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Children and Families:

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection

EmR1012 — Rule adopted to create **section ATCP 70.03 (7) (e) and (f)**, relating to food processing plant license exemptions for certain home–canners and maple sap processors.

Finding of Emergency

(1) The Department of Agriculture, Trade and Consumer Protection (DATCP) administers state food processing plant license requirements under s. 97.29, Stats.

(2) Recent legislation (2009 Act 101, enacted on February 4, 2010) created a limited exemption from food processing plant license requirements under s. 97.29, Stats., for persons who home–can limited quantities of acidic, acidified or fermented vegetable and fruit products for retail sale at community and social events or at farmers’ markets.

(3) Home–canned food products, if not properly canned, may pose a risk of serious food safety hazards such as botulism.

(4) DATCP has received many requests for clarification of the new license exemption under Act 101. In order to facilitate compliance and protect consumers from potentially serious food safety hazards, DATCP must adopt

administrative rules to clarify the scope, application and terms of the new license exemption.

(5) Implementing rules are urgently needed because of the seriousness of the potential food safety hazards, and the seasonal nature of the farmers’ markets and other events at which home–canned products may be sold. The normal rulemaking process takes over a year to complete, and cannot be completed in time for this summer’s farmers’ markets (which begin as early as mid–April or May). Persons who wish to sell home–canned food products must clearly understand the scope of the license exemption, and the food safety standards that must be met in order to qualify.

(6) This temporary emergency rule clarifies the scope, application and terms of the new license exemption under Act 101, pending the completion of “permanent” rules by the normal rulemaking process. This emergency rule is needed to protect the public health, safety and welfare, and to facilitate fair and orderly implementation of the new license exemption.

(7) This emergency rule also exempts, from food processing plant license requirements under s. 97.29, Stats., a person who collects and processes relatively small quantities of maple sap to produce maple syrup or concentrated maple sap for sale to other processors for further processing. These small–scale processing activities pose minimal food safety risks, and the current license requirement imposes an unnecessary cost and compliance burden. An emergency rule is needed to relieve these cost and compliance burdens for the maple sap collection and processing season that typically begins in March. This emergency rule creates a temporary license exemption, pending the completion of “permanent” rules by the normal rulemaking process. This emergency rule clearly defines the scope, application and terms of the exemption, in order to protect public health, safety and welfare.

Publication Date:	April 22, 2010
Effective Dates:	April 22, 2010 through September 18, 2010
Extension Through:	November 17, 2010
Hearing Date:	May 25, 2010

Children and Families

Safety and Permanence, Chs. DCF 37–59

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

Exemption From Finding of Emergency

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

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

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

Children and Families

Family and Economic Security, Chs. DCF 101–153

EmR1024 — Rule adopted creating **Chapter DCF 110**, relating to transitional jobs for low–income adults.

Finding of Emergency

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

Initial funding for the transitional jobs demonstration project will come from the Temporary Assistance to Needy Families (TANF) Emergency Contingency Fund under the American Recovery and Reinvestment Act of 2009. Spending for subsidized employment is one of the ways that the state can earn additional federal dollars under the TANF Emergency Contingency Fund. The deadline for earning the additional federal dollars is September 30, 2010.

Publication Date: June 30, 2010
Effective Dates: July 1, 2010 through November 27, 2010
Hearing Date: August 5, 2010

Children and Families (2)

Early Care and Education, Chs. DCF 201–252

1. EmR1015 — Rule adopted revising **Chapter DCF 201**, relating to authorized hours of subsidized child care and affecting small businesses.

Finding of Emergency

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

2009 Wisconsin Act 28 assumes that implementation of s. 49.155 (6g), Stats., will save an estimated \$9 million over the 2009–2011 biennium.

Publication Date: May 17, 2010
Effective Dates: May 17, 2010 through October 13, 2010
Hearing Date: June 17, 2010

2. EmR1027 — Rule adopted revising **Chapter DCF 201**, relating to child care subsidy program integrity.

Finding of Emergency

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

The Department of Children and Families has determined that significant disparities currently exist between DCF 201 and the intent of 2009 Wisconsin Acts 28 and 77 regarding

Wisconsin Shares program integrity efforts. The recent efforts of the legislature and the department to address child care fraud and program integrity are estimated to save \$100 million over the course of the biennium. Currently over \$7.1 million of child care provider overpayments have yet to be collected due to the lack of authority to use basic collections practices such as tax intercept, wage levy, and property liens. This rule will permit the department to more aggressively collect on these debts, strengthen the department's ability to further tighten requirements for child care providers wishing to do business with the Wisconsin Shares program, and better enforce the rules of the program. These changes will result in continued fiscal savings as well as ensure better quality child care for the children of Wisconsin.

Publication Date: July 9, 2010
Effective Dates: July 9, 2010 through December 5, 2010
Hearing Date: August 6, 2010

Commerce

Wis. Commercial Building Code, Chs. Comm 60–66

EmR1022 — Rule adopted creating s. **Comm 62.0400 (5)**, relating to no smoking signs.

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 2009 Wisconsin Act 12, s. 101.123, Stats., is to take effect July 5, 2010.
2. Under the Act, the department is to establish by rule uniform characteristics for no smoking signs.
3. Under the Act, the responsibilities of person in charge of a public conveyance or at a location where smoking is prohibited include the posting of no smoking signs.
4. The department believes that the emergency rules are necessary in order to clarify the minimum no smoking sign characteristics so that persons in charge may fulfill the statutory obligations.

Publication Date: June 28, 2010
Effective Dates: July 5, 2010 through December 1, 2010
Hearing Date: July 26, 2010

Commerce (4)

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

1. EmR1013 — Rule adopted to create **Chapter Comm 121**, relating to the small business innovation research assistance program, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by Section 9110 (16u) of 2009 Wisconsin Act 28, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: April 21, 2010
Effective Dates: April 21, 2010 through September 17, 2010
Extension Through: November 16, 2010
Hearing Date: June 11, 2010

2. EmR1019 — Rule adopted to create **Chapter Comm 135**, relating to tax credits for investments in food processing plants and food warehouses.

Finding of Emergency

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

The facts constituting the emergency are as follows. Under sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes, as created in 2009 Wisconsin Act 295, a taxpayer may claim a tax credit for investments in food processing plants and food warehouses during taxable years beginning after December 31, 2009.

Section 560.2056 (4) of the Statutes, as likewise created in 2009 Wisconsin Act 295, requires the Department to (1) implement a program for certifying taxpayers as eligible for the food processing plant and food warehouse investment credit, (2) determine the amount of credits to allocate to those taxpayers, and (3) in consultation with the Department of Revenue, promulgate rules to administer the program. No other provisions are established in the Statutes regarding the specific process for taxpayers to use in applying for the credits, and for the Department of Commerce to use in certifying eligible taxpayers and in allocating the credits.

Because of enactment of 2009 Wisconsin Act 295, a number of entities that may be eligible for the tax credits have contacted the Department with inquiries concerning the process for applying for the credits, for expenditures that have been or will be incurred during taxable years that began after December 31, 2009. In addition, section 71.07 (3rm) of the Statutes includes a \$1,000,000 tax-credit allocation that became available on May 27, 2010, and expires on June 30, 2010.

Although the Department of Commerce has begun promulgating the permanent rule that is required by 2009 Act 295, the time periods in chapter 227 of the Statutes for promulgating permanent rules preclude the permanent rule from becoming effective in time to accommodate allocating the tax credits for the 2009–10 fiscal year. This emergency rule will enable the Department of Commerce to establish an application, certification, and tax credit allocation process for the entities that will be eligible for the allocation that expires on June 30, 2010.

Publication Date: June 8, 2010
Effective Dates: June 8, 2010 through November 4, 2010
Hearing Date: August 17, 2010

3. EmR1026 — Rule adopted creating **Chapter Comm 139**, relating to rural outsourcing grants.

Exemption From Finding of Emergency

The Legislature, by Section 45 (1) (b) of 2009 Wisconsin Act 265, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through November 28, 2010
Hearing Date: October 13, 2010

4. EmR1029 — Rule adopted to repeal and recreate **Chapter Comm 137**, relating to reallocations for recovery zone facility bonds as established under the federal American Recovery and Reinvestment Act of 2009, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by Section 5 (1) (b) in 2009 Wisconsin Act 112, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency.

Publication Date: July 23, 2010
Effective Dates: July 23, 2010 through December 19, 2010
Hearing Date: October 1, 2010

Corrections

EmR0939 — Rule adopted revising **Chapter DOC 302**, relating to sentence calculations and prison release and to administrative review of inmate classification decisions.

Finding of Emergency

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

Under 2009 Wisconsin Act 28, the legislature provides for the release of inmates from prison if certain criteria are met. The Department is responsible for implementing several of those procedures. Specifically, the department is responsible for implementing the early release programs under: (1) s PAT (2) ERP/CIP (3) CER (4) Risk reduction (5) 75%/85%. In addition, the department is revising section 302.18 to facilitate the review of inmates for purposes of early release.

If the rule is not created promptly and immediately, the Department will not be able to proceed in reviewing inmates under these various release procedures. This could result in significant delay in the implementation of the statutory provisions which will negatively impact the ability of the Department to manage the inmate population in a safe and effective manner. In addition, a delay will affect the management and control of inmate population levels of correctional facilities with the resources necessary to maintain public safety.

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary for a prompt implementation of the legislative mandates concerning the release of inmates meeting established criteria while the permanent rules are being developed.

Publication Date: December 31, 2009
Effective Dates: December 31, 2009 through May 29, 2010
Extension Through: September 26, 2010
Hearing Date: February 25, 2010

Earned Release Review Commission

(Formerly Parole Commission)

EmR0940 — Rule adopted revising **Chapter PAC 1**, relating to the release of inmates through parole or other procedures.

Finding of Emergency

The Wisconsin Earned Release Review Commission finds that an emergency exists and that emergency rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of facts constituting the emergency is:

Under 2009 Wisconsin Act 28, the legislature provides for the release of inmates from prison if certain criteria are met. The Earned Release Review Commission (formerly the Parole Commission) is responsible for implementing several of those procedures. Specifically, the commission is responsible for considering the early release of inmates under: (1) section 304.06 (1) (bg)1. and 2., Stats., after the inmate has served the term of confinement of their bifurcated sentence less positive adjustment time, (2) section 304.06 (1) (bg) 3. and 4., Stats., after the inmate has served either 75 % or 85 % of their term of confinement, depending on the offense for which the inmate was sentenced, and (3) section 302.1135 (2) (a), (b), and (c), Stats., based on age or extraordinary health.

If the rule is not created promptly and immediately, the commission will not be able to proceed in reviewing inmates under these various release procedures. This could result in significant delay in the implementation of the statutory provisions which will negatively impact the ability of the department of corrections to manage the inmate population in a safe and effective manner. In addition, a delay will affect the management and control of inmate population levels of correctional facilities with the resources necessary to maintain public safety.

The purpose of the emergency rule is to implement newly created statutory provisions providing for release of inmates under specified circumstances. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond the legislatively recognized need to review inmates who meet the requirements under the statutes for potential release while the permanent rules are being developed.

Publication Date: December 31, 2009
Effective Dates: December 31, 2009 through May 29, 2010
Extension Through: September 26, 2010
Hearing Date: February 23, 2010

Government Accountability Board (2)

1. EmR1016 — Rule adopted to create **section GAB 1.91**, relating to organizations making independent disbursements.

Finding of Emergency

Pursuant to s. 227.24, Stats., the Government Accountability Board finds an emergency exists as a result of the United States Supreme Court decision *Citizens United v. FEC*, 558 U.S. ___, (No. 08–205)(January 21, 2010). Within

the context of ch. 11, Stats, the rule provides direction to organizations receiving contributions for independent disbursements or making independent disbursements. Comporting with *Citizens United*, this emergency rule order does not treat persons making independent disbursements as full political action committees or individuals under s. 11.05, Stats., for the purposes of registration and reporting. With respect to contributions or in-kind contributions received, this emergency rule order requires organizations to disclose only donations “made for” political purposes, but not donations received for other purposes.

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 registration, reporting and disclaimer requirements for organizations receiving contributions for independent disbursements or making independent disbursements so that the campaign finance information is available to voters. The rule must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

Publication Date: May 20, 2010
Effective Dates: May 20, 2010 through October 16, 2010
Extension Through: December 15, 2010
Hearing Date: August 30, 2010

2. EmR1035 — Rule adopted to repeal and recreate **Chapter GAB 4**, relating to observers at a polling place or other location where votes are being cast, counted or recounted.

