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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Children and Families

Family and Economic Security, Chs. DCF 101–153

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

Finding of Emergency

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

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

The current maximum payment amounts for Emergency Assistance due to homelessness and impending homelessness are insufficient to allow a smaller family to obtain or retain a

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

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

Publication Date: April 9, 2009

Effective: April 22, 2009 through
September 18, 2009

Commerce

Fee Schedule, Ch. Comm 2

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

Finding of Emergency

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

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

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

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

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

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

Publication Date: December 15, 2008

Effective: December 15, 2008
through May 13, 2009

Hearing Date: January 8, 2009

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

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

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

Financial Institutions — Banking

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

Exemption From Finding of Emergency

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

Publication Date: May 4, 2009
Effective: *Section 1:* 5–4–09 through 7–1–11
Section 2: 9–1–09 through 7–1–11
Section 3: 1–10–10 through 7–1–11
Hearing Date: June 10, 2009
 (See Notice this Register)

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

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

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.

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

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

Scope Statements

Government Accountability Board

Subject

Amends section GAB 6.05, relating to the filing of campaign finance reports in electronic format.

Objective of the Rule

Require registrants subject to section 11.21 (16), Stats., and those voluntarily choosing to file campaign finance reports in electronic format to do so in the form of the internet–based Campaign Finance Information System. The amendment would create a uniform requirement and restrict registrants to an “electronic format” compatible with the Government Accountability Board’s electronic filing system for campaign finance reports.

Policy Analysis

Under the current s. GAB 6.05, Wis. Adm. Code, registrants required to file campaign finance reports in electronic format pursuant to s. 11.21 (16), Stats., and those voluntarily agreeing to file in electronic format, can do so in a large variety of ways. On January 18, 2008, the Government Accountability Board approved the use of a new electronic filing system, and the technical requirements thereof, conflict with the technical electronic format filing permitted by the current 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.

Statutory Authority

Sections 11.21 (16), 5.05 (1) (f), and 227.11 (2) (a), Stats.

Comparison with Federal Regulations

Federal regulations mandated electronic filing of campaign finance reports with a standard uniform system since January 1, 2001. 11 CFR 104.18. The amendment to s. GAB 6.05, Wis. Adm. Code, will not conflict with federal regulations.

Entities Affected by the Rule

All registrants for whom the Government Accountability Board serves as filing officer and who or which accepts contributions in a total amount or value of \$20,000.00 or more during a campaign period and who or which must file campaign finance reports in electronic format, as required by s. 11.21 (16), Stats. In addition, registrants who do not meet the threshold requirements of s. 11.21 (16), Stats., but who or which voluntarily chose to file campaign finance reports in electronic format with the Government Accountability Board.

Estimate of Time Needed to Develop the Rule

10 to 15 hours.

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Revises sections of Chapter NR 10, relating to white–tailed deer population goals and deer management unit boundaries.

Policy Analysis

Under s. NR 10.104 (3), Adm. Code, the department is required to conduct Deer Management Unit (DMU) boundary and goal reviews at three–year intervals. Population goals and DMUs serve as the foundation for managing the deer herd and determining deer hunting season structures. With new information gathered through an extensive public involvement process and informed by current biological and social information, this rule will propose revised overwinter population goals and/or DMU boundaries to better manage the deer herd.

The department will seek to maintain a deer herd in balance with its range and at deer population goals that are reasonably compatible with social, economic and ecosystem management objectives for each deer management unit. Deer population goals will be based on:

1. Carrying capacity as determined by unit population responses to habitat quality and historical records of winter severity.
2. Hunter success in harvesting and seeing deer and public deer viewing opportunities.
3. Ecological and economic impacts of deer browsing.
4. Disease transmission.
5. Concern for deer vehicle collisions.
6. Chippewa treaty harvest.
7. Hunter access to land in a deer management unit.
8. Ability to keep the deer herd in a deer management unit at goal.
9. Tolerable levels of deer damage to crops.

Statutory Authority

Sections 29.014, 29.063 and 227.11, Stats.

Comparison with Federal Regulations

Federal regulations allow states to manage the wildlife resources located within their boundaries provided they do not conflict with regulations established in the Federal Register. None of these rule changes violate or conflict with the provisions established in the Federal Code of Regulations.

Entities Affected by the Rule

Deer affect nearly every Wisconsin resident in some way. Many of these effects are significant from a recreational, economic, and/or social perspective. A wide variety of groups and individuals will be interested in this proposed rule. Some groups include: Conservation Congress, Great Lakes Indian Fish and Wildlife Commission, Wis Farm Bureau

Federation, WI Wildlife Federation, WI Deer Hunters Assn., The Nature Conservancy, Whitetails Unlimited, WI Bowhunters Assn., WI County Forest Association, WI Woodland Owners Assn., Quality Deer Management Association, Rocky Mountain Elk Foundation, WI Bear Hunters Assn., and the Sierra Club.

Estimate of Time Needed to Develop the Rule

200 hours.

Contact Information

Keith Warnke
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Madison, WI 53707
(608) 264-6023
or

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

Natural Resources

Fish, Game, etc., Chs. NR 1—

Subject

Non-substantive (“housekeeping”) changes to Chapters NR 19 to 23, relating to regulation of sport fishing seasons, bag limits, length limits and approved gear.

Policy Analysis

The Department is beginning the process of correcting errors and inconsistencies in sections of Administrative Code relating to regulation of sport fishing. The Department anticipates requesting approval to hold hearings on these changes in June, 2009, and holding such hearings, if approved, in July 2009 and returning to the Board for adoption in August, 2009. Proposed changes include a correction to the open season for channel catfish and muskellunge in Lake Winnebago system waters, noting a deed restriction for fishing regulations in Inch Lake (Bayfield Co.), and clarification of release dates for bag limit revisions for walleye in Ceded Territory waters. Other minor changes may be included.

Statutory Authority

Sections 9.014, 29.041, and 29.537, Stats.

Comparison with Federal Regulations

Authority to promulgate fishing regulations is granted to states. None of the proposed changes violate or conflict with provisions in the Federal Code of Regulations.

Entities Affected by the Rule

The proposed changes are considered non-substantive and will serve to clarify Administrative Code and correct administrative errors that were included in adopted sections. The rules being modified are those which apply to recreational fishing and clamming in inland, outlying, and boundary waters of the state.

