vision care and to limit the eligibility, by available funding, for “dental care”, “hearing care”, and “vision care”. These eligibility limitations, which address the cost, type and frequency of care available under the program, will allow more veterans in need to access the limited resources of this program.

**Publication Date:** July 1, 2009  
**Effective:** July 1, 2009 through November 27, 2009  
**Hearing Date:** August 14, 2009

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## Wisconsin Technical College System Board

**EmR0905** — Rule adopted revising **Ch. TCS 17**, relating to training program grant funds appropriated in 2009 Wisconsin Act 2.

### Finding of Emergency

The Wisconsin Technical College System Board 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 the facts constituting an emergency is:

The 2009 Wis. Act 2 (the 2007–09 budget repair bill) provided an additional \$1,000,000 GPR to the existing annual appropriation of \$3,000,000 GPR for the training program grants authorized in Wis. Stats. ss. 20.292 (1) (eh) and 38.41. These funds were provided to address a critical need of Wisconsin employers for skills training and education necessary to protect the state’s economic vitality and health, with a special emphasis on advanced manufacturing and welding.

The Act requires the WTCS Board to award these funds by June 30, 2009 or the end of the current 2008–09 fiscal year. In addition, TCS 17.06 (1), *Wis. Adm. Code*, requires that district boards or employers receiving skills training or education under the grant shall contribute matching funds, other than in-kind matching funds, equal to at least 25% of total approved project costs.

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

**Publication Date:** March 20, 2009  
**Effective:** March 20, 2009 through August 16, 2009

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## Scope Statements

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### **Agriculture, Trade and Consumer Protection**

#### **Subject**

Make technical changes (non-substantive or minor substantive changes) to correct, clarify and update current rules.

#### **Policy Analysis**

The technical changes the department proposes to make include the following:

- Update technical standards incorporated by reference in current rules (new editions of technical references cited in current rules).
- Correct erroneous and obsolete citations and cross-references.
- Correct typographical errors.
- Make non-substantive organizational and drafting changes.
- Make other minor changes to current rules.

This rule will not make major or controversial substantive changes to current rules.

#### **Statutory Authority**

Section 93.07 (1), Stats., and other specific statutory provisions as appropriate.

#### **Comparison with Federal Regulations**

Not applicable.

#### **Entities Affected by the Rule**

The proposed technical changes to current rules will not have a significant impact on persons covered by those rules. There will be no adverse impact on business or local government.

#### **Estimate of Time Needed to Develop the Rule**

DATCP will use less than .1 FTE staff time to develop and adopt the technical changes included in this rule. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. DATCP will use existing staff to develop and adopt this rule.

### **Agriculture, Trade and Consumer Protection**

#### **Subject**

Revises Chapter ATCP 20, relating to agricultural and vegetable seeds.

#### **Objective of the Rule**

Repeal and recreate the agricultural and vegetable seed rule to be consistent with sections 94.38 to 94.46, Stats., as modified by the biennial budget act (2009 Wisconsin Act 28). This rule may do all of the following:

- Prescribe standards for the labeling, distribution and sale of agricultural, lawn, vegetable, flower and native seeds.

- Govern methods of sampling, inspecting, analyzing, testing and examining agricultural, lawn, vegetable, flower and native seeds.
- Prescribe tolerances for purity and rate of germination of agricultural, lawn, vegetable, flower and native seeds.
- Prescribe tolerances for the occurrence of noxious weed seeds in agricultural, lawn, vegetable, flower and native seeds.
- Identify noxious weeds and prohibited noxious weeds.
- Govern the issuance of seed labeler licenses.
- Govern the administration and enforcement of §94.38 to §94.46, Wis. Stats.

#### **Policy Analysis**

DATCP administers Wisconsin's agricultural and vegetable seed program under ss. 94.38 to 94.46, Stats (seed law). The law regulates the labeling, sale and distribution of seed in order to protect seed buyers, including consumers and businesses. DATCP has adopted rules for the program under ch. ATCP 20, Wis. Adm. Code. The biennial budget act (2009 Wisconsin Act 28) made numerous changes to the seed law. DATCP must comprehensively revise its current rules in order to implement the revised law.

#### **Policy Alternatives**

If DATCP takes no action, current rules remain in effect. However, the current rules are seriously outdated, and do not address recent statutory changes. Current rule provisions do not address current stakeholder needs, and hinder effective administration of the agricultural and vegetable seed program.

#### **Statutory Authority**

Sections 93.07 (1) and 94.45 (6), Stats.

#### **Comparison with Federal Regulations**

The United States Department of Agriculture (USDA) regulates agricultural and vegetable seed in interstate commerce under the Federal Seed Act (FSA). USDA has adopted seed regulations under 7 CFR Part 201. USDA offers testing services, issues state noxious-weed seed requirements, determines variety names, operates an accredited seed laboratory, and administers the accreditation seed sampling program.

States regulate the distribution and sale of seed in cooperation with USDA. The American Association of Seed Officials has issued a "Recommended Uniform State Seed Law" to promote reasonable consistency of regulation between states. This rule may incorporate all or part of that model law.

#### **Entities Affected by the Rule**

This rule will affect buyers and sellers of agricultural and non-agricultural seed. The rule will help to ensure the quality and fair labeling of seed, for the benefit of businesses and consumers. In 2006, DATCP convened a Seed Law Advisory Committee, representing a wide range of stakeholders, to advise on the modernization of Wisconsin's seed law. This rule will implement many of the advisory committee recommendations.

**Estimate of Time Needed to Develop the Rule**

DATCP estimates that it will use the equivalent of 0.25 FTE staff time to revise this rule. This includes research, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings, and communicating with affected persons and groups. DATCP will assign existing staff to revise this rule.

**Insurance****Subject**

Revises Section Ins 3.36, relating to the treatment of autism spectrum disorders and affecting small business.

**Objective of the Rule**

The proposed rule is intended to implement 2009 Wis. Act 28 that created s. 632.895 (12m), Wis. Stat., mandating coverage for children diagnosed with autism spectrum disorders. The commissioner is required to promulgate rules implementing the mandatory coverage including providing definitions of “qualified professional,” “paraprofessional,” “intensive” and “non-intensive” level services. Additionally the commissioner may promulgate rules governing the interpretation or administration of the provisions of the law.

**Policy Analysis**

Autism spectrum disorders are defined to be a mental health condition. Under existing law, persons identified with autism spectrum disorders would be able to receive services in accordance with delineated service levels. However, with passage of s. 632.895 (12m), Wis. Stat., existing regulation is insufficient to comply with the new requirements.

**Statutory Authority**

Sections 601.41 (8), 601.42, and 632.895 (12m), Stats.

**Comparison with Federal Regulations**

There are no existing or proposed federal regulations that address the newly enacted law or proposed rule.

**Entities Affected by the Rule**

Insurers offering group health insurance, self-funded governmental plans and licensed intermediaries authorized to solicit group health insurance.

**Estimate of Time Needed to Develop the Rule**

200 hours and no other resources are necessary.

**Insurance****Subject**

Revises Chapter Ins 57, relating to care management organizations and affecting small business.

**Objective of the Rule**

To implement 2009 Wis. Act 28 that included the creation of ch. 648, Wis. Stats., governing the financial regulation of care management organizations.

**Policy Analysis**

There are no existing regulations for care management organizations required by the commissioner. The proposed rule will use existing financial regulations to the extent applicable to care management organizations for consistency.

**Statutory Authority**

Sections 601.41 (8), 601.42, and 648.10, Wis. Stats.

**Comparison with Federal Regulations**

There are no existing or proposed federal regulation addressing care management organizations.

**Entities Affected by the Rule**

The only entities that will be affected by this rule are care management organizations that are under contract with the Department of Health Services.

**Estimate of Time Needed to Develop the Rule**

200 hours and no other resources are necessary.

**Natural Resources*****Environmental Protection — Water Regulation,  
Chs. NR 300—*****Subject**

Revises Chapter NR 335, relating to dam maintenance, repair, modification, abandonment and removal aid program and Chapter NR 336, relating to small and abandoned dam removal grant programs.

**Objective of the Rule**

The Bureau of Watershed Management requests authorization to revise NR 335 – Dam Maintenance, Repair, Modification, Abandonment and Removal Aid Program (Municipal Dam Grant Program) and NR 336 – Small and Abandoned Dam Removal Grant Programs to facilitate investing the substantial allocation of bonding for the dam safety aid programs, implement statutory changes and make general housekeeping and programmatic improvements.

**Policy Analysis**

2009 Wisconsin Act 28 increased bonding for the Dam Safety Aid Programs by \$4.0 million, the first increase since 2001. These grant programs provide funds to address dam safety deficiencies at municipally owned dams and allow the owner of any dam to obtain funding to remove the dam as a means to mitigate safety deficiencies. 2009 Act 28 also increases the maximum level of state contribution allowed under the grant programs from \$200,000 to \$400,000. For dam repair and reconstruction projects the percentage of state contribution has been made variable, depending on the size of the projects and for dam removal projects, 100% state funding up to the maximum state contribution is provided. The bill also eliminates the statutory definition of small dam for dam removal grants (administered under NR 336).

Statutory changes made in 2001 require the Department to maintain an inventory of dam safety projects under ss. 31.385 and for the Department to develop a notice and hearing process, by rule, for the owner to object to the inclusion of the owner’s dam on this inventory. These rules were never incorporated into ch. NR 335 as the bonding for the grant program was fully committed. The appropriate code changes will now need to be made in order to award new grants.

There is also an urgent need to make the grant application process more flexible, particularly the dates when owners may apply to the Municipal Dam Grant Program. The current application deadline is 10 months off and history with this program shows most of the projects that receive a commitment to funding a year from now will not get to construction until 2011. If grant applications can be accepted this fall, most of the projects will be able to go to construction

in 2010 allowing for dam safety improvements to be completed almost a year earlier.