Finding of Emergency

The Government Accountability Board repeals and recreates chapter GAB 4, Election observers, to establish guidelines for election inspectors and observers alike regarding observation by “any member of the public” of the public aspects of the voting process and regarding the conduct of observers at polling places and other locations where observation of the public aspects of the voting process may take place. The Board finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

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

The Board further finds that given the public interest in the 2010 General Election, the expected high turnout, the increasing use of observers in the polling place, and the comments of municipal and county clerks regarding the obstacles observers can pose to the orderly conduct of elections, it is necessary to codify standards to regulate the observers’ conduct and that the attached rule governing observer conduct must be adopted prior to the General Election to ensure the public peace and safety with respect to the administration of the fall elections.

Publication Date: September 24, 2010
Effective Dates: September 24, 2010 through February 20, 2011

Health Services

Health, Chs. DHS 110—

EmR1009 — Rule adopted to revise **Chapter DHS 137**, relating to anatomical gifts and the Wisconsin Donor Registry.

Finding of Emergency

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

There are over 105,000 people in the United States on the national waiting list for organ transplants including 1,500 in Wisconsin. Due to the limited availability of organs for transplantation, 18 people die each day in the United States.

As part of Wisconsin's response to the need for increased organ and tissue donation, the department, as authorized under s. 157.06 (20), Stats., has established the Wisconsin Donor Registry (Donor Registry).

The Donor Registry will make it easier for Wisconsin residents to become donors and for procurement organizations to identify donors, and thus it should increase the supply of available organs and tissues, which may save the lives of persons awaiting transplant.

Promulgating the rules for the Donor Registry as emergency rules will enable department-authorized procurement organizations to quickly determine whether a person who is at or near death has a record of gift. In addition, the Donor Registry makes it possible for individuals to immediately make anatomical gifts.

The Donor Registry will become available for use by the public upon the effective date of these emergency rules and may be accessed by the public at yesIwillwisconsin.com. Substantially identical permanent rules are being proposed concurrent to this emergency order.

Publication Date: March 29, 2010
Effective Dates: March 29, 2010 through August 25, 2010
Extension Through: October 24, 2010
Hearing Date: May 5, 2010

Insurance (3)

1. EmR0925 — Rule adopted to create **section Ins 3.75**, relating to continuation of group health insurance policies.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 11, section 9126, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 11 reads as follows:

2009 Wisconsin Act 11, SECTION 9126. Nonstatutory provisions; Insurance.

(4) CONTINUATION COVERAGE RULES. (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2), and (3), the commissioner of insurance may promulgate rules establishing standards requiring insurers to provide

continuation of coverage for any individual covered at any time under a group policy who is a state eligible individual to whom subsection (2) or (3) applies or an assistance eligible individual, as defined under section 3001 (a) (3) of the federal act, including rules governing election or extension of election periods, notice, rates, premiums, premium payment, application of preexisting condition exclusions, and election of alternative coverage.

(b) The commissioner may promulgate the rules under paragraph (a) as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph may remain in effect for one year and may be extended under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, **the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.** [Emphasis Added]

Publication Date: October 1, 2009
Effective Dates: October 2, 2009 through October 1, 2010
Extension Through: November 29, 2010
Hearing Date: December 8, 2009

2. EmR0945 — Rule adopted revising **section Ins 3.75**, relating to the continuation of group health insurance policies.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 11, section 9126, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 11 reads as follows:

2009 Wisconsin Act 11, SECTION 9126. Nonstatutory provisions; Insurance.

(4) CONTINUATION COVERAGE RULES (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2), and (3), the commissioner of insurance may promulgate rules establishing standards requiring insurers to provide continuation of coverage for any individual covered at any time under a group policy who is a state eligible individual to whom subsection (2) or (3) applies or an assistance eligible individual, as defined under section 3001 (a) (3) of the federal act, including rules governing election or extension of election periods, notice, rates, premiums, premium payment, application of preexisting condition exclusions, and election of alternative coverage.

(b) The commissioner may promulgate the rules under paragraph (a) as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph may remain in effect for one year and may be extended under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, **the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.** [Emphasis Added]

Publication Date: January 7, 2010
Effective Dates: January 8, 2010 through January 7, 2011
Hearing Date: May 5, 2010

3. EmR1020 — Rule adopted to revise **Chapter Ins 17**, relating to annual injured patients and families compensation fund fees and medical mediation panel fees for the fiscal year beginning July 1, 2010, and may have an effect on small business.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date of July 1, 2010 for the new fiscal year assessments. The fiscal year fees were established by the Board of Governors at a meeting on May 18, 2010.

Publication Date: June 15, 2010
Effective Dates: June 15, 2010 through November 11, 2010
Hearing Date: July 19, 2010

Military Affairs

EmR1030 — Rule adopted to create **Chapter DMA 1**, relating to military family financial aid.

Exemption From Finding of Emergency

Under 2009 Wisconsin Act 28, section 9136, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 28 reads as follows:

2009 Wisconsin Act 28, Section 9136. Nonstatutory provisions; Military Affairs.

(2c) EMERGENCY RULE; MILITARY FAMILY FINANCIAL AID. Using the procedure under section 227.24 of the statutes, the department of military affairs shall promulgate the rules described under section 321.45 (2) of the statutes, as created by this act, for the period before the permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, **the department of military affairs is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.** [Emphasis added]

Publication Date: July 26, 2010
Effective Dates: July 26, 2010 through December 22, 2010
Hearing Date: October 13, 2010

Natural Resources (5)

Fish, Game, etc., Chs. NR 1—

1. EmR1014 — Rule adopted to create **section NR 45.13 (1m) (d)**, relating to the establishment of a slow–no–wake zone on the Wisconsin River at the Dells of Wisconsin River state natural area.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is: Based on information received by the Department, user conflicts are increasing. Failure to enact this rule could lead to additional boating accidents and potential for injury during the upcoming high use season.

Publication Date: May 20, 2010
Effective Dates: May 20, 2010 through October 16, 2010
Hearing Date: June 22, 2010

2. EmR1028 — Rule adopted to amend **s. NR 10.104 (7) (a)**, relating to the use of archery deer hunting licenses.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Deer populations are well below goal in much of northeast Wisconsin, causing great concern from hunters and others who value deer. This rule is one of the ways the department is trying to rebuild the populations there. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control and regulate hunting wild animals. The State of Wisconsin must provide publications describing the regulations for deer hunting to approximately 250,000 archery deer hunters prior to the start of the season. These regulations must be legally in effect prior to printing nearly 1 million copies of the regulations publication. The timeline for the permanent version of this rule will not have it in effect in time for these deadlines.

Publication Date: July 8, 2010
Effective Dates: July 8, 2010 through December 4, 2010
Hearing Date: August 30, 2010

3. EmR1033 — Rule adopted to revise **section NR 10.01 (1)**, relating to hunting and the 2010 migratory game bird seasons and waterfowl hunting zones.

Finding of Emergency

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

Publication Date: September 1, 2010
Effective Dates: September 1, 2010 through January 28, 2011
Hearing Date: October 26, 2010

(See the Notice in this Register)

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

Exemption From Finding of Emergency

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

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

(See the Notice in this Register)

5. EmR1037 — Rule adopted to create s. NR 27.03 (3) (a) relating to adding cave bats to Wisconsin’s threatened species list.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Wis. Stats., is necessary and justified in establishing rules to protect the public welfare. The proposed rule change seeks to provide protection to Wisconsin cave bat species, which face the imminent threat of white–nose syndrome. White–nose syndrome has spread across 14 states and 2 Canadian provinces in the last 3 years, spreading up to 800 miles per year. Mortality rates of affected bat colonies reach 100%. The disease was located last spring within 225 miles of the Wisconsin’s southern boarder and 300 miles from the northern boarder. Because the known dispersal distance of the little brown bat is 280 miles, an affected cave is now located within the dispersal range of Wisconsin little brown bats. Listing the cave bat species before white–nose syndrome has been detected in Wisconsin will allow the Department time to work collaboratively with stakeholders to ensure that appropriate conservation measures are developed and in place when white–nose syndrome is first detected. Because of the speed of white–nose syndrome, the Department would not have time to develop appropriate conservation measures if normal rule–making procedures were used and listing was delayed until after white–nose syndrome was detected in Wisconsin. Based on the current location and known rate of spread of the disease, we anticipate the presence of white–nose syndrome in Wisconsin as early as January 2011.

Publication Date: September 29, 2010
Effective Dates: September 29, 2010 through February 25, 2011
Hearing Dates: October 25 to 29, 2010

(See the Notice in this Register)

Natural Resources

Environmental Protection — Hazardous Waste Management, Chs. NR 600—

EmR1007 — Rule adopted revising section NR 660.10, relating to hazardous waste management.

Exemption From Finding of Emergency

Section 289.67 (2) (de), Stats., as created by 2009 Wisconsin Act 28 (the 2009–2011 biennial budget bill), requires the department to promulgate by rule definitions of “large quantity generator” and “small quantity generator” for purposes of the hazardous waste generator fees established by s. 289.67 (2) (b) 1., Stats., as amended by 2009 Wisconsin Act 28.

Section 9137 (2), a non–statutory provision in 2009 Wisconsin Act 28, authorizes the department to promulgate the required definitions using emergency rule making procedures, but is not required to provide evidence that promulgating a rule under that subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Publication Date: March 17, 2010
Effective Dates: March 17, 2010 through July 1, 2011
Hearing Date: April 26, 2010

Public Instruction (2)

1. EmR1018 — Rule adopted to create Chapter PI 45, relating to the use of race–based nicknames, logos, mascots, and team names by school boards.

Finding of Emergency

Pursuant to Section 3 of the nonstatutory provisions of 2009 Wisconsin Act 250, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Publication Date: June 1, 2010
Effective Dates: June 1, 2010 through October 28, 2010
Hearing Date: July 29, 2010

2. EmR1023 — Rule adopted creating Chapter PI 43, relating to education reform.

Finding of Emergency

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

2009 Wisconsin Act 215 requires the state superintendent to promulgate rules establishing criteria and procedures for determining whether a school or school district is in need of improvement and whether a school is among the lowest performing 5 percent of all public schools in the state. The Act became effective May 14, 2010 and review by the various interest groups was completed June 18, 2010. Rules must be in place as soon as possible to establish identification criteria prior to the upcoming school year.

Publication Date: June 28, 2010
Effective Dates: June 28, 2010 through November 24, 2010
Hearing Date: July 27, 2010

Regulation and Licensing (4)

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

3. EmR1031 — Rule adopted revising **Chapters RL 110 to 116**, relating to the regulation of professional boxing contests.

Exemption From Finding of Emergency

The Department of Regulation and Licensing, pursuant to 2009 Wisconsin Act 111, is not required to provide evidence that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare.

Publication Date: August 25, 2010
Effective Dates: September 1, 2010 through
 January 28, 2011
Hearing Date: September 20, 2010

4. EmR1032 — Rule adopted creating **Chapters RL 192 to 196**, relating to the regulation of mixed martial arts sporting events.

Exemption From Finding of Emergency

The Department of Regulation and Licensing, pursuant to 2009 Wisconsin Act 111, is not required to provide evidence that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety, or welfare.

Publication Date: August 26, 2010
Effective Dates: September 1, 2010 through
 January 28, 2011
Hearing Date: September 20, 2010

Technical College System Board

EmR1025 — Rule adopted to amend **Chapter TCS 17**, relating to training program grant funds.

Finding of Emergency

The Wisconsin Technical College System Board finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting an emergency is:

In May 2010, the Wisconsin C.O.R.E. Jobs Act provided an additional \$1 million GPR for the training program grants authorized in Wis. Stats. §§ 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 WTCS Board is required to award these funds by June 30, 2011, the end of the current 2009–11 biennium. In addition, s. 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 the sustained decline in economic conditions and reduction in 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: July 2, 2010
Effective Dates: July 2, 2010 through
 November 28, 2010
Hearing Date: September 28, 2010

Transportation

EmR1017 — Rule adopted to create **section Trans 100.25**, relating to mandatory insurance exemptions.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that an emergency rule is necessary for the

immediate preservation of the public health and welfare. A statement of the facts constituting the emergency is the requirements of the mandatory insurance laws in Chapter 344, Stats., as created by 2009 Wis. Act 28, contain exceptions to furnishing proof of a motor vehicle liability insurance policy. This emergency rule defines the administration of those exceptions. These mandatory insurance requirements, and the exceptions, are effective June 1, 2010, thereby necessitating an emergency rule being put into place until the effective date of the permanent rule. Clarification of the

mechanism to be used to qualify for an exception under the new statute will be useful to persons wishing to file for an exception. Persons whose religious beliefs preclude them from buying insurance will benefit from this rule making.