Estimate of Time Needed to Develop the Rule

The Department anticipates spending approximately 140 hours in the rule development process.

Contact Information

Joseph Hennessy
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101 S. Webster St.
Madison, WI 53701-7921
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joseph.hennessy@wisconsin.gov

Public Service Commission

Subject

Revises Chapters PSC 113, 134, and 185, relating to utility retention of gas, electric, and water meters for testing purposes, and clarifies records retention relating to meter readings.

Policy Analysis

There are no existing relevant policies. For example, while there are rules about retaining records, there are no rules about retaining the meters themselves.

Statutory Authority

Sections 196.02 (3), 196.16 (2) and 227.11 (2), Stats.

Comparison with Federal Regulations

None.

Entities Affected by the Rule

All electric, gas, and water utilities regulated by the Commission.

Estimate of Time Needed to Develop the Rule

The Commission estimates that approximately 100 hours of Commission staff time will be required in this rulemaking.

Revenue

Subject

Revises all of the rules in Chapter Tax 11, relating to Wisconsin sales and use tax.

Objective of the Rule

Revise Chapter Tax 11 to reflect the changes in Wisconsin’s sales and use tax laws due to the adoption of the statutory changes needed to bring Wisconsin’s sales and use tax laws into compliance with the Streamlined Sales and Use Tax Agreement

Provide guidance to Department employees and taxpayers so that they can properly apply the Wisconsin sales and use tax laws.

Policy Analysis

Existing and proposed policies are as set forth in the rules. No new policies are being proposed, other than to reflect the law changes. If the rules are not changed, they will be incorrect in that they will not reflect current law or current Department policy.

Statutory Authority

Sections 77.52 (14) (a) and (19), 77.522 (5) (b), 77.53 (2) and (11)(a), 77.58 (6), and 227.11 (2), Stats.

Comparison with Federal Regulations

Not applicable.

Entities Affected by the Rule

Many of these changes will affect nearly every business operating in Wisconsin.

Estimate of Time Needed to Develop the Rule

The department estimates it will take approximately 750 – 1000 hours to develop this rule order.

Contact Information

Dale Kleven
(608) 266–8253
dale.kleven@revenue.wi.gov

Transportation**Subject**

Creates Chapter Trans 264, relating to permits for wind tower oversize and overweight transport movement.

Objective of the Rule

Wind tower project development is an emerging industry in Wisconsin. Federal energy initiatives encourage wind energy industrial development. Further, Wisconsin formally mandates renewable energy development.

2005 Wisconsin Act 141, effective July 1, 2007, “requires electric providers to increase the amount of renewable electricity they sell two percentage points above current level by 2010 and six percentage points above their current level by 2015, with the goal that 10% of all electricity sales in Wisconsin be from renewable resources” (Wisconsin Legislative Council Act Memo on 2005 Wisconsin Act 141, March 27, 2006, page 2). The Act also creates s. 196.378 (2) (a) 1., Stats., which requires the public service commission to report whether the state has met a goal that, by the end of 2015, 10% of all electric energy consumed in Wisconsin is renewable energy.

Wind energy is not only a feasible renewable energy option but also clearly a growth industry, which provides extremely beneficial economic development to Wisconsin. Wind industry representatives estimate that 2005 Wisconsin Act 141 will require that 400 to 500 new wind turbines will be erected in Wisconsin by 2015.

Extensive wind tower transport will be required for the next several years. A wind development project may take more than five years merely for assembly, and the Department anticipates many wind development projects to become operational in the next few years. At the same time, federal stimulus funding is vastly increasing the amount and geographic extent of highway construction projects, rendering many logical transport routes unavailable or constrained at certain times. Wind development projects will face changing route availability and conditions, requiring complex route determination, approval, and review throughout wind development planning, assembly, and operation periods, as the actual permit to any specific vehicle is issued during assembly and operation.

Wind tower transport generates unique permitting challenges, including such conditions as unusually high frequency of trips on state–wide routes combined with extended duration of wind development projects, wind tower

extraordinary dimensions and weights, and state law requiring extensive wind energy development within a limited time frame. Current multiple trip and single trip permits do not sufficiently accommodate wind tower transport needs. A separate administrative rule establishing a special permit for wind tower transport is needed.

This rulemaking interprets ss. 348.25, 348.26 and 348.27, Stats., as related to wind tower oversize and overweight transport movement. The rule making creates wind energy development multiple trip project permits and will consider creating wind energy development single trip permits.

Policy Analysis

The Department issues multiple trip oversize and overweight permits for movement of a particular load or commodity within a specified geographic area, and single trip permits for individual oversize and overweight movement, on a specified route.

Since July 2007, the Department has been handling wind tower movement under special conditions attached to single and multiple trip permits. However, for wind tower transport, the Department must address several conditions that differ from or combine conditions of typical multiple trip or single trip permits.

This rule making will address the issues of wind energy development projects including, but not limited to, such issues as load dimensions and weights, duration of permits, frequency and number of trips authorized by the permit, requirements for escort operators and vehicles, hours of operation, route approval and designation requirements, consent of local officials for operation on local roads, and special investigation responsibilities and costs.

Statutory Authority

Sections 85.16 (1), 227.11 (2) (a), 348.25 (3), Stats.

Comparison with Federal Regulations

Federal law and regulation places some limits on oversize and overweight transport on the national highway system. Like all oversize and overweight transport administrative rules, this rule will conform to federal requirements that apply to the national highway system.

Entities Affected by the Rule

- Wind energy industry, including component manufacturers.
- Electric energy utilities and transmission industry.
- Local government, law enforcement, and highway maintenance and traffic regulation agencies.
- Oversize or overweight transport industry.
- Shipping ports of entry.
- Rail carrier industry.
- Highway construction and maintenance businesses providing highway construction and maintenance projects.
- State energy, economic development, and environmental permitting agencies.

Estimate of Time Needed to Develop the Rule

800 hours.

Submittal of Rules to Legislative Council Clearinghouse

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

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board CR 09–032

On April 17, 2009, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter A–E 10, relating to continuing education requirements for land surveyors.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 27, 2009.