Finally, Ch. NR 335 was adopted in 1991 and has not been modified since. Years of implementing the grant program showed areas where the code could be improved, but without a funding stream the commitment of staff resources to work on the rule revision could not be justified. The most critical house cleaning need is the addition of a variance clause which would facilitate the implementation of the Municipal Grant Program and allow grant staff to grant reasonable variances to Grantees that experience unusual circumstances.

### **Consideration of Emergency Rules**

We are interpreting refunding of these grant programs as a strong message from the Legislature that they are interested in protecting the public from unsafe dams, as well as helping dam owners including the owners of the many dams damaged during the flooding in 2007 and 2008. In order to protect the public from unsafe dams these funds should be put to work as soon as possible. The timeline for permanent rule promulgation will set back the Department's ability to accept applications and commit funding to dam safety projects until at least June of 2010, which would delay most projects until late 2010 or 2011. Therefore, the Department is considering a request for enacting emergency rules in August to allow immediate implementation of modifications that will allow a grant application cycle to be conducted this fall and allow most projects to be constructed during the 2010 construction season or before. Only the most critical changes necessary to implement the statutory changes and quickly and effectively conduct a grant application cycle will be included in the emergency rule. Other house keeping changes will be part of the final rule process.

### **Statutory Authority**

Sections 31.385 (1m), (4) (b) and 227.11 (2) (a), Stats.

### **Comparison with Federal Regulations**

There are no comparable federal regulations or grant programs that directly relate to the promulgation of this rule.

### **Entities Affected by the Rule**

Municipalities including cities, villages, towns, counties, tribes and lake districts that own dams, the owners of any dam that want to remove their dams and anyone that has legal access and wants to remove an abandoned dam can all make application to and benefit from these aid programs. The general public lives or recreates downstream of unsafe dams will benefit from safety improvements to the dams.

### **Estimate of Time Needed to Develop the Rule**

Rule development will take between 150 and 200 hours. The Department will bring a proposed revision to the Board for public hearing authorization at its October meeting. After hearings and incorporating comments, a final rule will be brought to the Board for approval in the first part 2010. The final rule can be in effect in late summer or early fall 2010.

### **Contact Information**

Meg Galloway  
101 S Webster Street  
Madison, WI 53703  
Phone: 608-266-7014  
Email: Meg.Galloway@Wisconsin.gov

## **Transportation**

### **Subject**

Creates Chapter Trans 148, relating to the requirement for non-individual lien holders to file and release electronically a security interest statement.

### **Objective of the Rule**

2009 Wisconsin Act 28, the biennial budget act, proposes to create ss. 342.19 (2) (a) 2., 342.22 (1) (b) and 342.245, Stats., which will require a non-individual lien holder to file and release a security interest in a motor vehicle using an electronic process prescribed by the Department. Section 342.245 (4), Stats., requires the Department to promulgate rules to implement the provisions. Section 342.245 (3), Stats., authorizes the Department to exempt certain persons or transactions by rule, and requires exempted persons to pay the Department a fee for processing security interest applications and releases. The proposed rule establishes policy and procedures for an electronic lien and titling system, and establishes the amount of the processing fee under s. 342.245 (3), Stats., to be paid to the Department by a person exempted from electronic filing and release of the security interest statement.

### **Policy Analysis**

This rule making will: (1) implement and administer the requirement for non-individual lien holders to file and release electronically a security interest in a vehicle; (2) specify what categories of non-individual lien holders are not required to file and release a security interest electronically under the new law, or for which types of transactions a non-individual lien holder would be exempted from filing or releasing electronically a security interest in a vehicle; and (3) establish what fee will be charged to non-individual lien holders, in various circumstances, including not only those non-individual lien holders or types of transactions that are exempted by DOT, but also non-individual lien holders who fail to comply with the law. The law and administrative rule are expected to be effective July 1, 2010.

While the requirement to file and release electronically a security interest statement will be a new law, the Department is guided by similar experience implementing the 2005 Wis. Act 25 requirement that motor vehicle dealers process electronically title applications for vehicles they sell. That requirement is implemented in ch. Trans 141.

In developing the policies and procedures in this rule, the Department will consider policies, procedures, and fees established in ch. Trans 141 that apply to motor vehicle dealers. The Department will consider circumstances with regard to the new law that are similar and different from those addressed in ch. Trans 141. These circumstances include, as examples only and are not limited to, number of security interests placed and released annually by a non-individual lien holder, business practices that non-individual lien holders may have to protect the security interest, amount of work that security interest placement and release require of a non-individual lien holder, the cost to non-individual lien holders for equipment and communication links, cost to DMV to process transactions that non-individual lien holders do not process, amount of the processing fee relative to the statutory fee for placing and releasing a security interest, and similar variables.

### **Statutory Authority**

Section 342.245 (3) and (4), Stats.

**Comparison with Federal Regulations**

While no federal regulations directly govern the state's procedure for filing security interest on a vehicle, the proposed rule will comply with any applicable federal law and regulations governing interstate commerce.

**Entities Affected by the Rule**

Financial institutions and other businesses that perfect and remove security interests from vehicles; purchasers and owners of motor vehicles who grant a security interest in the vehicle.

**Estimate of Time Needed to Develop the Rule**

200 hours

**Wisconsin Technical College System Board****Subject**

Revises Section TCS 10.03 (3), related to statutory residents.

**Objective of the Rule**

To bring the current rule into conformity with state statute.

**Policy Analysis**

Not applicable. The proposed rule change codifies new and existing statutory language.

**Statutory Authority**

Section 38.22 (6), Stats.

**Comparison with Federal Regulations**

Not applicable.

**Entities Affected by the Rule**

Wisconsin's public technical college districts and students. However, the proposed rule will not alter the current statutory process/policies affecting these entities.

**Estimate of Time Needed to Develop the Rule**

Minimal; state agency will incorporate existing statutory language into existing administrative rule.

**Contact Information**

Morna Foy, Executive Assistant

WTCS, 4622 University Avenue

P.O. Box 7874

Madison, WI 53707-7874

Phone: (608) 266-2449

Email: [morna.foy@wtcsystem.edu](mailto:morna.foy@wtcsystem.edu)

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# Submittal of Rules to Legislative Council Clearinghouse

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

## **Agriculture, Trade and Consumer Protection** **CR 09–054**

On July 15, 2009, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapter ATCP 1, relating to administrative orders and contested cases.

### **Agency Procedure for Promulgation**

The Department will hold a public hearing on August 27, 2009. The Department's Office of Legal Counsel is primarily responsible for this rule.

### **Contact Information**

Reid Klopp  
(608) 224–5028

## **Commerce** *Fee Schedule, Ch. Comm 2* *Plumbing, Chs. Comm 81–87* **CR 09–050**

On July 13, 2009, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapters Comm 2 and 82, relating to permit to operate, registration and filing fees.

### **Agency Procedure for Promulgation**

A public hearing is scheduled for August 13, 2009. The Division of Safety and Buildings is responsible for promulgation of the rules.

### **Contact Information**

James Quast, Program Manager  
(608) 266–9292  
jim.quast@wisconsin.gov

## **Natural Resources** *Fish, Game, etc., Chs. NR 1–* **CR 09–051**

On July 14, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapters NR 19 to 23, relating to minor, non-substantive “housekeeping” changes to fishing regulations on the inland, outlying and boundary waters of Wisconsin.

## **Agency Procedure for Promulgation**

A public hearing is scheduled for August 14, 2009. The Bureau of Fisheries Management is responsible for promulgation of the rules.

### **Contact Information**

Joseph Hennessy  
Bureau of Fisheries Management  
(608) 267–9427

## **Natural Resources** *Fish, Game, etc., Chs. NR 1–* **CR 09–052**

On July 15, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapters NR 12 and 16, relating to feral or wild swine, wolf-dog hybrids and mute swans as captive wild animals.

### **Agency Procedure for Promulgation**

The Bureau of Wildlife Management is primarily responsible for promulgation of the rules. Public hearings have been scheduled for August 13, 18, 19, 27 and 31, 2009.

### **Contact Information**

Scott Loomans  
Bureau of Wildlife Management  
(608) 267–2452

## **Natural Resources** *Fish, Game, etc., Chs. NR 1–* **CR 09–053**

On July 15, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

### **Analysis**

The proposed order revises Chapter NR 10, relating to deer management unit population goals.

### **Agency Procedure for Promulgation**

The Bureau of Wildlife Management is primarily responsible for promulgation of the rules. Public hearings have been scheduled for August 13, 18, 19, 27 and 31, 2009.

### **Contact Information**

Scott Loomans  
Bureau of Wildlife Management  
(608) 267–2452

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## Rule-Making Notices

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### Notice of Hearing

#### Agriculture, Trade and Consumer Protection

**CR 09-054**

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on a proposed amendment to Chapter ATCP 1, Wis. Adm. Code, relating to administrative orders and contested cases.

#### Hearing Information

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

**August 27, 2009**

1:00 – 2:30 p.m.

WI Dept. of Agriculture, Trade & Consumer Protection

2811 Agriculture Drive, Room 456

Madison, WI 53718

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by August 24, 2009, by writing to Emily Phelps, Office of the Secretary, P.O. Box 8911, Madison, WI 53708-8911, [emily.phelps@wi.gov](mailto:emily.phelps@wi.gov), or (608) 224-5013. Alternatively, you may contact the DATCP TDD at (608) 224-5058. Handicap access is available at the hearings.

#### Appearance at the Hearing and Submission of Written Comments

DATCP invites the public to attend the hearing and comment on the rule. Following the hearing, the hearing record will remain open until September 15, 2009 for additional written comments. Comments may be sent to the Office of the Secretary, at the address below, by email to [Emily.phelps@wi.gov](mailto:Emily.phelps@wi.gov) or online at <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

To provide comments or concerns relating to small business, you may also contact DATCP's small business regulatory coordinator Keeley Moll at the address above, or by emailing to [Keeley.Moll@datcp.state.wi.us](mailto:Keeley.Moll@datcp.state.wi.us) or by telephone at (608) 224-5039.

