

# Wisconsin Administrative Register

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## Emergency Rules Now in Effect

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

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

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

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

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

*Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at [www.legis.state.wi.us/rsb/code](http://www.legis.state.wi.us/rsb/code).*

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

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### Commerce

#### Fee Schedule, Ch. Comm 2

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

#### Finding of Emergency

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

1. Implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act necessitates most existing public swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets.

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

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

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

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

<b>Publication Date:</b>	<b>December 15, 2008</b>
<b>Effective:</b>	<b>December 15, 2008 through May 13, 2009</b>
<b>Hearing Date:</b>	<b>January 8, 2009</b>

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### Commerce

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

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

#### Finding of Emergency

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

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

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

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

4. The proposed rule has three main benefits to Wisconsin: first, it will enhance the department’s ability to communicate with and educate building contractors throughout the state about their obligations to limit safety and health risks for the citizens of Wisconsin; second, it will enhance the ability of the department to cooperate and coordinate with the Department of Workforce Development relative to their administration of unemployment insurance and workers compensation insurance programs; and third, it will enhance the ability of



the department to cooperate and coordinate with the Department of Revenue relative to their administration of the state income tax program.

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

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

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### Commerce

#### *Elevators, Escalators and Lift Devices, Ch. Comm 18*

**EmR0901**— Rule adopted repealing **s. Comm 18.1702 (8)**, relating to a wear and fatigue monitoring system and a device that protects against suspension loss for electric traction elevators that use smaller sized wire ropes.

#### **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. The recent revision of chapter Comm 18, Elevators, Escalators and Lift Devices, references and adopts the 2007 edition of the national standard ASME A17.1, developed by the American Society of Mechanical Engineers. Effective January 1, 2009, the regulations include a provision, s. Comm 18.1702 (8), that requires a wear and fatigue monitoring system and a device that protects against suspension loss for electric traction elevators using smaller sized wire ropes.

2. The department included the wear and fatigue monitoring system and protection device requirements in anticipation that the next edition of the national ASME A17.1 standard would incorporate a similar provision. The department developed s. Comm 18.1702 (8) based on code language being proposed by the national standard ASME A17.1 Committee.

3. The wear and fatigue monitoring system and the device to protect against suspension loss were not incorporated into the next version of the ASME A17.1. The ASME A17.1 Committee withdrew the section because of implementation concerns, and at this time it is unclear what the final section on suspension ropes and their connections in elevators will include.

4. Because the department adopts by reference the national standard ASME A17.1, it recognizes that without promulgating this emergency rule, there could be confusion in what constitutes recognized safe practices for a monitoring system and protection against suspension loss for electric traction elevators. The department believes that repealing s. Comm 18.1702 (8) will keep the Wisconsin code in alignment with the most current edition of ASME A17.1 and still promote safety.

**Publication Date:** February 5, 2009  
**Effective:** February 5, 2009 through July 4, 2009  
**Hearing Date:** March 2, 2009

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### Commerce

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

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

#### **Exemption From Finding of Emergency**

Under the nonstatutory provisions of 2007 Wisconsin Act 205, the Department of Commerce is directed to issue emergency rules that implement provisions of the Act. The Act specifically states: “Notwithstanding section 227.24 (1) (a) and (3) of the statutes, neither the department of commerce or the department of health services is required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.”

The Act mandates the installation and maintenance of carbon monoxide alarms in buildings accommodating certain types of residential occupancies and within which fuel burning appliances are located. Residential occupancies include tourist rooming houses, bed and breakfast establishments, and any public building that is used for sleeping or lodging, such as, hotels, motels, condominiums, apartment buildings, dormitories, fraternities, sororities, convents, seminaries, community based residential facilities, home shelters, but not hospitals and nursing homes. The Act requires the installation of carbon monoxide alarms in new buildings as of October 1, 2008. The owners of existing buildings will have until April 1, 2010 to install the carbon monoxide alarms. The Act also provides for the omission of carbon monoxide alarms in certain instances which are further clarified by the administrative rules.

**Publication Date:** September 10, 2008  
**Effective:** October 1, 2008 through the date permanent rules become effective  
**Hearing Date:** October 14, 2008

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### Commerce

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

**EmR0823** — Rules adopted amending **Comm Table 108.6–1, sections Comm 108.07 (5), 108.22 (1), and 154.06 (intro.)**, relating to emergency assistance grants in the community development block grant program, and affecting small businesses.

#### **Finding of Emergency**

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



safety, and welfare. The facts constituting the emergency are as follows.

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

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

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

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

**Publication Date:** July 16, 2008  
**Effective:** July 16, 2008 through  
 December 12, 2008  
**Hearing Date:** August 27, 2008  
**Extension Through:** April 11, 2009

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### Corrections

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

#### Finding of Emergency

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

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

establish a rule to require persons who are subject to GPS tracking or PPS tracking to pay the cost of tracking.

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

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

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

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### Government Accountability Board

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

#### Finding of Emergency

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

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

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

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

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### Health Services (2)

(Formerly Health and Family Services)

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

- EmR0832** — Rule adopted to repeal s. **HFS (DHS) 12.03 (15)** and to create ss. **HFS (DHS) 12.03 (20m), 12.115**

and **Table HFS (DHS) 12.115**, relating to background checks of individuals who provide personal care services, and affecting small businesses.

#### **Finding of Emergency**

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

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

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

**Publication Date:** October 20, 2008  
**Effective:** November 1, 2008 through March 30, 2009  
**Hearing Date:** January 6, 2009  
**Extension Through:** May 29, 2009

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

#### **Finding of Emergency**

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

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

Amending s. HFS 10.23 (2) (d) 2., to allow disability benefit specialists to report abuse, neglect, or financial exploitation under ss. 46.90 (4) (ar) and 55.043 (1m) (br), Stats., would help to ensure that elder adults and adults-at-risk who may have been abused, neglected, or financially exploited are brought to the attention of the abuse, neglect and exploitation response systems outlined under ss. 46.90 and 55.043, Stats.

**Publication Date:** November 3, 2008  
**Effective:** November 3, 2008 through April 1, 2009  
**Hearing Date:** January 27, 2009  
**Extension Through:** May 31, 2009

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### **Military Affairs — Wisconsin Emergency Management**

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

#### **Finding of Emergency**

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

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

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

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### **Pharmacy Examining Board**

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

#### **Finding of Emergency**

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

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

First, under s. Phar 4.02 (1) and (3), an applicant is required to take and pass the Multi-State Pharmacy Jurisprudence Examination (MPJE) and the North American Pharmacist Licensure Examination (NAPLEX). Both of these

examinations test competencies that relate to subject areas that are also tested in the practical examination. As a result, applicants are required to take an additional examination, and pay an additional examination fee. In some instances, this step may also result in a delay in the processing of applications for licensure.

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

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

### Regulation and Licensing (2)

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

#### Exemption From Finding of Emergency

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

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

(See the Notice in this Register)

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

#### Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104.

Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

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

### Revenue

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

#### Exemption From Finding of Emergency

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

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

### Transportation

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

#### Finding of Emergency

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

**Publication Date:** November 5, 2008  
**Effective:** November 5, 2008 through April 3, 2009  
**Hearing Date:** December 2, 2008  
**Extension Through:** April 30, 2009



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### Wisconsin Technical College System Board

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

#### Finding of Emergency

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

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

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

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

**Publication Date:** March 20, 2009

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

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### Workforce Development

*Public Works Construction Contracts,  
Chs. DWD 290–294*

**EmR0838** – Rules adopted revising **s. DWD 290.155 (1)**, relating to the adjustment of thresholds for application of prevailing wage rates.