Publication Date: June 1, 2010
Effective Dates: June 1, 2010 through October 28, 2010
Hearing Date: June 24, 2010

Scope Statements

Agriculture, Trade and Consumer Protection

Subject

Revises Chapter ATCP 51, relating to livestock facility siting.

Objective of the Rule

This rule may revise standards and procedures for local approval of new or expanded livestock facilities, within limits prescribed by Wisconsin's livestock facility siting law, s. 93.90, Stats.

Policy Analysis

State Law Governs Local Siting Decisions

Wisconsin's livestock facility siting law ("siting law"), s. 93.90, Stats., is designed to provide a clear, predictable, and relatively uniform framework for the siting of livestock facilities in this state. Under the siting law, local governments *may* by ordinance require siting permits for livestock facilities that will have 500 or more "animal units." With limited exceptions, the law prohibits local governments from requiring siting permits for smaller livestock facilities.

If a siting permit is required by local ordinance, the local government must grant or deny the permit based on standards that DATCP adopts by rule. Local governments have some authority to adopt additional standards, but only if those standards are adopted by ordinance, are based on scientific evidence, and are necessary to protect public health or safety.

DATCP Rules Implement the Law

In 2006, DATCP adopted rules (ch. ATCP 51, Wis. Adm. Code) to implement the siting law. The rules spell out detailed technical standards for local approval of livestock facilities, including standards related to:

- Livestock Structures.
- Location on Property.
- Odor and Air Emissions.
- Nutrient Management.
- Waste Storage Facilities.
- Runoff Management.

This rule may modify siting standards, as necessary, consistent with the siting law. DATCP will consider the recommendations of the technical expert committee before making any modifications to the standards.

DNR Permit Required for Some Facilities

Livestock facilities over 1,000 animal units must have a Wisconsin Pollution Discharge Elimination System ("WPDES") permit from the Wisconsin Department of Natural Resources ("DNR"). The WPDES permit requirement applies, *regardless* of whether a local siting permit is required. Applicants for a WPDES permit must meet standards specified in ch. NR 243, Wis. Adm. Code. WPDES permit standards are designed to ensure that the proposed livestock facility will not pollute surface water or

groundwater. WPDES permits do not address other issues such as odor management.

Livestock facilities that have a WPDES permit are deemed to comply with *some* of DATCP's standards for the issuance of local siting permits, including standards for nutrient management, waste storage facilities and runoff management (the DATCP standards parallel WPDES permit standards, and have a similar purpose – although WPDES standards are stricter in some respects). But to qualify for a local permit, a WPDES permit holder must *also* demonstrate compliance with DATCP standards for livestock structures, location on property, and odor management.

Local Permit Application Forms and Procedures

Current DATCP rules include detailed local permit application forms, which are designed to elicit information needed to show compliance with applicable siting standards. The rules also spell out procedures and timetables for local approval or disapproval, consistent with the siting law. This rule may modify current forms and procedures, as necessary, consistent with the siting law.

DATCP Rule Review

Under the siting law, DATCP must review its rule standards at least once every 4 years. DATCP initiated a 4–year review in 2010. As part of the review, DATCP conducted statewide listening sessions and received over 860 comments (from varying perspectives). The DATCP Secretary also appointed a committee of technical experts to advise DATCP on possible changes to the siting standards.

DATCP will consider the recommendations of the technical advisory committee before proposing any possible rule changes. This rule may modify siting standards, as necessary, consistent with the siting law.

Rules Must Be Consistent with the Siting Law

DATCP may not, by rule, change or contradict the siting law itself. In proposing rules, DATCP must be mindful of the statutory goal of "providing uniform regulation of livestock facilities." Under the siting law, DATCP must also consider whether proposed standards are:

- Protective of public health or safety.
- Practical and workable.
- Cost–effective.
- Objective.
- Based on available scientific information that has been subjected to peer review.
- Designed to promote the growth and viability of animal agriculture in this state.
- Designed to balance the economic viability of farm operations with protecting natural resources and other community interests.
- Usable by officials of political subdivisions.

Pursuant to s. 227.114, Stats., DATCP must also consider "small business" impacts, and ways to minimize adverse impacts on "small business."

Policy Alternatives

Rule Changes

The siting law requires DATCP to review its rule standards every 4 years. In consultation with a technical advisory committee, DATCP may propose rule amendments to modify siting standards, within limits set by the siting law.

Local Ordinances

Under the siting law, the application of DATCP siting standards depends on the existence of a local livestock facility siting ordinance. According to the siting law, DATCP standards apply *only* in counties, towns and municipalities that have adopted a siting ordinance. The siting law allows, but does not require, local governments to adopt siting ordinances.

If a locality fails to adopt a livestock facility siting ordinance:

- No local siting permit is required. A state WPDES permit is required for facilities over 1,000 animal units, but that permit only addresses water quality issues (not other issues such as odor management).
- DATCP siting standards do not apply (WPDES permit standards apply to facilities over 1,000 animal units).

In a locality that has no siting ordinance, an operator is essentially free to site a livestock facility of any size, without having to get a local permit or meet DATCP standards. The lack of local ordinances in some localities may also create an uneven “patchwork” of regulation across the state. By adopting a siting ordinance, a local government may exercise more control over the siting of livestock facilities.

Legislative Issues

Some of the issues raised by participants at DATCP’s public listening sessions are beyond the scope of DATCP’s rulemaking authority. For example, some participants argued that local governments should have unfettered discretion to refuse siting permits for livestock facilities, even when those facilities meet applicable DATCP (and DNR) standards. Others argued that DATCP should mandate livestock facility siting standards in counties, towns and municipalities that have elected *not* to require siting permits for livestock facilities. DATCP lacks authority to make either of those changes by rule. Changes of that sort would require legislative changes to the siting law.

Statutory Authority

Sections 93.07 (1) and 93.90, Stats.

Comparison with Federal Regulations

Some of the livestock operations affected by this rule are also subject to regulation under the federal Clean Air Act and the federal Clean Water Act. In Wisconsin, DNR administers those federal laws under authority delegated by the U.S. Environmental Protection Agency, subject to EPA oversight.

Clean Air Act

DNR has adopted air pollution regulations under ch. NR 445, Wis. Adm. Code. DNR proposes to incorporate, into NR 445, best management practices for mitigating air pollution from livestock facilities. DNR is currently consulting with an advisory council, and has not yet proposed specific rule changes. The DNR rules will address hazardous air pollutants (such as hydrogen sulfide), and will *not* address *odor management* as such.

DATCP’s *current* livestock facility siting rule addresses *odor management*, but does *not* address air pollutants (such as hydrogen sulfide) which DNR plans to address in its rules. DATCP and DNR have agreed to coordinate the development and implementation of best management practices to mitigate air pollution from livestock facilities.

Clean Water Act

DNR has adopted rules under ch. NR 243, Wis. Adm. Code, to regulate water pollution discharges from livestock facilities. Under NR 243, livestock facilities with over 1,000 animal units must obtain a WPDES permit from DNR. Permit holders must meet standards related to the storage, handling and use of manure.

NR 243 was last updated in 2007 (after DATCP adopted its livestock facility siting rule in 2006). Among other things, NR 243 now regulates land applications of manure. It also requires permit holders storing liquid manure to have at least 6 months of storage capacity. These new requirements apply to livestock facilities with over 1,000 animal units, but do not apply to smaller livestock facilities covered by DATCP siting rules.

Federal Cost–Sharing Programs

Federal programs may provide cost–share funding to help livestock producers implement conservation practices, including practices that may help livestock producers meet livestock facility siting standards under this rule. The following relevant cost–share programs are administered by the U.S. Department of Agriculture:

- Environmental Quality Incentives Program (EQIP).
- Conservation Reserve Program (CRP)
- Conservation Reserve Enhancement Program (CREP)
- Wetlands Reserve Program (WRP)
- Wildlife Habitat Improvement Program (WHIP)

Entities Affected by the Rule

Counties, Towns and Municipalities

This rule affects counties, towns and municipalities that require local approval for the siting of livestock facilities. As of July 2010, 23 counties, 38 towns and 1 city have adopted local ordinances to regulate livestock siting.

Livestock Farmers

This rule affects livestock operators who propose to construct new or expanded livestock facilities that exceed applicable minimum size thresholds (typically 500 animal units) in counties, towns or municipalities that have adopted livestock facility siting ordinances. Between May 2006 and July 2010, 56 livestock facilities have received local permits, based on standards and procedures spelled out in DATCP’s existing livestock facility siting rules. Nearly half of those facilities exceeded 1,000 animal units, and were therefore required to obtain a WPDES permit from DNR as well as a local siting permit. This rule may modify standards and procedures related to local permits, but will not alter current standards or procedures related to WPDES permits.

Farm Product and Service Providers

This rule may affect companies and individuals, such as agricultural engineers and practitioners, crop consultants, construction contractors, farm supply businesses and manure haulers, that provide products and services to livestock facilities. This rule may increase demand for some products and services, and may require product and service providers to adapt to relevant rule changes, if any.

Estimate of Time Needed to Develop the Rule

DATCP estimates that it will use approximately 2.0 FTE staff to develop this rule over a projected time period of 18 months. This includes planning and preliminary activities, coordinating technical advisory committee meetings, drafting rules and related documents, holding public hearings, analyzing and responding to hearing comments, presenting proposed rules to the DATCP Board and legislative review committees, and communicating with affected persons and groups. DATCP will use existing staff to develop this rule. The estimated staff time reflects the complex and sensitive subject matter of the rule, the intensity of interest among stakeholders, and the complex interaction with state and local regulatory programs.

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

Barbering and Cosmetology Examining Board

Subject

Revises section BC 9.02 and Chapter BC 11 to clarify rules that created continuing education requirements for renewal of a credential for licensees within the jurisdiction of the Barbering and Cosmetology Examining Board.

Objective of the Rule

The amendments to s. BC 9.02 will include changes to late renewal that comply with the continuing education requirements contained in ch. BC 11.

The amendments to ch. BC 11 will include creating an authority and purpose section; creating definitions that clarify terms used in ch. BC 11; amending the continuing education requirements for license renewal; and amending the section that addresses providers approved for continuing education credit hours.

Policy Analysis

Existing rules relating to the licensure and professional requirements for licensees can be found in chs. BC 1 to 11.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2) and 454.12, Stats.

Comparison with Federal Regulations

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

Entities Affected by the Rule

Aestheticians, electrologists, manicurists, barbering and cosmetology practitioners, and barbering and cosmetology managers.

Estimate of Time Needed to Develop the Rule

200 hours.

Insurance

Subject

Revises section Ins 2.08, Wis. Adm. Code, relating to retained asset accounts for life insurance death benefit proceeds.

Objective of the Rule

The purpose of the proposed rule is to provide life insurance beneficiaries with a clear disclosure of the rights and obligations of both the beneficiary and the insurer with respect to death benefits and retained asset accounts, including settlement options, services provided and costs associated with retained asset accounts, and tax implications.

Policy Analysis

Retained asset accounts have emerged as a highly visible issue in the settlement of life insurance claims. The accounts are designed to be a temporary repository of funds while a beneficiary considers available financial options. In the absence of clear disclosures the potential for misunderstanding as to the nature and operation of retained asset accounts is present. The proposed rule will facilitate the information available to consumers in order to make sound choices concerning disposition of life insurance proceeds.

Statutory Authority

Sections 601.41(3), 628.34 and 632.44(1), Stats.

Comparison with Federal Regulations

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

Entities Affected by the Rule

The proposed rule will affect insurers which offer life insurance products.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary

Natural Resources

Fish, Game, Forestry, Recreation, Chs. NR 1—

DNR # IS-47-10

Subject

Revises Chapter NR 40, relating to the management of bats and White–Nose Syndrome in Wisconsin.

