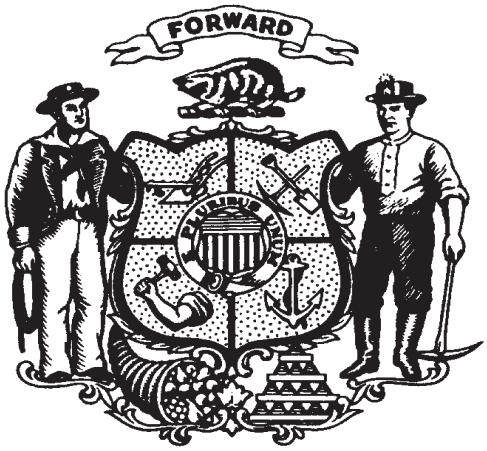
Wisconsin Administrative Register

No. 653



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WISCONSIN ADMINISTRATIVE REGISTER

The Wisconsin Administrative Register is published twice monthly by the Legislative Reference Bureau.

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection (2)

1. **EmR1003** — Rule adopted revising **ss. ATCP 60.15 and 60.20**, relating to somatic cell standards for dairy goat milk.

Finding of Emergency

Recently, the National Conference of Interstate Milk Shippers voted to relax the standard for somatic cells in grade A goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml. The United States Food and Drug Administration accepted this change and will include it in the next edition of the Interstate Pasteurized Milk Ordinance. The United States Department of Agriculture is adopting the same standard for grade B goat milk, as part of its standards for "Milk for Manufacturing Purposes and its Production and Processing."

Wisconsin rules currently establish a limit of 1,000, 000 somatic cells per ml in goat milk, which is more stringent than the new national standard of 1,500,000 per ml. The more stringent Wisconsin standard, if not modified to conform to the new national standard, will put Wisconsin dairy goat milk producers at a significant financial, operational, and competitive disadvantage compared to producers in other states.

This emergency rule modifies Wisconsin's current standard, and makes it consistent with the new national standard. The department of agriculture, trade and consumer protection (DATCP) is adopting this rule as a temporary emergency rule, pending rulemaking proceedings to modify the standard on a more "permanent" basis. "Permanent" rulemaking proceedings normally require over a year to complete. This emergency rule is needed to mitigate a potential hardship to Wisconsin producers of dairy goat milk, pending the adoption of "permanent" rules.

Publication Date:	**February 4, 2010**
Effective Dates:	**February 4, 2010 through July 3, 2010**
Hearing Date:	**June 15, 2010**

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

Finding of Emergency

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

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

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

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

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

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

(7) This emergency rule also exempts, from food processing plant license requirements under s. 97.29, Stats., a person who collects and processes relatively small quantities of maple sap to produce maple syrup or concentrated maple sap for sale to other processors for further processing. These small−scale processing activities pose

minimal food safety risks, and the current license requirement imposes an unnecessary cost and compliance burden. An emergency rule is needed to relieve these cost and compliance burdens for the maple sap collection and processing season that typically begins in March. This emergency rule creates a temporary license exemption, pending the completion of "permanent" rules by the normal rulemaking process. This emergency rule clearly defines the scope, application and terms of the exemption, in order to protect public health, safety and welfare.

Publication Date:	**April 22, 2010**
Effective Dates:	**April 22, 2010 through September 18, 2010**
Hearing Date:	**May 25, 2010**

Children and Families

Safety and Permanence, Chs. DCF 37−59

EmR0937 — Rule adopted revising **Chapters DCF 56 and 58**, relating to foster care and kinship care.

Finding of Emergency

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

2009 Wisconsin Act 28 assumes that court−ordered kinship care relatives will be applying for a license to operate a foster home beginning after January 1, 2010, and continuing throughout 2010. This rule creates the first two levels of the new levels of care system for foster care. The newly−licensed kinship care relatives will be incorporated into the foster care program. Licensing these relatives will allow the state to claim an additional $6.5 million in Title IV−E funds for 2010. Act 28 appropriates this $6.5 million to be expended in 2011.

Publication Date:	**December 30, 2009**
Effective Dates:	**January 1, 2010 through May 30, 2010**
Hearing Dates:	**March 17, March 31, April 8, 2010**

Children and Families

Early Care and Education, Chs. DCF 201−252

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

Finding of Emergency

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

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

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

(See the Notice in this Register)

Commerce (4)

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

1. **EmR0931** — Rule adopted creating Chapter Comm 136, relating to midwestern disaster area bonds.

Finding of Emergency

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

Between June 14 and July 9, 2008, thirty Wisconsin counties were declared major disaster areas by the President as a result of severe storms, tornados or flooding in 2008 that caused extensive damage to communities, residents, businesses, the economy and critical infrastructure. Subsequently, the federal Heartland Disaster Tax Relief Act of 2008 was enacted, authorizing the Governor of Wisconsin to designate up to $3,830,112,000 in Qualified Midwestern Disaster Area Bonds, which must be issued before January 1, 2013, for the purpose of encouraging economic development and recovery in the 30 counties.

To implement the provisions this federal Act, Governor Jim Doyle issued Executive Order #288, directing the Department to promulgate rules for allocating Wisconsin's Qualified Midwestern Disaster Area Bonding Authority, and including the necessary provisions to ensure that bonds are allocated to eligible projects on the basis of providing assistance to areas in the order in which the assistance is most needed. This rule is the result of that directive.

Publication Date:	**November 9, 2009**
Effective Dates:	**November 9, 2009 through April 7, 2010**
Extension Through:	**June 6, 2010**
Hearing Date:	**January 25, 2010**

2. **EmR1006**— Rule adopted to create **Chapter Comm 137,** relating to reallocations for recovery zone facility bonds as established under the federal American Recovery and Reinvestment Act of 2009, and affecting small businesses.

Exemption From Finding of Emergency

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

Publication Date:	**March 5, 2010**
Effective Dates:	**March 5, 2010 through August 1, 2010**
	(subject to 2009 Wis. Act 112, s. 5)
Hearing Date:	**May 13, 2010**

3. **EmR1008** — Rule adopted to create **Chapter Comm 124** relating to the Forward Innovation Fund, and affecting small businesses.

Exemption From Finding of Emergency

The Legislature, by Section 9110 (8) of 2009 Wisconsin Act 28, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public

peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date:	**March 22, 2010**
Effective Dates:	**March 22, 2010 through July 1, 2010**
Hearing Date:	**May 26, 2010**

4. **EmR1013** — Creates **Chapter Comm 121**, relating to the small business innovation research assistance program, and affecting small businesses.

Exemption From Finding of Emergency

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

Publication Date:	**April 21, 2010**
Effective Dates:	**April 21, 2010 through September 17, 2010**
Hearing Date:	**June 11, 2010**

Corrections

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

Finding of Emergency

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

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

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

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

Publication Date:	**December 31, 2009**
Effective Dates:	**December 31, 2009 through May 29, 2010**
Hearing Date:	**February 25, 2010**

Earned Release Review Commission

(Formerly Parole Commission)

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

Finding of Emergency

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

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

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

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

Publication Date:	**December 31, 2009**
Effective Dates:	**December 31, 2009 through May 29, 2010**
Hearing Date:	**February 23, 2010**

Employee Trust Funds

EmR0938 — Rule adopted revising **Chapters ETF 10, 20 and 40**, relating to the implementation of benefit changes mandated in 2009 Wisconsin Act 28; specifically, domestic partner benefits and the expansion of health insurance coverage to adult dependents up to the age of 27 years.

Finding of Emergency

The Department of Employee Trust Funds finds that an emergency exists and that emergency rules are necessary for

the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

ETF cannot promulgate a permanent rule in compliance with the mandated changes by January 1, 2010, which is the effective date of the domestic partnership and the health insurance provisions of 2009 Wisconsin Act 28. Without an emergency rule in place, the ability of ETF to enroll and cover participants' domestic partners and to provide health insurance to adult dependents would be seriously impaired. ETF would be unable to provide health insurance and other benefits to domestic partners and adult dependents.

Publication Date:	**December 28, 2009**
Effective Dates:	**January 1, 2010 through May 30, 2010**
Hearing Date:	**February 12, 2010**

Government Accountability Board

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

Finding of Emergency

Pursuant to s. 227.24, Stats., the Government Accountability Board finds an emergency exists as a result of the United States Supreme Court decision *Citizens United v. FEC*, 558 U.S. ___, (No. 08−205)(January 21, 2010). Within the context of ch. 11, Stats, the rule provides direction to organizations receiving contributions for independent disbursements or making independent disbursements. Comporting with *Citizens United*, this emergency rule order does not treat persons making independent disbursements as full political action committees or individuals under s. 11.05, Stats., for the purposes of registration and reporting. With respect to contributions or in−kind contributions received, this emergency rule order requires organizations to disclose only donations "made for" political purposes, but not donations received for other purposes.

The Board adopts the legislature's policy findings of s. 11.001, Stats., emphasizing that one of the most important sources of information to voters about candidates is available through the campaign finance reporting system. The Board further finds that it is necessary to codify registration, reporting and disclaimer requirements for organizations receiving contributions for independent disbursements or making independent disbursements so that the campaign finance information is available to voters. The rule must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

Publication Date:	**May 20, 2010**
Effective Dates:	**May 20, 2010 through October 16, 2010**

Health Services (2)

Health, Chs. DHS 110—

1. **EmR1004** — Rule adopted to create **sections DHS 195.145 and 197.145**, relating to carbon monoxide detectors in hotels, motels, tourist rooming houses and bed and breakfast establishments, and affecting small businesses.

Finding of Emergency

DHS 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:

Section 101.149 (2) and (3), Stats., requires the owners of lodging establishments, including hotels, tourist rooming houses, and bed and breakfast establishments that were constructed on or before October 1, 2008, or had plans reviewed by the department of commerce before October 1, 2008, to, not later than April 1, 2010, install carbon monoxide detectors in every residential building that has a fuel−burning appliance, unless, pursuant to s. 101.149 (5), Stats., the building does not have an attached garage and all fuel−burning appliances in the building have sealed combustion units that are either covered by the manufacturer's warranty against defects or are inspected under rules promulgated by DHS.