#### Copies of Proposed Rule

You may obtain free copy of this proposed rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You may also obtain copies by calling (608) 224-5160 or emailing [michelle.reinen@wi.gov](mailto:michelle.reinen@wi.gov). Copies will also be available at the hearing. To view the proposed rule online, go to: <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

#### Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers a wide range of laws related to food safety, disease control, consumer protection, agricultural resource management and other matters. Under these laws, DATCP may issue various kinds of administrative

orders and take other administrative actions that have the force of law.

Persons adversely affected by these orders and actions may request a trial-type "contested case" hearing under ch. 227, Stats., and ch. ATCP 1, Wis. Adm. Code (ATCP 1). This rule updates and clarifies current "contested case" procedures under ATCP 1.

#### *Statutes interpreted*

Section 93.18, Stats., and subch. III of ch. 227, Stats.

#### *Statutory authority*

Sections 93.07 (1), 227.10 and 227.11, Stats.

#### *Explanation of agency authority*

DATCP has broad authority under s. 93.07 (1), Stats., to adopt rules needed to implement laws under its jurisdiction. DATCP has specific authority, under the provisions cited above, to adopt rules related to administrative orders and contested cases.

#### *Related rules and statutes*

DATCP administers a wide range of statutes, including chs. 88, 91 to 100, 126 and 136, Stats. In the administration of these statutes, DATCP may issue administrative orders such as license suspensions, administrative injunctions (e.g., orders prohibiting unfair business practices), hazardous product bans, holding orders to prohibit the distribution of adulterated food or commodities, plant and animal quarantine orders, orders condemning adulterated food or diseased animals, and a variety of other orders specified by statute.

#### *Background*

An impartial administrative law judge (ALJ) presides over a "contested case" hearing. DATCP is currently in the process of transferring its ALJ functions to the department of administration, division of hearings and appeals. ALJs from the division of hearings and appeals will conduct DATCP "contested case" hearings, subject to ch. 227, Stats., and ATCP 1. DATCP will pay the division of hearings and appeals for the ALJ services.

The DATCP Secretary or designee typically makes the final decision in a "contested case," after reviewing the ALJ's proposed decision. The final decision is subject to judicial review, as provided in ch. 227, Stats.

#### *Rule content*

##### *Administrative Law Judge*

Under current rules, the DATCP secretary may appoint an ALJ to hear a DATCP "contested case." This rule clarifies that the secretary may appoint an ALJ from the department of administration (division of hearings and appeals) or another state agency, with the agreement of that agency. An ALJ must conduct a DATCP "contested case" according to DATCP procedural rules in ATCP 1.

##### *Producer Security; Recovery Proceedings*

DATCP currently administers an agricultural producer security program under ch. 126, Stats., to protect agricultural producers against financial defaults by grain warehouse keepers, grain dealers, milk contractors and vegetable contractors. In the event of a default, DATCP may initiate a recovery proceeding to determine the amount of producer claims allowed under the producer security program. The

recovery proceeding is conducted as a “contested case” according to ch. 126, Stats., and ATCP 1. This rule updates ATCP 1 to incorporate current procedures and terminology under ch. 126, Stats.

#### *“Contested Case” Hearing Requests and Assignments*

This rule clarifies current procedures for requesting a “contested case” hearing, and for granting or denying a hearing request, consistent with current standards under ch. 227, Stats. The clarified procedures will help DATCP coordinate “contested case” hearings and ALJ assignments with the department of administration, division of hearings and appeals.

Under this rule, as under current rules, the DATCP secretary will make the initial decision to grant or deny a “contested case” hearing request, and will issue a written notice to the parties. Under this rule, the secretary must grant or deny a “contested case” hearing request within 30 days after a complete request is filed with the secretary (compared to 20 days under current rules).

If the secretary issues a notice granting a “contested case” hearing request, the notice will assign an ALJ and set a date for hearing or for a pre-hearing conference with the ALJ. If the notice sets an actual hearing date, the hearing date may be not sooner than 30 days after the notice is issued (compared to 10 days under current rules). The ALJ may schedule or reschedule a hearing date, as necessary.

#### *Hearing on Summary Orders*

Under many of its programs, DATCP is authorized to issue summary orders (without prior notice or hearing) to protect public health, safety or welfare. These include food holding orders, food condemnation orders, animal disease quarantine and condemnation orders, invasive pest quarantine and control orders, and a variety of other orders. The recipient of a summary order may request a hearing on that order.

This rule clarifies that the recipient of a summary order may request an immediate informal hearing, or a formal “contested case” hearing, or both. Many cases are resolved with an informal hearing, without the need for a formal “contested case” hearing. A requested informal hearing must be conducted as soon as reasonably possible, but not more than 20 days after the hearing request (compared to 10 days under current rules). A requester may agree to a later informal hearing date.

Informal hearings are conducted by DATCP managers or staff who have had no prior involvement in the case, and who are authorized to take or recommend remedial action as necessary. This rule clarifies that informal hearings are not governed by formal “contested case” procedures. If a matter is not successfully resolved by informal hearing, the affected party may request a formal “contested case” hearing.

#### *Parties Represented by Attorney*

Under current rules, a party to a formal “contested case” hearing may appear on his or her own behalf or may have a legal representative. Under this rule, the representative must be an attorney who is authorized to practice law in this state. As under current rules, the attorney’s actions are binding on the represented party.

#### *ALJ Authority*

This rule clarifies, but does not substantially alter, the authority exercised by an ALJ (including an ALJ from the department of administration, division of hearings and appeals) in a DATCP “contested case.”

#### *Disclosure of Witnesses and Evidence; Discovery*

Under current rules and this rule, parties must generally disclose (to opposing parties) the witnesses and evidence that they intend to call or offer in a “contested case hearing.” Under this rule, the parties must disclose their witnesses and evidence at least 10 days prior to hearing (current rule requires 7 days).

Under current rules and this rule, parties may have a right to “discover” (via pre-hearing depositions, interrogatories, etc.) relevant information possessed by opposing parties. Under this rule, “discovery” must be completed at least 10 days prior to hearing.

#### *Hearing Transcripts*

Under current rules, hearings in DATCP “contested cases” may be electronically recorded or transcribed in writing. This rule clarifies that hearings will normally be electronically recorded (the normal method used by the department of administration, division of hearings and appeals) unless the ALJ orders a written transcript with the approval of DATCP.

- Under current rules and this rule, any party may request a written transcript.
- Under current rules and this rule, if a written transcript is prepared in response to a request from any party, that party must pay the transcription and copying cost. Under this rule, DATCP must charge its actual per-page transcription cost (compared to a standard per-page charge of \$1.75 under current rules) plus a copying cost of 25 cents per page. Other parties may obtain copies by paying a copying cost of 25 cents per page.
- Under current rules and this rule, if DATCP orders a written transcript for its own purposes or for purposes of judicial review, DATCP must pay the transcription cost. Other parties may obtain copies for 25 cents per page.

#### *Videoconferencing*

Under this rule, an ALJ may conduct a “contested case” hearing by videoconferencing if current statutory standards for videoconference court proceedings are met.

#### *Order of Proof*

This rule clarifies, but does not substantially alter, current rules related to the order of proof in “contested cases.” Generally speaking, the party bringing the case has the initial burden of going forward.

#### *Proposed ALJ Decision; Objections*

Under current DATCP rules, the DATCP secretary is normally the final decisionmaker in a “contested case” unless the secretary delegates that authority to the ALJ or another official. If the ALJ is not the final decisionmaker, the ALJ must prepare a proposed decision for consideration by the final decisionmaker. The ALJ must provide copies of the proposed decision to the parties. Under this rule, parties have at least 30 days to file objections to the proposed decision (compared to 15 days under current rules).

#### *Settlement*

This rule clarifies, but does not substantially alter, current procedures for settling “contested cases.” Parties may settle a “contested case” at any time, subject to the approval of the final decisionmaker. Among other things, the parties may stipulate to a DATCP order resolving the disputed matter.

#### *Frivolous Claims; Cost Award*

Under s. 227.485, Stats., and current DATCP rules, if an individual or small business prevails in a “contested case” against DATCP, the ALJ may order DATCP to pay costs and

attorney fees to the prevailing individual or small business unless the ALJ finds that DATCP's losing position was substantially justified. This rule does not change these current rule provisions.

Under s. 227.483, Stats., if an ALJ finds that any party (including a private party or DATCP) has asserted a "frivolous" claim in a contested case, the ALJ may order the party to reimburse another party (including a private party or DATCP) for reasonable costs and attorney fees incurred in defending that claim. This rule incorporates the provisions of s. 227.483, Stats., into ATCP 1. Under this rule, as under s. 227.483, Stats., an ALJ may not find that a claim is "frivolous" unless the ALJ finds at least one of the following:

- The action, claim or defense was initiated or pursued in bad faith, solely for the purpose of harassing or maliciously injuring another.
- The party or party's attorney knew or should have known that the action, claim or defense was without any reasonable basis in law or equity, and could not be supported by a good faith argument for an extension, modification, or reversal of existing law.

#### ***Comparison with federal regulations***

A variety of federal regulations govern procedures in federal "contested cases." However, none of those regulations has a direct bearing on this rule.

#### ***Comparison with rules in adjacent states***

Surrounding states, including Illinois, Indiana, Iowa, Michigan and Minnesota, have their own procedural regulations related to administrative "contested cases" in those states. None of those regulations has a direct bearing on this rule. Wisconsin is generally regarded as having more well-developed "contested case" procedures and standards than most other states.

#### ***Summary of factual data and analytical methodologies***

This rule does not depend on any complex analysis of data. This rule makes minor changes to current rules.

#### **Small Business Impact**

This rule will have no significant effect on business.

The small business regulatory coordinator is Keeley Moll and can be contacted at: [Keeley.Moll@datcp.state.wi.us](mailto:Keeley.Moll@datcp.state.wi.us) or by telephone at (608) 224-5039.

#### **Fiscal Estimate**

This rule will clarify and update current procedures in "contested cases," but will not make major substantive changes. This rule will not increase or decrease the number of cases, nor will it have a significant impact on case processing costs.