#### Finding of Emergency

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

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

**Publication Date:** December 29, 2008

**Effective:** January 1, 2009 through May 30, 2009

**Hearing Date:** February 12, 2009

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## Scope Statements

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### Commerce

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

#### Subject

Revises Chapter Comm 106, relating to the Wisconsin Development Fund.

#### Objective of the Rule

This rulemaking is primarily intended to update chapter Comm 106 to make it consistent with the portions of 2007 Wisconsin Act 20 that address the Wisconsin Development Fund, as administered by the Department under subchapter V of chapter 560 of the Statutes. This rulemaking may also include updating chapter Comm 106 to make it consistent with current industry and administrative practices, and with other recent or upcoming legislation affecting this Fund.

#### Policy Analysis

The Department has various rules for administering several economic development programs, but those rules typically do not include the expected text in the proposed rule changes that would more effectively direct economic development grants and loans towards capital financing, worker training, entrepreneurial development, providing assistance to technology-based business or to businesses at a foreign trade show or event, promoting urban or regional economic development, establishing revolving loan funds, providing working capital, and promoting employee ownership.

The alternative of not promulgating these rule changes would result in chapter Comm 106 continuing to be inconsistent with overriding, recently enacted criteria in subchapter V of chapter 560 of the Statutes.

#### Statutory Authority

Sections 560.602, 560.68 and 227.11 (2) (a), Stats.

#### Comparison with Federal Regulations

The Department is not aware of any existing or proposed federal regulation that addresses these expected rule changes.

#### Entities Affected by the Rule

These rule changes may affect any entity that chooses to apply for or accept an economic development grant or loan from the Wisconsin Development Fund, as administered by the Department.

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

The staff time needed to develop the rule changes is expected to range from 80 to 160 hours, depending upon the associated complexity. This includes research, rule drafting, and processing the rules through public hearings, legislative

review, and adoption. There are no other resources necessary to promulgate the rules.

### Natural Resources

#### *Environmental Protection*

#### *Chs. NR 100—, Chs. NR 200— and Chs. NR 300—*

#### Subject

Revises Chapters NR 102, 103, 105, 106, 108, 110, 114, 150, 200, 203, 205, 210, 212, 213, 214, 299, 328, and 341, relating to the Watershed Management Bureau administrative rule “clean-up” package.

#### Objective of the Rule

To fix typographical errors, make minor updates and clarifications, ensure consistency between chapters and with federal requirements and other minor revisions to the administrative rules used by the Bureau of Watershed Management.

#### Policy Analysis

No policy changes are proposed.

#### Statutory Authority

Sections 30.12, 30.19, 227.11, 281.15, 281.41, 283.11, 283.31, 283.37, 283.39, and 283.49, Stats.

#### Comparison with Federal Regulations

We intend to make our rules consistent with federal regulations with this rule package.

#### Entities Affected by the Rule

The interested and impacted groups may be wide ranging because of the rule chapters involved but the impact will be minor because the department will not be proposing any major policy changes. These rules apply to the Bureau of Watershed Management.

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

The department estimates that approximately 200 hours of existing staff time will be needed to develop these recommended rule clean-up changes.

#### Contact Information

Susan Sylvester  
DNR — Bureau of Watershed Management  
101 S. Webster Street  
PO Box 7921  
Madison, WI 53707–7921  
Phone: 608–266–1099  
Susan.Sylvester@wisconsin.gov

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# Submittal of Rules to Legislative Council Clearinghouse

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

## Commerce

### *Licenses, Certifications and Registrations, Ch. Comm 5* **CR 09–028**

On March 31, 2009, the Department of Commerce submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

The proposed order revises Chapter Comm 5, relating to the licensing of electricians.

#### Agency Procedure for Promulgation

A public hearing is required and is scheduled for April 29, 2009. The Safety and Buildings Division is responsible for promulgation of the rules.

#### Contact Information

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

## Commerce

### *Licenses, Certifications and Registrations, Ch. Comm 5* *Electrical, Ch. Comm 16* **CR 09–029**

On March 31, 2009, the Department of Commerce submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

The proposed order revises Chapters Comm 5 and 16, relating to electrical inspection.

#### Agency Procedure for Promulgation

A public hearing is required and is scheduled for April 29, 2009. The Safety and Buildings Division is responsible for promulgation of the rules.

#### Contact Information

Joe Hertel, Program Manager  
Phone: (608) 266–5649  
Email: joe.hertel@wisconsin.gov

## Insurance

### **CR 09–027**

On March 27, 2009, the Office of the Commissioner of Insurance submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

## Analysis

The proposed order revises section Ins 2.81, Wis. Adm. Code, relating to use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for preneed funeral life insurance products.

#### Agency Procedure for Promulgation

The date for the public hearing is May 7, 2009.

#### Contact Information

A copy of the proposed rule may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting:

Inger Williams  
OCI — Public Information and Communications  
Phone: (608) 264–8110

For additional information, please contact:

James W. Harris, OCI Legal Unit  
Phone: (608) 267–2833  
Email: james.harris@wisconsin.gov

## Veterans Affairs

### **CR 09–025**

On March 19, 2009, the Department of Veterans Affairs submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

The proposed order revises section VA 2.01 (1), relating to the assistance to needy veterans grant program.

The amendment of VA 2.01 (1) (f) and (n) and the creation of VA 2.01 (1) (u) will refine the definition of health care assistance available under this program. The program is intended to provide health care assistance to those veterans who are not eligible for the federal assistance offered to veterans. Current definitions of “dental care” and “hearing care” do not provide sufficient direction for health care professionals in providing necessary services to eligible veterans and no definition exists for “vision care” in the current program. The modification of the definitions of “dental care” and “hearing care”, as well as the creation of a definition for “vision care” will allow veterans to receive a reasonable modicum of the benefits available to those veterans eligible for federal assistance.

#### Agency Procedure for Promulgation

A public hearing is required and will be scheduled at a later date. The Office of the Secretary is primarily responsible for preparing the rule.



**Contact Information**

James A. Stewart, Chief Legal Counsel  
30 W. Mifflin Street  
P.O. Box 7843  
Madison, WI 53707–7843  
Phone: (608) 266–3733  
Email: jimmy.stewart@dva.state.wi.us

**Veterans Affairs  
CR 09–026**

On March 19, 2009, the Department of Veterans Affairs submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed order revises section VA 2.01 (2) and (3), relating to the assistance to needy veterans grant program.

The amendment of VA 2.01 (2) (a) will limit the period for which a subsistence aid application can be made and require the applicant to list all available assets the applicant has at the time of application for the benefit. The amendment to VA

2.01 (2) (b) will allow the use of concurrent applications in the health care aid program if written and binding quotes for the health care procedures have been submitted to the department. The amendment to VA 2.01 (3) (b) will allow applicants to apply for subsistence aid at any point in the 90 day period following the applicant’s loss of income from an illness, injury or natural disaster. The amendment to VA 2.01 (3) (c) will update the restrictions identified in the program in accordance with the amendments to the statute enacted in 2007.

**Agency Procedure for Promulgation**

A public hearing is required and will be scheduled at a later date. The Office of the Secretary is primarily responsible for preparing the rule.