Section 254.74 (1) (am), Stats., requires DHS to promulgate rules under which DHS would conduct inspections of sealed combustion units for carbon monoxide emissions, and rules that specify the conditions under which DHS may issue orders to correct violations of s. 101.149 (2) or (3), Stats.

Publication Date:	**March 1, 2010**
Effective Dates:	**April 1, 2010 through August 28, 2010**
Hearing Dates:	**April 21, 23, 27, 28, 30, 2010**

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

Finding of Emergency

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

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

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

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

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

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

Publication Date: **March 29, 2010**
Effective Dates: **March 29, 2010 through August 25, 2010**
Hearing Date: **May 5, 2010**

Insurance (3)

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

Exemption From Finding of Emergency

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

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

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

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

Publication Date: **October 1, 2009**
Effective Dates: **October 2, 2009 through October 1, 2010**
Hearing Date: **December 8, 2009**

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

Exemption From Finding of Emergency

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

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

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

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

Publication Date: **January 7, 2010**
Effective Dates: **January 8, 2010 through June 6, 2010**
Hearing Date: **May 5, 2010**

3. **EmR1005** — A rule adopted creating **section Ins 3.36**, relating to treatment of autism spectrum disorders and affecting small business.

Exemption From Finding of Emergency

The Commissioner of Insurance pursuant to s. 632.895 (12m) (f) 2., Stats., need not find that an emergency exists nor provide evidence that promulgating a rule is necessary for the preservation of the public peace, health, safety or welfare.

Publication Date: **March 8, 2010**
Effective Dates: **March 8, 2010 through August 4, 2010**
(subject to s. 632.895 (12m) (f), Stats.)
Hearing Date: **May 26, 2010**

Natural Resources

Fish, Game, etc., Chs. NR 1—

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

Finding of Emergency

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

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

(See the Notice in this Register)

Natural Resources

Environmental Protection — Water Regulation, Chs. NR 300—

EmR0915 — A rule adopted revising **Chapters NR 335 and 336,** relating to grants for dam maintenance, repair, modification, or abandonment and removal.

Finding of Emergency

The substantial increase in bonding for the dam grant programs is a strong message from the legislature that concern for public welfare from unsafe dams is growing, as well as the desire to help dam owners, including the owners of the many dams damaged during the flooding in 2007 and 2008. In order to protect the public and provide this financial assistance, these additional funds should be put to work as soon as possible. The timeline for permanent rule promulgation will impede the Department's ability to accept applications and commit funding to dam safety projects until at least June 2010, which would delay most projects until late 2010 or 2011. The emergency rules will allow immediate implementation of modifications that will allow a grant application cycle to be conducted yet this fall and allow most projects to be constructed during the 2010 construction season or before.

Publication Date:	**August 28, 2009**
Effective Dates:	**August 28, 2009 through January 24, 2010**
Extension Through:	**May 24, 2010**
Hearing Date:	**April 15, 2010**

Natural Resources

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

EmR1007 — A rule adopted revising **section NR 660.10,** relating to hazardous waste management.

Exemption From Finding of Emergency

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

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

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

Public Defender Board

EmR0926 — Rule adopted to create **Chapter PD 8**, Discovery Payments, relating to the maximum fees that the state public defender may pay for copies of discovery materials in criminal proceedings, proceedings under Chapter 980, Wis. Stats., and other proceedings in which the state public defender provides legal representation.

Finding of Emergency

These rules are promulgated under s. 227.24 (1) (a), Stats., because the magnitude of the shortfall in the state public defender's appropriation for transcripts, discovery, and interpreters in both years of the current biennium constitutes an emergency that requires implementation of a rule earlier than a permanent rule could take effect if the agency were to comply with the applicable notice, hearing, legislative−review, and publication requirements.

The state public defender was initially provided a base budget of $60,000 in 1995 for discovery payments, which at that time consisted mostly of photocopies and some photographs. In the 1999−2001 budget act, this appropriation was increased to $150,000, based on a presumptive rate for photocopies of $0.20 per page. In the 2001−2003 biennial budget act, this appropriation was subjected to a five percent funding reduction, leaving a base budget for discovery payments of $142,500.

The public defender received discovery bills totaling $717,000 for the fiscal year that ended June 30, 2009. Although discovery costs are caseload driven, this represents a nearly five−fold increase since 2001 and is due primarily to two factors. First, in the past many counties and municipalities did not bill the state public defender for copies of discovery materials. Because local budgets have come under increasing pressure, most now do so. Second, 2005 Wisconsin Act 60 resulted in more widespread use of audio and video recordings of interrogations by law enforcement, copies of which must be provided to the defense.

The public defender board's requests for cost−to−continue budget increases for discovery payments in 2007−2009 and in 2009−2011 were not funded. Instead, the FY 2009−2011 budget act reduced this appropriation by 1%, leaving a base budget of $141,100, and directed the board to promulgate rules to address the funding shortfall.

Publication Date:	**October 3, 2009**
Effective Dates:	**October 3, 2009 through March 1, 2010**
Extension Through:	**June 29, 2010**
Hearing Date:	**November 16, 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 Dates:	**September 10, 2008 through the date on which the final rules take effect**
Hearing Dates:	**November 26, 2008 April 13, 2009**

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

Exemption From Finding of Emergency

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

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

Revenue (4)

1. **EmR0929** — Rule adopted to create sections **Tax 2.85 and 11.90**, relating to failure to produce records.

Finding of Emergency

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the adoption of penalties for failure to produce records.

It is necessary to promulgate this rule order to provide guidance so that the penalties can be administered in a fair and consistent manner.

Publication Date:	**October 19, 2009**
Effective Dates:	**October 19, 2009 through March 17, 2010**
Extension Through:	**July 15, 2010**
Hearing Dates:	**December 10 and 21, 2009**

2. **EmR0935** — Rule adopted to create **section Tax 1.16**, relating to the financial record matching program.

Finding of Emergency

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

The emergency rule is to reflect changes in Wisconsin's tax laws due to the creation of the financial record matching program.

It is necessary to promulgate this rule order to provide procedures so that the program can be administered in a fair and consistent manner.

Publication Date:	**December 22, 2009**
Effective Dates:	**December 22, 2009 through May 20, 2010**
Extension Through:	**July 19, 2010**
Hearing Date:	**February 11, 2010**

3. **EmR0943** — Rule adopted to revise **Chapter Tax 2**, relating to apportionment and nexus.

Finding of Emergency

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

In 2009, the Wisconsin Legislature enacted Acts 2 and 28, both of which contained substantial changes to Wisconsin's corporation franchise and income tax laws. Most of these changes are effective retroactively to taxable years beginning on or after January 1, 2009. Emergency rules are needed to add certainty about the scope and application of the newly enacted statutes as soon as possible so that taxpayers can file their returns accordingly.

Publication Date:	**December 31, 2009**
Effective Dates:	**December 31, 2009 through May 29, 2010**
Hearing Date:	**February 25, 2010**

4. **EmR1002** — Rule adopted to create **section Tax 1.17**, relating to the ambulatory surgical center assessment.

Exemption From Finding of Emergency

The legislature by Section 9143 (4u) of 2009 Wisconsin Act 28 provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date:	**January 19, 2010**
Effective Dates:	**January 19, 2010 through June 16, 2010**
(Subject to 2009 Wis. Act 28, Section 9143 (4u))	
Hearing Date:	**February 11, 2010**

Veterans Affairs

EmR0944 — Rule adopted to amend **section VA 2.02 (2)**, relating to the veterans tuition reimbursement program.

Finding of Emergency

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

The removal of the existing deadline for completing and receiving an application for the tuition fee reimbursement

program has left the department unable to budget the available resources for this program to ensure maximum coverage for eligible veterans throughout the fiscal year. The department is requesting emergency rules to ensure applications can be processed in a responsive manner and to allow the department to properly manage the program's biennial budget and ensure the welfare of all eligible veterans. The emergency rule will address the need for an application deadline while the department completes the promulgation for a permanent rule for the program.

Publication Date:	**January 4, 2010**
Effective Dates:	**January 4, 2010 through June 2, 2010**
Hearing Date:	**March 10, 2010**

Workforce Development

Labor Standards, Chs. DWD 270−279

EmR1011 — Rule adopted to create **Chapter DWD 273**, relating to the regulation of traveling sales crews.

Finding of Emergency

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

The statute which provides for the regulation of traveling sales crews became effective on April 1, 2010. The Department has completed its work on the proposed administrative rule which implements the statute, and submitted the proposed rule in final form for legislative review on April 13, 2010. Putting the provisions of the proposed rule into effect during the legislative review period will allow the Department to take any enforcement action that might be needed if there are complaints during this period about the operation of traveling sales crews without the permits required by statute.

Publication Date:	**April 19, 2010**
Effective Dates:	**April 19, 2010 through September 15, 2010**

Workforce Development (2)

Public Works Construction Contracts, Chs. DWD 290−294

1. **EmR0941** — Rule adopted to create **section DWD 290.20**, relating to the thresholds for the requirement of prevailing wage rates.

Finding of Emergency

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

The most recent state budget legislation, 2009 Wisconsin Act 28, contained amendments to the state laws which require the payment of prevailing wage rates for work done on projects of public works and , in a new statute, for work done on private projects which receive more than $1,000,000 of public direct financial assistance. The new provisions become effective on January 1, 2010.

The prevailing wage laws require that when a state agency or local governmental unit contracts for the erection, construction, remodeling, repairing, or demolition of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with the wage rates established by the determination. Under the law as it existed before the enactment of 2009 Act 28, a prevailing wage rate determination was required for any project with an estimated cost of at least $48,000 (for a single−trade project) or $234,000 (for a multi−trade project). Act 28 changes these amounts to an estimated project cost of at least $25,000. Act 28 has also created a new statute, s. 66.0904, Stats., which requires that a private developer obtain and comply with a prevailing wage rate determination for a private project that receives at least $1,000,000 in direct financial assistance from a local governmental unit.

The state and local governmental units and private developers who may be subject to these new requirements of the prevailing wage laws need immediate guidance as to the manner in which the Department will apply the January 1, 2010 effective date to new projects. This rule provides that guidance by establishing that the new threshold requirements will apply to projects for which a request for bids is issued or a contract is negotiated after January 1, 2010.