This rule will have no fiscal effect on DATCP or local units of government.

#### ***State fiscal effect***

None.

#### ***Local government fiscal effect***

None.

#### ***Fund source affected***

GPR.

#### ***Affected Ch. 20 appropriation***

Section 20.115 (1) (a), Stats.

#### **Agency Contact Person**

Karen Schultz  
(608) 224-5023  
[Karen.Schultz@wisconsin.gov](mailto:Karen.Schultz@wisconsin.gov)

#### **Notice of Hearing**

##### **Commerce**

***Fee Schedule, Ch. Comm 2  
Plumbing, Chs. Comm 81-87  
CR 09-050***

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1), 101.19, 145.02 (3), 101.982, and 101.983, Stats., the Department of Commerce will hold a public hearing on proposed rules under Chapters Comm 2 and 82, relating to permit to operate, registration and filing fees.

#### **Hearing Information**

The public hearing will be held as follows:

<b><u>Date and Time</u></b>	<b><u>Location</u></b>
<b>August 13, 2009</b> 1:00 p.m.	Conference Room 3C Thompson Commerce Center 201 W. Washington Avenue Madison

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) 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 possible, be made available upon a request from a person with a disability.

#### **Appearance at Hearing and Submission of Written Comments**

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. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until August 21, 2009, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at [jim.quast@Wisconsin.gov](mailto:jim.quast@Wisconsin.gov).

#### **Copies of Proposed Rules**

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at [www.commerce.wi.gov/SB/](http://www.commerce.wi.gov/SB/). Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at [roberta.ward@wisconsin.gov](mailto:roberta.ward@wisconsin.gov), or at telephone (608) 266-8741 or TDD Relay dial 711 in Wisconsin or (800) 947-3529. Copies will also be available at the public hearing.

#### **Analysis Prepared by Department of Commerce**

##### ***Statutes interpreted***

Sections 101.02 (1), 101.10, 101.19, 101.17, 101.983, 145.01, and 145.02, Stats.

##### ***Statutory authority***

Sections 101.02 (1), 101.19, 145.02 (3), 101.982, and 101.983, Stats.

**Related statute or rule**

None

**Explanation of agency authority**

Chapters 101 and 145, Stats., grant the department general authority for the purpose of protecting public health, safety and welfare by establishing standards and regulatory oversight programs for the construction and maintenance of buildings, structures and dwellings and their components. These programs are administered by the Safety and Buildings Division. Section 101.19, Stats., grants the department authority to promulgate rules to fix and collect fees that reflect the cost of providing certain programs. Section 145.02 (3) (h), Stats., grants the department authority to promulgate rules concerning the testing of cross-connection control devices.

**Summary of proposed rules**

The rules propose to increase the permit to operate fees for boilers, pressure vessels, anhydrous ammonia systems, mechanical refrigeration systems, conveyances and passenger ropeways from \$35 to \$50.

The rules propose to update and streamline the department's oversight of certain types of cross connection control devices (assemblies), reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, spill resistant vacuum breakers, reduced pressure detector fire protection backflow prevention assemblies and pressure vacuum breakers. The proposal reduces the registration fee for these assemblies and establishes filing requirements and fees for the annual performance test reports for these assemblies. The fees reflect the ability to register and file the information electronically via the internet.

The rules also propose to clarify that department plan review and approval is required for certain water treatment systems where the source of water is a well or surface water.

**Comparison with federal regulations**

An internet-based search in the *Code of Federal Regulations and the Federal Register* did not identify any existing or proposed federal regulations that address these topics.

**Comparison with rules in adjacent states**

The following is a comparison of permit to operate fees charged in adjacent states.

**Illinois**

Illinois requires payment of \$200 for an annual certificate of operation for an elevator. Illinois regulations for boilers require certificates of inspection for \$70.

**Iowa**

Iowa's fee for an annual elevator permit is \$50.

**Michigan**

For elevators, Michigan's biennial and annual certificates of operation are \$45.

**Minnesota**

The annual registration fee for a boiler in Minnesota is \$10.

An internet-based search regarding the registration of cross connection control devices or filing of cross connection control device performance testing results did not produce any results for the 4 adjacent states of Illinois, Iowa, Michigan and Minnesota.

**Summary of factual data and analytical methodologies**

The fees for permits to operate have not been revised since 2000. The proposed changes are necessary in order to bring revenues in line with the cost of providing Division services.

The fee currently required by the Safety and Buildings Division to register testable cross connection assemblies was intended to cover the Division's costs for overseeing the annual filing of performance tests over the entire life of each assembly. The proposed fee structure is more equitable because it reflects that some assemblies are in use longer than other assemblies. The proposed fee changes are also necessary in order to bring revenues in line with the cost of providing Division services.

**Environmental Impact**

The Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

**Small Business Impact**

The proposed fee increase for permits to operate will affect businesses which own any boiler, pressure vessel, anhydrous ammonia system, mechanical refrigeration system, conveyance and passenger ropeway. Permits to operate are typically issued after a code required periodic inspection. Permits to operate for conveyances and passenger ropeways are issued on a yearly basis. Most permits to operate for boilers, pressure vessels, anhydrous ammonia systems, and mechanical refrigeration systems are issued on a three-year basis. Over the last 3 years on average the department has issued roughly 38,000 permits to operate annually. Raising the permit to operate fee by \$15 will increase the department's revenues annually by \$570,000.

The proposed revisions regarding the cross connection control program will affect businesses where certain types of cross connection control assemblies are to be installed or exist to protect public water supplies. The types of cross connection control assemblies under this program are reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, spill resistant vacuum breakers, reduced pressure detector fire protection backflow prevention assemblies and pressure vacuum breakers. Currently there are just over 33,000 of these assemblies registered with the department. These types of assemblies are required to undergo an annual performance test to ensure their continued protection of water supplies. The department is proposing to reduce the registration fee for these assemblies from \$200 to \$100; or \$90 if completed through the Safety and Buildings Division's web site. Over the last 3 years an average of 2275 new assemblies have been annually registered with the department. In 2008 approximately 25,000 performance tests were submitted to the department. The department is proposing a \$40 fee, or a \$30 fee if completed through the Safety and Buildings Division's web site, for the filing of the performance test reports. The department estimates that annual revenues would increase by \$527,000, if 90% of the registrations and performance tests are reported through the Division's web site.

An economic impact report has not been required pursuant to s. 227.137, Stats.

### ***Initial regulatory flexibility analysis***

#### *Types of small businesses that will be affected by the rules.*

The proposed fee increase for permits to operate will affect businesses which own any boiler, pressure vessel, anhydrous ammonia system, mechanical refrigeration system, conveyance and passenger ropeway.

The proposed revisions regarding the cross connection control program will affect businesses where certain types of cross connection control assemblies are to be installed or exist to protect public water supplies.

#### *Reporting, bookkeeping and other procedures required for compliance with the rules.*

The proposed changes to chapters Comm 2 and 82 do not impose any additional reporting, bookkeeping or other procedures for compliance.

#### *Types of professional skills necessary for compliance with the rules.*

The proposed changes to chapters Comm 2 and 82 do not impose any type of new professional skills for compliance.

#### *Rules have a significant economic impact on small businesses?*

No.

### ***Small business regulatory coordinator***

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at [carol.dunn@wisconsin.gov](mailto:carol.dunn@wisconsin.gov).

### **Fiscal Estimate**

#### ***Assumptions used in arriving at fiscal estimate***

Current rules require owners to obtain and hold permits to operate any boiler, pressure vessel, anhydrous ammonia system, mechanical refrigeration system, conveyance and passenger ropeway. Permits to operate are typically issued after a code required periodic inspection. Permits to operate for conveyances and passenger ropeways are issued on a yearly basis. Most permits to operate for boilers, pressure vessels, anhydrous ammonia systems, and mechanical refrigeration systems are issued on a three-year basis. Over the last 3 years on average the department has issued approximately 38,000 permits to operate annually. Raising the permit to operate fee by \$15 will increase the department's revenues annually by \$570,000.

Under current rules certain types of cross connection control devices that protect public water supplies are required to be registered with the department upon installation and tested annually. The types of cross connection control assemblies under this program are reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, spill resistant vacuum breakers, reduced pressure detector fire protection backflow prevention assemblies and pressure vacuum breakers. Currently, there are just over 33,000 of these assemblies registered with the department. The department is proposing to reduce the registration fee for these assemblies from \$200 to \$100; or \$90 if completed through the Safety and Buildings Division's web site. Over the last 3 years an average of 2275 new assemblies have been annually registered with the department. In 2008 approximately 25,000 performance tests were submitted to the department. The department is proposing a \$40 fee, or a \$30 fee if completed through the

Safety and Buildings Division's web site, for the filing of the performance test reports. The department estimates that annual revenues would increase by \$527,000, if 90% of the registrations and performance tests are reported through the Division's web site.

The proposed rules to update and streamline the department's oversight of certain types of cross connection control assemblies do not increase the workload beyond current resources and staff levels.

#### ***State fiscal effect***

Increase existing revenues.

#### ***Local government fiscal effect***

None.

#### ***Fund sources affected***

PRO.

#### ***Long-range fiscal implications***

No long-range fiscal implications are anticipated.

#### **Agency Contact Person**

James Quast, Program Manager, (608) 266-9292 or email [jim.quast@wisconsin.gov](mailto:jim.quast@wisconsin.gov).

## **Notice of Hearing Natural Resources**

### ***Fish, Game, etc., Chs. NR 1— CR 09-051***

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014 (1), 29.039, 29.405 (3), 29.053, 29.531 and, 29.533, Stats., the Department of Natural Resources will hold public hearings on revisions to Chapters NR 19, 20, 21, 22 and 23, Wis. Adm. Code, relating to minor, non-substantive "housekeeping" changes to fishing regulations on the inland, outlying and boundary waters of Wisconsin.

#### **Hearing Information**

The hearings will be held:

**Friday — August 14, 2009**

2:00 p.m.