**Contact Information**

James A. Stewart, Chief Legal Counsel  
30 W. Mifflin Street  
P.O. Box 7843  
Madison, WI 53707–7843  
Phone: (608) 266–3733  
Email: jimmy.stewart@dva.state.wi.us

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## Rule–Making Notices

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### Notice of Hearing

#### Commerce

#### *Licenses, Certifications and Registrations, Ch. Comm 5*

#### CR 09–028

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.82, 101.84 (3), 101.862, and 101.87, Stats., as affected by 2007 Wisconsin Act 63, the Department of Commerce will hold a public hearing on proposed rules under Chapter Comm 5, relating to licensing of electricians and affecting small business.

#### Hearing Information

##### **Date and Time:**

**April 29, 2009**

10:00 a.m.

##### **Location:**

Conference Room 3B

Thompson Commerce Center

201 West Washington Avenue

Madison

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266–8741 or (608) 264–8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

#### Appearances at Hearing and Submission of Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on the proposed rules will remain open until May 15, 2009, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701–2689, or Email at [jim.quast@wisconsin.gov](mailto:jim.quast@wisconsin.gov).

#### Copies of Proposed Rules

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at [www.commerce.wi.gov/SB/](http://www.commerce.wi.gov/SB/). Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689, or Email at [roberta.ward@wisconsin.gov](mailto:roberta.ward@wisconsin.gov), or at telephone (608) 266–8741 or (608) 264–8777 (TTY). Copies will also be available at the public hearing.

#### Analysis Prepared by Department of Commerce

##### *Statutes interpreted*

Sections 101.82, 101.84 (3), 101.862 and 101.87, Stats., as affected by 2007 Wisconsin Act 63.

##### *Statutory authority*

Sections 101.02 (1), and 101.82 and 101.84 (3), Stats., as affected by 2007 Wisconsin Act 63.

##### *Related statute or rule*

None.

##### *Explanation of agency authority*

Currently, municipalities determine on an individual basis whether the persons undertaking electrical construction wiring need to be certified. The department certifies electricians on a voluntary basis to facilitate fulfillment of municipal certification requirements. The enactment of 2007 Wisconsin Act 63 will require persons performing electrical construction wiring any where in state on and after April 1, 2013 to be licensed by the department. Local municipal licensing requirements and programs for electricians will also end on April 1, 2013.

##### *Summary of proposed rules*

The proposed rules establish administrative procedures for licensing of electrical contractors and electricians as mandated by 2007 Wisconsin Act 63.

##### *Comparison with federal regulations*

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding the licensing of electrical contractors and electricians.

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

###### *Illinois:*

Illinois does not license or certify electricians or electrical contractors at the state level. Electrical licensing and certification is at the discretion of the local municipality.

###### *Iowa:*

As of January 1, 2008 Iowa requires electrical contractors and electricians to be state licensed. License types for electricians includes master, journeyman, apprentice, unclassified and special. A special electrician licenses carries one or more of the following endorsements: irrigation system wiring, disconnecting and reconnecting existing air conditioning and refrigeration systems, sign installation, and residential.

###### *Michigan:*

Michigan law requires the licensing of electrical contractors and electricians to install any electric wiring, devices, appliances, or appurtenances for the generation, distribution and utilization of electrical energy within or on any building, structure or property. Michigan also provides a number of licensing exemptions similar to that addressed under s. 101.862 (4), Stats.

###### *Minnesota:*

Minnesota law dictates that electrical work be performed by state licensed electrical contractors and electricians or under the direct supervision of licensed electricians. The contractor's license is a business type credential and not a personal license allowing the individual to perform electrical work or supervision. The state's licensure process includes an examination.

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

The proposed rules were developed by reviewing the provisions under 2007 Wisconsin Act 63, in conjunction with

the current electrical certification rules under ch. Comm 5. The rules were developed with input from the Comm 16 Electric Code Advisory Council.

### **Small Business Impact**

The proposed rules implement the mandates imposed by 2007 Wisconsin Act 63. The department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the Act.

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

### **Initial regulatory flexibility analysis**

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

The proposed rules establish administrative procedures for mandatory licensing of electrical contractors and electricians as directed by 2007 Wisconsin Act 63. Currently, the department provides an electrician certification program that complements local licensing/certification requirements. The Act and the rules affect those businesses and individuals currently not certified by the department that install, repair, or maintain electrical construction wiring, unless statutorily exempted.

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

The renewal of electrician licenses will continue to be contingent upon the fulfillment of continuing education obligations.

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

No other types of professional skills are necessary for compliance with the rules.

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

No.

### **Small business regulatory coordinator**

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

### **Environmental Impact**

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

### **Fiscal Estimate**

#### **Summary**

The proposed rules implement the licensing mandates imposed by 2007 Wisconsin Act 63 relating to electrical contractors and electricians. The department currently administers a program for the certification of electricians and electrical contractors who then use the certification to obtain a license in municipalities which require licensing. The provisions of Act 63 requiring state–wide licensure are effective April 1, 2013.

The department estimates that an additional 10,000 electricians and electrical will obtain license prior to April 1, 2013. The current 4–year license fees for an electrical contractor is \$200, a master electrician \$200, a journeyman electrician \$100 and a beginning electrician \$20. This will then result in additional annual revenues of \$458,500 with 2013 implementation.

The department anticipates that workload associated with this licensing can be absorbed within current resources and staff levels.

### **State fiscal effect**

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

### **Local government fiscal effect**

None.

### **Long–range fiscal implications**

No long–range fiscal implications are anticipated.

### **Agency Contact Person**

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

## **Notice of Hearing**

### **Commerce**

### **Licenses, Certifications and Registrations, Ch. Comm 5 Electrical, Ch. Comm 16**

#### **CR 09–029**

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1), 101.82 (2m), and 101.84 (3), Stats., the Department of Commerce will hold a public hearing on proposed rules under Chapters Comm 5 and 16, relating to electrical inspection.

### **Hearing Information**

#### **Date and Time:**

**April 29, 2009**  
 10:00 a.m.

#### **Location:**

Conference Room 3B  
 Thompson Commerce Center  
 201 West Washington Avenue  
 Madison

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266–8741 or (608) 264–8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

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

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until May 15, 2009, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701–2689, or Email at: [jim.quast@wisconsin.gov](mailto:jim.quast@wisconsin.gov).

### **Copies of Proposed Rules**

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

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

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

Sections 101.82 (2m), 101.862, and 101.88, Stats., as affected by 2007 Wisconsin Act 63.

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

Sections 101.02 (1), 101.82 (2m), and 101.84 (3), Stats., as created by 2007 Wisconsin Act 63.

#### ***Related statute or rule***

None.

#### ***Explanation of agency authority***

Section 101.82 (1), Stats., grants the Department of Commerce general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the installation, repair and maintenance of electrical wiring. Section 101.82 (2m), Stats., directs the Department to establish an inspection program for electrical wiring.

#### ***Summary of proposed rules***

Primarily, the proposed rules establish a state wide inspection program for electrical wiring installations for farms, public buildings and places of employment. The program will require electrical permits to be obtained for new electrical services, new electrical feeders and new branch circuits. The permits will result in electrical inspections being conducted before the wiring is to be energized and concealed. A final inspection will also be required once the installation is completed. Permits are to be obtained from commercial building inspection agencies that will provide the inspections. Inspection agencies will be either municipalities or third party independent entities as designated by the Department. The cost of the permits and the resulting inspections will be determined by the respective enforcing municipal inspection agency or by the state contract procurement process when involving an independent building inspection agency. The inspections will be conducted by certified commercial electric inspectors. The rules do not restrict municipalities from enacting a more robust permitting and inspection program.