Publication Date:	**December 29, 2009**
Effective Dates:	**January 1, 2010 through May 30, 2010**

2. **EmR0942** — Rule adopted to amend **section DWD 293.02**, relating to the adjustment of thresholds for payment and performance assurance bond requirements and affecting small businesses.

Finding of Emergency

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

The adjustment of the thresholds for the application of the project payment and performance assurance bond requirements 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 the need for obtaining bonding 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 rule−making process.

Publication Date:	**December 29, 2009**
Effective Dates:	**January 1, 2010 through May 30, 2010**
Hearing Date:	**March 31, 2010**

Scope Statements

Children and Families

Family and Economic Security, Chs. DCF 101−153

Subject

Creates Chapter DCF 110, relating to transitional jobs for low−income adults.

Policy Analysis

Section 49.162, Stats., provides that the department shall conduct a demonstration project that offers transitional jobs to low−income adults. To be eligible to participate in the demonstration project, an individual must satisfy all of the following criteria:

- Be at least 21 but not more than 64 years of age.
- Be ineligible for Wisconsin Works.
- Have an annual household income that is below 150 percent of the poverty line.
- Be unemployed for at least 4 weeks.
- Be ineligible to receive unemployment insurance benefits.

The department shall provide up to 2,500 transitional jobs under the demonstration project. The jobs shall be allocated among Milwaukee County, Dane County, Racine County, Kenosha County, Rock County, Brown County, and other regions of the state, as determined by the department, in the same proportion as the total number of Wisconsin Works participants are allocated among those counties and other regions as of June 30, 2009.

The department shall seek federal funds to pay for the cost of operating the demonstration project and may conduct the project only to the extent that the department obtains federal funds.

The proposed rules will specify policy for the operation of the demonstration project.

Statutory Authority

Sections 49.162 and 227.11 (2), Stats.

Comparison with Federal Regulations

It is anticipated that initial funding for the program will be from the Emergency Contingency Fund of the Temporary Assistance for Needy Families (TANF) program. The American Recovery and Reinvestment Act of 2009 (ARRA) created the TANF Emergency Contingency Fund under which states can receive 80% federal funding for spending increases in FFYs 2009 and 2010 over FFY 2007 or 2008 in certain categories of TANF−related expenditures. The three categories are basic assistance, non−recurrent short−term benefits, and subsidized employment.

TANF is a federal block grant that provides states with funds that can be used for a wide range of activities that are aimed at any of the four purposes of TANF:

- Assisting needy families so that children can be cared for in their own homes.
- Reducing the dependency of needy parents by promoting job preparation, work and marriage.
- Preventing out−of−wedlock pregnancies.
- Encouraging the formation and maintenance of two−parent families.

Guidance issued by the Administration for Children and Families (ACF) on the TANF Emergency Fund states that under limited circumstances an adult without a dependent child can receive a TANF service, as long as it is reasonably calculated to accomplish a purpose of the TANF program and does not constitute "assistance" as defined in the TANF regulations. ACF has indicated that services to noncustodial parents and older youth could satisfy one or more of the statutory purposes of the TANF program. Examples of services that could be provided include subsidized employment, job skills training, employment counseling, and employment placement services. (http://www.acf.hhs.gov/programs/ofa/recovery/tanf−faq.htm)

Entities Affected by the Rule

Low−income adults who are unemployed and not receiving Wisconsin Works or unemployment insurance and entities that become program contractors or worksites.

Estimate of Time Needed to Develop the Rule

150 hours

Contact Information

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Children and Families

Early Care and Education, Chs. DCF 201−252

Subject

Revises Chapter DCF 201, relating to child care subsidy program integrity.

Policy Analysis

Section 49.155 (7m), Stats., as created by 2009 Wisconsin Act 28, provides that the department shall by rule establish policies and procedures permitting the department to do all of the following if a child care provider submits false, misleading, or irregular information to the department or if a child care provider fails to comply with the terms of the program and fails to provide to the satisfaction of the department an explanation for the noncompliance:

1. Recoup payments made to the child care provider.
2. Withhold payments to be made to the child care provider.
3. Impose a forfeiture on the child care provider.

Withholding payments to child care providers is also addressed under s. 49.155 (7) (b) 4., Stats., as created by 2009 Wisconsin Act 28.

The proposed rules will amend existing overpayment recovery and sanction provisions in DCF 201 to specify how these requirements will be implemented.

Statutory Authority

Sections 49.155 and 227.11 (2), Stats.

Comparison with Federal Regulations

None.

Entities Affected by the Rule

Child care providers.

Estimate of Time Needed to Develop the Rule

80 hours.

Contact Information

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Government Accountability Board

Subject

Creates section GAB 1.91, relating to organizations making independent disbursements.

Objective of the Rule

In *Citizens United v. FEC*, 558 U.S. ___, (No. 08−205) (January 21, 2010), the United States Supreme Court greatly expanded the rights of organizations to engage in independent expenditures and strengthened the ability of the government to require disclosure and disclaimer of the independent expenditures. Pursuant to s. 5.05 (1), the Board has the responsibility for the administration of campaign finance statutes in ch. 11, Stats. Rules promulgated by the Board will ensure the proper administration of the campaign finance statutes and address the application of *Citizens United v. FEC* to Wisconsin statutes.

Policy Analysis

Within the context of ch. 11, Stats, the proposed order will provide direction to organizations receiving contributions for independent disbursements or making independent disbursements following the U.S. Supreme Court decision in *Citizens United v. FEC*, 558 U.S. ___, (No. 08−205)(January 21, 2010). The proposed rule enumerates registration, reporting, and disclaimer requirements of provisions of ch. 11, Stats., which apply to organizations receiving contributions or making independent disbursements.

Statutory Authority

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

Comparison with Federal Regulations

At the federal level, the FEC provides rules at 11 CFR 109.10, which regulate persons who are not a committee and make independent expenditures. An independent expenditure statement and reports quarterly are required for any person making independent expenditures in excess of an aggregate $250.00 in a calendar year. If a person makes an independent expenditure of $10,000.00 or more, an independent expenditure statement and report must be filed within 48 hours of the expenditure. Any person making an independent expenditure of $1,000.00 or more within 20 days of an election must file an independent statement and report within 24 hours of the expenditure. The independent expenditure statement must include the identity of the person making the expenditure and any contributions received in excess of $200.00. In addition, a disclaimer is required for any communication resulting from an independent expenditure.

Entities Affected by the Rule

Any person, association, corporation, partnership, labor organization, tribe, or any other person that is not a committee, individual or political group subject to registration under s. 11.23, Stats., that will make independent disbursements.

Estimate of Time Needed to Develop the Rule

50 hours.

Insurance

Subject

Creates section Ins 2.18, relating to life settlements and affecting small business.

Objective of the Rule

Passage of SB 513 has replaced Wisconsin's viatical settlement statute with comprehensive regulation of life settlement transactions. The statute replaces licensing requirements for brokers and providers and establishes pre−licensing and continuing education standards. The proposed rule will assist in implementation of the requirements of SB 513 including those provisions relating to licensure, training, disclosures, reporting, examinations and conduct of licensees.

Policy Analysis

Prior to passage of SB 513, regulation under Wisconsin's existing viatical settlement statute was limited to life insurance policies sold by policyholders with terminal or life−threatening illnesses. The current life settlement industry has expanded to include purchases of policies from other individuals, and the industry is experiencing tremendous growth. SB 513 addresses regulatory needs of the expanded life settlement industry and adds administrative duties and procedures for oversight of licensees operating within the state and protection of consumers, which the proposed rule will address.

Statutory Authority

Sections 601.41 (3), 601.42 (3), 628.34, 628.38, 631.20, 631.23, and 632.69, Wis. Stats.

Comparison with Federal Regulations

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

Entities Affected by the Rule

The proposed rule will affect insurers which offer life insurance products, life settlement brokers and providers, intermediaries, policyholders and purchasers of life settlements.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Insurance

Subject

Revises Chapter Ins 3, relating to casualty insurance and affecting small business.

Objective of the Rule

Passage of 111 P.L. 148 and 111 P.L. 152, the Patient Protection and Affordable Care Act (PPACA), and the Health

Care and Education Reconciliation Act of 2010 (HCERA), respectively, will require modifications. Insurance Chapter 3 contains numerous provisions that are likely to be revised due to federal law. Among the areas that will be reviewed to ensure compliance with state and federal law include: individual, group and blanket insurance requirements, unfair trade practices, marketing practices, mandated coverage regulations including coverage for adult children, autism spectrum disorders and newborns coverage, Medicare supplement and possibly long−term care insurance regulations. Each provision that is now covered or affected by PPACA or HCERA will need to be reviewed to determine if a rule must be repealed, recreated or amended.

The Department of Health and Human Services in conjunction with the National Association of Insurance Commissioners will be developing federal regulations to implement portions of the PPACA and HCERA. As those develop insurance regulations will again need to be reviewed to avoid conflict with federal requirements.

Policy Analysis

Existing state policies towards the regulation of individual, group, self−funded governmental plans as defined at s. 632.745, Stats., and group blanket plans confer consumer protections balanced against insurer conduct. With the passage of PPACA and HCERA, Wisconsin regulations must be reviewed to determine whether the regulations provide more consumer protections than federal law or if there is a conflict. Both the state and federal regulations provide consumer protections and the regulatory structure for oversight of insurers operating in the state. The goal will be to maintain the balance that currently exists in the Wisconsin regulatory structure.

Statutory Authority

Sections 601.41 (3), 625.16, 628.38, 632.73, 632.76, and 632.81, Wis. Stats.

Comparison with Federal Regulations

Most Wisconsin regulations provide more protections than federal law and will be allowed to stay as is following passage of PPACA and HCERA. However, current regulation does not anticipate the Exchanges that will be established, uniform benefits and definitions that will become the core of health insurance products, wellness programs that will be ranked, changes to prescription drug plans for seniors, and data collection and review of insurer rates and efficiency in the market place.