Objective of the Rule

The department is requesting authorization to develop permanent rules to address bats and WNS under ch. NR 40, Wis. Adm. Code. The rapid spread of white–nose syndrome (WNS) necessitates immediate action on the part of the department. Developing rules under ch. NR 40, Wis. Adm. Code will give the department the ability to effectively manage the fungus' spread and implement management actions to protect Wisconsin's cave bats. Approving bat rules before WNS has been detected in Wisconsin will allow immediate actions to ensure that appropriate management and conservation measures are in place before WNS arrives in the state. Based on the current location and known rate of spread of the disease, WNS could be present in Wisconsin as early as January 2011. Therefore, the department anticipates the need to have a rule approved before January, 2011 in order to manage the disease effectively.

Wisconsin cave bats travel large distances, sometimes hundreds of miles from their summer roosting areas to their

overwintering grounds to hibernate. Wisconsin has some of the Midwestern United States' largest populations of cave bat species, and shares bats with neighboring states. Therefore, allowing this invasive fungus species to spread unchecked has the potential of facilitating its spread throughout the region.

The department has drafted a white–nose syndrome (WNS) implementation strategy and is in the process of implementing surveillance, monitoring, research and outreach programs that are designed to help slow the spread of WNS upon its arrival in the state. The primary components of comprehensive bat rules include: 1) decontamination protocols, 2) cave closures to bats or people, 3) ability to apply treatment to manage disease spread when necessary, and 4) requirements for wildlife rehabilitators. Decontamination protocols will be created to slow the spread of WNS through human transmission by requiring the decontamination of caving equipment, gear and clothing prior to entry and immediately upon exit of all Wisconsin caves. The closure of caves on department lands to human access will also slow the spread of WNS through human transmission. The ability to apply treatment to bats or caves will allow the department the ability to prevent the introduction of WNS into new areas and may allow for the control of WNS were it has already been detected. Requirements for wildlife rehabilitators will focus on preventing the cross contamination of bats in rehabilitation centers and preventing the release of infected bats on the landscape.

Policy Analysis

White–nose syndrome (WNS) is a disease responsible for unprecedented mortality in cave hibernating bats and is identified by the white fungus (*Geomyces destructans*) that grows on the nose, ears, and muzzle and/or wing membrane. Infected bats exhibit atypical behavior, such as daytime activity during winter hibernation, which rapidly depletes stored energy reserves. Wing damage and emaciation are also common. WNS has been linked to the death of over one–million bats since 2007 and threatens to cause the complete extinction of several bat species in the near future. Mortality rates of affected colonies reach 100%.

WNS has been documented in fourteen states and two Canadian provinces and is spreading rapidly from the first affected sites (up to 800 miles per year). Last spring, the disease was located within 225 miles of Wisconsin's southern border and 300 miles from the northern border. The known dispersal distance of the little brown bat, currently one of Wisconsin's most common species, is 280 miles, and therefore Wisconsin's caves are at immediate risk of infection this winter.

Research shows that all of Wisconsin's cave bat species are mortally affected by the disease, and therefore Wisconsin's cave bat population as a whole is threatened by this devastating disease. The greatest decline in population has been observed in the little brown bat, which many scientists speculate could become locally extinct in the near future. Research published in the journal *Science* (August 2010) forecasts that the little brown bat, the most abundant bat in North America, faces almost certain ("99% chance") regional extinction within the next 16 years.

Bats are a vital part of many ecosystems and white–nose syndrome has significant environmental, economic, and public health impacts. All bats affected by WNS are insectivorous and a single little brown bat can eat up to 1,000 insects per hour, often consuming large numbers of agricultural pests that cost farmers and foresters billions of dollars per year. As predators of many insects, bats also may

play an important role in reducing risk of human disease transmitted by flying insects. Bats also play an important role in the unique and fragile cave ecosystems, among Wisconsin's most pristine natural communities, and their disappearance would have significant impacts. The nutrients bats bring into caves, and upon which other cave species depend, often have no other means of entry. In many cases, only bats regularly move in and out of the cave environment, while other cave species must rely solely on what is found or brought inside. Thus, the disappearance of bats from caves could cause the disappearance of other species as well. Cave bats spend time outside of caves as well and non–cave ecosystems would also be significantly impacted by the disappearance of bats.

Research conducted at the United States Geological Survey (USGS) Wildlife Health Center has shown that *Geomyces destructans* transfers from bat to bat, and from infected site to bat. There is also evidence of human transfer of the fungus from site to site and/or bat via contaminated clothing and gear. At this time, there is no known cure or treatment for WNS.

The Department has worked closely with neighboring states and the federal government to develop a WNS implementation strategy. The success of these efforts will likely be greater if the public has had the opportunity to understand the proposed actions and provide input. Previous stakeholder interaction in this area also suggests that groups are interested in partnering with the department in its efforts to combat WNS.

Statutory Authority

Sections 23.09 (2) (p), 23.22, 29.924 (4) and 227.11, Stats.

Comparison with Federal Regulations

There are no known federal regulations or decisions.

Entities Affected by the Rule

Affected constituencies include commercial caves and mines, private cave and mine owners, recreational cavers, property owners, the agricultural industry, wildlife rehabilitators, and the conservation community. Concerns will likely include how the comprehensive bat rules will impact these groups' current activities. Many of these potential concerns may be addressed through cost–sharing, technical support, and education provided by the department. Examples include: reviewing proposed research proposals and issuance of endangered and threatened species permits, cost–sharing for installation of bat gates and other conservation actions, providing cave closure signage and decontamination protocols, and providing locations of caves that may be used for recreational caving activities (where bats are known to have been excluded).

Under ch. NR 40, Wis. Adm. Code, the department may ask any person who owns, controls, or manages property where a prohibited species is present to control the prohibited species in accordance with a plan approved by the department. While a person who owns, controls, or manages property where a prohibited species is present is responsible for controlling the prohibited species that exists on the property, the department will seek funds to assist in the control of prohibited species. Therefore, conducting control measures will not necessarily result in a cost to commercial cave operators. Additionally, commercial caves will have the option to exclude bats from their cave(s) with the help of the department, allowing them to remain open for tourism, and resulting in no loss of tourism dollars.

The Department intends to hold informational meetings for stakeholders with the goal of providing information about the

proposed rules and answering stakeholder questions about how the rules might impact them.

Estimate of Time Needed to Develop the Rule

The Department anticipates that approximately 350 hours of staff time will be needed.

Contact Information

Erin Crain
Bureau of Endangered Resources
(ER/6) GEF 2, Madison WI 53707
Phone: (608) 267–7479
Email: Erin.Crain@wisconsin.gov

Public Instruction

Subject

Revises section PI 6.03 relating to public librarian certification.

Objective of the Rule

To equip public library directors with the knowledge and skills needed in the changing environment of public library service.

Policy Analysis

See Objective of the Rule.

Policy Alternatives

No change in the Administrative Code. This is not a desirable alternative because the current required courses include substantial training in two areas, in particular, that are no longer substantial responsibilities of a public library director.

Statutory Authority

Section 43.09, Stats.

Comparison with Federal Regulations

Not applicable.

Entities Affected by the Rule

Potential public library directors who do not have a masters in library studies and seek to work in libraries within communities of populations less than 6,000.

Estimate of Time Needed to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than six months to complete.

Public Instruction

Subject

Revises section PI 6.06 (4) (d) relating to the public library system audit requirement.

Objective of the Rule

The current PI 6.06 (4) (d) language dates from 1972 and must be revised to reflect current minimum standard expectations for governmental audits. The proposed language states the present minimum standard for governmental audits as they apply to public library systems

and is consistent with other DPI audit requirements for agencies receiving federal and state funds through DPI.

Policy Analysis

See Objective of the Rule.

Policy Alternatives

None that comply with current audit standards.

Statutory Authority

Section 43.24 (4), Stats.

Comparison with Federal Regulations

The proposed rule is consistent with existing federal regulations.

Entities Affected by the Rule

The seventeen Wisconsin public library systems.

Estimate of Time Needed to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than six months to complete.

Public Instruction

Subject

Creates Chapter PI 46, relating to medication training.

Objective of the Rule

To prescribe medical training requirements. 2009 Wisconsin Act 160 requires the DPI to approve training in administering nonprescription drug products and prescription drugs. The administrative rule will provide the specifics of the department's medication training requirements. Emergency rules may be promulgated prior to the March 1, 2011 effective date of the Act's provisions.

Policy Analysis

The rule will provide approved content and frequency of medication training of non–health care school personnel.

Policy Alternatives

The rules could specify general or specific training requirements and provide detailed training frequencies or no prescribed intervals of training.

Statutory Authority

Sections 115.001 (11), 118.29 (6), 227.11 (2) (a), Stats.

Comparison with Federal Regulations

There are no known federal medication training requirements for non–health care professionals.

Entities Affected by the Rule

Local education agencies.

Estimate of Time Needed to Develop the Rule

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than six months to complete.

Regulation and Licensing

Subject

Creates the initial administrative rules of the Department of Regulation and Licensing for Behavior Analysts, Chapters RL 186 to 189, pursuant to Wisconsin Act 282 and implemented under ch. 440 of the Wisconsin Statutes.

Objective of the Rule

2009 Wisconsin Act 282 establishes Behavior Analysts to be licensed and regulated by the Department of Regulation and Licensing. The promulgation of administrative rules pursuant to sections 440.03 and 440.314 of the Wisconsin Statutes is necessary to implement standards regarding the practice of behavior analysis. The administrative rules shall be consistent with the standards established by the Behavior Analyst Certification Board, Inc. or its successor organization.

Policy Analysis

Behavior Analyst Certification Board certification requirements.

Statutory Authority

Sections 227.11(2), 440.03, 440.311, 440.314, Stats.

Comparison with Federal Regulations

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

Entities Affected by the Rule

Behavior Analyst applicants, Behavior Analyst applicants for a temporary permit, active Behavior Analysts that hold credentials through the Behavior Analyst Certification Board; and persons using or representing the title “Behavior Analyst” unless they meet the requirements of section 440.311 of the Wisconsin Statutes.

Estimate of Time Needed to Develop the Rule

Total hours: 120. This estimate is based on the time spent by staff and possibly an advisory committee to prepare documents, coordinate public hearings, prepare fiscal estimates and conduct other work related to the promulgation of the administrative rules for this profession.

Regulation and Licensing

Subject

Creates the initial administrative rules of the Department of Regulation and Licensing for the Sign Language Interpreter Council, Chapters RL 200 to 204, pursuant to 2009 Wisconsin Act 360 and implemented under s. 440.032, Stats.

Objective of the Rule

To implement the statutory provisions created by 2009 Wisconsin Act 360.

Policy Analysis

2009 Wisconsin Act 360 created ss. 15.407 (9), 440.032, 440.08 (2) (a) 68c. and 950.015 (2), Stats. The promulgation of administrative rules pursuant to s. 440.32, Stats., is necessary to create a code of ethics, standards for the practice of sign language interpreters, and establishing a process and criteria for granting exemptions under s. 440.32 (2) (c) 2., Stats., and any additional provisions authorized under s. 440.032, Stats., deemed necessary by the Sign Language Interpreter Council.

Statutory Authority

Section 227.11 (2), Stats., and s. 440.032, Stats., as created by 2009 Wisconsin Act 360.

Comparison with Federal Regulations

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

Entities Affected by the Rule

Persons who engage in sign language interpretation services unless they meet an exemption under s. 440.032 (2) (b) 1. to 5., Stats., or are granted an exemption by the Council under s. 440.032 (2) (c), Stats.

Estimate of Time Needed to Develop the Rule

Total hours: 120.

Submittal of Rules to Legislative Council Clearinghouse

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

Commerce

***Financial Resources for Businesses and Communities,
Chs. Comm 100—
CR 10–116***

On September 17, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter Comm 133, relating to Film Production Accreditation Program.

Agency Procedure for Promulgation

A public hearing will be held October 27, 2010. The department's Division of Business Development is primarily responsible for this rule.

Contact Information

Sam Rockweiler, Code Development Consultant
Phone: (608) 266–0797
Email: sam.rockweiler@wi.gov

Commerce

***Financial Resources for Businesses and Communities,
Chs. Comm 100—
CR 10–117***

On September 17, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter Comm 135, relating to Food Processing Plant and Food Warehouse Investment Credit.

Agency Procedure for Promulgation

A public hearing will be held October 27, 2010. The department's Division of Business Development is primarily responsible for this rule.

Contact Information

Sam Rockweiler, Code Development Consultant
Phone: (608) 266–0797
Email: sam.rockweiler@wi.gov

Natural Resources

***Fish, Game, Forestry, Recreation, Chs. NR 1—
CR 10–118***

DNR # PR–36–10

On September 29, 2010, 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 1 and 45, relating to management of lands for the Ice Age and North Country Trails.