101 S. Webster Street

Room 406

Madison, WI

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Joseph Hennessy at (608) 267-9427 with specific information on your request by August 7, 2009.

#### **Copies of Proposed Rules and Submission of Written Comments**

The proposed rules and fiscal estimates may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed changes may be submitted via U.S. mail to Mr. Joseph Hennessy, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707. Written comments shall be postmarked not later than August 5, 2009. Written comments whether submitted electronically or by U.S. mail will be summarized for the Natural Resources Board. Written comments will have the same weight and affect as oral statements presented at the hearings. A copy of the proposed rules and fiscal estimate can be obtained from Mr. Joseph Hennessy.

## Analysis Prepared by Department of Natural Resources

### *Statutes interpreted*

Sections 29.014 (1), 29.039, 29.041, 29.405 (3) and 227.11 (2) (a), Stats.

### *Statutory authority*

Sections 29.014 (1), 29.039, 29.405 (3), 29.053, 29.531 and 29.533, Stats.

### *Plain language rule analysis*

The proposed rules will:

1. Clarify that hoop nets may not be set within 200 feet of a fishway, lock, or dam, and that individuals may not use hook-and-line, setlines, or nets for taking turtles in a way or during any time when these methods are prohibited for fishing;
2. Clarify that the possession limit for trout from inland waters is 10 fish, and is separate from the possession limit for Great Lakes trout and salmon;
3. Clarify language governing the prohibition of tagging and releasing fish without a permit;
4. Resolve conflicts between state statute and administrative code regarding rules governing fishing with a bow and arrow. State statute provides that the department shall allow bowfishing at night wherever it is allowed during daylight hours in inland, outlying, and boundary waters;
5. Correct administrative errors which occurred during the drafting of rules regarding harvest of catfish from Winnebago system waters. There is a total daily bag limit of one flathead catfish, rather than 2, allowed from Winnebago system waters, and there is no closed season for channel catfish in these waters;
6. Clarify that dip netting and seining for cisco and whitefish are permissible at any time of day in Keyes lake (Florence county), Trout and Palette lakes (Vilas county), and in all other waters not specifically listed in the county and statewide table in s. NR 20.20, and also clarify that seining for smelt is permissible any time of day in Lake Superior;
7. Repeal code related to walleye harvest regulations in Enterprise lake (Langlade county). The code being repealed was improperly placed in the section for rules related to lakes in Lincoln county. The proper code related to walleye regulations in Enterprise lake already exists under the section related to rules for lakes in Langlade county;
8. Correct an omission which occurred in the implementation of rules which extended the open season for muskellunge in waters south of Highway 10 from November 30 to December 31. The later season-ending date applies to Winnebago system waters;
9. Correct the effective end date for bag limit adjustments made in the Wisconsin Ceded territory in response to tribal declarations and harvest, and correct inconsistency in language which applies to readjustments of bag limits after spring tribal harvest;
10. Clarifies license requirements for anglers fishing Wisconsin-Iowa boundary waters, and corrects the name of the boundary on the Wisconsin side of the Mississippi river; and
11. Correct omissions made during the implementation of rules governing harvest of lake sturgeon from Wisconsin-Michigan boundary waters. Rules which were adopted for inland waters also applied to these boundary waters, but the appropriate changes in code were not made.

## Small Business Impact

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed changes will have a significant economic impact on small businesses.

The Department's Small Business Regulatory Coordinator may be contacted at [SmallBusiness@dnr.state.wi.us](mailto:SmallBusiness@dnr.state.wi.us) or by calling (608) 266-1959.

## Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code.

## Fiscal Estimate

### *Summary*

The rule changes do not reflect changes in Department policy and are limited to clarification of existing code or changes to pieces of code which do not accurately reflect rules previously adopted by the Natural Resources Board and reviewed by the Legislature, after appropriate public hearings.

None of the proposed changes have fiscal impacts.

### *State fiscal effect*

None.

### *Local government fiscal effect*

None.

## Agency Contact Person

Joseph Hennessy  
(608) 267-9427

## Notice of Hearings

### Natural Resources

#### *Fish, Game, etc., Chs. NR 1—*

#### **CR 09-052**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.885 (3) (b), 169.11, 169.36 (9) (b) and 227.11, Stats., the Department of Natural Resources will hold public hearings on revisions to Chapters NR 12 and 16, Wis. Adm. Code, relating to regulating feral or wild swine, wolf-dog hybrids and mute swans as captive wild animals.

## Hearing Information

The hearings will begin at 6:00 p.m. on the following dates and locations:

### **August 13, Thursday**

West Bend Public Agency Center, Room 1113 A and B,  
333 E. Washington St., West Bend, 53095

### **August 18, Tuesday**

Wausau Best Western Midway Hotel,  
2901 Hummingbird Road, Wausau, 54401

### **August 18, Tuesday**

Rhinelanders' James Williams Middle School,  
915 Acacia Lane, Rhinelanders, 54501

### **August 19, Wednesday**

La Crosse State Office Bldg., Basement Conference Rooms,  
3550 Mormon Coulee Road, La Crosse, 54601

### **August 19, Wednesday**

Northeast Wis. Technical College, Room CB 213 A and B,  
2740 W. Mason Street, Green Bay, 54307

**August 27, Thursday**

Northern Great Lakes Visitor Center,  
29270 County Highway G, Ashland, 54806

**August 31, Monday**

Dunn County Fish and Game Association Clubhouse,  
1600 Pine Ave E., Menomonie, 54751

This hearing will be followed by a public hearing on Board Order WM-16-09 relating to deer management unit population goals. The hearing on WM-16-09 begins at 7:00 p.m. at the same location.

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

**Copies of Proposed Rule and Submission of Written Comments**

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until August 31, 2009. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

**Analysis Prepared by Department of Natural Resources****Statutes interpreted**

Sections 29.014, 29.885 (3) (b), 169.11 and 169.36 (9) (b) Stats.

**Statutory authority**

Sections 29.014, 29.885 (3) (b), 169.11, 169.36 (9) (b) and 227.11, Stats.

**Plain language rule analysis**

2007 ACT 119 (ss. 169.11 Stats.) requires that the department designate wild or feral hogs as harmful wild animals. The same statute, s. 169.11 Stats., also authorizes that any non-native animal that is a threat to the environment, public health or the health of domestic animals, or is capable of inflicting severe physical harm to humans or domestic animals may be designated a harmful wild animal. Specifically, these rule proposals:

Section 1 establishes that harmful wild animals may not be trapped and relocated without written permission of the department.

Section 2 adds wild or feral swine, mute swans and wolf dog hybrids to the list of species which are classified as harmful wild animals and establishes definitions.

Section 3 creates an exemption from the requirement that animals be confined at all times so that wolf-dog hybrids can be controlled by a leash.

Section 4 eliminates the option of keeping mute swans that are only sexually sterilized and not also pinioned in pens that are not covered and clarifies that mute swans which are both pinioned and sexually sterilized may not be at large from the property which is licensed.

Section 5 allows the possession of wild or feral swine only by certain people who are producing them for meat and slaughter off-site or by a custom meat processor and that feral or wild swine are permanently marked with identifying information.

Section 6 requires wolf-dog hybrids to be sexually neutered and permanently marked with identifying information.

Sections 7, 8 and 11 establish pen standards and allow that wolf-dog hybrids may utilize space that is intended for human occupancy.

Section 9 requires that enclosures for wild or feral swine include a section of fence or wall that is buried at least 30 inches.

Section 10 establishes that secondary, perimeter fences are not required for housing mute swans and that the perimeter fence standards are reduced for wolf-dog hybrids in rural areas.

Section 11 applies the existing pen space requirements for captive timber wolves that are held in pens with open tops to wolf-dog hybrids that are held in pens with open tops. This section also establishes that minimum pen size standards do not apply until January 1, 2014.

Section 12 establishes record keeping and reporting requirements for wild or feral swine, wolf-dog hybrids and mute swans.

Section 13 requires the owners of harmful wild animals to report escapes to the department within 24 hours of becoming aware of the escape. This section also clarifies that the department may dispose of an escaped harmful wild animal upon determining that the animal poses a risk to public safety or to the health of other domestic or wild animals.

**Related statute or rule**

There are no state rules or statutes currently under promulgation that directly relate to the provisions that are proposed in this administrative order.

**Comparison with federal regulations**

Federal regulations allow states to manage wildlife resources and captive wild animals located within their boundaries provided they do not conflict with regulations established in the Federal Register.

As a result of rule making by the United States Fish & Wildlife Service that was completed in 2005, mute swans are no longer regulated by the Migratory Bird Treaty Act and are federally unprotected. Under ch. 169, Stats., the department has the authority to regulate migratory birds held in captivity and defines migratory birds by cross-referencing Ch. 50 part 10.13 of the Code of Federal Regulations. The department currently has regulations regarding the possession of mute swans that are held in captivity but, because that species is no longer listed under Ch. 50 part 10.13 CFR, those regulations are no longer in effect.

The United States Fish & Wildlife Service has regulated gray or timber wolves by designating them as threatened or endangered species. The service does not regulate captive wolves or wolves that are hybrids with domestic dogs or coyotes.

States are responsible for the regulation of wild or feral hogs both in the wild and in captivity and none of these rule changes violate or conflict with the provisions established in the Code of Federal Regulations.

**Comparison with rules in adjacent states**

These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations

and rules in place for the management of wild animals and the regulation of certain captive wild animals.

Iowa regulates as a "Dangerous wild animal" swine which are members of the species *Sus scrofa linnaeus* including, but not limited to, swine commonly known as Russian boar or European boar of either sex. Possession is generally prohibited except for certain shooting preserves. Minnesota regulates Eurasian wild pigs and their hybrids (*Sus scrofa* subspecies and *Sus scrofa* hybrids), excluding domestic hogs (*S. scrofa domesticus*) and European wild boars as a "restricted species" of invasive animal. Possession is prohibited in most cases. Illinois and Michigan have regulations that are primarily animal health related.