Entities Affected by the Rule

With the broad scope of PPACA and HCERA all entities related to insurance may be affected by the changes including intermediaries, insurers, and third−party administrators.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Insurance

Subject

Revises Chapter Ins 6, relating to general insurance provisions and affecting small business.

Objective of the Rule

Passage of 111 P.L. 148 and 111 P.L. 152, the Patient Protection and Affordable Care Act (PPACA), and the Health Care and Education Reconciliation Act of 2010 (HCERA), respectively, will require modifications. Insurance Chapter 3 contains numerous provisions that are likely to be revised due to federal law. Among the areas that will be reviewed to ensure compliance with state and federal law include: individual, group and blanket insurance requirements, unfair trade practices, marketing practices, mandated coverage regulations including coverage for adult children, autism spectrum disorders and newborns coverage, Medicare supplement and possibly long−term care insurance regulations. Each provision that is now covered or affected by PPACA or HCERA will need to be reviewed to determine if a rule must be repealed, recreated or amended.

The Department of Health and Human Services in conjunction with the National Association of Insurance Commissioners will be developing federal regulations to implement portions of the PPACA and HCERA. As those develop insurance regulations will again need to be reviewed to avoid conflict with federal requirements.

Policy Analysis

Existing state policies towards the regulation of individual, group, self−funded governmental plans as defined at s. 632.745, Stats., and group blanket plans confer consumer protections balanced against insurer conduct. With the passage of PPACA and HCERA, Wisconsin regulations must be reviewed to determine whether the regulations provide more consumer protections than federal law or if there is a conflict. Both the state and federal regulations provide consumer protections and the regulatory structure for oversight of insurers operating in the state. The goal will be to maintain the balance that currently exists in the Wisconsin regulatory structure.

Statutory Authority

Sections 601.41 (3), 625.16, 628.38, 632.73, 632.76, and 632.81, Wis. Stats.

Comparison with Federal Regulations

Most Wisconsin regulations provide more protections than federal law and will be allowed to stay as is following passage of PPACA and HCERA. However, current regulation does not anticipate the Exchanges that will be established, uniform benefits and definitions that will become the core of health insurance products, wellness programs that will be ranked, changes to prescription drug plans for seniors, and data collection and review of insurer rates and efficiency in the market place.

Entities Affected by the Rule

With the broad scope of PPACA and HCERA all entities related to insurance may be affected by the changes including intermediaries, insurers, and third−party administrators.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Insurance

Subject

Revises Chapter Ins 8, relating to employee benefit plans and affecting small business.

Objective of the Rule

Passage of 111 P.L. 148 and 111 P.L. 152, the Patient Protection and Affordable Care Act (PPACA), and the Health Care and Education Reconciliation Act of 2010 (HCERA), respectively, will require modifications. Insurance Chapter 3

contains numerous provisions that are likely to be revised due to federal law. Among the areas that will be reviewed to ensure compliance with state and federal law include: individual, group and blanket insurance requirements, unfair trade practices, marketing practices, mandated coverage regulations including coverage for adult children, autism spectrum disorders and newborns coverage, Medicare supplement and possibly long−term care insurance regulations. Each provision that is now covered or affected by PPACA or HCERA will need to be reviewed to determine if a rule must be repealed, recreated or amended.

The Department of Health and Human Services in conjunction with the National Association of Insurance Commissioners will be developing federal regulations to implement portions of the PPACA and HCERA. As those develop insurance regulations will again need to be reviewed to avoid conflict with federal requirements.

Policy Analysis

Existing state policies towards the regulation of individual, group, self−funded governmental plans as defined at s. 632.745, Stats., and group blanket plans confer consumer protections balanced against insurer conduct. With the passage of PPACA and HCERA, Wisconsin regulations must be reviewed to determine whether the regulations provide more consumer protections than federal law or if there is a conflict. Both the state and federal regulations provide consumer protections and the regulatory structure for oversight of insurers operating in the state. The goal will be to maintain the balance that currently exists in the Wisconsin regulatory structure.

Statutory Authority

Sections 601.41 (3), 625.16, 628.38, 632.73, 632.76, and 632.81, Wis. Stats.

Comparison with Federal Regulations

Most Wisconsin regulations provide more protections than federal law and will be allowed to stay as is following passage of PPACA and HCERA. However, current regulation does not anticipate the Exchanges that will be established, uniform benefits and definitions that will become the core of health insurance products, wellness programs that will be ranked, changes to prescription drug plans for seniors, and data collection and review of insurer rates and efficiency in the market place.

Entities Affected by the Rule

With the broad scope of PPACA and HCERA all entities related to insurance may be affected by the changes including intermediaries, insurers, and third−party administrators.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Insurance

Subject

Revises Chapter Ins 18, relating to health benefit plan grievance and independent review organizations review procedures and affecting small business.

Objective of the Rule

Passage of 111 P.L. 148 and 111 P.L. 152, the Patient Protection and Affordable Care Act (PPACA), and the Health Care and Education Reconciliation Act of 2010 (HCERA), respectively, will require modifications. Insurance Chapter 3 contains numerous provisions that are likely to be revised due to federal law. Among the areas that will be reviewed to ensure compliance with state and federal law include: individual, group and blanket insurance requirements, unfair trade practices, marketing practices, mandated coverage regulations including coverage for adult children, autism spectrum disorders and newborns coverage, Medicare supplement and possibly long−term care insurance regulations. Each provision that is now covered or affected by PPACA or HCERA will need to be reviewed to determine if a rule must be repealed, recreated or amended.

The Department of Health and Human Services in conjunction with the National Association of Insurance Commissioners will be developing federal regulations to implement portions of the PPACA and HCERA. As those develop insurance regulations will again need to be reviewed to avoid conflict with federal requirements.

Policy Analysis

Existing state policies towards the regulation of individual, group, self−funded governmental plans as defined at s. 632.745, Stats., and group blanket plans confer consumer protections balanced against insurer conduct. With the passage of PPACA and HCERA, Wisconsin regulations must be reviewed to determine whether the regulations provide more consumer protections than federal law or if there is a conflict. Both the state and federal regulations provide consumer protections and the regulatory structure for oversight of insurers operating in the state. The goal will be to maintain the balance that currently exists in the Wisconsin regulatory structure.

Statutory Authority

Sections 601.41 (3), 625.16, 628.38, 632.73, 632.76, and 632.81, Wis. Stats.

Comparison with Federal Regulations

Most Wisconsin regulations provide more protections than federal law and will be allowed to stay as is following passage of PPACA and HCERA. However, current regulation does not anticipate the Exchanges that will be established, uniform benefits and definitions that will become the core of health insurance products, wellness programs that will be ranked, changes to prescription drug plans for seniors, and data collection and review of insurer rates and efficiency in the market place.

Entities Affected by the Rule

With the broad scope of PPACA and HCERA all entities related to insurance may be affected by the changes including intermediaries, insurers, and third−party administrators.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Natural Resources

Environmental Protection — General, Chs. NR 100—

(DNR # WA−32−10)

Subject

Creates Chapter NR 188, relating to an exemption process for the sale of mercury−containing products.

Objective of the Rule

The objective of this proposed rule is to establish procedures by which mercury−containing products may be exempt from the sale ban contained in 2009 Wisconsin Act 44: Products Containing Mercury.

Policy Analysis

On October 6, 2009, Governor Doyle signed into law Act 44, the mercury−added products ban. This ban prohibits the sale of certain mercury−added products including fever thermometers, manometers, thermostats, instruments and measuring devices, switches and relays and certain household items. It also prohibits the use of free−flowing mercury and mercury−added compounds or instruments in schools for which there is no reasonably acceptable, mercury−free alternative. Act 44 also provides for the Department of Natural Resources to make exemptions for the sale of these mercury−added products through a process defined within promulgated rules.

This rule would define the process by which the department would grant exemptions to the ban of mercury−added product sales in Wisconsin. Act 44 does not provide for any alternative to establishing this exemption in Wisconsin's environmental rules. Failure to do so is not only contrary to state statute, but exemptions could also be challenged in court on the basis of due process for policy−making.

Statutory Authority

Section 299.49 (3) (c), Stats.

Comparison with Federal Regulations

No federal regulations exist or are proposed which are comparable to Act 44.

Entities Affected by the Rule

This proposed rule will impact any company which sells the applicable mercury−containing products for which a reasonable and appropriate alternative does not exist for a specific use. Also impacted are businesses that utilize switches, relays, instruments and thermostats in their products that may be interested in an exemption. Other interested parties include environmental organizations which were involved in the development and passage of of Act 44.

Estimate of Time Needed to Develop the Rule

The Department estimates that development of these rules will consume approximately 100 hours of work time.

Contact Information

Suzanne Bangert

101 S. Webster Street, Madison

Phone: 608−266−0014

Email: suzanne.bangert@wi.gov

Natural Resources

Environmental Protection — Investigation and Remediation of Environ. Contamination, Chs. NR 700—

(DNR # RR−27−10)

Subject

Revises Chapter NR 749, relating to fees for providing assistance.

Objective of the Rule

Chapter NR 749 establishes the fees that are required when responsible parties or others request the Remediation and Redevelopment (RR) Program review documents or provide other related assistance associated with environmental contamination. The fee structure in ch. NR 749 has not been modified since the rule was originally promulgated in September, 1998. Recent projections show that by the end of the current biennium, fee collections will no longer be sufficient to cover staff costs for providing the requested services. Therefore, rule changes to increase the fees are being proposed so that program expenses can be fully covered. In addition, several other changes such as incorporating previous statutory revisions and clarifying existing language will also be included.

Policy Analysis

In 1997, Act 27 authorized the Department to collect fees to off−set the cost of technical and redevelopment assistance being provided. Currently 9 permanent staff are funded with RR program revenue fees. Without a fee increase, the number of staff that can be devoted to providing assistance would be reduced. This would likely result in the timeframe necessary to provide review and comment on documents to increase significantly.

Statutory Authority

Section 227.11 (2) and Chapter 292, Stats.

Comparison with Federal Regulations

There are no federal regulations that are comparable to the rule changes being proposed.

Entities Affected by the Rule

This rule would only affect those persons that specifically request assistance from the Department regarding the evaluation and remediation of environmental contamination.