Agency Procedure for Promulgation

A public hearing will be held on November 3, 2010. The Department's Bureau of Parks and Recreation is primarily responsible for promulgation of the rules.

Contact Information

Brigit Brown, DNR
Bureau of Parks and Recreation
P.O. Box 7921
Madison, WI 53707–7921

Rule-Making Notices

Notice of Hearing

Commerce

Financial Resources for Businesses and Communities, Chs. Comm 100—

CR 10-116

NOTICE IS HEREBY GIVEN that pursuant to section 560.206 (4) of the Statutes, the Department of Commerce will hold a public hearing on proposed rule changes in Chapter Comm 133, relating to tax credits for film production services and film production company investments, and affecting small businesses.

Hearing Information

<u>Date and Time:</u>	<u>Location:</u>
Wednesday October 27, 2010 10:00 a.m.	Thompson Commerce Center Third Floor, Room 3B 201 West Washington Avenue Madison, WI

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266-0797 or at Contact Through Relay 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.

Submittal 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, via e-mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **October 29, 2010**, 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. E-mail comments should be sent to sam.rockweiler@wi.gov. If e-mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

Copies of Proposed Rules

The proposed rules and an analysis of the rules are available on the Internet by entering "Comm 126" in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Home>.

Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266-0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), 71.47 (5f) and (5h), and 560.206.

Statutory authority

Sections 227.11 (2) (a) and 560.206 (4).

Explanation of agency authority

Section 560.206 (4) of the Statutes requires the Department to promulgate rules for administering a program to accredit film productions for the purposes of sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

Related statute or rule

The Department has rules for several other programs associated with tax credits, but none of those rules specifically relate to accrediting film productions and to establishing or operating film production companies.

Plain language analysis

The proposed rule changes would update chapter Comm 133 to make it consistent with the portions of 2007 Wisconsin Act 20 and 2009 Wisconsin Act 28 that relate to tax credits for film production services and film production company investments. The changes include (1) modifying the definition of previously owned property; (2) extending the tax credits to operating a film production company, rather than only establishing it; (3) modifying the definition of claimant; (4) clarifying which expenses are ineligible; (5) requiring spending at least 35 percent of the total budget for an accredited production in Wisconsin; (6) requiring the purchase of tangible personal property or items, property, or goods to be sourced to Wisconsin; (7) requiring an application fee of 2 percent of the production expenditures or \$5,000, whichever is less; and (8) capping the total annual, aggregated credit at \$500,000.

Comparison with federal regulations

A federal tax incentive program for film and television productions is available under Section 181 of the Internal Revenue Code. Under the program, investors in qualifying film and television productions may elect to immediately deduct the cost of qualifying film expenditures in the year the expenditures occur. The program is in effect for qualifying productions commencing before January 1, 2009. The federal deduction applies to qualifying productions up to \$15 million, or up to \$20 million if the production occurs in a qualifying distressed area. The incentive can be used in conjunction with any state film incentive. The Web site reference for the section in the Code is:

http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000181----000-.html

Comparison with rules in adjacent states

Michigan:

Michigan has a 40 percent refundable tax credit, across the board on Michigan expenditures. Claimants can claim an

extra 2 percent if filming in one of the core communities in the state. The claimant must spend at least \$50,000 in Michigan to be eligible. There is also a 30 percent tax credit for non–resident, below–the–line crew members. There is a \$2,000,000 salary cap per employee per production. There is no other cap and no sunset. No corresponding administrative rules were found, but the corresponding Web site is <http://www.michiganfilmoffice.org/For-Producers/Incentives/Default.aspx>.

Minnesota:

Minnesota offers a reimbursement of up to 15 percent of production costs incurred in Minnesota by eligible productions that spend \$5,000,000 or less in Minnesota within 12 months from the date of project certification, and up to 20 percent for productions that spend in excess of \$5,000,000 in Minnesota within 12 months of project certification. Reimbursement of up to 20 percent of film production costs are made to productions that either (1) shoot 60 percent of production days outside of the metropolitan area as defined in section 473.121, subdivision 2 of the statutes within 12 months from the date of project certification; or (2) spend at least 60 percent of the total production budget outside of the metropolitan area as defined in section 473.121, subdivision 2 within 12 months from the date of project certification. No corresponding administrative rules were found, but the corresponding Web site is <http://www.mnfilmtv.org/incentives>.

Iowa:

Iowa has suspended the Iowa Film Program until July 1, 2013, and does not have financial assistance or tax credits available for film projects. The corresponding Web site is <http://www.iowalifechanging.com/film/>.

Illinois:

In December of 2008, Illinois passed the Illinois Film Production Tax Credit Act, which offers producers a credit of 30 percent of all qualified expenditures, including post–production, and has no sunset. This includes a 30 percent credit on Illinois salaries up to \$100,000 per worker. Applicants can receive an additional 15 percent tax credit on the salaries of individuals who live in an economically disadvantaged area. Illinois Production Spending includes tangible, personal property and services purchased from Illinois vendors, and compensation paid to Illinois resident employees. The claimant must spend at least \$50,000 in Illinois Production Spending for a project 29 minutes or under. The claimant must spend at least \$100,000 in Illinois Production Spending for a project 30 minutes or over. The corresponding Web site is: <http://www.illinoisfilm.biz/> Administrative rules are at: <http://www.illinoisfilm.biz/IFO/tax/2007TaxCreditRules.pdf>.

Summary of factual data and analytical methodologies

The data and methodology for developing these rules were derived from and consisted of (1) incorporating the applicable criteria in 2007 Wisconsin Act 20 and in 2009 Wisconsin Act 28; (2) soliciting input from the Department of Revenue; and (3) reviewing Internet–based sources of related federal, state, and private–sector information.

Analysis and supporting documents used to determine effect on small business

The primary documents that were used to determine the effect of the proposed rules on small business were 2007 Wisconsin Act 20 and 2009 Wisconsin Act 28. These Acts

modified several provisions of sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h) of the Statutes that relate to the Department’s film production accreditation program. These Acts apply their private–sector requirements only to film productions and to film production companies, for which a corresponding tax credit is desired.

Small Business Impact

The proposed rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by businesses that choose to pursue tax credits for producing film productions or for establishing or operating film production companies.

Any inquiries for the small business regulatory coordinator for the Department of Commerce can be directed to Sam Rockweiler, as listed above.

Initial regulatory flexibility analysis

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

Any entity which chooses to apply for tax credits relating to film production services or film production company investments, as established in sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h) of the Statutes.

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

Applicants will need to newly submit verification of (1) purchasing corresponding tangible personal property and other items, property, and goods from Wisconsin–based sources, and (2) spending at least 35 percent of the total budget for an accredited production, in Wisconsin.

Types of professional skills necessary for compliance with the rules.

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

Rules have a significant economic impact on small businesses.

No.

Environmental Analysis

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.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

Although the proposed rules will result in review of some new documentation relating to tax credits for producing film productions or for establishing or operating film production companies, the extent of this review is expected to be too small to result in significant changes in the Department’s costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose any significant costs on the private sector, because the rules address only voluntary submittal of documentation relating to

tax credits for producing film productions or for establishing or operating film production companies.

State fiscal effect

No state fiscal effect.

Local government fiscal effect

No local government costs.

Long–range fiscal implications

None known.

Agency Contact Person

Steven Sabatke
Wisconsin Department of Commerce
Bureau of Business Development
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Notice of Hearing

Commerce

***Financial Resources for Businesses and Communities,
Chs. Comm 100—
CR 10–117***

NOTICE IS HEREBY GIVEN that pursuant to section 560.2056 (4) of the Statutes, the Department of Commerce will hold a public hearing on proposed rules to create Chapter Comm 135, relating to tax credits for investments in food processing plants and food warehouses, and affecting small businesses.

Hearing Information

<u>Date and Time:</u>	<u>Location:</u>
Wednesday October 27, 2010 2:00 p.m.	Thompson Commerce Center Third Floor, Room 3B 201 West Washington Avenue Madison, WI

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266–0797 or at Contact Through Relay 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.

Submittal 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, via e–mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **October 29, 2010**, 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. E–mail comments should be sent to sam.rockweiler@wi.gov. If e–mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708–0427.

Copies of Proposed Rules

The proposed rules and an analysis of the rules are available on the Internet by entering “Comm 135” in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Home>.

Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266–0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statute(s) interpreted

Sections 71.07 (3rm), 71.28 (3rm), 71.47 (3rm), and 560.2056 (4) — as created in 2009 Wisconsin Act 295.

Statutory authority

Sections 227.11 (2) (a) and 560.2056 (4), Stats.

Explanation of agency authority

Section 560.2056 (4) of the Statutes requires the Department to promulgate rules for implementing and administering a program to certify applicants and allocate tax credits for the food processing plant and food warehouse investments addressed in sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

Related statute or rule

The Department has rules for several other programs associated with tax credits, but those programs are not targeted specifically to investments in food processing plants and food warehouses.

Summary of rule

The rules in this order address (1) the eligibility requirements for applicants; (2) the documentation that must be submitted by applicants to become certified as eligible for the food processing plant and food warehouse investment credit, and to receive acceptance of incurred expenses; (3) the Department’s response to the submitted documentation; and (4) filing a claim with the Department of Revenue for the corresponding tax credit.

Comparison with federal regulations

Neither the Department nor the Department of Revenue is aware of any existing or proposed federal regulations that address this tax credit.

Comparison with rules in adjacent states

Minnesota, Illinois and Iowa have various tax–credit programs but nothing similar to the food processing plant and food warehouse investment credit addressed in these rules. Michigan has an Agricultural Processing Renaissance Zone program that offers abatement of certain taxes to agricultural processing facilities.

Summary of factual data and analytical methodologies

The data and methodology for developing these rules were derived from and consisted of (1) incorporating the criteria in 2009 Wisconsin Act 295; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax–credit verification; (3) soliciting and utilizing input from the Department of Revenue; and (4)

reviewing Internet–based sources of related federal, state and private–sector information.

Analysis and supporting documents used to determine effect on small business

The primary document that was used to determine the effect of the rules on small business was 2009 Wisconsin Act 295. This Act requires the Department to implement a program to certify taxpayers as eligible for the food processing plant and food warehouse investment credit under sections 71.07 (3rm), 71.28 (3rm) and 71.47 (3rm) of the Statutes, and requires the Department to promulgate rules for administering the program. This Act applies its private–sector requirements only to food processing plants and food warehouses for which a corresponding tax credit is desired.

Small Business Impact

The rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants that choose to pursue tax credits for modernization or expansion of food processing plants and food warehouses.

Any inquiries for the small business regulatory coordinator for the Department of Commerce can be directed to Sam Rockweiler, as listed above.

Initial Regulatory flexibility analysis

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

Owners and operators of food processing plants and food warehouses who choose to pursue the tax credits in sections 71.07 (3rm), 71.28 (3rm), and 71.47 (3rm) of the Statutes, for modernizing or expanding those facilities.

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

An application form prescribed by the Department must be completed and submitted to the Department.

Types of professional skills necessary for compliance with the rules.

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

Rules have a significant economic impact on small businesses.

No.

Environmental Analysis

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.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

Although the rules will newly result in review of documentation relating to certifying applicants as eligible to then claim allocated tax credits for investments in food processing plants and food warehouses, the number of these reviews and allocations is expected to be too small to result in

significant changes in the Department's costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose any significant costs on the private sector, because the rules address only voluntary submittal of documentation relating to tax credits for investments in food processing plants and food warehouses.

State fiscal effect

No state fiscal effect.

Local government fiscal effect

No local government costs.

Long–range fiscal implications

None known.

Agency Contact Person

Steven Sabatke
Wisconsin Department of Commerce
Bureau of Business Finance and Compliance
P.O. Box 7970, Madison, WI 53707–7970
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Notice of Hearing

Natural Resources

Fish, Game, Forestry, Recreation, Chs. NR 1–

EmR1033

DNR # WM–22–10(E)

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 29.197, 227.11 (2) (a), and 227.24 (4) Stats., the Department of Natural Resources will hold a public hearing on emergency rules to revise Chapter NR 10, Wis. Adm. Code, relating to the 2010 migratory game bird seasons and waterfowl hunting zones. This emergency order took effect on September 1, 2010.

Hearing Information

Date and Time:

Tuesday
October 26, 2010
2:00 p.m.