Contact Information

Pamela Haack, Paralegal
Phone: (608) 266–0495
Email: Pamela.haack@wisconsin.gov

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board CR 09–033

On April 17, 2009, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section A–E 8.03, relating to the definitions of supervision, direct supervision, responsible charge, and direction and control.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 27, 2009.

Contact Information

Pamela Haack, Paralegal
Phone: (608) 266–0495
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Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board CR 09–034

On April 17, 2009, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and

Land Surveyors submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section A–E 8.08 (3) and (4), relating to failure to respond to information requests in conjunction with an investigation of a complaint filed against a registrant.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 27, 2009.

Contact Information

Pamela Haack, Paralegal
Phone: (608) 266–0495
Email: Pamela.haack@wisconsin.gov

Children and Families Family and Economic Security, Chs. DCF 101–153 CR 09–036

On May 1, 2009, the Department of Children and Families submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter DCF 150, relating to medical support and child support guidelines review.

Agency Procedure for Promulgation

Public hearings are required and will be held on June 2 and 3, 2009. The organizational unit responsible for the promulgation of the proposed rules is the DCF Division of Family and Economic Security.

Contact Information

Elaine Pridgen
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Government Accountability Board CR 09–035

On April 29, 2009, the Government Accountability Board submitted a proposed rule–making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter GAB 22, relating to settlement of certain campaign finance, ethics and lobbying violations. The proposed order will establish a settlement offer schedule to prescribe some resolutions for violations of certain provisions from Chapters 11, 13, and 19, Stats. These prescribed resolutions are to be used in settlements between the Government Accountability Board and a registrant or other party.

Agency Procedure for Promulgation

A public hearing will be scheduled at a later time. The Government Accountability Board is primarily responsible for preparing the proposed rule.

Contact Information

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Government Accountability Board
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Rule–Making Notices

Notice of Proposed Rulemaking

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

CR 09–030

NOTICE IS HEREBY GIVEN that pursuant to ss. 15.08 (5) (b) and 227.11 (2), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors **will adopt the following rules as proposed in this notice, without public hearing unless, within 30 days after publication of this notice, on May 15, 2009**, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

The proposed rule will amend section A–E 6.03 (1) (a) 2. e. and (b) 7., relating to administrative code and statute citations for land surveying experience.

Analysis Prepared by the Department of Regulation and Licensing.

Statute interpreted

Section 443.06, Stats.

Statutory authority

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

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, under the authority of s. 443.06, Stats., may establish the requirements for registration as a land surveyor, including qualifying land surveying experience.

Related statute or rule

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

Plain language analysis

The proposed revision to s. A–E 6.03 (1) (a) 2. e. amends the current rule to correct an inadvertent scrivener’s error in the citation for the state law which governs official plats or maps of land in this state. The proposed revision replaces the current citation of ss. Trans 233.03 and 233.04 in s. A–E 6.03 (1) (a) 2. e. with the correct citation for minimum standards for property surveys which is ch. A–E 7.

The proposed revision to s. A–E 6.03 (1) (b) 7. amends the current rule to correct an inadvertent scrivener’s error in the citation for the state law governing condominium plats. The proposed revision replaces the current citation of ss. Trans 233.03 and 233.04 with s. 7.03 (11), Stats.

Comparison with federal regulations

There are no existing or proposed federal regulations.

Comparison with rules in adjacent states

This section is non–applicable since the rule–making is correcting a scrivener’s error.

Summary of factual data and analytical methodologies

This section is non–applicable since the rule–making is correcting a scrivener’s error.

Small Business Impact

This citation correction of the proposed rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

Anticipated costs incurred by the private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal Estimate

This section is not applicable since the rule–making is correcting a scrivener’s error.

Agency Contact Person

Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608–266–0495; email at pamela.haack@drl.state.wi.us.

Submission of Written Comments

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708–8935, or by email to pamela.haack@drl.state.wi.us. Comments must be received on or before May 31, 2009, to be included in the record of rule–making proceedings.

Text of Rule

SECTION 1. A–E 6.03 (1) (a) 2. e. and (1) (b) 7. are amended to read:

A–E 6.03 (1) (a) 2.e. Official plats or maps of land in this state in accordance with ~~ss. Trans 233.03 and 233.04~~ ch. A–E 7.

(1) (b) 7. Condominium plats prepared in accordance with ~~s. 703.265, Stats., and ss. Trans 233.03 and 233.04~~ s. 7.03 (11), Stats.

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

CR 09–034

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to create s. A–E 8.08 (3) and (4), relating to failure to respond to information requests in conjunction with an investigation of a complaint against a registrant.

Hearing Information

Date: May 27, 2009
Time: 1:15 P.M.
Location: 1400 East Washington Avenue
 (Enter at 55 North Dickinson Street)
 Room 121C
 Madison, Wisconsin

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Pamela Haack, Department of Regulation and Licensing, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by June 5, 2009, to be included in the record of rule-making proceedings.

Copies of Proposed Rule

Copies of this proposed rule are available upon request to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at pamela.haack@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing**Statutes interpreted**

Section 443.11, Stats.

Statutory authority

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

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, or the applicable section of the board, under the authority of ss. 443.06 to 443.13, Stats., may discipline an architect, landscape architect, professional engineer, designer or land surveyor for violating the rules of professional conduct set forth in ch. A–E 8.

Related statute or rule

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

Plain language analysis

SECTION 1. The proposed revisions to s. A–E 8.08 amend the current rules to create discipline for the failure to respond to requests for information from the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, the sections of the board, or the Department of Regulation and Licensing. In addition, the amended rule requires the registrant to notify the department of disciplinary action in other states where the registrant holds a credential and other violations of law which are substantially related to the practice of the registrant and not otherwise reportable under s. RL 4.09 (2). The purpose of the rule amendment is to encourage the submission of requested information by the registrants to ensure the ability of the regulatory authority to investigate complaints of unprofessional conduct and to determine if discipline by another jurisdiction or other violations of law are substantially related to the practice of the registrant.

Comparison with federal regulations

There is no existing or proposed federal regulation.

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

There are no rules for architects, engineers, land surveyors and landscape architects to provide information in response to written requests.