The proposed rules also establish plan submittal requirements for proposed fire pump installations regulated under section 695 of the adopted National Electrical Code.

The proposed rules also rearrange the material and subchapters within chapter Comm 16.

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

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding inspection of electrical wiring installations.

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

##### ***Illinois:***

Illinois does not administer a state electrical inspection program.

##### ***Iowa:***

Iowa is to implement an electrical inspection program as of March 1, 2009. Inspections are required of new electrical installations for commercial and industrial applications, public–use buildings and facilities, and residential applications in excess of single–family and new electrical service equipment for single–family applications. Permits are required to commence electrical installations. Inspections are to be conducted by state inspectors or by certified local inspectors.

##### ***Michigan:***

With the exception of farms and universities, Michigan requires electrical permits and inspections for electrical installations costing more than \$100. The inspections are typically conducted by state certified electrical inspectors for municipalities that meet state minimum requirements. Where municipal inspection is not provided state inspectors conduct the inspections.

##### ***Minnesota:***

In Minnesota, all new electrical wiring installations are subject to inspection with the exception of minor repairs. Requests for inspections are to be made by the person responsible of the installation to an enforcing municipality recognized by the state or the state for non–enforcing municipalities. State electrical inspections are conducted by contracted inspectors under the oversight of regional state representatives. All inspectors are either licensed journeyman or master electricians.

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

The proposed rules for a state wide electrical inspection program were developed based upon the following:

- The mandates and the objectives of 2007 Wisconsin Act 63 with respect to electrical inspections.
- The state wide inspection program for the construction of new one– and two family dwellings.
- Current municipal electrical inspection schemes as well other state programs besides the four bordering states.

A working draft of the proposed rules was shared with the Electrical Code Advisory Council for their input. The Council’s membership includes electrical contractors and municipal inspectors.

#### ***Small Business Impact***

Pursuant to 2007 Wisconsin Act 63, the proposed electrical inspection program for farms, public buildings and places of employment will affect all electrical contractors installing electrical wiring in and for such establishments as well the owners or tenants of these establishments. The rules will require obtaining permits before electrical wiring installations commence for farms, public buildings and places of employment. The issuance of the permits will result in periodic construction inspections by enforcing municipal or independent building inspection agencies during the electrical wiring installation. The cost of the permits and the resulting inspections will be determined by the respective enforcing municipal inspection agency or by the state contract procurement process when involving an independent building inspection agency. Many of the more populous municipalities in the state currently administer electrical permit and inspection program. Municipal electrical permits and inspections are typically determined on the basis of a base fee plus a cost for each electrical opening which varies with the size and type of building and occupancy. The Department does not believe that the proposed rules will increase the effect on small businesses over that imposed by the Act.



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

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

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

The proposed electrical inspection program for farms, public buildings and places of employment will affect all electrical contractors installing electrical wiring in and for such establishments as well the owners or tenants of these types of buildings and structures.

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

The rules will require obtaining permits before electrical wiring installations commence for farms, public buildings and places of employment.

The issuance of the permits will result in periodic inspections by enforcing municipal or independent building inspection agencies during the electrical wiring installation.

The cost of the permits and the resulting inspections will be determined by the respective enforcing municipal inspection agency or by the state contract procurement process when involving an independent building inspection agency.

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

The proposed changes do not require any type of professional skills for compliance.

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

No.

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

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

### **Environmental Impact**

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

### **Fiscal Estimate**

#### ***Summary***

To implement the proposed electrical inspection program the Department proposes to establish a commercial building inspection agency registration. The agencies will be responsible for issuing permits and inspecting electrical wiring installations for farms, public buildings and places of employment. The inspections are required to be conducted by Department certified commercial electrical inspectors. Both municipalities and third–party independent inspection agencies will need to register with the Department. The cost of the registration would be \$40 for four years with an initial application fee of \$15. The Department estimates that 300 municipalities will elect to obtain the registration and 150 third–party independent inspection agencies will also register. Based upon these assumptions the Department revenues would increase by \$24,750 or approximately \$6,200

annualized. The 2009 Executive Budget Bill, AB75, includes 2 FTE positions to assist in the implementation of the electrical inspection program. The positions are to be funded by electrician licensing fees and the building inspection agency registration revenue of \$6,200.

The proposed electrical inspection program for farms, public buildings and places of employment will affect all electrical contractors installing electrical wiring in and for such establishments as well the owners or tenants of these types of buildings and structures. The issuance of the permits will result in periodic construction inspections by enforcing municipal or independent building inspection agencies under contract with the Department. The cost of the permits and the resulting inspections will be determined by the respective enforcing municipal inspection agency or by the state contract procurement process when involving an independent building inspection agency. Many of the more populous municipalities in the state currently administer electrical permit and inspection programs. Municipal electrical permits and inspections are typically determined on the basis of a base fee plus a cost for each electrical opening which varies with the size and type of building and occupancy.

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

Increase existing revenues. An increase in costs may be possible to absorb within agency's budget.

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

Permissive increase in costs. Permissive increase in revenues.

#### ***Types of local governmental units affected***

Towns, villages, cities, counties.

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

PRO.

#### ***Long–range fiscal implications***

No long–range fiscal implications are anticipated.

#### **Agency Contact Person**

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

### **Notice of Hearing**

#### **Health Services**

***Management and Technology and Strategic Finance,  
Chs. DHS 1—***

**CR 09–003**

NOTICE IS HEREBY GIVEN that pursuant to ss. 46.286 (7) and 227.11 (2) (a), Stats., the Wisconsin Department of Health Services will hold a public hearing on a proposed rule to revise Chapter DHS 10, relating to fair hearings and continuation of benefits pending the outcome of a grievance, department review, or fair hearing under the family care program.

#### **Hearing Information**

<b><u>Date and Time</u></b>	<b><u>Location</u></b>
<b>April 30, 2009</b> 9:00 – 10:00 am	Department of Health Services 1 W. Wilson Street Room 518 B Madison, Wisconsin

The hearing site is fully accessible to people with disabilities. If you are hearing impaired, do not speak English or have circumstances that might make communication at a hearing difficult; you require an interpreter or a non–English

large print or taped version of the proposed rules, contact the person at the address or telephone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

### **Submission of Written Comments**

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

The deadline for submitting comments to the Department is 4:30 p.m. on May 7, 2009.

### **Analysis Prepared by the Department of Health Services**

#### ***Statute interpreted***

Section 46.287, Stats.

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

Sections 46.286 (7) and 227.11 (2) (a), Stats.

#### ***Explanation of agency authority***

Section 46.286 (7), Stats., requires the Department to promulgate rules relating to the recovery of correctly or incorrectly paid Family Care Benefits. Section 227.11 (2) (a), Stats., permits the Department to promulgate rules of any statute interpreted or enforced by the Department, if the Department considers it necessary to effectuate the purpose of the statute.

#### ***Related statute or rule***

Section 46.287, Stats.