Location:

State Natural Resources Office
Building, Room 608
101 South Webster Street
Madison, WI

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 Rule and Submittal of Written Comments

The proposed rules 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. Kent Van Horn, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or by email to kent.vanhorn@wisconsin.gov. Comments may be submitted until **October 26, 2010**. 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. Van Horn.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Sections 29.014, 29.041 and 29.885, Stats.

Statutory authority

Sections 29.014, 29.041, 29.197, 227.11 (2) (a), and 227.24 (4), Stats.

Plain language analysis

Section 1 of this rule order establishes the season length and bag limits for the 2010 Wisconsin migratory game bird seasons. For ducks, the state is divided into two zones each with 60–day seasons. The season begins at 9:00 a.m. September 25 and continues for 60 consecutive days in the north, closing on November 23. In the South the season begins at 9:00 a.m. on October 2 and continues through October 10, followed by a 5–day split, and then reopens on October 16 and continues through December 5. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only 1 may be a hen, 3 wood ducks, 2 scaup, 2 redheads, 2 pintails, 1 black duck and 1 canvasback,.

For Canada geese, the state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County and the Mississippi River. Season lengths are: Collins Zone – 65 days (three hunting periods, September 16 – October 3, October 4 – 24, October 25 – November 19); Horicon Zone – 92 days (2 hunting periods, first period beginning September 16 and the second on November 1); Exterior Zone in the northern duck zone – 85 days (Sept. 18 – Dec. 11); Exterior Zone in the southern duck zone – 85 days (Sept. 18 – Oct. 10 and Oct. 16 – Dec. 16) and Mississippi River subzone – 85 days (Oct. 2 – Oct. 10 and Oct. 16 – Dec. 30). The statewide daily bag limit for Canada geese in all zones is 2 birds per day during the open seasons within the zones.

Section 2 establishes the youth waterfowl hunting season dates.

Comparison with federal regulations

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually via the U.S. Fish and Wildlife Service (USFWS) regulations process. As part of the Federal rule process, the USFWS proposes a duck harvest–management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest–management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity would be maximized when the population is at or above goals. Other factors, such as habitat, are considered.

In the past, the regular Canada goose season was based on the allowable Mississippi Valley Population (MVP) harvest which was determined based on the spring breeding population estimate obtained from an aerial survey of the MVP breeding range as prescribed by the Mississippi Flyway MVP management plan. However, because locally produced giant Canada geese now constitute a considerable portion of

the harvest in all states that also harvest Mississippi Valley Population birds, the Mississippi Flyway Council (MFC) is testing the use of a standard season framework for 5 years. Beginning in the fall of 2007 and continuing through 2011, season lengths and bag limits for each MVP harvest state will remain unchanged. Each state retains the flexibility to schedule the timing of their Canada goose season. In addition, if the MVP spring population numbers dropped to a predetermined low level during the 5–year period, the stable season framework would be adjusted.

All proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the USFWS in 50 CFR 20.

Comparison with rules in adjacent states

Since migratory bird species are managed under international treaty, each region of the country is organized in a specific geographic flyway which represents an individual migratory population of migratory game birds. Wisconsin along with Minnesota, Michigan, Illinois and Iowa are members of the Mississippi Flyway. Each year the states included in the flyways meet to discuss regulations and guidelines offered to the flyways by the USFWS. The USFWS regulations and guidelines apply to all states within the Flyway and therefore the regulations in the adjoining states closely resemble the rules established in this rule order, and only differ slightly based on hunter desires, habitat and population management goals. However, these variations fall within guidelines and sideboards established by the USFWS.

Summary of factual data and analytical methodologies:

For the regular duck season, a data based process called Adaptive Harvest Management is used annually by the USFWS and the Flyways to determine which of 3 framework alternatives best matches the current year’s data on populations and habitat (data from the spring pond and duck survey). The option of a closed season is also possible if survey conditions indicated that this is necessary for the management of duck populations. The determination of which alternative is selected is based in part on the spring wetland conditions on the breeding grounds and the Mid–Continent Mallard population. These data come from the May Pond and Breeding Waterfowl Population Surveys conducted by the USFWS and Canadian Wildlife Service on traditional survey areas as well as surveys from select states, including Wisconsin.

Wisconsin’s regular Canada goose season harvest consists of close to a 50:50 ratio between resident giant and MVP population Canada geese. As a result, the parameters of Wisconsin’s regular goose seasons are guided by the Mississippi Flyway management plans for the MVP and giant Canada goose populations and approved by the Mississippi Flyway Council and the USFWS. The health of these populations was measured with spring breeding population surveys, survival data and harvest rates obtained from banding and production studies. The surveys and studies are conducted annually and are supported by the State of Wisconsin as part of the MFC. The result of this work is reviewed annually by the MFC committee and the USFWS to measure the impact of the stable season framework trial period.

The primary elements of Wisconsin’s waterfowl regulatory process include conducting spring waterfowl surveys, participation in MFC meetings, commenting on federal proposals, and soliciting input from the public. The state process begins with Flyway meetings in February and March

each year where staff provide input to the development of federal framework alternatives and requests related to the early seasons. In spring and summer, breeding waterfowl surveys and banding are conducted in support of the regulatory process.

In early July, staff conducted a public meeting to solicit input from interest groups, including representatives of the Conservation Congress Migratory Committee. At this meeting staff provided the attendees with breeding status information and asked for items that they wish the department to pursue at the MFC meeting in mid July. Department staff then attended the MFC Technical and Council meetings. At these meetings, staff was provided status information and the proposed framework alternative from the USFWS. Department staff then worked with the other states in our Flyway to develop proposals and recommendations that were voted on by the MFC. Proposals that passed at the MFC meeting were forwarded to the USFWS for consideration by the Service Regulations Committee (SRC) at their meeting. The SRC recommended its final waterfowl season framework on July 30 and it was announced on August 2. Department staff summarized waterfowl status and regulation information for Wisconsin citizens and presented this information to the Migratory Committee of the Conservation Congress and at a public meeting (Post–Flyway Meeting) of interest groups and individuals on July 31. Staff gathered public input at these meetings regarding citizen suggestions for the development of Wisconsin's waterfowl regulations given the federal framework. Public hearings were held on the permanent version of this rule order from August 2 through 5 around the state to solicit additional input.

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. Additionally, no significant costs are associated with compliance to these rules.

Small Business Impact

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor is any design or operational standards contained in the rule.

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

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

Environmental Analysis

The Department has made a 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

Assumptions used in arriving at fiscal estimate

This proposed migratory bird season rule is similar to the season in previous years and will not result in any significant changes in spending or revenue. There are no new government costs anticipated due to the provisions of this rule.

State fiscal effect

No state fiscal effect.

Increase costs — May be possible to absorb within agency's budget.

Local government fiscal effect

No local government costs.

Long–range fiscal implications

None.

Agency Contact Person

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Natural Resources

Fish, Game, Forestry, Recreation, Chs. NR 1—

EmR1037, CR 10–114

DNR # ER–35–10, ER–37–10(E)

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.09 (2), 29.604, 227.11 (2) and 227.24, Stats., the Department of Natural Resources will hold public hearings on the emergency and permanent rule proposals to list four cave bat species as threatened in s. NR 27.03 (3), Wis. Adm. Code. The hearings will be held concurrently with hearings to list the fungus, *Geomyces destructans*, as a prohibited invasive species in s. NR 40.04 (2), Wis. Adm. Code.

Hearing Information

The hearings will begin at **11:00 am** at the locations listed below. Following a brief informational presentation, public comments and statements will be accepted.

- | | |
|-------------------------|--|
| October 25, 2010 | Conference Room 1
DNR Oshkosh Service Center
625 E. County Rd Y
Oshkosh |
| October 26, 2010 | Glaciers Edge and Gathering Waters
Rooms
DNR South Central Region Hdqrs.
3911 Fish Hatchery Road
Fitchburg |
| October 28, 2010 | Room 185
DNR West Central Region Hdqrs.
1300 W. Clairemont
Eau Claire |
| October 29, 2010 | Conference Room 1
DNR Northern Region Hdqrs.
107 Sutliff Avenue
Rhineland |

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 Stacy Rowe at (608) 266–7012 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule and Submittal of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following

Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Stacy Rowe, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707 or by email to stacy.rowe@wisconsin.gov. Comments may be submitted until November 1, 2010. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Rowe.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

In promulgating this rule, s. 227.11 (2) (a), Wis. Stats., has been interpreted as allowing the department the authority to create and amend rules. Section 29.604 (3)(b), Wis. Stats., has been interpreted as allowing the department the authority to create and amend the list of Wisconsin's endangered and threatened species, NR 27.03, Wis. Adm. Code.

Statutory authority

The state statutes that authorize the promulgation of this rule include ss. 29.604 and 227.11, Wis. Stats.

Explanation of agency authority

These sections grant rule-making authority for the establishment of an endangered and threatened species list to the department.

Related statute or rules

Section 29.604 (3), Wis. Stats., requires the Department to establish an endangered and threatened species list. Chapter NR 27, Wis. Admin. Code, provides the list of endangered and threatened species.

Plain language analysis

The proposed changes to Ch. NR 27, Wis. Adm. Code, will add the four cave bat species in Wisconsin to the Wisconsin threatened species list. The four species include the little brown bat (*Myotis lucifugus*), big brown bat (*Eptesicus fuscus*), northern long-eared bat (*Myotis septentrionalis*), and eastern pipistrelle (*Perimyotis subflavus*).

Comparison with federal regulations

Although several species of cave bats are listed federally by the United States Fish and Wildlife Service (USFWS), we are not aware of any listings that have occurred specifically due to white-nose syndrome. However, USFWS has received a petition to list two cave bat species due to white-nose syndrome and is in the process of reviewing the petition.

Comparison with rules in adjacent states

Vermont, New York and Massachusetts are in the process of listing several cave bat species due to white-nose syndrome. The Minnesota Department of Natural Resources has recently proposed the little brown bat (*Myotis lucifugus*) and big brown bat (*Eptesicus fuscus*) as species of special concern because of the eminent threat of white-nose syndrome in the state. The other two species of cave bats in Minnesota, northern long-eared bat (*Myotis septentrionalis*) and eastern pipistrelle (*Perimyotis subflavus*) are already listed as species of special concern in Minnesota.

Summary of factual data and analytical methodologies

The proposed emergency rule is related to the addition of Wisconsin's four cave bat species to the state's threatened species list. The four species include the little brown bat

(*Myotis lucifugus*), big brown bat (*Eptesicus fuscus*), northern long-eared bat (*Myotis septentrionalis*), and eastern pipistrelle (*Perimyotis subflavus*).

The proposed rule change seeks to provide protection to Wisconsin cave bat species, which face the imminent threat of white-nose syndrome. White-nose syndrome has spread across 14 states and 2 Canadian provinces in the last 3 years, spreading up to 800 miles per year. Mortality rates of affected bat colonies reach 100%. The disease was located last spring within 225 miles of Wisconsin's southern boarder and 300 miles from the northern boarder. Because the known dispersal distance of the little brown bat is 280 miles, an affected cave is now located within the dispersal range of Wisconsin little brown bats. Based on the current location and known rate of spread of the disease, we anticipate the presence of white-nose syndrome in Wisconsin as early as January 2011.

Wisconsin has one of the highest concentrations of cave bat hibernacula in the Midwest and large numbers of cave bats from neighboring states hibernate in Wisconsin. Consequently, Wisconsin's cave bat population, and those of surrounding states, is threatened by this devastating disease. All Wisconsin bat species are among the species fatally affected by the white-nose syndrome.

Cave bats were assessed for changes in population condition, using the following triggers established by the Bureau of Endangered Resources:

1. Significant change in the Natural Heritage Inventory State Rank since 1997
2. Significant change in the Natural Heritage Inventory Global Rank since 1997
3. Change in United States Endangered Species Act status since 1997
4. Is there a need for immediate protection (i.e., new threat)
5. Change in other statuses, e.g., International Union for Conservation of Nature (IUCN), Convention on International Trade in Endangered Species (CITES)
6. New data on population condition available
7. Recommended for listing/delisting since 1997
8. Taxonomic change
9. For currently listed species, have recovery goals been met

All four cave bat species met triggers #1 and #4, and the little brown bat also met trigger #7 (recommended for listing by stakeholders), therefore indicating the need for the emergency rule change.