Illinois:

225 ILCS 305/22(14) Architects – Discipline may arise for “failure to provide information in response to a written request made by the Department within 30 days after the receipt of such written request.” 225 ILCS 315/18.1(7) Landscape architects – “Failing to provide information within 60 days in response to a written request made by the Department.” 225 ILCS 325/24(a–1)(8) Professional engineers – “Failing to provide information in response to a written request made by the Department within 30 days after receipt of such written request.” 225 ILCS 330/27(8) Land surveyor – Failing to provide information in response to a written request made by the Department within 30 days after receipt of such written request.”

Michigan:

Architects – none. Rule 339.19049 (7) Landscape architects – “A registrant shall not act to conceal violations of the law...” Engineers – none. Land Surveyors – none.

Minnesota:

Rule 1805.1600 “A licensee who has knowledge or reasonable grounds for believing that another member of the profession has violated any statute or rule regulating the practice of the profession shall have the duty of presenting such information to the board. A licensee, when questioned concerning any alleged violation on the part of another person by any member or authorized representative of the board commissioned or delegated to conduct an official inquiry, shall neither fail nor refuse to divulge such information as the licensee may have relative thereto.” (Relates to architects, engineers, land surveyors, and landscape architects.)

Summary of factual data and analytical methodologies

Research of the rules and policies of surrounding states and correspondence with colleagues in other states pertaining to the issue was performed. Additionally, the matter was addressed with the department’s Division of Enforcement staff, along with a review of other professions regulated by this department that have failure to respond provisions in their rules. By all accounts, having failure to respond provisions in the rules is important to encourage the submission of requested information by the registrants to ensure the ability of the regulatory authority to investigate complaints of unprofessional conduct and to determine if discipline by another jurisdiction or other violations of law are substantially related to the practice of the registrant. Moreover, it will help to reduce the difficulty and potential backlog that the Division of Enforcement is faced with in cases such as this.

Analysis and supporting documents used to determine effect on small business

This rule change will not affect or impact adversely small businesses. No written analysis or formal research was involved in reaching this conclusion.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Small Business Impact

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

The Department's Regulatory Review Coordinator may be contacted by email at hector.colon@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate

The department estimates that the proposed rule will have no significant fiscal impact.

Anticipated costs incurred by private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Agency Contact Person

Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@wisconsin.gov.

Notice of Hearing**Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors****CR 09-033**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to repeal s. A-E 8.03 (5) (a) to (e); to renumber and amend s. A-E 8.03 (5) (intro.); and to create s. A-E 8.03 (5) (a) and (b), relating to the definition of supervision, direct supervision, responsible charge, and direction and control.

Hearing Information

Date: May 27, 2009
Time: 1:30 P.M.
Location: 1400 East Washington Avenue
 (Enter at 55 North Dickinson Street)
 Room 121C
 Madison, Wisconsin

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Pamela Haack, Department of Regulation and Licensing, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by June 5, 2009, to be included in the record of rule-making proceedings.

Copies of Proposed Rule

Copies of this proposed rule are available upon request to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935,

Madison, Wisconsin 53708, or by email at pamela.haack@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing**Statutes interpreted**

Sections 443.11 to 443.13, Stats.

Statutory authority

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

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, or the applicable section of the board, under the authority of ss. 443.06 to 443.13, Stats., may establish the registration and practice requirements for architects, landscape architects, professional engineers, designers and land surveyors and impose discipline against a registrant for violating the rules of professional conduct set forth in chapter A-E 8.

Related statute or rule

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

Plain language analysis

This proposed rule-making order clarifies the meaning of the terms "supervision," "direct supervision," "responsible charge," and "direction and control" as related to the practice of architecture, landscape architecture, professional engineering, designing and land surveying. The current rules of professional conduct define the terms in the negative, specifying what duties are not included in the definition. The proposed amendments define the terms in the positive sense, specifying the duties of a registrant exercising "supervision," "direct supervision," "responsible charge," and "direction and control."

SECTION 1 renumbers the introduction and removes the words "The terms do not include any of the following:"

SECTION 2 repeals s. A-E 8.03 (5) (a) to (e).

SECTION 3 creates s. A-E 8.03 (5) (a) and (b).

Comparison with federal regulations

There is no existing or proposed federal regulation defining the terms.

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

The term "in responsible charge" as used in this chapter means direct control of and personal supervision over any land surveying work or work involving the practice of engineering. A licensee shall not place the licensee's signature or seal on any engineering document or land surveying document unless the licensee was in responsible charge of the work, except that the licensee may do so if the licensee contributed to the work and the licensee in responsible charge has signed and certified the work. Iowa § 542B.2(4)

Illinois:

"Direct supervision or responsible charge" means work prepared under the control of a licensed professional engineer or that work as to which that professional engineer has detailed professional knowledge. 225 ILCS 325

Michigan:

The term "responsible charge" is defined as the person who determines technical questions of design and policy; advises the client; supervises and is in responsible charge of the work

of subordinates; is the person whose professional skill and judgment are embodied in the plans, designs, plats, surveys, and advice involved in the services; and who supervises the review of material and completed phases of construction, but is referenced in the requirements for sealing documents for projects involving overlapping architecture and engineering professions; a licensee shall not seal a plan, drawing, map, plat, report, specification, or other document not prepared by the licensee as the person in responsible charge. § 339.2001 (d), Michigan Admin. Code.

Minnesota:

A person in responsible charge of architectural, engineering, land surveying, or landscape architectural work means the person who determines design policy, including technical questions, advises with the client, superintends subordinates during the course of the work and, in general, the person whose professional skill and judgment are embodied in the plans, designs, and advice involved in the work. A person in direct supervision of work means that person who is the employer, an employee of the same firm, or who is under contract to or from another firm and who is in responsible charge of technical, architectural, engineering, land surveying, or landscape architectural work in progress, whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to that subdivision. MN Rule § 1805.1600

Summary of factual data and analytical methodologies

There have been changes in the profession that require updating of this rule. This rule change will provide additional clarification of “responsible charge” and similar terms used in s. A-E 8.03 (5) as it relates to the practice of architecture, landscape architecture, professional engineering, designing or land surveying.

Analysis and supporting documents used to determine effect on small business

This rule change will not affect or impact adversely small businesses or the private sector. No written analysis or formal research was involved in reaching this conclusion.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Small Business Impact

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

The Department’s Regulatory Review Coordinator may be contacted by email at hector.colon@wisconsin.gov, or by calling 608-266-8608.