#### ***Plain language analysis***

Under this proposed order, the Department is providing an exception to the right to a fair hearing and continuation of services during a fair hearing, grievance, or Department review when Family Care benefits are reduced or terminated by an act or decision by the federal government or the state legislature and the individual whose benefits have been terminated or reduced does not dispute that he or she falls within the category of persons for whom the benefit was reduced or terminated.

The proposed exception was originally promulgated by the Department under an emergency order effective April 7, 2008, after eligibility of non–Medicaid individuals to receive Family Care benefits was rescinded under 2007 Act 20, and after the federal Centers for Medicare & Medicaid Services eliminated, for individuals who did not require non–nursing home level of care, home and community–based services.

Section DHS 10.55, provides enrollees with a right to fair hearing when services are reduced or terminated, or eligibility is denied, and the option to continue services during an appeal. Persons who receive continuation of services are responsible to pay for the services if they lose on appeal.

Individuals whose benefits have been terminated or reduced under state or federal law or policy and who does not dispute that he or she falls within the category of persons for whom the benefit was reduced or terminated would lose the appeal and be responsible for paying the cost of any continued services they received. The cost could amount to thousands of dollars. The Department has determined that such situations may be detrimental to the welfare of the affected individuals and should be prevented.

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

There are similar provisions in Medicaid rules at 42 CFR §431.220(b), which provides that the State Medicaid Agency “need not grant a hearing if the sole issue is a Federal or State law requiring an automatic change adversely affecting some or all recipients.” And, at 42 CFR § 431.230(a)(1), which provides that individuals have a right to continuation of services pending the outcome of an appeal unless, “it is determined at the hearing that the sole issue is one of Federal or State law or policy.”

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

#### ***Illinois:***

Illinois does not have a program similar to Family Care.

#### ***Iowa:***

Iowa does not have a program similar to Family Care.

#### ***Michigan:***

Michigan does not have a program similar to Family Care.

#### ***Minnesota:***

Minnesota does not have a program similar to Family Care.

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

The Department assessed the adverse impact on individuals affected by previous changes in benefits as a result of changes in state statute and federal policy.

### ***Small Business Impact***

The rules would not have an effect on businesses.

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

Rosie Greer

[Greerj@dhfs.state.wi.us](mailto:Greerj@dhfs.state.wi.us)

608–266–1279

### ***Fiscal Estimate***

The proposed rule will have no immediate fiscal impact, but may result in an indeterminate decrease in future costs to the state and to Family Care managed care organizations (MCOs). Some MCOs are units of county government. Some MCOs are private non–profit organizations, which are not small businesses. The potential future decrease in costs to the state and to MCOs will result from not being required to assign staff to conduct or participate in fair hearings in which the appellant cannot be successful. In addition, MCOs may have decreased costs because they will not be required to continue to provide services during an appeal in which the appellant cannot be successful.

### ***Copies of Rules and Fiscal Estimate***

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

### ***Agency Contact Person***

Charles Jones

Division of Long Term Care

1 W. Wilson St., Room 518

P.O. Box 7851

Madison, WI 53707–7851

Email: [jonescm@dhfs.state.wi.us](mailto:jonescm@dhfs.state.wi.us)

Phone: (608) 266–0991

TTY: (888) 241–9432



## Notice of Hearing

### Insurance

#### CR 09–027

NOTICE IS HEREBY GIVEN That pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth under s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of rules revising section Ins 2.81, Wis. Adm. Code, relating to use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for preneed funeral life insurance products.

#### Hearing Information

**Date:** May 7, 2009  
**Time:** 10:00 a.m., or as soon thereafter as the matter may be reached  
**Place:** OCI, Room 227, 2<sup>nd</sup> Floor  
 125 South Webster Street  
 Madison, WI

#### Submission of Written Comments

Written comments can be mailed to:

James W. Harris  
 Legal Unit – OCI Rule Comment for Rule Ins 281  
 Office of the Commissioner of Insurance  
 PO Box 7873  
 Madison WI 53707–7873

Written comments can be hand delivered to:

James W. Harris  
 Legal Unit – OCI Rule Comment for Rule Ins 281  
 Office of the Commissioner of Insurance  
 125 South Webster St – 2<sup>nd</sup> Floor  
 Madison WI 53703–3474

Comments can be emailed to:

James W. Harris  
 james.harris@wisconsin.gov

Comments submitted through the Wisconsin Admin. Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in this Notice of Hearing.

#### Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

##### *Statutes interpreted*

Sections 600.01, 601.41(3), 601.42, 623.06 and 628.34 (12), Stats.

##### *Statutory authority*

Sections 600.01 (2), 601.41 (3), 601.42 (3), 623.03, 623.04, 623.06, and 632.43, Stats.

##### *Explanation of agency authority*

The proposed rule is promulgated under the commissioner’s authority to prescribe valuation and reserve liabilities and accounting standards and reporting for insurers.

#### *Related statutes or rules*

The proposed rule relates to existing rules prescribing valuation of liabilities, nonforfeiture values, and actuarial reporting and analysis under ss. 601.42, 623.06 and 632.43, Stats., and ss. Ins 2.80 and ch. Ins 50, Wis. Adm. Code.

#### *Plain language analysis*

Section Ins 2.81, Wis. Adm. Code, sets forth the requirements for use of the 2001 commissioners standard ordinary (CSO) mortality table by insurers, meeting prescribed conditions, in determining minimum reserve liabilities and minimum nonforfeiture values, which may be used for policies issued on or after January 1, 2005, and before January 1, 2009, and which shall be used for policies issued on or after January 1, 2009. Research completed by the Deloitte University of Connecticut Actuarial Center commissioned by the Society of Actuaries as a part of a study of preneed mortality, determined that the 2001 CSO Mortality Table produces inadequate reserves for policies issued to fund funeral services and expenses. The proposed rule provides that for determining the minimum mortality standard for determining reserve liabilities and nonforfeiture values for funeral policies as defined in s. 632.415, Stats., insurers shall use the 1980 commissioners standard ordinary (CSO) mortality table. Insurers may elect to use the 2001 CSO mortality table for funeral policies issued on or after January 1, 2009, and before January 1, 2012, provided the insurer certifies to the commissioner with supporting information that the reserve methodology employed by the insurer using the 2001 CSO mortality table as a minimum standard develops adequate reserves.

#### *Comparison with federal regulations*

There are no federal regulations which address use of mortality tables to establish reserve liabilities and nonforfeiture values for insurers doing business in Wisconsin.

#### *Comparison of rules in adjacent states*

##### *Illinois:*

Ill. Ch. 215 ILCS 5/223, ff., permits use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table, with apparent permissive authority to use later tables adopted by the NAIC. The regulation does not differentiate for funeral policies.

##### *Iowa:*

Iowa Adm. Code 191–94.3, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table. The regulation does not differentiate for funeral policies.

##### *Michigan:*

Mich. Comp. Laws, s. 500.838a, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table. The regulation does not differentiate for funeral policies.

##### *Minnesota:*

Minn. Stat. Ch. 61A.257, permits the use for purposes of reserve valuation, under prescribed conditions, of the 2001 CSO Preferred Class Structure Mortality Table. The regulation does not differentiate for funeral policies.

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

OCI review of NAIC models and recommendations based upon preneed mortality studies with respect to the adequacy of financial reserves, and insurer’s financial information.

***Analysis and supporting documentation used to determine rule's effect on small businesses***

This rule relates to insurer determination of minimum reserves and there is no significant effect on small businesses.

**Small Business Impact**

This rule will have little or no effect on small businesses.