Listing these species before white-nose syndrome has been detected in Wisconsin will allow the Department time to work collaboratively with stakeholders to ensure that appropriate conservation measures are developed and in place. Because of the speed of white-nose syndrome, the Department would not have time to develop appropriate conservation measures if listing were delayed until after white-nose syndrome was detected in Wisconsin.

Analysis and supporting documents used to determine effect on small business

None.

Small Business Impact

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

Affected constituencies include commercial caves and mines, private cave and mine owners, recreational cavers,

wildlife rehabilitators, animal control operators, the agricultural industry, the conservation community, wind utilities, WI Department of Transportation (WDOT) and homeowners. Concerns will likely include how listing the bats will affect current activities. Many of these potential concerns will be addressed through a broad incidental take permit/authorization and voluntary agreements so that the listing does not have a significant economic impact on a substantial number of small businesses.

A broad incidental take permit/authorization would be created, as provided for under s. 29.604, Wis. Stats. The broad incidental take permit/authorization would allow for the incidental taking of state listed cave bats that may occur as a result of specific public health concerns, bat removals, building demolitions, forestry activities, bridge demolitions, miscellaneous building repairs and wind energy development projects (see the “Broad Incidental Take Permit/Authorization for Cave Bats” attachment for more information). Some take of bats may still occur as a result of these activities, however take will be minimized by following specific minimization measures and the department has concluded that the projects covered under this permit are not likely to jeopardize the continued existence and recovery of the state population of these bats or the whole plant–animal community of which they are a part; and has benefit to the public health, safety or welfare that justifies the action. This incidental take permit/authorization is only needed when a bat is present or suspected to be present (e.g., Natural Heritage Inventory report of bats in the area, evidence of bat presence).

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

Environmental Analysis

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

State fiscal effect

The proposed rule package will require time by DNR staff to prepare the rule and administer rule hearings. Endangered Resources review staff will likely see an increase in time associated with the listing of bats. There will be an increase in the time associated with incidental take permits. It is assumed there will not be a significant increase in staff time, and that this time can be covered by existing appropriations. Staff at the Public Service Commission and the Office of Energy will see an increase in staff time associated with issues surrounding bats and wind farms. These agencies will also see an increase in time associated with incidental permits. It is assumed there will not be a significant increase in staff’s time at these agencies.

Local government fiscal effect

It is assumed there will be minimal cost increases to local governments as a result of this rule change. As an example of these minimal costs, local public works departments will need to distribute new local construction permits to include the listing of bats.

Private sector fiscal effect

It is assumed the Department will be issuing a broad incidental take permit associated with the listing. Many private companies such as pest control operators and construction companies will be covered under this broad incidental take permit. The impact to wind farms will be determined by the location. Depending on the impact to bats, wind farms may be required to report damages to bats or to perform a determined mitigation.

State fiscal effect

Indeterminate. Increase Costs — May be possible to absorb within agency’s budget.

Local government fiscal effect

Indeterminate. Increase Costs — Permissive.

Types of local governmental units affected

Towns, Villages, Cities, Counties.

Agency Contact Person

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Natural Resources

Fish, Game, Forestry, Recreation, Chs. NR 1— EmR1036, CR 10–115

DNR # IS–42–10(E) and IS–41–10

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.09 (2), 23.22, 227.11 (2) and 227.24, Stats., the Department of Natural Resources will hold public hearings on the emergency and permanent rule proposals to list the fungus, *Geomyces destructans*, as a prohibited invasive species in s. NR 40.04 (2), Wis. Adm. Code. The hearings will be held concurrently with hearings to list four cave bat species as threatened in s NR 27.03 (3), Wis. Adm. Code.

Hearing Information

The hearings will begin at **11:00 am** at the locations listed below. Following a brief informational presentation, public comments and statements will be accepted.

- | | |
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| October 25, 2010 | Conference Room 1
DNR Oshkosh Service Center
625 E. County Rd Y
Oshkosh |
| October 26, 2010 | Glaciers Edge and Gathering Waters
Rooms
DNR South Central Region Hdqrs.
3911 Fish Hatchery Road
Fitchburg |
| October 28, 2010 | Room 185
DNR West Central Region Hdqrs.
1300 W. Clairemont
Eau Claire |

October 29, 2010 Conference Room 1
DNR Northern Region Hdqrs.
107 Sutliff Avenue
Rhinelanders

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 Ms. Rowe at (608)266-7012 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule and Submittal of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Stacy Rowe, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707 or by email to stacy.rowe@wisconsin.gov. Comments may be submitted until **November 1, 2010**. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Rowe.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Section 23.22 (2) (a), Stats.

Statutory authority

Sections 23.09 (2) (intro.), 23.091, 23.11 (1), 23.22 (2) (a) and (b), 23.28 (3), 27.01 (2) (j), 29.039 (1) and 227.11 (2) (a), Stats.

Explanation of agency authority

The principal authority for the department's invasive species rules is s. 23.22 (2) (a) and (b) 6., Stats., which requires the department to establish a statewide program to control invasive species in this state and directs the department to promulgate rules to identify, classify and control invasive species for purposes of the program, which may include procedures and requirements for issuing permits to control invasive species. In order to fulfill this broad duty, the department adopted ch. NR 40 to provide it with all of the tools that are required to control invasive species, wherever found in the state, including regulation of the possession, transportation, transfer and introduction of specific invasive species, general preventive measures designed to restrict pathways by which humans commonly spread or introduce invasive species, authority to enter property in order to inspect, survey and control invasive species, and authority to recover the state's costs when it must carry out necessary control measures because responsible parties do not comply with department orders to control invasives themselves.

Section 23.11 (1), Stats., delegates to the department such further powers as may be necessary or convenient to enable it to exercise the functions and perform the duties required of it by ch. 23, Stats., and by other provisions of law.

Invasive species have caused environmental and economic damage and threaten human health, and will continue doing so unless adequate control measures are adopted and implemented. The general legislative delegation to the department of all necessary or convenient powers set out in s.

23.11 (1), Stats., combined with the broad directive in s. 23.22 (2) (a) and (b) 6., Stats., to control invasive species in this state give the department sufficient power to adopt and revise as needed rules for the protection of public health, safety, welfare and the environment, but particularly for the promotion of public welfare, convenience and general prosperity. The department's exercise of legislatively delegated police powers, as embodied in its invasive species rules, has its basis in the inherent power and duty of government to protect and promote the life, comfort, safety and welfare of society.

Section 23.09 (2) (intro), Stats., grants the department general authority to adopt rules for the protection, development and use of forests, fish and game, lakes, streams, plant life, flowers and other outdoor resources in this state. Section 23.091, Stats., authorizes the department to acquire, develop, operate and maintain state recreation areas, to establish use zones within state recreation areas providing for the full range of recreational uses, including hunting and fishing, and to promulgate rules to control uses within zones and limit the number of persons using any zone. Section 23.11 (1), Stats., gives the department the authority to have and take the general care, protection and supervision of all state parks, of all state fish hatcheries and lands used therewith, of all state forests, and of all lands owned by the state or in which it has any interests.

Section 23.28 (3), Stats., prohibits the department from allowing any use of a designated state natural area which is inconsistent with or injurious to its natural values, and authorizes the department to establish use zones, control uses within a zone and limit the number of persons using zones in designated state natural areas. Section 27.01 (2) (j), Stats., grants the department authority to promulgate rules necessary to govern the conduct of state park visitors, and for the protection of state park property, or the use of facilities, including the use of boats and other watercraft on lakes or rivers within the limits of a state park, and the use of roads, trails or bridle paths.

Section 29.039 (1), Stats., authorizes the department to develop conservation programs to ensure the perpetuation of nongame species, require harvest information and establish limitations relating to taking, possession, transportation, processing and sale or offer for sale, of nongame species. "Nongame species" is defined as any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion that is living in the wild and that is not classified as a game fish, game animal, game bird or furbearing animal.

Section 227.11 (2) (a), Stats., expressly confers rulemaking authority on the department to promulgate rules interpreting any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute. The department considers the rules created by this Order to be necessary to effectuate the purposes of s. 23.22, Stats.

Plain language analysis

The proposed changes to ch. NR 40, Wis. Adm. Code, will add the fungus, *Geomyces destructans*, to the list of prohibited invasive species, allowing the department to effectively manage its spread and limit human transport.

Existing rules ban the transportation (including importation), possession, transfer (including sale) and introduction of invasive species that are listed or identified as "prohibited", with certain exceptions. Transportation, possession, transfer and introduction without a permit are

exempt if the department determines that the transportation, possession, transfer or introduction was incidental or unknowing, and was not due to the person's failure to take reasonable precautions. Existing rules authorize the department to enter property with the permission of the owner or person in control of the property and, if permission cannot be obtained, to seek an inspection warrant from the Circuit Court. Entry is only for the purpose of inspection, sampling or control of prohibited invasive species.

The current rules also allow the department to enter into consent orders with persons who own, control or manage property where prohibited invasive species are present to implement approved control measures, and to issue unilateral orders for control purposes unless the person was not responsible for the presence of the prohibited invasive species. If a control order is not complied with and the department undertakes control measures, the current rules allow for cost–recovery by the department for the expenses it incurred.

Related statute or rule

Related statutes or rules include but are not limited to the following provisions which, to varying degrees, may apply to the identification, classification, control or other regulation of species that are invasive, or to conduct that may result in the introduction or spread of invasive species:

Statutory section Title [or subject]

- 15.347 (18) Invasive species council.
- 23.24 Aquatic plants.
- 29.011 Title to wild animals.
- 29.604 Endangered and threatened species protected.
- 29.614 Scientific collector permit.
- 29.885 Removal of wild animals.
- 29.924 Investigations; Searches.
- 30.07 Transportation of aquatic plants and animals; placement of objects in navigable waters.
- 94.01 Plant inspection and pest control authority.
- 94.02 Abatement of pests.
- 94.03 Shipment of pests and biological control agents; permits.
- 94.69 Pesticides; rules.
- 169.04 Possession of live wild animals.
- 169.06 Introduction, stocking, and release of wild animals.
- 169.07 Exhibition of live wild animals.
- 169.08 Propagation of wild animals.
- 169.10 Sale and purchase of live wild animals.
- 169.11 Harmful wild animals.

Comparison with federal regulations

We are not aware of any existing or proposed federal regulations that would list the fungus, *Geomyces destructans*, as an invasive species.

Comparison with rules in adjacent states

Wisconsin appears to be unique in taking the approach of listing the fungus, *Geomyces destructans*, as an invasive species; we are not aware of any other states or provinces that have taken similar actions. We don't know of any other states that have a similar mechanism — an invasive species rule — for listing the fungus. We are also not aware of any existing

or proposed federal regulations that would list the fungus, *Geomyces destructans*, as an invasive species.

Summary of factual data and analytical methodologies

White–nose Syndrome (WNS) is a disease responsible for unprecedented mortality in cave hibernating bats and is identified by the white fungus (*Geomyces destructans*) that grows on the nose, ears, and muzzle and/or wing membrane. Infected bats exhibit atypical behavior, such as daytime activity during winter hibernation, which rapidly depletes stored energy reserves. Wing damage and emaciation are also common.

WNS has been documented in fourteen states and two Canadian provinces, is spreading rapidly from the first affected sites (up to 800 miles per year). The speed at which WNS is spreading necessitates immediate action on the part of the department to list the white–nose fungus as a prohibited invasive species. Based on the current location and known rate of spread of the disease, it is likely that WNS will reach Wisconsin as early as January 2011.

This rule was developed with the assistance of the Bureaus of Endangered Resources and Legal Services and with input from the Wisconsin Council on Invasive Species (Council). The Bureau of Endangered Resources prepared an Issue Brief for the Council, which provided background on white–nose syndrome, the extent and serious nature of the threat of the disease to Wisconsin's cave bats, and the need for listing *Geomyces destructans* as a prohibited invasive species.

Analysis and supporting documents used to determine effect on small business

None.

Small Business Impact

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

Affected constituencies include commercial caves and mines, private cave and mine owners, recreational cavers, property owners, the agricultural industry, and the conservation community. Concerns will likely include how listing the fungus will affect current activities. Many of these potential concerns may be addressed through cost–sharing, technical support, and education provided by the department. Examples include: reviewing proposed research proposals and issuance of scientific research licenses, cost–sharing for installation of bat gates and other conservation actions, providing cave closure signage and decontamination protocols, and providing locations of caves that may be used for recreational caving activities (where bats are known to have been excluded).