Fiscal Estimate

The department estimates that the proposed rule will have no significant fiscal impact.

Anticipated costs incurred by the private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Agency Contact Person

Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@wisconsin.gov.

Notice of Hearing

**Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors
CR 09-032**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to create ch. A-E 10, relating to continuing education for land surveyors.

Hearing Information

Date: May 27, 2009
Time: 1:45 P.M.
Location: 1400 East Washington Avenue
 (Enter at 55 North Dickinson Street)
 Room 121C
 Madison, Wisconsin

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to Pamela Haack, Department of Regulation and Licensing, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by June 5, 2009, to be included in the record of rule-making proceedings.

Copies of Proposed Rule

Copies of this proposed rule are available upon request to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at pamela.haack@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing

Statutes interpreted

Section 443.015, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 443.015, Stats.

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors may approve and adopt rules proposed by any section of the board.

Related statute or rule

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

Plain language analysis

This proposed rule-making order creates continuing education requirements for renewal of a credential for land surveyors within the jurisdiction of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors as permitted in s. 443.015, Stats., by recently enacted 2007 Wisconsin Act 47.

Comparison with federal regulations

There is no existing or proposed federal regulation.

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

Continuing education requirements are 30 hours for each biennial renewal.

Illinois:

Continuing education requirements are 20 hours for each biennial renewal.

Michigan:

There are no continuing education requirements for land surveyors.

Minnesota:

Land surveyors require 24 hours of continuing education for each biennial renewal.

Summary of factual data and analytical methodologies

The Land Surveyor Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors examined models of continuing education from national organizations related to their profession, as well as from other Wisconsin regulatory boards. In addition, the section received input from the Wisconsin Society of Land Surveyors, whose nine chapters met and discussed how the continuing education program should operate so that it is beneficial to the public and land surveyors, noting also that Iowa and Illinois requirements were reviewed in preparing the input they provided.

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates that the proposed rules are substantially consistent with the rules in those states.

Analysis and supporting documents used to determine effect on small business

Data was obtained from the Department of Regulation and Licensing's Credentialing Division Renewal Unit, additional information was obtained from the Wisconsin Society of Land Surveyors and research was conducted regarding the availability of continuing education credits offered via online courses, trade association sponsored seminars and other means, as well as the costs associated therewith. That data was compared with the requirements outlined in the proposed rules and based thereon, appears that these rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Small Business Impact

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

The Department's Regulatory Review Coordinator may be contacted by email at hector.colon@drl.state.wi.us, or by calling (608) 266-8608.

Fiscal Estimate

The department estimates that this rule will require staff time in the Office of Education and Exams and the Division

of Management Services. The total one-time salary and fringe costs are estimated at \$7,685. The total on-going salary and fringe costs are estimated at \$3,683.

Anticipated costs incurred by the private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Agency Contact Person

Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0495; email at pamela.haack@wisconsin.gov.

Notice of Hearings**Children and Families****Family and Economic Security, Chs. DCF 101–153
CR 09–036**

NOTICE IS HEREBY GIVEN that pursuant to ss. 49.22 (9) and 227.11 (2) (a), Stats., the Department of Children and Families proposes to hold 2 public hearings to consider rules revising Chapter DCF 150, relating to medical support and child support guidelines review.

Hearing Information**June 2, 2009**

Tuesday
3:00 p.m.

MILWAUKEE

State Office Building
819 N. 6th Street, Room 40

June 3, 2009

Wednesday
1:30 p.m.

MADISON

GEF 1 Building
201 E. Washington Avenue
Room D203

If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available on request to the fullest extent possible.

Appearances at Hearing and Submission of Written Comments

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Written comments on the proposed rules received at the address shown below, email, or through the <http://adminrules.wisconsin.gov> web site no later than June 5, 2009, will be given the same consideration as testimony presented at the hearing.

Copies of Proposed Rules

A copy of the proposed rules is available at <http://adminrules.wisconsin.gov>. This site allows you to view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rule or fiscal estimate by contacting:

Elaine Pridgen — Office of Legal Counsel
 Department of Children and Families
 201 E. Washington Avenue
 Madison, WI 53707
 (608) 267–9403
 elaine.pridgen@wisconsin.gov

Analysis Prepared by the Department of Workforce Development

Statutory authority

Sections 49.22 (9) and 227.11 (2) (a), Stats.

Statutes interpreted

Sections 49.22 (9) and 767.513, Stats.

Related statutes or rules

Sections 767.225, 767.34, 767.501, 767.511, 767.59, and 767.89, Stats.

Explanation of agency authority

Section 49.22 (9), Stats., provides that the department shall promulgate rules that provide a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. According to the federal Office of Child Support Enforcement, medical support is a subset of child support.

Summary of the proposed rule

The proposed rules will adopt provisions of a new federal regulation on medical support in child support cases, recommendations of the Department’s child support guidelines review, and a recommendation by the Child Support Policy Advisory Committee.

Medical Support

Under s. 767.513, Stats., the court shall specifically assign responsibility for and direct the manner of payment for the child’s health expenses in addition to ordering child support for a child. The court must consider the availability of health insurance to each parent, the extent of coverage available to a child, and the cost to the parent for the coverage.

Under the proposed rules, the court may order either or both parents to enroll a child in a private health insurance plan that is accessible to the child and available at a reasonable cost.

- The court may consider a private health insurance plan to be accessible to the child if the plan’s service providers are located within a reasonable distance from the child’s home. In general, service providers may be considered within a reasonable distance if they are located within 30 minutes or 30 miles of the child’s residence, with a greater distance allowed in some rural areas.
- The court may consider a private health insurance plan to be available at a reasonable cost if the cost to enroll the child or children does not exceed 5% of the insuring parent’s monthly income available for child support. In applying this 5% standard, the cost to enroll the child or children in a private health insurance plan is the cost to add the child or children to existing coverage or the difference between the cost of self–only coverage and the cost to that parent after adding the child or children.
- The court may order the non–insuring parent to contribute to the cost to enroll the children in a private health insurance plan in an amount that does not exceed 5% of the non–insuring parent’s monthly income available for child support.