***Small business regulatory coordinator***

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address [eileen.mallow@wisconsin.gov](mailto:eileen.mallow@wisconsin.gov)

**Fiscal Estimate**

***Summary***

There will be no state or local government fiscal effect.

This rule change will have no significant effect on the private sector regulated by OCI.

***State fiscal effect***

None.

***Local government fiscal effect***

None.

***Long-range fiscal implications***

None.

**Copies of Proposed Rule and Agency Contact Person**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting:

Inger Williams, OCI Services Section

Phone: (608) 264-8110

Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)

Address: 125 South Webster Street, 2<sup>nd</sup> Floor  
PO Box 7873, Madison WI 53707-7873

**Notice of Proposed Rulemaking  
Labor and Industry Review Commission  
CR 09-014**

NOTICE IS HEREBY GIVEN That pursuant to s. 103.04 (2), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Labor and Industry Review Commission **will adopt the following rule as proposed in this notice, without public hearing unless, within 30 days after publication of this notice on April 15, 2009**, the Labor and Industry Review Commission is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality that will be affected by the rule; or an association that is representative of a farm, labor, business or professional group that will be affected by the rule.

The Wisconsin Labor and Industry Review Commission proposes an order to amend sections LIRC 1.025 (3) and (4), 2.05, 3.05, and 4.04, relating to the rules of practice and procedure before the commission.

**Submission of Written Comments**

Written comments pertaining to the proposed rules should be submitted to the Wisconsin Labor and Industry Review Commission, P.O. Box 8126, Madison WI 53708-8126. Facsimile: (608) 267-4409.

The deadline for submission is 30 days from the date of the publication of the 30 day notice in this Register.

**Copies of Proposed Rules**

A copy of the proposed rules and the full fiscal estimate may be obtained from the Labor and Industry Review Commission upon request.

**Analysis Prepared by Labor and Industry Review Commission**

***Statutes interpreted***

Sections 40.65 (2), 102.18 (3) and (4), 106.52 (4), 106.56 (4), 108.09 (6), 108.10 (2) and (3), 111.39 (5) (a), 303.07 (7) and 303.21, Stats., allow parties to file petitions for commission review and describe the process by which the commission conducts such review. The proposed rule amendments provide minor clarifications and updates.

***Statutory authority***

Section 103.04 (2), Stats.

***Explanation of agency authority***

The Labor and Industry Review commission reviews and decides appeals of decisions of administrative law judges of the Department of Workforce Development in cases arising under Wisconsin's unemployment insurance, workers compensation, employment discrimination and public accommodations discrimination laws. The commission's rules govern procedure in such appeals.

***Related statute or rule***

No federal statute or regulation requires adoption of the proposed rules or are relevant to the substance of the proposed rules. Wisconsin Statutes ss. 102.23(1)(a), 227.53(1)(a)3. and 801.50(2)(a) establish the circuit court venue provisions clarified in the rule amendments at LIRC 2.05, 3.05 and 4.04.

***Plain language analysis***

Current rules allow petition for commission review from decisions by administrative law judges of the Department of Workforce Development to be filed by facsimile transmission. Under the rule, petitions faxed and received on a given day are considered to have been received on that day, for purposes of determining timeliness, even if they are received after regular office hours. The LIRC rule conflicts with the rule of the DWD Equal Rights Division (ERD), which treats faxed documents received after regular office hours as having been received on the next business day. The ERD rule applies, because ERD is the only authorized entity to accept petitions for commission review from ERD decisions. This proposal amends the LIRC rule to clarify the special timeliness circumstances applicable to petitions from ERD decisions.

Current s. LIRC 1.025 (4) contains a reference to the internet page for filing a LIRC petition for review in UI. A DWD agency wide email migration changes the internet "address" or page to a revised format, which is substituted in the proposed rule.

Current LIRC rules regarding judicial review erroneously state that out of state plaintiffs or petitioners should commence actions for judicial review in Dane County. This is based on outdated statutory and case law. Sections 801.50 (2) (a) and 227.53 (1) (a) 3., of the statutes provide that actions for judicial review by out of state plaintiffs or petitioners shall be commenced in the county where the claim or dispute arose. The proposed rule amendment corrects the error.

***Comparison with federal regulations***

There are no federal regulations governing practice and procedure before the commission.

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

Adjacent states have higher–level administrative authorities (excepting Minnesota) for deciding appeals in unemployment insurance, workers compensation and employment discrimination cases which are analogous to the Wisconsin Labor and Industry Review Commission. Rules of practice of such authorities are generally comparable to those of the commission.

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

The commission has not collected any data or conducted any analyses in connection with its development of these proposed rule changes.

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

The commission has not collected any data or conducted any analyses in connection with its development of these proposed rule changes.

**Small Business Impact**

The commission's rules of procedure affect small businesses when they are parties to cases pending before the commission. The proposed rule changes simply clarify existing rules and are not anticipated to have any effect on small businesses.

**Fiscal Estimate*****Assumptions used in arriving at fiscal estimate***

These minor rule changes involve only clarification of existing procedural matters, including the filing of electronic appeals to the commission and the proper venue for circuit court review of commission decisions when the plaintiff or petitioner is a non–resident of Wisconsin. Neither clarification should have any fiscal impact on members of the public who file the affected appeals or the commission in dealing with the appeals.

***State fiscal effect***

None.

***Local government fiscal effect***

None.

***Long–range fiscal implications***

None.

**Agency Contact Person**

James Pflasterer, General Counsel

Telephone: (608) 266–7728

E–mail: [james.pflasterer@dwd.wisconsin.gov](mailto:james.pflasterer@dwd.wisconsin.gov)

**Text of Proposed Rule**

SECTION 1. LIRC 1.025 (3) and (4) are amended to read:

LIRC 1.025 (3) Petitions for review may be filed by facsimile transmission. A petition for review transmitted by facsimile is not deemed filed unless and until the petition is received and printed at the recipient facsimile machine of the commission or of the division of the department to which the petition is being transmitted. The party transmitting a petition by facsimile is solely responsible for ensuring its timely receipt. The commission is not responsible for errors or failures in transmission. A Except in the case of a petition for review in fair employment and public accommodations cases under s.106.52 or s.111.39(5) Stats., where a facsimile transmission filed after the regular business hours of the equal rights division shall be considered filed on the next business day, a petition for review transmitted by facsimile is deemed

filed on the date of transmission recorded and printed by the facsimile machine on the petition. If the commission's or department's records indicate receipt of the facsimile at a date later than that shown, then the later date shall control.

(4) Except in the case of petitions for review in fair employment and public accommodations cases under s. 106.52 or 111.39(5), Stats., petitions for review may be filed electronically through the internet website of the commission, at the page found at <http://www.dwd.state.wi.us/lirc/petition.htm> ~~http://www.dwd.state.wi.us/lirc/petition.htm~~ <http://dwd.wisconsin.gov/lirc/petition.htm>. Successful filing of a petition for review electronically through the internet website of the commission will result in a display on the petitioner's internet browser of a message confirming that the petition has been successfully filed. A petition for review transmitted electronically through the website of the commission is not deemed filed unless and until the confirmation message is displayed. The commission is not responsible for errors in transmission that result in failure of a petition to be successfully filed electronically through the website of the commission. A petition for review filed electronically through the internet website of the commission is deemed filed on the date of filing stated on the commission's electronic record of the filing.