Illinois prohibits the possession of wolves and wolf hybrids under the Illinois Dangerous Animals Act. Minnesota explicitly prohibits the release or introduction of wolf-dog hybrids into the wild. Michigan's Dog Cross Act of 2000 established significant restrictions on the ownership, possession, and care of certain wolf-dog crosses; prohibits the ownership and possession of certain wolf-dog crosses and establishes fees. Iowa does not have significant regulations for wolf-dog crosses. Nationally, many states regulate or prohibit the possession of wolf-dog crosses. The state of Washington is considering a prohibition through legislation being worked on in spring, 2009.

Mute swans held in captivity in Michigan require a department permit and must be pinioned. In Minnesota, mute swans are regulated as an invasive species and a game farm permit and fencing are required for legal possession. Iowa discourages allowing the free-flight of mute swans but does not regulate them. They are present in the wild in Iowa and considered a challenge to their trumpeter swan restoration effort. Illinois does not regulate captive mute swans. Mute swans are common in the wild in Illinois.

#### ***Summary of factual data and analytical methodologies***

The rule changes included in this order do not deviate from current department policy on the management of wildlife, captive wildlife, and the regulation of animals which are listed as harmful wild animals. As required by ch. 169, Stats., consultation with the Department of Agriculture, Trade and Consumer Protection and the Department of Health Services has occurred.

Only persons who possessed wild or feral swine, prior to the effective date of this rule, for the purpose of producing meat could be licensed to possess that species. Animals may only be killed at or transported to licensed meat facilities.

Designation as a harmful wild animal requires a license for the possession, transportation, sales, transfer, import, and exhibition. People who are in possession of a wild or feral hog, mute swan, or wolf-dog hybrid must possess their license and display it to the department upon request and carcasses must be accompanied by information such as a receipt indicating where and when the carcasses were acquired.

Pen standards are established for all three species. Feral and wild hogs and wolf-dog hybrids must be housed in enclosures constructed of suitable materials, structurally sound, and kept in good repair. Wolf-dog hybrids must be housed in closed top pens that are a minimum of 300 square feet. There may be no more than two wolf-dog hybrids per 300 square foot pen and at least 100 additional square feet for each additional hybrid. The pen height shall be a minimum of six feet. Wolf-dog hybrid pens with open tops shall be a minimum of 1000 square feet. The walls shall be a minimum of 10 feet in height with an additional 4 feet at the top slanted

in at a 30° to 45° angle. In order to allow time for owners of wolf dog hybrids to modify and improve facilities, new pen standards would not be effective until January 1, 2014. A second perimeter fence is required for feral and wild hogs and wolf-dog hybrids. Housing standards for all harmful wild animals require that animals are provided with adequate food and water, facilities that are in good repair, protected from injury, and free of trash and accumulation of waste. Housing must provide shelter from the elements and adequate space. Animals may be confined in a different manner on a temporary basis to provide health care or for transportation.

Record keeping and quarterly reporting is required for harmful wild animals and shall include records of all transactions, deaths, and harvesting of animals on the licensed premises. Reports must be submitted to the department on the last day of the months of January, April, July and October. All records must be kept by the owner for three years and displayed to the department upon request.

Taking of all three species alive from the wild without department authorization is currently prohibited under Ch. NR 10.08(5) Wis. Admin. Code except when the person is the owner of the animal or acting on behalf of the owner. The department would continue to allow taking animals from the wild in situations such as when an individual or organization, devoted to the rescue of unwanted or escaped wolf-dog hybrids, acts as an agent of the department. The department could also allow activities by a local unit of government with responsibility for controlling nuisance or dangerous animals. Stocking any of these species into the wild is prohibited. Propagation is allowed by license except that mute swans which are not kept in pens must be sexually neutered and pinioned and wolf-dog hybrids must be sexually neutered. Rehabilitation of harmful wild animals is not allowed but medical treatment may be allowed by the department or its agents.

Reporting escapes of all three species to the department within 24 hours of discovery of the escape is required in order to facilitate recovery efforts.

The possession of harmful wild animals must be consistent with ordinances established by local units of government.

This rule making is designed to reduce the possibility of feral or wild hogs, which are held in captivity, escaping to the wild. Feral hogs, also known as wild boars, are a threat to native ecosystems and are disease threats to domestic swine herds. Pseudorabies and swine brucellosis are among several livestock diseases for which the US Department of Agriculture's Animal and Plant Health Inspection Service has established national eradication programs with a goal of elimination of the diseases from all livestock in the United States. One of the most serious challenges to achieving this goal is the widespread and growing occurrence of feral swine. Feral swine can harbor and transmit these diseases, and in some areas may serve as the most important wildlife host. A state's status with the US Department of Agriculture, in terms of being considered brucellosis-free, may depend partly on whether disease is found in the population of free roaming swine. Feral and wild swine are deemed unprotected animals in the wild and for the purposes of the proposed rules would be considered harmful when held in captivity. Any swine that has existed in the wild for seven days can be considered a harmful wild animal.

This rule is designed to reduce the occurrence of wolf-dog hybrids escaping into the wild or posing a threat to human health. Wolves which share genetic material with domestic dogs have been documented in packs of wild wolves on three occasions in Wisconsin and alone in significantly more

instances. Experience has shown that wolves which have some domestic heritage are more likely than wild wolves to interact with humans and domestic animals in negative ways. These actions, including depredation of domestic animals, pose a threat to the management of wild wolves and a threat to the genetics of wild wolves. Wolf–dog hybrids are responsible for fatal attacks on humans in neighboring states and have attacked people in Wisconsin. Improper care and containment of wolf–dog crosses can be a significant risk of physical harm to people.

This rule is designed to reduce the likelihood of mute swans escaping from captivity and becoming established in the wild where they compete with native waterfowl, including trumpeter swans, for breeding, feeding, and living space. Mute swans have shown that they are extremely well adapted to surviving in the wild in Wisconsin. Existing rules already require that swans which are not pinioned and neutered must be housed in covered enclosures. These regulations are not currently in effect but are restored in this rule by eliminating the need to cross–reference federal regulations. A new provision of this proposal is that mute swan escapes shall be reported to the department within 24 hours of becoming aware of the escape.

#### ***Analysis and supporting documents used to determine effect on small business***

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules will allow the possession, propagation, and sale of mute swans in a manner which is identical to regulations which were in effect prior to a change to the Code of Federal Regulations which invalidated state regulations by eliminating a cross reference in code language.

The possession and sale of wolf–dog hybrids would continue to be allowed under this rule proposal with certain conditions. Propagation would not be allowed under this proposal. Propagation for sale in Wisconsin is believed to be a limited activity that would have limited to no effect on small businesses. Likewise, the possession and propagation of feral swine would continue to be allowed by certain people for the purposes of meat production. People who possess wild or feral swine for other purposes are not believed to be benefitting economically and there would be no business effect.

#### **Small Business Impact**

In most cases these rules are applicable to individual animal owners. Business owners who possess wild or feral hogs, mute swans, or wolf–dog hybrids would be subject to compliance standards through a requirement that enclosures be of sufficient construction to contain those species. For wolf–dog hybrid owners, compliance with pen standards would not be required until 2014. Permanent marking of wild or feral swine and wolf–dog hybrids would be required. Wolf–dog hybrids would need to be sexually neutered. Annual reporting of animals acquired and sold or which die would be required. Additionally, business owners would be required to report events of animal escape to the department within 24 hours of becoming aware of the escape.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses.

The Department's Small Business Regulatory Coordinator may be contacted at [SmallBusiness@dnr.state.wi.us](mailto:SmallBusiness@dnr.state.wi.us) or by calling (608) 266–1959.

#### **Environmental Impact**

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

#### **Fiscal Estimate**

##### ***Assumptions used in arriving at fiscal estimate***

This proposed rule making will require a license issued under the authority of Ch. 169, Stats., Captive Wildlife, for the possession of mute swans, wolf–dog hybrids and feral or wild swine.

The process used by the department to collect fees, store licensing information, reports, and issue renewal notices is already established. The department anticipates that most individuals would apply for a Class B Captive Wild Animal Farm License (CWAFL). The fee for a CWAFL is \$50 the first year and \$25 for annual renewal. The higher cost during the first year is to compensate for site inspections that may be conducted by department staff during initial licensing.

Only people who possess feral or wild swine prior to the effective date of this rule and for the purpose of meat production may be licensed. It is anticipated that as few as two facilities may be eligible. Prior to January 1, 2003 the department had authority to require game farm or exhibiting licenses for people who possess mute swans. The maximum number of licensed facilities with mute swans was 8. Because of the limited number of these licenses to be issued and the department's ability to generate approximately \$500 to recover the cost of inspections, no fiscal impact is anticipated by requiring licenses for these species.

The number of people who currently possess wolf–dog hybrids and will require a license under this rulemaking is difficult to estimate; however, it is possible that Wisconsin's numbers may be comparable to Michigan, which already requires similar licensing under its Wolf–Dog Cross Act and licensed a total of 29 individuals in 2007 to possess wolf–dog hybrids.

##### ***One–Time Costs/Revenues***

It will take a wildlife manager approximately 2 hours to inspect a facility multiplied by the average value of salary and fringe of \$32. Therefore, assuming that Wisconsin permitting activity will be comparable to Michigan, total one–time costs to permit new facilities will be \$1,856 (\$64 x 29 permittees) and total one–time revenues for new permittees will be \$1,450 (\$50 x 29 permittees). While department staff are learning how to permit these new facilities, it is possible that multiple site visits may be needed in an effort to work cooperatively with some permittees to ensure their facilities are compliant, which would result in higher costs. It is also possible that the number of permittees may be higher in Wisconsin than Michigan.

##### ***Ongoing Costs/Revenues***

The effort required to license new facilities for these species will be greatest upon initial implementation. Therefore, in subsequent years, no significant costs are anticipated whereas ongoing revenues are estimated to be \$725 (\$25 annual renewal fee x 29 permittees).

**State fiscal effect**

Increase costs — that may be possible to absorb within the agency's budget.