The court may not order a parent whose income is below 150% of the federal poverty level to enroll a child in a private health insurance plan or contribute to the cost of private health insurance unless there is no cost to the parent.

If there is no private health insurance plan available that is accessible to the child and reasonable in cost, the court may order enrollment in a private health insurance plan as a deviation under s. 767.11 (1m), Stats.; responsibility for a contribution to the cost of the other parent’s premium for the BadgerCare Plus program, unless the parent’s income is below 150% of the federal poverty level; and enrollment in a private health insurance plan if a plan that meets these requirements becomes available to the parent in the future.

If a child is already enrolled in an accessible private health insurance plan that covers hospitalization and other medical costs without large out–of–pocket deductibles or copayments, the court may determine whether to order a parent to enroll the child in a private health insurance plan.

The court shall also establish an order for medical expenses that are not covered by insurance. The court shall consider each parent’s ability to pay these medical expenses.

Guidelines Review

45 CFR 302.56(e) requires states to review, and revise, if appropriate, the state’s child support guidelines at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts. The Department submitted the latest review of the Wisconsin child support guidelines to the federal Office of Child Support Enforcement in January 2008. This review included the following 2 recommendations for changes to the child support guidelines in DCF 150:

- Extend the application of the special provision for low–income payers in s. DCF 150.04 (4) and Appendix C from below 125% of the federal poverty guidelines to below 150% of the federal poverty guidelines. The current rule provides a schedule with reduced percentage rates to be used to determine the child support obligation for payers with an income below approximately 125% of the federal poverty guidelines if the court determines that the payer’s total economic circumstances limit his or her ability to pay support at the level determined using the full percentage rates. For income between approximately 75% and 125% of the federal poverty guidelines, the percentage rates gradually increase as income increases. The proposed rule will extend use of the reduced percentages to payers with an income below 150% of the federal poverty guidelines.
- Change the term “serial–family payer” to “serial–family parent” to conform the rule to the intent for serial family cases with a previous shared–placement obligation. The concept behind the special provision for shared–placement parents is that the order is smaller than a full percentage order because the parent has significant placement and is covering the child’s basic support expenses while with that parent. The concept behind the special provision for serial families is to give credit for the amount spent on the first family before determining the order for children in the next family. The current serial family provision refers to the “payer” in a shared–placement order in giving credit for the amount spent on the earlier children. The Department proposes to change “payer” to “parent” so a parent who did not owe child support under the shared–placement provision will clearly still be entitled to credit for pre–existing obligations in the determination of support under the serial family provision.

Other Recommendation by the Child Support Policy Advisory Committee

When parents have 2 or more children and each parent has placement of one or more but not all of the children, the parents have split placement. Under the current rule, the child support obligation for split–placement parents may be determined by multiplying each parent’s monthly income available for child support by the appropriate percentage standard for the number of children placed with the other parent and offsetting the resulting amounts against each other.

If each parent has placement of one child, the support obligation would be determined by multiplying each parent’s income by 17%, the percentage standard for one child, and offsetting the results. If one parent had placement of both children, the other parent’s child support obligation would be determined by multiplying that parent’s income by 25%, the percentage standard for 2 children. Some parents with split placement believe that they are unfairly being required to pay a higher level of support under the current rule on split placement since the total support paid for 2 children would be 34% of the parents’ income.

The proposed rule provides a new method for determining the child support obligations of split–placement parents. Under the proposed rule, each parent’s income will be multiplied by the pro rata percentage standard for the number of children in split placement who are placed with the other parent. The pro rata percentage standard is calculated by determining the appropriate percentage standard for the total number of children, dividing by the total number of children, and adding together the percentages for the children in split placement who are placed with the other parent. If each parent has placement of one child, the support obligation would be determined by multiplying each parent’s income by 12.5% (25% percentage standard for 2 children ÷ 2) and offsetting the results.

Other proposed rule changes are for clarification and are not substantive.

Summary of related federal requirements

Background on Medical Support

The first federal requirement that medical support be addressed in child support cases was in the Child Support Amendments of 1984. States were required to petition for medical child support in cases enforced under Section IV–D of the Social Security Act (IV–D cases) if health care coverage was available to the noncustodial parent at a reasonable cost. Reasonable cost was defined as coverage available through the noncustodial parent’s employment. The IV–D cases included custodial parents receiving AFDC or Medicaid and non–AFDC cases with the custodial parent’s consent.

In 1989, a change to 45 CFR 302.56 required states to establish one set of guidelines for setting and modifying child support award amounts within the state with a rebuttable presumption that the guidelines would apply in all child support cases. Among other things, the regulation required that the guidelines must, at a minimum, provide for the child’s health care needs through health insurance coverage or other means. It did not specify how health care needs should be addressed.

The Child Support Performance and Incentive Act of 1998 required health care coverage in IV–D cases, while previous law merely required States to petition for inclusion of health care coverage. This Act also directed the Secretaries of the Department of Labor and the Department of Health and Human Services to establish a Medical Child Support

Working Group to identify impediments to the effective enforcement of medical support and to make recommendations to eliminate them. The Working Group released their report, *21 Million Children’s Health: Our Shared Responsibility*, in August 2000. The report is available at <http://www.acf.hhs.gov/programs/cse/pubs/2000/reports/medrpt/>.

New Medical Support Provisions

Several of the key recommendations of the Working Group were adopted in the Deficit Reduction Act of 2005 and new medical support regulations issued on July 21, 2008. (*Child Support Enforcement Program; Medical Support; Final Regulation*, 73 Federal Register 42416). As amended, 42 USC 666(a)(19) provides that all IV–D child support orders shall include a provision for medical support for the child to be provided by either or both parents. State IV–D agencies now have the option of enforcing medical support against a custodial parent if health care coverage is available to the custodial parent at a reasonable cost.

The new regulation on securing and enforcing medical support obligations at 45 CFR 303.31 is more specific than the previous medical support section. It provides that the State IV–D agency must petition the court to include private health insurance that is accessible to the child, as defined by the State, and is available to the parent responsible for providing medical support at a reasonable cost in new or modified court orders for support.

If private health insurance is not available at the time the order is entered or modified, the State must petition to include cash medical support in new or modified orders until health insurance that is accessible and reasonable in cost becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health insurance coverage.