Estimate of Time Needed to Develop the Rule

In order to avoid a program revenue shortfall during the next biennium, the goal is to complete the rule revisions such that they become effective by June, 2011.

Contact Information

Mark Gordon – RR/5

Phone: 608−266−7278

Email: mark.gordon@wisconsin.gov

Public Instruction

Subject

Creates Chapter PI 43, relating to education reform.

Policy Analysis

2009 Wisconsin Act 215 requires schools and school districts to implement certain provisions if they are considered in need of improvement for a certain period of time or are considered low performing. The Act also authorizes the state superintendent of public instruction to intervene in a school district if they are considered in need of improvement for a certain period of time or are considered low performing. The Act requires rules to establish criteria and procedures for determining whether a school or school district is in need of improvement and whether a school is among the lowest performing 5 percent of all public schools in the state. In promulgating these rules, the state superintendent is required to consult with the school district or school board president, the school district administrator, and labor organizations representing employees of each school district that is immediately affected by the Act and legislators whose legislative districts include any portion of each school district.

Statutory Authority

Section 118.42 (4), Stats.

Comparison with Federal Regulations

The proposed rules will be consistent with Wisconsin's state plan required under 20 USC 6311 and approved by the USDE.

Entities Affected by the Rule

Public schools that have been identified as low performing or in need of improvement for a certain number of years.

Estimate of Time Needed to Develop the Rule

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

Public Instruction

Subject

Creates Chapter PI 45, relating to race−based nicknames, logos, mascots, and team names.

Policy Analysis

2009 Wisconsin Act 250 allows a school district resident to object to the use of a race−based nickname, logo, mascot, or team name by the school board of that school district by filing a complaint with the state superintendent. Under the Act, the state superintendent is required to promulgate rules necessary to implement and administer this provision. Specifically, rules must define whether the use of the race−based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping. Rules must be submitted to legislative council staff no later than November 1, 2010.

Statutory Authority

Section 118.134 (2) (a), (b) 1., 2. and (4), Stats.

Comparison with Federal Regulations

N/A.

Entities Affected by the Rule

Public schools that receive complaints regarding their school nickname, logo, mascot or team name.

Estimate of Time Needed to Develop the Rule

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

Submittal of Rules to Legislative Council Clearinghouse

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

Agriculture, Trade and Consumer Protection

CR 10−055

On May 7, 2010, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule−making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter ATCP 60, relating to somatic cell limits in goat milk.

Agency Procedure for Promulgation

A public hearing is scheduled for June 15, 2010. The Department's Division of Food Safety is primarily responsible for promulgation of the rule.

Contact Information

Tom Leitzke
Phone: (608) 224−4711

Children and Families

Early Care and Education, Chs. DCF 201−252

CR 10−056

On May 14, 2010, 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 201, relating to authorized hours of subsidized child care.

Agency Procedure for Promulgation

A public hearing is required and will be held on June 17, 2010. The Department's Division of Early Care and Education is responsible for promulgation of the rule.

Contact Information

Elaine Pridgen
Phone: (608) 267−9403
Email: elaine.pridgen@wisconsin.gov

Commerce

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

CR 10−054

On May 5, 2010, the Department of Commerce submitted a proposed rule−making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter Comm 121, relating to small business innovation and research assistance grants.

Agency Procedure for Promulgation

A public hearing is scheduled for June 11, 2010. The Department's Division of Business Development is primarily responsible for promulgation of the rule.

Contact Information

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

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 10−053

(DNR # FH−17−09)

On May 5, 2010, the Department of Natural Resources submitted a proposed rule−making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapters NR 20, 21, and 22, relating to commercial fishing on the Mississippi River boundary waters.

Agency Procedure for Promulgation

A public hearing is scheduled for June 21, 2010.

Contact Information

Thomas Van Haren
Bureau of Law Enforcement
Phone: (608) 266−3244

Public Service Commission

CR 10−057

On May 17, 2010, the Public Service Commission submitted a proposed rule−making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter PSC 128, relating to the siting of wind energy systems.

Agency Procedure for Promulgation

A public hearing is scheduled for June 30, 2010. The Gas and Energy Division of the Commission is responsible for the promulgation of the rule.

Contact Information

Deborah Erwin
Docket Coordinator
Phone: (608) 266−3905

Rule−Making Notices

Notice of Hearing
Agriculture, Trade and Consumer Protection
EmR1003, CR 10−055

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on rules revising Chapter ATCP 60, relating to goat milk somatic cell standards. DATCP adopted a temporary emergency rule effective February 5, 2010 and is also proposing a permanent rule. The hearing will cover the emergency rule as well as the proposed permanent rule.

Hearing Information

Date:	**June 15, 2010**
Time:	10:00 a.m. – 12:00 p.m.
Location:	WI Dept. of Agriculture, Trade & Consumer Protection 2811 Agriculture Drive Conference Room 172, 1st Floor Madison, WI 53718

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by May 7, 2010, by writing to Deb Mazanec, Division of Food Safety, P.O. Box 8911, Madison, WI 53708−8911; e−mailing to debbie.mazanec@wi.gov or by phone at (608) 224−4712. Alternatively, you may contact the DATCP TDD at (608) 224−5058. Handicap access is available at the hearings.

Submittal of Written Comments

DATCP will hold the public hearing at the time and location shown above. DATCP invites the public to attend the hearing and comment on the rules. Following the hearing, the hearing record will remain open until **Friday, June 25, 2010** for additional written comments. Comments may be sent to the Division of Food Safety at the address below, by email to debbie.mazanec@wi.gov or online at http://AdminRules.Wisconsin.gov/.

Copies of Emergency Rules and Proposed Permanent Rules

You may obtain free copies of the temporary emergency rule and proposed permanent rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You may also obtain copies by calling (608) 224−4712 or e−mailing debbie.mazanec@wi.gov. Copies will also be available at the hearing. To view the proposed rule online, go to: http://adminrules.wisconsin.govKeeley.Moll@datcp.state.wi.us.

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

This rule relaxes Wisconsin's current standard for somatic cells in goat milk to conform to a new, less stringent, national standard. The Department of Agriculture, Trade and Consumer Protection (DATCP) adopted a temporary emergency rule on February 5, 2010, and gave notice that it would adopt a permanent rule on the same subject. The permanent rule is identical to the temporary emergency rule adopted by DATCP.

Statutes interpreted

Sections 97.22 and 97.24, Stats.

Statutory authority

Sections 93.07 (1), 97.22 (8), 97.24 (3) and 227.24, Stats.

Explanation of statutory authority

DATCP has broad general authority, under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. DATCP also has authority, under ss. 97.22 (8) and 97.24 (3), Stats., to adopt regulations governing the operation of dairy farms and the production of milk and fluid milk products.

This rule will maintain the competitiveness of Wisconsin goat milk producers, relative to producers in other states, by conforming Wisconsin goat milk standards to new (less stringent) national standards.

Related statutes and rules

Dairy plant operators are required to test goat milk received from producers, to ensure that goat milk meets somatic cell and other standards. Milk must be tested in certified laboratories, and test results must be reported to DATCP. Serious or continued violations of milk quality standards may result in state enforcement action, including the suspension of a milk producer's grade A dairy farm permit. In some serious cases, dairy plant operators must take immediate action to reject milk shipments from the affected dairy farms until violations are eliminated. However, not all violations require such an "immediate response." See, generally, chs. ATCP 60 and 80, Wis. Adm. Code.

Wisconsin rules for grade A milk and fluid milk products (including goat milk and fluid goat milk products) must be in reasonable accord with the interstate pasteurized milk ordinance (PMO). See s. 97.24, Stats. The PMO is adopted by the National Conference on Interstate Milk Shipments (NCIMS) with the approval of the United States Food and Drug Administration (FDA), and is administered by FDA. Wisconsin rules must be at least as stringent as the PMO in order for Wisconsin to ship milk and fluid milk products in interstate commerce.

Plain language analysis

Recently, NCIMS and FDA relaxed the PMO standard for somatic cells in Grade A goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml. The United States Department of Agriculture is making an equivalent change in its somatic cell standard for Grade B goat milk (Grade B milk may not be sold as fluid milk, but may be used to manufacture non−fluid dairy products such as cheese).

This permanent rule relaxes Wisconsin's standard for somatic cells in Grade A and Grade B goat milk, from 1,000,000 somatic cells per ml to 1,500,000 per ml, to conform to the new national standard. This rule also eliminates the current "immediate response" requirement, under which a dairy plant operator must immediately reject goat milk shipments from producer whenever a somatic cell count on any shipment from that producer exceeds 1,500,000 per ml.

Comparison with federal regulations

There is no federal law that compels this rule change. However this rule is consistent with recent changes in national standards (see above).

Comparison with rules in adjacent states

All surrounding states with dairy goat herds are likely to adopt the standard contained in this rule.

Summary of factual data and analytical methodologies

Somatic cell test methods for goat milk are currently prescribed by s. ATCP 60.22 (3), Wis. Adm. Code. This rule does not change current test methods.

Small Business Impact

This rule will benefit the Wisconsin dairy goat industry, by relaxing the current somatic cell standard for dairy goat milk to conform to the newly relaxed national standard. This rule will maintain parity with other states, and will relieve goat milk producers and dairy plant operators of certain problems associated with the current somatic cell standard.

To provide comments or concerns relating to small business, you may contact DATCP's small business regulatory coordinator Keeley Moll at the address below, or by emailing to Keeley.Moll@wi.gov or by telephone at (608) 224−5039.

Fiscal Estimate

This rule will have no fiscal impact on the state of Wisconsin or on local units of government.

Agency Contact Person

Questions and comments related to this rule may be directed to:

Tom Leitzke
Dept. of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708−8911
Phone: (608) 224−4711
E−Mail: tom.leitzke@wi.gov

Notice of Hearing
Children and Families
Early Care and Education, Chs. DCF 201−252
EmR1015, CR 10−056

NOTICE IS HEREBY GIVEN that pursuant to ss. 49.155 (6g) and 227.11 (2) (a), Stats., the Department of Children and Families proposes to hold a public hearing to consider proposed and emergency rules revising Chapter DCF 201, relating to authorized hours of subsidized child care and affecting small businesses.