**Local government fiscal effect**

None.

**Fund sources affected**

SEG.

**Affected Ch. 20 appropriations**

Section 20.370 (1) (mu), Stats.

**Agency Contact Person**

Scott Loomans  
101 South Webster St.  
PO Box 7921  
Madison, WI 53707-7921  
(608) 267-2452  
scott.loomans@wisconsin.gov

**Notice of Hearings****Natural Resources****Fish, Game, etc., Chs. NR 1—  
CR 09-053**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014 and 227.11, Stats., the Department of Natural Resources will hold public hearings on revisions to Chapter NR 10, Wis. Adm. Code relating to deer management unit population goals.

**Hearing Information**

The hearings will be held beginning at 7:00 p.m. on the following dates and locations:

**August 13, Thursday**

West Bend Public Agency Center, Room 1113 A and B,  
333 E. Washington St., West Bend, 53095

**August 18, Tuesday**

Wausau Best Western Midway Hotel,  
2901 Hummingbird Road, Wausau, 54401

**August 18, Tuesday**

Rhinelanders' James Williams Middle School,  
915 Acacia Lane, Rhinelanders, 54501

**August 19, Wednesday**

La Crosse State Office Bldg., Basement Conference Rooms,  
3550 Mormon Coulee Road, La Crosse, 54601

**August 19, Wednesday**

Northeast Wis. Technical College, Room CB 213 A and B,  
2740 W. Mason Street, Green Bay, 54307

**August 27, Thursday**

Northern Great Lakes Visitor Center,  
29270 County Highway G, Ashland, 54806

**August 31, Monday**

Dunn County Fish and Game Association Clubhouse,  
1600 Pine Ave E., Menomonie, 54751

The hearing will be preceded by a public hearing on Board Order WM-21-07 relating to regulating feral or wild swine, wolf-dog hybrids and mute swans as captive wild animals. The hearing on WM-21-07 begins at 6:00 p.m. at the same location.

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

**Copies of Proposed Rules and Submission of Written Comments**

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until August 31, 2009. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Loomans.

**Analysis Prepared by Department of Natural Resources****Statutes interpreted**

Sections 29.014, 29.889 (12), and 227.11, Stats.

**Statutory authority**

Sections 29.014 and 227.11, Stats.

**Related statute or rule**

Deer unit boundaries and goals are reviewed every 3 years according to s. NR 10.104 (3), Wis. Adm. Code and Voigt case stipulations (Chippewa treaty rights).

**Plain language rule analysis**

There are currently 131 deer management units with individual overwinter populations goals and a statewide over winter population goal of approximately 737,000 deer. Over winter population goals and DMUs serve as the foundation for managing the deer herd and determining deer hunting season structures. All goals referred to in this rule are the over winter deer population goal for a DMU. The hunting season population will generally be substantially larger than the over winter population goal.

The Department is proposing raising deer population goals in 13 management units and lowering the goal in three.

These changes are recommended to provide hunters with more deer hunting opportunities in instances where goals are proposed for increases and to alleviate agricultural damage in the instances where the goals have been recommended for a decrease. The department does not anticipate significant ecological, agricultural or forestry impacts because of the proposed goal increases. However, there is a concern that a higher goal with low hunter densities will mean continuous herd control seasons.

Deer Management Unit	Current Goal Density	Proposed Goal Density
3	16	15
6	12	15
14	14	18
49A	25	20
57	22	25
59B	15	20
59M	10	15
60A	20	25
60B	20	25
60M	10	15
64	20	25
64M	10	15
68B	30	25
77C	15	20
77M	10	15
80B	20	25

### ***Comparison with federal regulations***

Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulation of hunting and trapping of native species has been delegated to state fish and wildlife agencies. Additionally, none of the proposed rules exceed the authorities granted the states in 50 CFR 10.

### ***Comparison with rules in adjacent states***

All of Wisconsin's neighboring states have established management units for the purpose of managing deer populations. By using units with identifiable boundaries, deer populations can be monitored and kept at various population levels to more effectively control the deer herd and to address regional differences in habitat, population (human and deer) and to reduce conflict with other land uses such as residential, agricultural or forested.

### ***Summary of factual data and analytical methodologies***

The Department has evaluated the need for deer population goal reviews based on the following criteria; 1) Carrying capacity as determined by unit population responses to habitat quality and historical records of winter severity, 2) Hunter success in harvesting and seeing deer and public deer viewing opportunities, 3) Ecological and economic impacts of deer browsing, 4) Disease transmission, 5) Concern for deer vehicle collisions, 6) Chippewa treaty harvest, 7) Hunter access to land in a deer management unit, 8) Ability to keep the deer herd in a deer management unit at goal, 9) Tolerable levels of deer damage to crops. In addition, an Environmental Assessment was prepared in 1995. Copies of *Deer Population Goals and Harvest Management Environmental Assessment* are available from the department upon request.

### ***Analysis and supporting documents used to determine effect on small business***

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses.

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.

### **Small Business Impact**

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses.

The Department's Small Business Regulatory Coordinator may be contacted at [SmallBusiness@dnr.state.wi.us](mailto:SmallBusiness@dnr.state.wi.us) or by calling (608) 266-1959.

### **Environmental Impact**

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

### **Fiscal Estimate**

#### ***Assumptions used in arriving at fiscal estimate***

A potential fiscal impact of increasing deer population goals is an increase of agricultural damage and associated claims and abatement costs. Fiscal impacts are not anticipated as a result of this rulemaking, however, because the proposed increases are minor, five or fewer deer per square mile of deer range. Some units currently have deer populations which are actually higher than the proposed goals.

#### ***State fiscal effect***

None.

#### ***Local government fiscal effect***

None.

#### ***Long-range fiscal implications***

None.

### **Agency Contact Information**

Keith Warnke  
101 S. Webster Street  
PO Box 7921  
Madison, WI 53707-7921  
(608) 264-6023  
[keith.warnke@wisconsin.gov](mailto:keith.warnke@wisconsin.gov)

or

Scott Loomans  
101 S. Webster Street  
PO Box 7921  
Madison, WI 53707-7921  
(608) 267-2452  
[scott.loomans@wisconsin.gov](mailto:scott.loomans@wisconsin.gov)

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## Submittal of Proposed Rules to the Legislature

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

### **Natural Resources**

*Fish, Game, etc., Chs. NR 1—*

**CR 09–018**

A rule-making order to revise Chapters NR 19, 20 and 24, relating to fishing and clamming regulation changes presented at the 2009 spring fish and wildlife rules hearings.

### **Natural Resources**

*Fish, Game, etc., Chs. NR 1—*

**CR 09–031**

A rule-making order to revise Chapter NR 46, relating to stumpage values used to collect yield taxes for lands entered under the Forest Crop Law and Managed Forest Law programs.

### **Natural Resources**

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

**CR 08–111**

A rule-making order to create Chapter NR 528, relating to the management of accumulated sediment from storm water management structures.

### **Veterans Affairs**

**CR 09–026**

A rule-making order to revise section VA 2.01, relating to needy veterans grant program.

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## Rule Orders Filed with the Legislative Reference Bureau

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*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](mailto: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 09-002**

Revises Chapter ATCP 139, relating to consumer product safety.

Effective 9-1-09, except sections affecting small business, effective 11-1-09.

### **Natural Resources**

#### ***Fish, Game, etc., Chs. NR 1—***

#### **CR 08-074**

Creates Chapter NR 40, relating to the identification, classification and control of invasive species.

Effective 9-1-09.

### **Natural Resources**

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

#### **CR 08-103**

Revises Chapter NR 428, relating to the control of nitrogen oxide emitted by stationary sources in the ozone nonattainment area in southeastern Wisconsin, and to SIP approvability and miscellaneous implementation issues. Effective 9-1-09.

### **Public Instruction**

#### **CR 09-011**

Revises Chapter PI 22, relating to precollege scholarships. Effective 9-1-09.

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# Rules Published with this Register and Final Regulatory Flexibility Analyses

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*The following administrative rule orders have been adopted and published in the July 31, 2009, 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.*

## Administration CR 08-084

Creates Chapter Adm 70, relating to electronic recording of documents in Wisconsin County Register of Deeds offices. Effective 8-1-09.

### Summary of Final Regulatory Flexibility Analysis

The rule will provide a clear path for recording documents electronically in Wisconsin allowing for speedier processing of conveyances. The rule will have no significant economic impact on a substantial number of small businesses as defined in s. 227.114 (1), Wis. Stats.

### Summary of Comments by Legislative Review Committees

No comments were reported.

## Agriculture, Trade and Consumer Protection CR 08-067

Revises Chapter ATCP 123, relating to customer access to subscription video services. Effective 8-1-09.

### Summary of Final Regulatory Flexibility Analysis

This rule implements and clarifies certain 2007 Act 42 provisions related to video service access and anti-discrimination. This rule incorporates the new provisions into current DATCP rules under ch. ATCP 123, Wis. Adm. Code. This rule does all of the following:

- Clarifies that a “group” means 2 or more households. A video service provider denies access to a “group” if it denies access to all of the households comprising that “group.”
- Defines “household” consistent with current statutes.
- Defines “low-income household” as a household with a combined annual income equal to less than 200% of the federal poverty level for a family of 3.
- Clarifies that a video service provider provides video service “access” to a household if the provider is able to provide video service to that household using the provider’s normal service network or an equivalent alternative technology, regardless of whether any customer has ordered the service.
- Spells out the procedure by which a video service provider may ask DATCP to waive or extend the deadline for complying with a minimum access requirement:
  - A provider must submit a request in writing, in hard-copy and electronic form. The request must justify the proposed waiver or extension, based on

statutory criteria, and must include facts and evidence supporting the justification. DATCP may request relevant supplementary information.