Cash medical support or the cost of private health insurance is considered “reasonable in cost” if the cost to the parent responsible for providing medical support does not exceed 5% of his or her gross income or, at State option, a reasonable alternative income–based numeric standard defined in the state child support guidelines. In applying the 5% or alternative state standard for the cost of private health insurance, the cost is the cost of adding the child or children to the existing coverage or the difference between self–only and family coverage.

“Health insurance” includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage that is available to either parent, under which medical services could be provided to a dependent child.

“Cash medical support” means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance.

On pages 42423–42424 of the preamble to the rule, commenters requested clarification on including unfixed, unreimbursed medical expenses in the definition of cash medical support subject to the reasonable cost limitations because this would unfairly place the burden for these costs on the custodial parent. The Administration for Children and Families responded that they agree it would not be appropriate at the time an order is established to include the cost of future, uncertain, and unspecified medical costs when applying the 5% cost–reasonableness standard. They further state that they do not agree that responsibility for extraordinary medical costs set in a subsequent medical support order should be ordered without any consideration of the obligated parent’s

ability to pay at the time the cost is incurred or reimbursement is sought.

New Medical Support Provision Affects All Child Support Awards

The new medical support regulations affect all child support awards, not just IV–D cases. The amended 45 CFR 302.56 requires that state guidelines for setting and modifying all child support amounts within the state address how the parents will provide for a child’s health care needs through health insurance coverage or cash medical support, or both, in accordance with 45 CFR 303.31, the new medical support regulation.

Comparison with rules in adjacent states

All states are required to comply with the new federal regulation affecting medical support.

Summary of factual data and analytical methodologies

The proposed rules will adopt provisions of a new federal regulation on medical support in child support cases, recommendations of the Department’s child support guidelines review, and a recommendation by the Child Support Policy Advisory Committee.

Small Business Impact

The proposed rules do not affect small businesses as defined in s. 227.114 (1), Stats.

Fiscal Estimate

Summary

The proposed rule implements a federal regulation that is intended to increase enforcement of medical support obligations in child support orders. If there is an increase in parents who are enrolling their children in private–pay insurance, BadgerCare Plus enrollment may decrease.

Other changes to the child support guidelines in the proposed rule have no fiscal effect.

State fiscal effect

None.

Local government fiscal effect

None.

Long–range fiscal implications

None.

Agency Contact Person

Attorney Connie Chesnik, Office of Legal Counsel, (608) 267–7295, connie.chesnik@wisconsin.gov.

Notice of Hearing

Financial Institutions — Banking

EmR0907

NOTICE IS HEREBY GIVEN That pursuant to section 9117 of 2009 Wisconsin Act 2 and section 227.11 (2), Stats., the Department of Financial Institutions, Division of Banking will hold a public hearing to consider an emergency rule to create chapter DFI–Bkg 47 and repeal chapter DFI–Bkg 41, relating to the transition from a registration system to a license system.

Hearing Information

Date: June 10, 2009

Time: 10:00 a.m.

Location: Office of the Secretary
Wis. Dept. of Financial Institutions
345 W. Washington Avenue, 5th floor
Madison, Wisconsin 53703

Analysis Prepared by the Department of Financial Institutions — Division of Banking

Statute interpreted

Section 9117 of 2009 Wisconsin Act 2.

Statutory authority

Sections 9117 of 2009 Wisconsin Act 2 and 227.11 (2), Stats.

Related statute or rule

Chapter DFI – Bkg 41.

Explanation of agency authority

Pursuant to subch. III of ch. 224, Stats., and s. 220.02 (2) and (3), Stats., the division regulates mortgage bankers, mortgage brokers and loan originators.

Summary of proposed rule

The objective of the rule is to create ch. DFI–Bkg 47 and to eventually repeal ch. DFI–Bkg 41. 2009 Wisconsin Act 2 provides that the division shall by rule institute a system of initial license issuance or license renewal that it deems advisable for the purpose of implementing an orderly and efficient transition from the registration system under subchapter III of chapter 224, 2007 Stats., to the license system under subch. III of ch. 224, Stats., as affected by 2009 Wisconsin Act 2. The purpose of this rule is to set forth the transition to that system.

Comparison with federal regulations

Title V, S.A.F.E. Mortgage Licensing Act, ss. 1501 – 1517. This act encourages states to participate in the Nationwide Mortgage Licensing System and Registry, and requires states to have in place, by law or regulation, a system for licensing and registering mortgage loan originators that meets the requirements of sections 1505, 1506, and 1508(d) of the act.

Comparison with rules in adjacent states

Illinois and Iowa have adopted this act; Minnesota and Michigan have not.

Summary of factual data and analytical methodologies

The department reviewed its regulatory practices and procedures, solicited input from affected entities to determine the necessary regulations, and worked internally with staff on the mechanics of the transition.

Analysis and supporting documentation used to determine effect on small business

The rule does not have a significant economic impact on small business. The requirement to transition from a registration system to a license system are the result of and set forth in 2009 Wisconsin Act 2, and not the rule. Fee revisions herein include a proration and refund of fees paid under the current registration system.

Exemption from Finding of Emergency

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

Fiscal Estimate

The emergency rule may increase costs that may be possible to absorb within the agency's budget. There are no local government costs.

Copies of Proposed Rule, Submission of Written Comments

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

Agency Contact Person

For substantive questions on the rule, contact Michael J. Mach, Administrator, Department of Financial Institutions, Division of Banking, P.O. Box 7876, Madison, WI 53707-7876, tel: (608) 266-0451, email: mike.mach@wisconsin.gov.

REVISED Notice of Hearing

Natural Resources

Fish, Game, etc., Chs. NR 1— CR 09-031

NOTICE IS HEREBY GIVEN that pursuant to ss. 77.06 (2), 77.82 (2m) and (4), 77.88 (2) (d) 2., 77.91 (1) and 227.11 (2) (a), Stats., the Department of Natural Resources will hold a public hearing on revisions to Chapter NR 46, Wis. Adm. Code, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Hearing Information

The hearing will be held on:

May 13, 2009

Wednesday at 10:00 AM	Video conference participation will be available at: Room 139, State Office Building, 718 W. Clairemont Avenue, Eau Claire Room 618, State Office Building, 200 N. Jefferson Street, Green Bay (NEW) Room 315, The Pyle Center 702 Langdon Street, Madison Room 211, Communication Art Center, UW-Stevens Point, 1101 Reserve Street, Stevens Point
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Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kathy Nelson at (608) 266-3545 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rule, Submission of Written Comments, and Agency Contact Person

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Kathy Nelson, Forest Tax Section, Bureau of Forest Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until May 29, 2009. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Nelson.