SECTION 2. LIRC 2.05 is amended to read:

LIRC 2.05 Actions for judicial review. Judicial review of any commission decision under s. 108.09 or 108.10, Stats., shall be commenced in the manner and upon the grounds specified in ss. 108.09(7) and 102.23, Stats., and not under ch. 227 or s. 801.02, Stats. Either party may commence a legal action for review of the commission decision in circuit court within 30 days from the date the decision was mailed to the party's last known address. Such action is commenced only by filing a summons and complaint with the circuit court and serving an authenticated copy of the summons and the complaint upon the commission, all within 30 days. Service must be made upon a commissioner of the labor and industry review commission or an agent authorized by the commission to accept service only at the commission's office in Madison. Such service shall be deemed complete service on all parties but there shall be left with the person so served as many copies of the summons and complaint as there are defendants. Service by mail is effective only if the pleadings are actually received by the commission within the appeal period. The complaint shall state the grounds upon which review is sought. The action shall be commenced against the commission, and the party in whose favor the decision was made shall also be made a defendant. The proceedings shall be in the circuit court of the county where the plaintiff resides except that, if the plaintiff is a state agency, the proceedings shall be in the circuit court of the county where the defendant resides. If the plaintiff is a non–resident of Wisconsin, the proceedings shall be in the circuit court for Dane county ~~for the county where the claim arose~~. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees. The appealing party shall arrange for preparation of the necessary legal documents.

SECTION 3. LIRC 3.05 is amended to read:

LIRC 3.05 Actions for judicial review. Judicial review of any commission decision shall be commenced in the manner and upon the grounds specified in s.102.23, Stats., and not under ch. 227, Stats., or s. 801.02, Stats. Either party may commence a legal action for review of the commission decision in circuit court within 30 days from the date the decision was mailed to the party's last known address. Such action is commenced only by filing a summons and complaint with the circuit court and serving an authenticated copy of the



summons and the complaint upon the commission, all within 30 days. Service must be made upon a commissioner of the labor and industry review commission or an agent authorized by the commission to accept service only at the commission's office in Madison. Such service shall be deemed complete service on all parties but there shall be left with the person so served as many copies of the summons and complaint as there are defendants. Service by mail is effective only if the pleadings are actually received by the commission within the appeal period. The complaint shall state the grounds upon which review is sought. The action shall be commenced against the commission, and the party in whose favor the decision was made shall also be made a defendant. The proceedings shall be in the circuit court of the county where the plaintiff resides except that, if the plaintiff is a state agency, the proceedings shall be in the circuit court of the county where the defendant resides. If the plaintiff is a non–resident of Wisconsin, the proceedings shall be in the circuit court for ~~Dane county~~ for the county where the claim arose. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees. The appealing party shall arrange for preparation of the necessary legal documents.

SECTION 4. LIRC 4.04 (1) is amended to read:

LIRC 4.04 Actions for judicial review. (1) FAIR EMPLOYMENT. Judicial review of any commission order or decision in fair employment cases under s. 111.39(5), Stats., shall be commenced in the manner and upon the grounds specified in ss. 227.52 and 227.53, Stats. Any person aggrieved by a final decision of the commission shall be entitled to judicial review in circuit court. Proceedings for review shall be instituted within 30 days from the date of the decision. Such proceedings are instituted by serving a petition for review, either personally or by certified mail, upon the labor and industry review commission in Madison, and, by filing such petition with the clerk of the circuit court for the county where the judicial review proceedings are to be held. Copies of the petition shall be served upon all parties who appeared before the commission in the case not later than 30 days after commencing the proceeding for review. The copies shall be served personally, by certified mail, or when service is timely admitted in writing, by first class mail. The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds upon which review is sought. The petition shall be entitled in the name of the person serving it as petitioner and the commission as respondent. The proceedings shall be in the circuit court of the county where the petitioner resides. If the petitioner is a non–resident of the state, the proceedings shall be in the circuit court ~~for Dane county~~ for the county where the dispute arose.

### Notice of Hearing

#### Natural Resources

*Fish, Game, etc., Chs. NR 1—*

**CR 09–024**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.089, 29.193, 29.197, 29.597, 169.085, 169.24, and 227.11, Stats., the Department of Natural Resources will hold public hearings on revisions to Chapters NR 10 and 19, Wis. Adm. Code, relating to hunting, trapping regulations, and wildlife rehabilitation.

### Hearing Information

#### Date and Time:

**May 11, 2009**

Monday  
at 1:00 PM

#### Location:

Room 613

DNR Central Office  
101 South Webster Street  
Madison

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.

#### **Submission of Written Comments**

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Scott Loomans, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until May 11, 2009. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearing.

#### **Copies of Proposed Rule**

A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Scott Loomans at the address listed above.

#### **Analysis Prepared by Department of Natural Resources**

##### *Statutes interpreted*

Sections 29.014, 29.089, 29.193, 29.197, 29.597, 169.085, 169.24, and 227.11, Stats.

##### *Statutory authority*

Sections 29.014, 29.089, 29.193, 29.197, 29.597, 169.085, 169.24, and 227.11, Stats.

##### *Plain language analysis*

The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations, and update administrative code language and references. Policy issues affected by this rule are ones which have already been addressed by previous rulemaking. The proposed rules will:

1. Clarify that access permits are required of deer hunters at Lake Wissota state park.
2. Clarify that the harvest of deer of either sex is allowed by archery and gun hunters who possess disabled hunting permits, making this regulation consistent with the law that applies to disabled hunters during firearm seasons.
3. Clarify that, where it is legal to place bait for hunting deer, bait may be placed on the day before the archery season as is currently allowed on the day before the gun seasons.
4. Remove the prohibition of hunting deer with full metal jacketed, nonexpanding type bullets so that only nonexpanding type bullets are prohibited.
5. Establish that the prohibition of hunting and firearm discharge on the day before the firearm deer season applies only to the traditional nine–day deer season.
6. Establish that velvet antlers may be possessed in a CWD zone and clarifies that antlers being transported out of a CWD zone must be free of brain tissue but hair or hide does not need to be removed.

7. Incorporate by reference the definitions for a section of federal regulations that are already incorporated into Wisconsin code related to baiting migratory game birds.
8. Eliminate an unnecessary cross reference.
9. Eliminate confusing and unnecessary language and clarifies that, where body–gripping type traps from 60 to 75 square inches in size are prohibited, larger traps are also prohibited.
10. Eliminate an unnecessary gear requirement; relaxing mechanical locks are not needed on snares.
11. Eliminate a limit on participation by disabled hunters during turkey seasons that is no longer needed with only seven turkey management zones.
12. Correct an omission in the name of a deer management unit.
13. Include trapping as an educational outdoor skills activity for which certain exemptions are available so that this rule language will be consistent with statute.
14. Clarify that volunteer wildlife rehabilitators may only serve in a limited capacity on wildlife rehabilitation activities.
15. Correct the number of a subdivision.
16. Update wildlife rehabilitation code language so that it is consistent with proposed changes to the list of threatened and endangered species.

***Related statute or rule***

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

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

These rule change proposals do not represent significant policy changes and do not differ significantly from surrounding states. All surrounding states have regulations and rules in place for the management and recreational use of wild game and furbearer species that are established based on needs that are unique to that state's resources and public desires.