- Within 30 business days after DATCP receives a written request, it must issue a proposed order granting the request, denying the request, or granting the request in modified form. DATCP must issue a press release announcing the proposed order and inviting public comment. DATCP may hold one or more public hearings on the proposed order.
- Within 60 business days after DATCP issues a proposed order, DATCP must issue a final order. If the final order differs from the proposed order, DATCP must explain the reasons for difference.
- Clarifies that a “large telecommunications service provider” must file its required annual progress report with DATCP by January 31 of each calendar year, beginning with the first calendar year after the provider first provides video service under a state franchise. The provider must provide annual progress reports until DATCP makes a written determination that the provider has met applicable minimum access requirements.

In a separate rule-making proceeding (Clearinghouse Rule No. 08-027), DATCP has proposed a definition of “video service” that would also apply to this rule. That definition is identical to the definition in s. 66.0420(1)(y), Stats. This rule also incorporates new statutory definitions created by 2007 Wis. Act 42.

DATCP has not incorporated a small business enforcement policy in this rule, as 2007 Act 42 had a major impact on video service providers in Wisconsin. This rule interprets and clarifies portions of Act 42 related to customer access to video services, and discrimination in service access. This rule does not add any substantive requirements or prohibitions, beyond what is already contained in Act 42. In addition, none of the video service providers affected by Act 42 or this rule are small businesses, so this rule will have no impact on small businesses.

### Summary of Comments by Legislative Review Committees

On November 17, 2009, DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate Committee on Commerce, Utilities, Energy and Rail and to the Assembly Committee on Energy and Utilities. The Senate Committee on Commerce, Utilities, Energy and Rail did not hold a hearing and took no action. The Assembly Committee on Energy and Utilities did not hold a hearing and took no action.

## Commerce

### *Flammable, Combustible and Hazardous Liquids, Ch. Comm 10*

**CR 09–017**

Revises Chapters Comm 2 and 10, relating to flammable, combustible and hazardous liquids, and affecting small businesses. Effective 8–1–09.

#### **Summary of Final Regulatory Flexibility Analysis**

These rules are primarily intended to implement the operator–training criteria issued by the United States Environmental Protection Agency in response to the federal Energy Policy Act of 2005. These criteria apply to all federally regulated underground storage tank systems, and include having three levels of operators designated for each tank system.

For the deadline for having a Class A, Class B and Class C operator, in section Comm 10.820, a phase–in schedule is established that (1) applies EPA’s August 8, 2012, deadline only to small businesses; and (2) applies an earlier, January 1, 2012, deadline to all other facilities. This phase–in is consistent with the requirements in section 227.22 (2) (e) of the Statutes for allowing small businesses extra time to comply with new rules that have a significant economic impact.

Additional less stringent requirements are not proposed for small businesses because the overriding federal criteria do not provide such flexibility.

Although no reports are newly required for complying with the rules, new documentation requirements include providing written, emergency–response instructions to Class C operators; posting emergency–contact information at unattended fueling facilities; and maintaining a current record of who the Class A, Class B and Class C operators are at each facility.

Class A and Class B operators would have to pass an examination, which may cost about \$75. Individuals who need training in order to pass the exam may incur training costs ranging from \$75 to \$350. Costs for training Class C operators are not expected to be significant because all Class C training will be provided by, or authorized by, the Class B operator for the facility.

No issues were raised by small businesses during the public–Hearing stage.

#### **Summary of Comments by Legislative Review Committees**

No comments were received.

## Natural Resources

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

**CR 08–102**

Revises Chapters NR 422, 423, 439, and 484, relating to the application of reasonably available control technology emission limitations to sources of volatile organic compounds in ozone non–attainment counties, and affecting small business. Effective 8–1–09.

#### **Summary of Final Regulatory Flexibility Analysis**

The proposed regulations will have a minimal economic cost to individual small businesses because the major control requirements apply only to large facilities. Additionally,

solvent cleaning work practices are considered standard industrial practice, therefore it is anticipated that most businesses affected by these rules are already implementing the requirements. The Department has therefore concluded that the rules will not have a significant economic impact on a substantial number of small businesses.

#### **Summary of Comments by Legislative Review Committees**

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a public hearing and the Department did not receive any comments or requests for modification from either of the committees.

## Natural Resources

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

**CR 08–104**

Revises Chapters NR 419 and 484, relating to VOC emission controls for industrial wastewater collection and treatment operations. Effective 8–1–09.

#### **Summary of Final Regulatory Flexibility Analysis**

The DNR does not believe that the rule will have a significant economic impact on small businesses. Due to the 100 ton/year applicability threshold in the rule, it is highly unlikely that a small business, as defined under s. 227.114 (1), Stats., would have an IWCT operation that triggers the emission reduction requirements in the rule.

#### **Summary of Comments by Legislative Review Committees**

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a public hearing and the Department did not receive any comments or requests for modification from either of the committees.

## Natural Resources

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

**CR 08–114**

Amends section NR 439.075 (2) (c) 3. j. and creates section NR 421.07, relating to the application of reasonably available control technology for volatile organic compound emissions from certain operations within the synthetic organic chemical manufacturing industry. Effective 8–1–09.

#### **Summary of Final Regulatory Flexibility Analysis**

The DNR does not believe that the rule will have a significant economic impact on a substantial number of small businesses. Due to the 100 ton/year applicability threshold in the rule, it is highly unlikely that a small business, as defined under s. 227.114 (1), Stats., would have a synthetic organic chemical manufacturing industry operation that triggers the emission reduction requirements in the rule.

#### **Summary of Comments by Legislative Review Committees**

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment. Neither committee held a public hearing and the Department did not receive any comments or requests for modification from either of the committees.

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## Sections Affected by Rule Revisions and Corrections

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The following administrative code sections had rule revisions and corrections take place in **July 2009**, 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

#### Administration

##### Ch. Adm 70 (Entire Chapter)

Comm 10.740 (2) (a)

Comm 10.800

Comm 10.805

Comm 10.810

Comm 10.820

Comm 10.830

Comm 10.840

Comm 10.841

Comm 10.842

Comm 10.850

Comm 10.860

Comm 10.870

Comm 10.880

#### Agriculture, Trade and Consumer Protection

##### Ch. ATCP 123

ATCP 123.12 (1) (intro.), (2)

ATCP 123.20

ATCP 123.22

ATCP 123.24

ATCP 123.26

ATCP 123.28

#### Commerce

##### Ch. Comm 2

Comm 2.43 (title), (1)

##### Ch. Comm 10

Comm 10.050 (15), (51m), (114) (k), (p), (q), (r)

Comm 10.100 (1) (b)

Comm 10.130 (3) (b)

Comm 10.150 (2) (e)

Comm 10.200 Tables 2 and 9

Comm 10.220 (2) (d)

Comm 10.225

Comm 10.250 (2) (d), (3)

Comm 10.300 (2) (h)

Comm 10.300 (9)

Comm 10.330 (4) (c)

Comm 10.340 (5), (6)

Comm 10.350 (2) (a) to (c)

Comm 10.370

Comm 10.400 (2) (b), (3) (a), (c) to (h)

Comm 10.400 (3) (e)

Comm 10.400 (6) (c), (9)

Comm 10.420 (5)

Comm 10.445

Comm 10.500 (1) (b), (5) (a), (f), (6) (b), (9) (c)

Comm 10.503 (1), (2) (intro.), (c)

Comm 10.505 (2) (a)

Comm 10.510 (2) (title), (c)

Comm 10.515 (2) (b), (5) (b) to (d), (6) (b) to (h)

Comm 10.520 (1) (b), (2) (b)

Comm 10.530 (1) (c)

Comm 10.535 (9)

Comm 10.545 (1) (a), (2) (b), (c), (d), (3)

Comm 10.575 (2) (intro.)

Comm 10.605 (1) (f), (g)

Comm 10.615 (5), (6) (b), (c)

#### Natural Resources

##### Ch. NR 419

NR 419.02 (6g), (6r), (8m), (10m), (14g), (14r), (15m), (19), (20), (21), (22)

NR 419.045

##### Ch. NR 421

NR 421.07

##### Ch. NR 422

NR 422.02 (12), (12s), (13), (21g), (26m), (34g), (34r), (37m), (40m), (53i), (54s), (57m), (77), (80m), (87v), (87x), (90m), (102), (107m)

NR 422.07 (title)

NR 422.075

NR 422.10 (title)

NR 422.105

NR 422.11 (title)

NR 422.115

NR 422.13 (title)

NR 422.131

NR 422.141

NR 422.142 (title), (1m)

NR 422.143

##### Ch. NR 423

NR 423.02 (5m), (9t)

NR 423.035 (title), (1) (a), (b), (2) (intro.), (b), (e), (g), (6) (a), (b), (9) (a)

NR 423.037

##### Ch. NR 439

NR 439.06 (3) (j)

NR 439.075 (2) (c)

##### Ch. NR 484

NR 484.04 Table 2

NR 484.10 Table 5

NR 484.11 (4)

### **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 123**

ATCP 123.20 (11)

ATCP 123.26 (4)

##### **Ch. NR 422**

NR 422.095 (6) (b)

##### **Ch. NR 423**

NR 423.035 (9) (a)

#### **Natural Resources**

##### **Ch. NR 421**

NR 421.07 (4) (a)

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## Sections Affected by Corrections Not Published

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**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/](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 Agency Reference and/or Cross-Reference	Outdated Agency Reference / Invalid Cross-Reference	Correction
VFF-EMT 1.03 (6m)	146.50 (8)	256.15 (8)

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## Executive Orders

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**The following are recent Executive Orders issued by the Governor.**

**Executive Order 282.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff on Memorial Day.

**Executive Order 283.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Master Sergeant Brian Naseman of the United States Army Who Lost His Life While Serving His Country in Operation Iraqi Freedom.

**Executive Order 284.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for State Trooper Jorge Dimas assigned to the Northwest Region, Polk County of the Wisconsin State Patrol.

**Executive Order 285.** Relating to Furloughing State Employees in Response to the Emergency Economic Situation Facing Wisconsin.

**Executive Order 286.** Relating to a Special Session of the Legislature.

**Executive Order 287.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Private First Class Steven Drees of the United States Army Who Lost His Life While Serving His Country in Operation Enduring Freedom.

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