Analysis Prepared by Department of Natural Resources *Statutes interpreted*

Section 77.06 (2) and subch. VI of ch. 77, Stats.

Statutory authority

Sections 77.06 (2), 77.82 (2m) and (4), 77.88 (2) (d) 2., 77.91 (1) and 227.11 (2) (a), Stats.

Summary of proposed rule

The proposed rule:

- Revises the annual stumpage rates for the period between November 1, 2009 and October 31, 2010 as required in ss. 77.06(2) and 77.91(1), Stats. While the statewide averages increased slightly, there are fluctuations between market zones and individual prices. Of all total 624 prices calculated, 173 (28%) increased, 188 (30%) decreased and 263 (42%) stayed the same.
- Amends the petition requirements in NR 46.16 (5). Petition requirements are being changed to streamline the administration and processing of new MFL entries. The rule would be modified to allow entries of land per municipality except in cases where lands must cross municipality lines to meet eligibility requirements.
- Amends management plan requirements in NR 46.18 (5): Deadlines to submit management plans for DNR approval are being changed to make the two application deadlines similar to each other. Landowners with management plans prepared by DNR foresters must return their signed plans by August 1. A change in this deadline to August 15 is proposed to make the certified plan writer and DNR deadline the same for landowners to turn in completed management plans.

Small Business Impact

The proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

Initial regulatory flexibility analysis

Types of small businesses affected: Any business with land enrolled in either the Managed Forest Law or the Forest Crop Law or wishing to enroll land under the Managed Forest Law.
Description of reporting or bookkeeping procedures required: No procedures not already required.

Description of professional skills required: No new skills are required.

Small business regulatory coordinator

The Department's Small Business Regulatory Coordinator for this rule may be contacted at quinn.williams@wisconsin.gov or by calling (608) 266-1318.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental

effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

This proposed rule change addresses the annual stumpage rate changes used in the calculation of severance and yield tax collections under Forest Cop Law (FCL) and Managed Forest Law (MFL) when timber is harvested from the private lands enrolled in the programs.

There is an undetermined impact in revenues to local municipalities. Timber prices have been variable from 2007 through 2008. The average statewide prices for sawlogs have increased 3%, with a range of a 21% increase to a 15% decrease. The average statewide prices for cords have increased 1%, with a range of a 10% increase to a 7% decrease. Prices for mixed products (mixture of sawlogs and cords for red pine, white pine and spruce) have dropped 12%, with a range of a 14% increase and a 31% decrease. Piece products (posts and poles) had a 12% increase in prices, with some market zones having an increase in prices of 96%. The increase in piece prices appears to be due to the additional reporting of piece products more than fluctuations in the markets. Only 12 of the available 143 piece product values were reported in the past year. This reporting is more than past years’ reporting, so it is possible that piece products may be undervalued in some market zones.

While the statewide averages increased slightly, there are fluctuations between market zones and individual prices. Of all total 624 prices calculated, 173 (28%) increased, 188 (30%) decreased and 263 (42%) stayed the same.

The severance and yield tax collected in CY 2008 was \$1,734,479. This value is 17% lower than it was in CY 2006. Timber harvest volumes are down since CY 2007 by the following amounts:

Cordwood	Down 11%
Fuelwood	Down 5%
Sawlogs	Down 11%
Mixed Product	Up 510%
Piece Products	Down 43%
Christmas Trees	Down 16%

Reporting of mixed products increased most likely due to the awareness that private land owners may sell red pine, white pine and white spruce in this fashion. Based on the very small statewide increase in timber prices an estimated \$3,090.00 will be collected for municipalities.

Estimates are based on the average change in rates for private land timber sales across species and zone for each product type (cordwood, sawtimber and mixed), the volumes reported and paid for in CY 2008, and the assumption that the volume and the ratio of the cordwood and sawtimber will remain the same. Actual impact for a county and municipality will vary by the number of harvests completed and the actual species and products cut.

Other requested changes in NR 46 will streamline the implementation of the MFL program. Requests to enter lands based on municipal lines except for when lands must be combined with other lands in adjacent municipalities will have no impact on local or state finances.

Requests to change the plan completion dates will have no financial impact on local or state finances.

State fiscal effect

None.

Types of local governmental units affected

Towns, villages, cities, counties.

Fund sources affected

SEG.

Affected Chapter 20 appropriations

Section 20.370 (1) (cr), Stats.

Long-range fiscal implications

None.

Submittal of Proposed Rules to the Legislature

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

Commerce

*Fee Schedule, Ch. Comm 2
Flammable, Combustible and Hazardous Liquids,
Ch. Comm 10
CR 09-017*

A rule-making order to revise Chapters Comm 2 and 10, relating to flammable, combustible and hazardous liquids.

Government Accountability Board

CR 09-013

A rule-making order to revise section GAB 1.28, relating to the definition of the term “political purpose.”

Insurance

CR 09-022

A rule-making order to revise Chapters Ins 2, 5, 6, 26, and 28, relating to licensing, prelicensing and continuing education for insurance agents and affecting small business.

Medical Examining Board

CR 09-005

A rule-making order to amend section Med 20.05 (title) and to create section Med 20.055, relating to temporary certificates for respiratory care practitioners who are certified in other jurisdictions.

Natural Resources

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

CR 08-103

A rule-making order to revise Chapter NR 428, relating to the control of nitrogen oxide emitted by stationary sources in the ozone non-attainment area in southeastern Wisconsin.

Rule Orders Filed with the Legislative Reference Bureau

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

**Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board
CR 08-088**

Revises sections MPSW 11.01, 12.01, and 14.01, relating to supervised practice, training licenses and academic programs for professional counselors.
Effective 7-1-09.

**Marriage and Family Therapy, Professional
Counseling and Social Work Examining Board
CR 08-089**

Revises sections MPSW 3.09 and 3.13, relating to practice hours and internship for social workers.
Effective 7-1-09.

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