Hearing Information

Date and Time:	Location:
June 17, 2010	MADISON
Thursday	GEF 1 Building, H206
1:30 p.m.	201 E. Washington Avenue

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.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is wheelchair accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances regarding communication or accessibility at a 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.

Submittal of Written Comments and Copies of Proposed Rule

A copy of the proposed rule 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
Phone: (608) 267−9403
Email: dcfpublichearing@wisconsin.gov

Written comments on the proposed rules received at the above address, email, or through the http://adminrules.wisconsin.gov web site no later than **June 17, 2010**, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Children and Families

Statutes interpreted

Sections 48.651 and 49.155, Stats.

Statutory authority

Sections 49.155 (6g), Stats., as created by 2009 Wisconsin Act 28, and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 49.155 (1m) (a), Stats., provides the work, training, and educational activities for which an eligible individual can receive a subsidy for child care. A child care administrative agency determines the hours of child care authorized per week and authorizes payment to a child care provider.

Maximum number of authorized hours

Section 49.155 (6g) (a), Stats., as created by 2009 Wisconsin Act 28, provides that no more than 12 hours of child care per day per child may be authorized unless the parent provides written documentation of work or transportation requirements that exceed 12 hours in a day. The child care administrative agency may authorize more than 12 hours, not exceeding 16 hours, of child care per day for a child whose parent provides written documentation of work or transportation requirements that exceed 12 hours in a day. If the authorized hours of child care per day for a child will be reduced from more than 12 to 12 or less because the child's parent does not provide the written documentation, the child care administrative agency shall provide to the child's parent and to the child care provider 4 weeks' notice of the reduction in authorized hours before actually reducing the child's authorized hours.

Adjusting authorized hours

Section 49.155 (6g) (am) and (b), Stats., as created by 2009 Wisconsin Act 28, provides that if payment to a child care provider is based on authorized hours of child care, the department shall do all of the following with respect to establishing and adjusting the number of authorized hours per child:

- The department shall track a child's hourly usage of child care authorizations over a 6−week period.
- If the child's hourly usage tracked is less than 60 % of the authorized hours of child care, the department shall reduce the authorized hours of child care for the child to 90% of the maximum number of hours of child care that the child attended during that 6−week period.
- The department shall provide written notice of the proposed adjustment to the child's parent, the child care provider, and the applicable county department or agency.
- The department shall provide a grace period after the number of authorized hours are reduced during which time the child care subsidy amount paid to the child care provider for the child shall remain the same as before the reduction in authorized hours was made.

The department shall exclude from a child's hourly usage calculation all of the following:

- One week per year of vacation time for the child care provider.
- One week per year of sick time for the child care provider.
- Two weeks per year of vacation time for the child's parent.

The department shall promulgate rules that specify how these requirements will be implemented.

Summary of the rule

The proposed rules will incorporate the provisions of s. 49.155 (6g), Stats., regarding authorized hours of subsidized child care.

The statute requires a grace period during which the subsidy paid to the provider remains the same after the authorized hours are reduced. The proposed rules will provide that the grace period will be 2 weeks.

The rules also provide that weeks for which the child care administrative agency approved payment to a provider to hold a slot during a parent's temporary break in employment shall be excluded from a child's hourly usage calculation. Section DCF 201.04 (2) (h) currently provides that the child care administrative agency may authorize payment to a provider to hold a slot for a child if the parent has a temporary break in employment and intends to return to work and continue to use the child care provider upon return to work. The agency may authorize payment for no more than 6 weeks if the absence is due to a medical reason and is documented by a physician or for no more than 4 weeks if the absence is for other reasons.

In addition, the proposed rules update agency terminology and definitions to reflect changes in 2009 Wisconsin Act 28 that authorize the department to contract with counties, tribes, W−2 agencies, child care resource and referral agencies, or other agencies to administer the child care subsidy program and to certify child care providers. Act 28 also provides for department administration of child care in Milwaukee County.

Summary of factual data and analytical methodologies

The Governor's veto message requested the department to implement a 2−week grace period.

Comparison with federal regulations

None.

Comparison of rules in adjacent states

Michigan:

A provider may only receive payment for a child's hours of attendance, except for absences due to the child's illness, not to exceed 2 consecutive weeks, and state holidays.

Illinois:

Payment to licensed and license−exempt child care centers are based on authorized days if the total of days attended for all publicly−funded children at the center location are 80% of the authorized days for the month.

Payment to licensed home providers are based on authorized days if the total of days attended for all children in a family are 80% of the family's authorized days for the month.

Payment to license−exempt home providers are based only on attendance.

Iowa:

Payment is based on authorized days with payment allowed for a child not in attendance not to exceed 4 days per calendar month.

Minnesota:

Payment is based on authorized days except child care providers may not be reimbursed for more than 25 full−day absent days per child, excluding holidays, in a fiscal year, or for more than 10 consecutive full−day absent days, unless the child has a documented medical condition that causes more frequent absences.

Analysis used to determine effect on small businesses

The proposed rule will affect child care providers, but the rule has minimal effect beyond the requirements of the statute.

Small Businesses Impact

The proposed rule will affect small businesses as defined in s. 227.114 (1), Stats., but will not have a significant economic impact on a substantial number of businesses.

The Department's Small Business Regulatory Coordinator is Elaine Pridgen: Phone: (608) 267−9403 or Email: elaine.pridgen@wisconsin.gov.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

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

State fiscal effect

Decrease costs.

Local government fiscal effect

None.

Long−range fiscal implications

None.

Agency Contact Person

Pirkko Moilanen
Division of Early Care and Education
Phone: (608) 261−4595
Email: pirkko.moilanen@wisconsin.gov

Notice of Hearing

Commerce

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

EmR1013, CR 10−054

NOTICE IS HEREBY GIVEN that pursuant to section 560.45 (3) of the Statutes, the Department of Commerce will hold a public hearing on emergency rules and proposed permanent rules in Chapter Comm 121, relating to small business innovation research assistance grants, and affecting small businesses.

Hearing Information

The public hearing will be held as follows:

Date and Time:	Location:
June 11, 2010	Thompson Commerce Center
Friday	Third Floor, Room 3B
at 10:00 a.m.	201 West Washington Avenue
	Madison, Wisconsin

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266−0797 or at Contact Through Relay at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Submittal of Written Comments

Interested persons are invited to appear at the hearing and present comments on the emergency rules and proposed permanent rules. Persons making oral presentations are requested to submit their comments in writing, via e−mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **June 16, 2010**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. E−mail comments should be sent to sam.rockweiler@wi.gov. If e−mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708−0427.

Copies of Emergency Rules and Proposed Permanent Rules

The emergency rules and proposed permanent rules and an analysis of the rules are available on the Internet by entering "Comm 121" in the search engine at the following Web site: https://health.wisconsin.gov/admrules/public/Homesam.rockweiler@wi.gov. Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266−0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Section 560.45, Stats.

Statutory authority

Sections 227.11 (2) (a) and 560.45 (3), Stats.

Explanation of agency authority

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department. Section 560.45 (3) of the Statutes requires the Department to promulgate rules for administering the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes.

Related statute or rule

The Department has various rules for administering several economic development programs, including criteria in chapter Comm 129 for grants or loans to fund professional services related to completing an application to be submitted to the federal government for obtaining early stage research and development funding.

Plain language analysis

These rules set forth the criteria the Department or its designee will use to administer the small business innovation and research assistance grants established under subchapter III of chapter 560 of the Statutes, as enacted in 2009 Wisconsin Act 28. These grants will assist businesses in the phase of development that precedes the eligibility of the businesses in the federal Small Business Innovation Research (SBIR) program, or businesses which are participating in the Phase III, commercialization portion of that program.

Comparison with federal regulations

The U.S. Small Business Administration (SBA) Office of Technology administers the federal SBIR program. Federal agencies with extramural research and development budgets over $100 million are required to administer SBIR programs using an annual set−aside of 2.5% for small companies to conduct innovative research or research and development that has potential for commercialization and public benefit. Through this competitive program, SBA ensures that the nation's small, high−tech, innovative businesses are a significant part of the federal government's research and development efforts. Eleven federal departments participate in the SBIR program. As of May 2007, over $12 billion had been awarded to various small businesses, and the current annual allocation, in combination with the parallel Small Business Technology Transfer program, is over $2 billion. The Department is not aware of any federal grants that provide funding for assistance with submitting applications or otherwise participating in the SBIR program.

Comparison with rules in adjacent states

None of the adjacent States were found to have rules that are likewise primarily directed at providing grants to assist businesses with (1) establishing eligibility for or preparing applications for federal SBIR funding or (2) commercializing products developed through SBIR funding. However, the following programs in Illinois and Michigan appear to address some of the activities that are expected to occur under these proposed rules, for achieving these objective.

Illinois:

The Illinois Innovation Challenge program seeks to increase the number of Illinois companies that apply for federal research grants. The program provides grant−writing assistance to eligible Illinois technology−based entrepreneurs, innovators and new venture startups to access federal SBIR funding opportunities.

The Illinois Department of Commerce and Economic Opportunity and the University of Illinois have partnered to provide qualified Illinois small businesses and entrepreneurs with consultant services for SBIR proposals. The services are designed to match the needs of the small business or entrepreneur, and assist in identifying, preparing, advancing and reviewing Phase I SBIR proposals.

Michigan:

The Michigan Small Business and Technology Development Center (MI−SBTDC) has partnered with the Michigan Economic Development Corporation (MEDC) to establish the Michigan Emerging Technologies Fund (ETF). The MI−SBTDC administers the ETF through a contractual agreement with the MEDC authorized by the Michigan Strategic Fund Board. Funding for the program is provided through the Michigan 21st Century Jobs Fund. Since 2008, $4.2 million has been allocated to the ETF. ETF funds are awarded on a first−come, first−serve basis.