***Comparison with federal regulations***

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

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

This rule order is necessary to correct inconsistencies created through the promulgation of other rules and statutes, update code language, correct previous drafting errors, and to

clarify existing administrative code language. The rule changes included in this order do not deviate from current department policy on the management of wildlife and the regulation of hunting and trapping.

**Small Business Impact**

These rules are applicable to individual sportspersons 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 rules will have a significant economic impact on small businesses.

***Small business regulatory coordinator***

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

**Environmental Impact**

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

**Fiscal Estimate**

***Summary***

The intent of these rule changes is to correct drafting errors, provide clarification to existing rules, simplify regulations, and update administrative code language and references. The department anticipates no fiscal effect from these proposed rule changes.

***State fiscal effect***

None.

***Local government fiscal effect***

None.

***Long–range fiscal implications***

No long–range fiscal implications are anticipated.

**Agency Contact Person**

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

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# Submittal of Proposed Rules to the Legislature

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

**Insurance**  
**CR 08–107**

A rule–making order revising section Ins 2.07, relating to replacement of life insurance or annuity contracts; disclosure requirements.

**Insurance**  
**CR 08–112**

A rule–making order revising section Ins 3.39, relating to Medicare supplement and replacement insurance.

**Natural Resources**  
*Environmental Protection — Air Pollution Control,*  
*Chs. NR 400—*  
**CR 08–102**

A rule–making order revising Chapters NR 422, 423, 439, and 484, relating to the application of reasonably available control technology to sources of volatile organic compound emissions in ozone non–attainment counties, and affecting small business.

**Natural Resources**

*Environmental Protection — Air Pollution Control,*  
*Chs. NR 400—*  
**CR 08–104**

A rule–making order revising Chapters NR 419 and 484, relating to the application of reasonably available control technology for volatile organic compound emissions from industrial wastewater collection and treatment operations.

**Natural Resources**  
*Environmental Protection — Air Pollution Control,*  
*Chs. NR 400—*  
**CR 08–114**

A rule–making order revising Chapters NR 421 and 439, relating to the application of reasonably available control technology for volatile organic compound emissions from certain operations within the synthetic organic chemical manufacturing industry.



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## Rule Orders Filed with the Legislative Reference Bureau

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

### **Commerce**

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

*Housing Assistance, Chs. Comm 150—*

#### **CR 08-096**

Revises Chapters Comm 108 and 154, relating to emergency assistance grants in the Community Development Block Grant (CDBG) Program.  
Effective 6-1-09.

### **Natural Resources**

*Fish, Game, etc., Chs. NR 1—*

#### **CR 08-062**

Revises Chapter NR 47, relating to the administration of the urban forestry catastrophic storm grant program.  
Effective 6-1-09.

### **Natural Resources**

*Fish, Game, etc., Chs. NR 1—*

#### **CR 08-060**

Revises Chapter NR 25, relating to commercial fishing on outlying waters.  
Effective 7-1-09.

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## Public Notices

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### Department of Children and Families

#### Funding for Child Support Enforcement Activities

The cost of administering the child support program in Wisconsin is supported by a combination of federal funds, general purpose revenue, county tax revenue, program revenue collected from service fees, interest on balances in the support collections trust fund, and unclaimed child support. The largest source of funding for child support enforcement activities comes from the federal government in the form of federal child support incentive payments and federal matching funds. Federal matching funds cover 66% of eligible costs.

The federal government distributes child support incentive payments to states to encourage and reward state programs that perform in a cost-effective and efficient manner. These funds support both state operations and child support activities performed by counties through contracts with the Department of Children and Families.

Before changes made in the federal Deficit Reduction Act of 2005, the federal incentive payments expended for child support enforcement activities covered 34% of eligible costs and were matched by the federal government based on the 66% federal financial participation rate. The Deficit Reduction Act eliminated the ability to receive federal matching funds for federal incentive payments beginning October 1, 2007.

To partially offset the reduction in federal funding, 2007 Wisconsin Act 20 provided additional state funds through GPR. Section 49.24, Stats., as amended by 2007 Wisconsin Act 20, provides that if federal legislation reinstates the matching of federal funds for federal child support incentive payments, various provisions in s. 49.24, Stats., that reinstate prior law are effective on the effective date of that federal legislation. The department shall provide notice of that effective date in the Wisconsin Administrative Register.

In December 2007, the Joint Committee on Finance also directed DCF to include a provision in the county child support contracts specifying that if federal law is subsequently modified to restore the ability to match the federal child support incentive payments at the previous 66% match rate or higher, the counties could no longer access the new GPR funding after the date on which the new federal provisions take effect.

The American Recovery and Reinvestment Act was signed by President Obama on February 17, 2009. This law temporarily restores the ability to match federal child support incentive payments at the previous match rate for the period that begins on October 1, 2008, and ends on September 30, 2010.

For further information, contact Bob Nikolay, DCF Budget Director, at (608) 261-4349 or robert.nikolay@wisconsin.gov.

## Department of Children and Families

### Child Care Development Fund Plan

**Public Hearing:** On Monday, **May 11, 2009**, from 1:00 to 4:00 PM, the Wisconsin Department of Children and Families (DCF), will hold a Public Hearing on Wisconsin’s Plan for Providing Child Care Services under the 2009–2011 Child Care and Development Fund (CCDF) Draft Plan. The Public Hearing will take place in Conference Room D203 at the GEF 1 State Office Building, 201 East Washington Avenue, Madison, WI 53703. Visitors to GEF 1 must use the main entrance at 201 East Washington Avenue and register at the customer service desk in the lobby.

**Background:** The purpose of the Public Hearing is to solicit verbal or written comments from the public on Wisconsin’s proposed plan for the use of federal CCDF dollars for the period of 10/01/09 through 09/30/11.

Wisconsin expects to receive approximately \$85 million annually of Child Care and Development Funds and additional funds under the American Recovery and Investment Act. Funds will be used to help low income families, working or preparing for work, to pay for child care under the Wisconsin Works (W–2) program, and to provide grants to improve the quality of child care programs and services. In addition, funding will be used to pay for scholarships and support for child care workers, to pay for licensing staff, to support child care resource and referral services, to support technical assistance for child care providers, and to develop and implement a quality rating system. In Wisconsin, the legislative process provides direction and decisions for the use of this fund, and the DCF/Division of Early Care and Education (DECE) Bureau of Early Childhood Education is responsible for its administration.

**Opportunity for Public Comment:** After April 16, interested parties can access the 2009–2011 CCDF Draft Plan on the Department of Children and Families Child Care web page under the heading, Other Child Care Resources, at <http://dcf.wisconsin.gov/childcare/default.htm>.

Individuals who plan to testify about the CCDF Draft Plan on May 11 should submit a copy of the text of their comments to ensure clarity in the recording of comments. Staff will also receive other written comments at the hearing or through the mail for inclusion in the public comment summary document. Written comments will receive equal consideration to the testimony given at the hearing.

**Contact Person:** Please send your comments about the 2009–2011 State CCDF Draft Plan or any questions about the web page location to Gabe Blood by e–mail at [gabrielle.blood@wi.gov](mailto:gabrielle.blood@wi.gov) or contact her at: Bureau of Early Childhood Education, Division of Early Care and Education, Department of Children and Families, PO Box 8916, Madison, WI 53708–8916, 608.267.2081. All comments must be received no later than 5/11/09. Specific accommodation requests for the Public Hearing must be made to Gabe Blood prior to 5/1/09. Text phone users can contact Ms. Blood through WTRS (dial 711).

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