Under NR 40, the department may ask any person who owns, controls, or manages property where a prohibited species is present to control the prohibited species in accordance with a plan approved by the department. While a person who owns, controls or manages property where a prohibited species is present is responsible for controlling the prohibited species that exists on the property, the department will seek funds to assist in the control of prohibited species. Therefore, conducting control measures will not necessarily result in a cost to commercial cave operators. Additionally, commercial caves will have the option to exclude bats from their cave(s) with the help of the department, allowing them to remain open for tourism, and resulting in no loss of tourism dollars.

Under s. 227.19 (3m), Wis. Stats., a final regulatory flexibility analysis is not required.

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

Environmental Analysis

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

State fiscal effect

The proposed rule package will require time by DNR staff to prepare the rule and administer rule hearings. In addition, once the rule is implemented DNR staff time associated with NR 40 will require increased surveillance and treatment. It is assumed all of the increased time will be possible to absorb within the Department's current budget.

Local fiscal effect

It is assumed there will be no increase in local government costs associated with this rule.

Private sector fiscal impact

Once the rule is implemented, there will be no costs to private land owners to follow invasives law. As with the existing law, if private land owners do not allow DNR on their land or if they intentionally move the invasive species, there will be an associated penalty cost if NR 40 is not followed.

State fiscal effect

Indeterminate.

Local government fiscal effect

None.

Agency Contact Person

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Natural Resources

Fish, Game, Forestry, Recreation, Chs. NR 1— CR 10-118

DNR # PR-36-10

NOTICE IS HEREBY GIVEN that pursuant to ss. 27.01 (2) (c) and (j), 23.09 (2) (d) 10. and 12., and 27.01 (10) (f), Stats., the Department of Natural Resources (Department) will hold a public hearing on revisions to Chapters NR 1 and 45, Wis. Adm. Code, relating to the management of Department-owned lands purchased for the Ice Age and North Country Trails.

The authority proposed in this rule is necessary in order to facilitate the development and management of properties purchased by the Department for the Ice Age and North Country Trails. This proposal would repeal and recreate s. NR 1.29, Wis. Adm. Code, to allow the Department to authorize some basic management activities on properties prior to writing and implementing a Department master plan. This proposal would also help to guide master planning on these properties. The proposed rules guide and permit management such as selective timber harvest, invasive species removal, installation of the Ice Age and North Country trails, and establishment of minor support facilities and amenities like small gravel parking lots and informational kiosks. The rule does not require that these activities occur. This rule change gives the department the ability to be significantly more responsive in managing State Ice Age trail areas.

This proposal also modifies a section of s. NR 45.10 to allow camping along the Ice Age and North Country Trails for long-distance hikers.

Hearing Information

Date and Time:

November 3, 2010
6:00 p.m.

Location:

DNR South Central Region
Hdqs.
3911 Fish Hatchery Road
Fitchburg, WI

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 Brigit Brown at (608) 266-2183 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule and Submittal of Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Brigit Brown, Bureau of Parks and Recreation, P.O. Box 7921, Madison, WI 53707. Comments may be submitted by email to brigit.brown@wisconsin.gov. Comments on the proposed rule must be received on or before **November 5, 2010**. 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 paper copy of the proposed rule and fiscal estimate may be obtained from Ms. Brown.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Sections 27.01 (2) (c), (j) and (10) (f), 23.09 (2) (d) 10. and 12., Stats., have been interpreted as providing the department with the authority to make these changes to provide guidance and direction on the management and development of lands for the Ice Age and North Country Trails.

Statutory authority and Explanation of agency authority

The statute that authorizes the promulgation of this rule order is s. 27.01 (2) (c) (j), Stats. (in addition to the general authority under ss. 227.10 and 227.11, Stats). This section grants rule making authority to the department to establish rules governing properties. Further, s. 23.09 (2) (d) 10. and 12., Stats. authorizes purchase of lands by the department for

the Ice Age Trail and North Country Trails, s. 27.01 (2) (c), Stats., instructs the department to plan for these properties, s. 23.17 (4), Stats., authorizes the development of department lands for the Ice Age Trail, and s. 27.01 (10) (f), Stats., allows the department to waive camping fees. All rules promulgated under this authority are subject to review under ch. 227, Stats.

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.

Plain language rule analysis

The Bureau of Parks and Recreation recommends promulgating administrative rules that modify a section of s. NR 1.29 related to management of lands purchased for the Ice Age and North Country Trails.

Currently, there are no rules to specifically guide the management and development of this classification of land.

These rules would provide property managers and other department staff guidance on the management of lands purchased for the Ice Age and North Country trails. The proposed rules guide and permit some management of these lands such as selective timber harvest, invasive species removal, installation of the Ice Age and North Country trails, and minor support facilities and amenities such as small parking lots and informational kiosks.

The Bureau of Parks and Recreation also recommends promulgating administrative rules that modify a section of s. NR 45.10 to allow camping along the Ice Age and North Country Trails for long–distance hikers.

Comparison with federal regulations

These state rules will help to carry out federal conditions placed on lands purchased for the Ice Age and North Country Trails using federal funds.

Comparison with rules in adjacent states

These rule change proposals do not represent significant policy changes and, when comparisons can be made, do not differ significantly from surrounding states. The Ice Age Trail is unique to Wisconsin and does not have a counterpart in surrounding states. Michigan and Minnesota manage the North Country Trail in a similar manner to what is being proposed.

Summary of factual data and analytical methodologies

The department owns approximately 75 properties which would be affected by this proposed rule. The rule would allow the department and trail partners to proceed with development and management of these properties and to ensure appropriate public access in accordance with the intended use of the properties.

Small Business Impact

These rules are applicable only to state properties and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule.

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

The department’s Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266–1959.

Environmental Analysis

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

State fiscal effect

The rule does not impose new requirements on the Department to perform work on these properties but would allow for increased flexibility to perform certain management activities where funds and available labor exist. Currently, much of this work is being done, or is proposed to be done by external partners, the Ice Age Trail Alliance and volunteers.

At this time, the special permission needed to perform management work on these properties requires Department staff time to develop the request for submittal to agency management. With these rules in place, that staff time would be decreased and could result in greater efficiencies at the program level.

Local fiscal effect

These properties are wholly managed by the Department; consequently their approval would have no local fiscal effect. By increasing the ability to perform management of these properties to provide basic facilities (constructed trail, parking lot, e.g.), there may be an increase in use of these properties which may benefit local economies.

Anticipated private sector costs

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance to these rules.

State fiscal effect

Indeterminate.

Local government fiscal effect

None.

Fund sources affected

GPR, FED, SEG–S.

Affected Ch. 20 appropriations

Section 20.370 (1) (ea), (mu), (my), Stats.

Long–range fiscal implications

None. New properties will be able to be managed to basic standards upon purchase.

Agency Contact Person

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Email: brigit.brown@wisconsin.gov

Notice of Hearing
University of Wisconsin System
CR 10–104

NOTICE IS HEREBY GIVEN that pursuant to s. 36.30, Stats., the Board of Regents of the University of Wisconsin System will hold a public hearing to consider rules to amend sections UWS 19.01 and 19.03, Wis. Adm. Code, relating to accrual and use of sick leave by faculty, academic staff, and limited appointees of the University of Wisconsin System.

Hearing Information

<u>Date and Time:</u>	<u>Location:</u>
Thursday	Room 1920, Van Hise Hall
November 4, 2010	UW–Madison Campus
9:00 a.m.	1220 Linden Drive
	Madison, WI

Persons with disabilities requesting an accommodation to attend are asked to contact Jane S. Radue in advance of the hearing at (608) 262–2324.

Copies of Proposed Rule

Copies of the text of the proposed rule may be obtained at no charge from Jane S. Radue, Secretary, Board of Regents, 1860 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706; e–mail: jradue@uwsa.edu.

Submittal of Written Comments

Comments may be submitted to: Jane S. Radue, Secretary, Board of Regents, 1860 Van Hise Hall, 1220 Linden Drive, Madison, Wisconsin 53706; E–mail: jradue@uwsa.edu. The deadline for written comments is 4:30 p.m. on **November 3, 2010**.

Analysis Prepared by the Board of Regents of the University of Wisconsin System

Statutes interpreted

Section 36.30, Stats.

Statutory authority

Section 36.30, Stats.

Explanation of agency authority

Section 36.30, Stats., authorizes the Board to promulgate rules regulating sick leave for University of Wisconsin System faculty, academic staff, and employees holding positions under section 20.923 (4g) and (5), Stats.

Related statutes or rules

Sections 40.05 (4) (b), 40.05 (4) (bp), 40.95, 103.10, and 230.12 (9), Stats.

Summary of proposed rule

The proposed rule would amend Ch. UWS 19, Wis. Adm. Code, to change the sick leave reinstatement period for unclassified employees who leave and then return to employment in the UWS from three to five years to be consistent with the current policy for classified staff. The proposed rule also would make a non–substantive correction to the definition of “sick leave” to conform to the federal Family and Medical Leave Act which has changed since Ch. UWS 19 was promulgated.

Comparison with federal regulations

There are no existing or proposed federal regulations for summary and comparison.

Comparison with rules in adjacent states

There are no comparable rules in other states.

Summary of factual data and analytical methodologies

There were no factual data or analytical methodologies used to develop the proposed rules.

Analysis and supporting documents used to determine effect on small business

The proposed rules affect only faculty and academic staff of the University of Wisconsin System. They have no effect on small business.

Agency Contact Person

Christopher L. Ashley, Senior System Legal Counsel
 UW System Administration, 1808 Van Hise Hall
 1220 Linden Drive, Madison, WI 53706
 Telephone: (608) 262–3662
 Email: cashley@uwsa.edu.

Rule Orders Filed with the Legislative Reference Bureau

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

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5

CR 10-039

Revises Chapter Comm 5, relating to building contractor registration.
Effective 12-1-10.

Earned Release Review Commission

CR 09-119

Repeals and recreates Chapter PAC 1, relating to the release of inmates from state prison through parole or other procedures established through 2009 Wis. Act 28.
Effective 12-1-10.

Insurance

CR 10-065

Revises sections Ins 17.01 (3) and 17.28 (6), relating to fiscal year 2011 fund fees and mediation panel fees.
Effective 12-1-10.

Natural Resources

Environmental Protection — General, Chs. NR 100—

CR 09-112

DNR # WT-14-08

Revises Chapters NR 151, 153 and 155, relating to runoff pollution performance standards and prohibitions, the targeted runoff management grant program, and the urban nonpoint source and storm water management grant program, and affecting small business
Effective 12-1-10 or 1-1-11.

Natural Resources

Environmental Protection — Wis. Pollutant Discharge Elimination System, Chs. NR 200—

CR 10-035

DNR # WT-25-08

Revises Chapter NR 217 and repeals and recreates section NR 102.06, relating to phosphorus water quality standards criteria and limitations and effluent standards.
Effective 12-1-10 or 1-1-11.

Public Instruction

CR 10-002

Repeals and recreates section PI 11.36 (6), relating to the identification of children with specific learning disabilities.
Effective 12-1-10.

Public Instruction

CR 10-083

Revises Chapters PI 8 and 34, relating to educator preparation and licensing flexibility.
Effective 12-1-10.

Transportation

CR 10-070

Revises Chapter Trans 100, relating to safety responsibility, damage judgment, and mandatory insurance laws.
Effective 12-1-10.

Workforce Development

Apprenticeship, Chs. DWD 295-296

CR 10-073

Revises Chapter DWD 295, relating to the state apprenticeship program and affecting small businesses.
Effective 12-1-10 or 1-1-11.

Public Notices

Department of Children and Families
Notice under 2009 Wisconsin Act 333, Section (20) (2)
Funding for Expansion of Trial Jobs No Longer Available

The Department of Children and Families has determined that effective October 1, 2010, federal funding from the Temporary Assistance for Needy Families Emergency Fund under the American Recovery and Reinvestment Act of 2009 is no longer available to support an expansion of trial jobs under s. 49.147 (3), Stats., as affected by 2009 Wisconsin Act 333.

The repeal of s. 49.147 (3) (cm) and (dm) and the amendment of s. 49.147 (3) (a) by section 4 of 2009 Wisconsin Act 333 are effective October 1, 2010.

This notice does not affect changes made by Act 333 to the transitional jobs program under s. 49.162, Stats. The Joint Committee on Finance approved an allocation \$17,151,500 of federal American Recovery and Reinvestment Act of 2009 funds to support the transitional jobs demonstration project for the 2010–11 fiscal year. It is assumed that this represents one-half the total funding for the demonstration project.

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