The ETF was created to provide matching grants to support commercialization of SBIR projects. The ETF matches 25% of phase I SBIR awards up to $25,000, and 25% of phase II SBIR awards up to $125,000. The ETF Funds must be used to help bring Michigan SBIR projects to commercialization in at least one of the four technology sectors: (1) life sciences; (2) alternative energy; (3) advanced automotive, manufacturing and materials and (4) homeland security and defense. Companies must leverage third−party funding to be eligible for ETF Funds. Before submitting an SBIR proposal to the federal government, a company must first secure a commitment from the MI−SBTDC.

Minnesota and Iowa:

Neither Minnesota nor Iowa was found to have a state−level program addressing the SBIR assistance that is addressed in these rules.

Summary of factual data and analytical methodologies

The data and methodology for developing these rules were derived from and consisted of (1) applying the corresponding provisions in section 560.45 of the Statutes; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development and business development; and (3) reviewing Internet−based sources of related federal, state, and private−sector information.

Analysis and supporting documents used to determine effect on small business

The primary documentation was used to determine the effect of the rules on small business was section 560.45 of the Statutes. The proposed rules and this section of the Statutes apply their private−sector requirements only to entities that choose to pursue a corresponding grant. No economic impact report was prepared.

Small Business Impact

The rules are expected to result in only beneficial effects on small business because the rules only address grants that will assist businesses in the phase of development which precedes the eligibility of the businesses in the federal SBIR program, or businesses that are participating in Phase III of that program.

Initial regulatory flexibility analysis

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

Businesses choosing to pursue grants for assistance in the phase of development that precedes eligibility in the federal Small Business Innovation Research program, or for assistance with participating in the Phase III, commercialization portion of that program.

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

An application form prescribed by the Department must be completed and submitted to the Department. Grants that are awarded may be issued in conjunction with contracts that require periodic reporting of the ensuing performance.

Types of professional skills necessary for compliance with the rules.

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

Rules have a significant economic impact on small businesses.

No

Small business regulatory coordinator

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

Environmental Impact

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

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

Although the rules will newly result in review of documentation relating to applications for grants under this chapter, the time needed for these reviews is expected to be spent by current employees. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose any significant costs on the private sector because the rules address submittal of documentation only by entities that choose to pursue obtaining grants under this chapter.

State fiscal effect

None.

Local government fiscal effect

None.

Long−range fiscal implications

None known.

Agency Contact Person

Shelly Harkins
Wisconsin Department of Commerce
Bureau of Business Finance and Compliance
P.O. Box 7970
Madison, WI 53707−7970
Phone: (608) 266−0346
Email: Shelly.Harkins@wi.gov.

Notice of Hearing
Natural Resources
Fish, Game, etc., Chs. NR 1—
CR 10−053

(DNR # FH−17−09)

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.11 (1), 29.014 (1), 29.041, 29.523, 29.526, 29.529, 29.531, 29.533 and 227.11 (2) (a), Stats., the Department of Natural Resources will hold a public hearing on proposed revisions to Chapters NR 20, 21 and 22, Wis. Adm. Code, relating to commercial fishing on the Mississippi river boundary waters.

Hearing Information

The public hearing will be held:

Date:	**Monday, June 21, 2010**
Time:	5:00 p.m.
Location:	City Hall, Upstairs Community Room 214 E. Blackhawk Avenue Prairie du Chien, WI 53821

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Thomas Van Haren, in writing at Department of Natural Resources, LE/8, PO Box 7921, 101 S. Webster Street, Madison, WI 53707, by calling (608) 266−3244 or by email at: Thomas.VanHaren@wi.gov or by calling (608) 266−3244. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Copies of the Proposed Rules and Fiscal Estimate

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site at http://adminruleswisconsin.gov. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting: Thomas Van Haren, Department of Natural Resources, LE/8, PO Box 7921, 101 S. Webster Street, Madison, WI 53707, by calling (608) 266−3244 or by email at: Thomas.VanHaren@wi.gov.

Submittal of Written Comments

Comments on the proposed rule must be received on or before **June 23, 2010**. Written comments may be submitted by U.S. mail, fax, email, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to: Thomas Van Haren, Department of Natural Resources, LE/8, PO Box 7921, 101 S. Webster Street, Madison, WI 53707, by calling (608) 266−3244 or by e−mail at: Thomas.VanHaren@wi.gov.

Analysis Prepared by the Department of Natural Resources:

Statutes interpreted

Sections 29.014, 29.024, 29.041, 29.523, 29.526, 29.529, 29.531 and 29.533 Stats.

Statutory authority

Sections 23.11 (1), 29.014 (1), 29.041, 29.523, 29.526, 29.529, 29.531, 29.533 and 227.11 (2) (a), Stats.

Plain language analysis

SECTIONS 1, 2 , 3, 5, 6 and 30 of the order amend cross references found in chs. NR 20 and NR 21 to definitions that have been renumbered by this rule or which were incorrect.

SECTIONS 4 and 15 repeal and recreate the definition sections in chs. NR 21 and NR 22. There are new definitions added to these sections, including bait net, bank pole, buffalo net, detrimental fish, drive set, drift set, frame net or fyke net, gill net, hoop net, lead, seine, seine haul, setline, slat net or basket trap and trammel nets. Several existing definitions are revised and all others are retained but have been renumbered. Unnecessary statutory references placed in parenthesis after some definitions were removed.

SECTIONS 7 and 19 clarify in both ch. NR 21 and ch. NR 22 that live carp taken for use as bait may not be transported away from any waters of the state unless specifically authorized. Such movement of live fish has been prohibited under s. NR 19.05 effective November 2, 2007 as a result of new rules meant to reduce the risk of the spread of Viral Hemorrhagic Septicemia (VHS) in fish.

SECTION 8 and 20 clarify in both ch. NR 21 and ch. NR 22 that a licensed commercial fisher and their agents are restricted to commercial fishing only within the state boundaries of the state they are licensed under.

SECTIONS 9, 10, 11, 21, 22 and 26 clarify in both ch. NR 21 and ch. NR 22 that each person who is required to hold a commercial fishing license must be present at all times when any of his or her nets or setlines are set, placed, tended or operated, while still allowing the licensee to move commercial fish by boat or on the ice and to load commercial fish into trucks at a boat landing while the crew continues to load fish at the net. These sections also provide that a commercial fishing licensee's fish helpers or crew members do not need to also hold a commercial fishing license when only assisting a licensed commercial fisher, but that the commercial fisher must notify the department of the names of all such helpers or crew members.

SECTIONS 12 and 24 repeal unnecessary references to the cost for tags issued for commercial fishing nets. These fees are established under ss. 29.523 and 29.563 (7) (c), Stats. SECTION 12 also clarifies that it is not legal to remove roe from a commercial fish while on the water, ice or shore, and that commercial fish shall remain intact until the fish reaches the final processing facility or place of business of the commercial fisher. This new language created in ch. NR 21 is consistent with the current rule language found in s. NR 22.11 (2m).

SECTIONS 13 and 28 clarify that either any small game or a fishing license is a valid approval for taking turtles. This

change is consistent with a recent change made to s. NR 19.275 (3) (a) under clearinghouse rule CR 09−018 and which took effect March 1, 2010

SECTIONS 14 and 29 clarify that a person taking of turtles on the Wisconsin−Minnesota and Wisconsin−Iowa boundary waters shall comply with the regulations of the state in whose territorial waters they are taking the turtles.

SECTION 16 makes the s. NR 22.05 (1) language consistent with the language found under ch. NR 21, regarding the ability to sell or barter rough fish under one's control or possession if lawfully taken during the open season by hook and line, spear or bow and arrow.

SECTION 17 clarifies in ch. NR 22 that fishing within 200 feet of any fishway, lock or dam by any means other than hook and line is not legal. This is consistent with the restrictions found in ss. NR 20.05 (3) and 21.065.

SECTION 18 clarifies that set or bank poles are not commercial gear on the Wisconsin−Iowa boundary waters and that the same rules apply to their use on the Wisconsin portion of this water as apply to their use on non−boundary inland waters.

SECTION 23 makes a number of revisions to ss. NR 22.11 and 22.12 so that the language in these sections is more consistent with current s. NR 21.11.

SECTION 25 removes reference to tortoises and simply refers to these animals as turtles.

For consistency, SECTION 26 creates several new restrictions in s. NR 22.11 that currently apply to commercial fishing on the Mississippi river in the Wisconsin−Minnesota boundary waters in s. NR 21.11, but not to commercial fishing on the Mississippi river in the Wisconsin/Iowa boundary waters under ch. NR 22.

SECTION 27 amends s. NR 22.12 commercial fishing gear restrictions to make them more consistent with the commercial gear restrictions found in ch. NR 21. These new restrictions will provide for more consistency in the commercial fishing rules up and down the Mississippi river, as well as provide additional opportunity to use commercial fishing gear on this water.

Comparison with federal regulations

The department is not aware of any existing or proposed federal regulation that would govern fishing in Wisconsin's boundary waters with Minnesota or Iowa.

Summary of the factual data and analytical methodologies

This rule was not based on a technical analysis of data. It was developed in consultation with commercial fishers to address concerns regarding the lack of legal descriptions of what the varieties of nets are and inconsistency between the rules that apply to the same Wisconsin commercial fisher depending on if he or she is fishing in the waters between Wisconsin and Iowa or the waters between Wisconsin and Minnesota.

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

Small businesses engaged in commercial fishing may be affected by the rule. However, we currently have no basis for quantifying the economic impacts of the rule.

Small Business Impact (including how the rule will be enforced)

This rule will benefit commercial fishers on the Mississippi river by providing clear descriptions of the nets that their licenses authorize them to use on this water and not leaving the types of nets open for a variety of interpretations. This rule will also benefit commercial fishers by creating more consistency in the rules regardless of which part of the river in Wisconsin they are fishing. The rule will be enforced by department Conservation Wardens under the authority of chapters 23 and 29, Stats., through routine patrols, record audits of commercial fishers and follow up investigations of citizen complaints. Liberalization of some of the commercial fishing rules will also benefit commercial fishers such as the higher number of hooks on setlines allowed with these changes.

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

Environmental Impact

This is a type III action under Chapter 150, Wis. Adm. Code, and neither an environmental impact statement nor an environmental assessment is required.

Fiscal Estimate

The proposed rule would authorize commercial anglers fishing in the Wisconsin−Iowa boundary waters to use up to 12 setlines, instead of the current limit of 8. The cost for 4 additional setline tags which are set by statute at a cost of 25 cents each would be $1 per license. In 2009, there were 135 setlines issued for use on the Mississippi River. The cost to the state to purchase setline tags is 18.5 cents per metal tag or 74 cents per license.

Agency Contact Person

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Notice of Hearing
Natural Resources
Fish, Game, etc., Chs. NR 1—
EmR1014

*(*DNR # LF−14−10(E))

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.28 (3), 227.11 (2) (a), and 227.24 Stats., the Department of Natural Resources will hold a public hearing on emergency rules to revise Chapter NR 45, relating to the establishment of a slow−no−wake zone on the "narrows" of the Wisconsin Dells. This emergency order took effect on May 15, 2010.

Hearing Information

The public hearing will be held:

Date: **Tuesday, June 22, 2010**
Time: 5:00 p.m.
Location: Kilbourn Public Library
620 Elm Street
Wisconsin Dells, WI 53821

Reasonable accommodations, including the provision of informational material in an alternative format will be provided for qualified individuals with disabilities upon request. Contact Andy Janicki in writing at the Department of Natural Resources, P O Box 7921, 101 S. Webster Street, LF/6, Madison, WI 53707−7921, by e−mail to Andrew.janicki@wisconsin.gov or by calling (608) 267−7490. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Copies of the Proposed Rule and Fiscal Estimate

The proposed rule and supporting documents, including the fiscal estimate, may be viewed at http://adminrules.wisconsin.gov. If you do not have internet access, a printed copy of the proposed rule and supporting documents may be obtained free of charge by contacting Kathryn Fitzgerald, Department of Natural Resources, LF/6, 101 S. Webster Street, Madison, WI 53707−7921, by e−mail to Kathryn.fitzgerald@wisconsin.gov, or by calling (608) 267−2764.

Submittal of Written Comments

Comments on the proposed rule must be received on or before **June 25, 2010**. Written comments may be submitted by U.S. mail, fax, E−mail or through the internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rule should be submitted to: Kathryn Fitzgerald, Department of Natural Resources, LF/6, 101 S. Webster Street, Madison, WI 53707−7921, Kathryn.fitzgerald@wisconsin.gov, or by calling (608) 267−2764.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Section 28.28 (3), Stats.

Statutory authority

Sections 23.28 (3), 227.11 (2) (a), and 227.24, Stats.

Plain language analysis

This provision prohibits motorboats from going faster than slow−no−wake, defined as the minimum speed required to maintain steerage, on an approximately 0.7 mile long stretch of the Wisconsin River at the Dells of the Wisconsin River state natural area. Currently, no fixed speed limit exists on this stretch of the Wisconsin River other than "reasonable and prudent speed" and the general laws that regulate 1) speed of personal watercraft in the vicinity of other boats, and 2) the speed of boats towing persons within defined distances of anchored and occupied boats.

This regulation is intended to improve public safety and help minimize user conflicts. In the last few years, the conservation warden for the area has received a number of complaints from boat operators regarding the user conflict of high speed recreational boats operating close to the larger and less maneuverable boat tours. Accidents and near misses have been documented in this stretch of the river. This rule is also being advanced as a permanent rule which was authorized on March 16, 2010, but will not be promulgated in time for this summer's heavy use season. In order to minimize the potential for accidents during the 2010 season, this is being advanced as an emergency rule.

Comparison with federal regulations

The Wisconsin River above the Kilbourn Dam is not a designated federal water and there are no federal boating laws that impact that portion of the river.

Comparison with rules in adjacent states

Slow−no−wake regulation in neighboring states

Illinois:

Any political subdivision of IL may adopt an ordinance or local law relating to operation and equipment of vessels if the provisions are not inconsistent with the provisions of the Boat Registration and Safety Act and the regulations issued there under. 625 Illinois Complied Statutes § 45/8−1.

Iowa:

Any subdivision of the state may adopt an ordinance or local law relating to the operation or equipment of vessels, so long as it is not inconsistent with the Iowa Code Water Navigation Regulations Chapter and the rules adopted by the Natural Resource Commission. Iowa Code § 462A.17.

Michigan:

The Department of Natural Resources may regulate the operation of vessels on waters of the state. The Department may initiate investigations into the need for special local rules or a local political subdivision request investigation. If the Department determines that special rules are needed then it submits an ordinance to the local political subdivision in which the water body is located. The political subdivision then approves or denies the ordinance. Michigan Complied Laws 324.80108.

Minnesota:

A political subdivision may adopt regulations that are not inconsistent with MN Statutes Water Safety, Watercraft, And Watercraft Titling Chapter and the rules of the Commissioner of Natural Resources relating to the use of waters of the state that are wholly or partly within the territorial boundaries of a county or entirely within the boundaries of a city. Minnesota Statute § 86B.201.

Summary of factual data and analytical methodologies

On this heavily used stretch of river, high speed operation of boats create wave actions that rebound off the walls of the river banks creating a dangerous situation for canoes and other small boats. While the depth of the river allows the passage of large vessels, and the area is used regularly by tour boats holding upwards of 200 passengers, it is less than 100 feet wide from shore to shore in spots with meanders that provide limited sight lines for oncoming boat traffic. The addition of jet boat tours in recent years, along with the existing cruising tour boats, high speed recreational watercraft, canoes and kayaks has created user conflicts and a potentially dangerous situation that can best be handled by imposing a speed limit on boats traveling through this stretch of the river.

Seventeen reportable accidents* occurred on this stretch of the Wisconsin River from 2001−2007. Of the 17 reportable accidents, contributing factors were summarized by the following:

> A "reportable" boat incident is any incident (regardless of the number of boats involved) which results in loss of life, injury that requires medical treatment beyond first aid, boat or property damage in excess of $2,000, or complete loss of a boat.

- 8 were caused by a collision with another boat or person being towed by the boat,
- 4 listed excessive speed as a cause,
- 5 were caused by a collision with shore or fixed object,
- 2 were caused by large boat wakes, and
- 1 accident involved excessive alcohol use.

There was not a discernable pattern in the accident frequency except that the majority of the accidents occurred on the weekend.

On Wednesday, August 6, 2008 and Saturday, August 28, 2008, wardens surveyed the frequency of use during the peak summer season (Memorial Day to Labor Day) for 8 hours during 2 four−hour blocks of time. The block of time for the observational survey was from 12:00 PM to 4:00 PM each day. On the weekday (Wednesday) during the survey, approximately 1,162 people passed through the Narrows in boats. On the weekend (Saturday) during the survey approximately 1,323 people passed through the narrows in some type of watercraft. The survey did reveal some surprising facts with regard to type of boats; on the weekday the most common type of boat to pass through the Narrows was a pontoon or small boat of open construction. During the weekend, the most common boat to pass through the Narrows was a Personal Watercraft (PWC). One fact was that more people passed through the narrows in tour boats than any other type of boat. Sixty five percent of all of the people that passed through the narrows were on large high capacity tour boats whether it was a jet tour boat or a large cabin cruising commercial vessels. While not a lengthy observational period, this gives an indication of the level of activity on a given weekday and a weekend day. Based on this data, it is estimated that on a typical weekday, there may be approximately 23 boats moving through the narrows in an hour; on the weekend, 34 boats moving through the narrows every hour.

Small Business Impact

This rule provision creates a slow−no−wake area on a stretch of the Wisconsin river. There are four commercial enterprises that operate boat tours in the Upper Dells on the Wisconsin river; two run both traditional tour (cruise) boats and jet boats, one runs exclusively jet boats and one only operates a tour/dinner boats. When contacted by the department, all the tour boat operators said their normal practice is to go slowly through the area anyway, so there would be no impact to them on their scheduling. They expressed support for a slow−no−wake regulation because their ability to navigate is often jeopardized by recreational watercraft attempting to jump the wakes of their boats or trying to maneuver around the larger boats at high speed. The distance of the slow−no−wake area is approximately 3,700 linear feet.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

The Department will incur one−time costs of approximately $750 for the purchase and placement of signs at the start and end of the slow−no−wake stretch. This will be done by existing FTE staff, within regularly scheduled work hours. These costs would be funded with federal Coast Guard and state segregated boating funds.

No additional enforcement costs are anticipated. The level of enforcement on the river by the conservation wardens will remain the same.

State fiscal effect

Increase costs − may be possible to absorb within agency's budget.

Local government fiscal effect

None.

Fund sources affected

FED, SEG.

Affected Ch. 20 appropriations

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

Agency Contact Person

Conservation Warden Barbara Wolf
3911 Fish Hatchery Rd.
Fitchburg, WI 53711
Phone: (608) 273−6277
Email: Barbara.Wolf@wisconsin.gov

Notice of Hearings
Public Service Commission
CR 10−057

NOTICE IS GIVEN That pursuant to s. 227.16 (2) (b), Wis. Stats., the Public Service Commission will hold public hearings to consider a proposed order to create Chapter PSC 128, Wis. Adm. Code, relating to the siting of wind energy systems.

Hearing Information

The hearings will be held:

Date and Time:	**Wednesday, June 30, 2010** 1:00 p.m. **and** 6:00 p.m.
Location:	Public Service Commission 610 North Whitney Way Madison, WI

This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

2009 Wisconsin Act 40 requires that hearings regarding these rules also be held in Monroe County and a county other than Dane or Monroe, where developers have proposed wind energy systems. The Commission will also hold public hearings on these proposed rules at:

Date and Time:	**Monday, June 28, 2010** at 1:00 p.m. **and** 6:00 p.m.
Location:	City Hall, Legislative Chambers 160 S. Macy Street Fond du Lac, WI
Date and Time:	**Tuesday, June 29, 2010** at 1:00 p.m. **and** 6:00 p.m.
Location:	Holiday Inn 1017 E. McCoy Blvd. Tomah, WI

The Commission does not discriminate on the basis of disability in the provision of programs, services, or

employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator, Deborah Erwin, at (608) 266−3905 or deborah.erwin@wisconsin.gov.

Submittal of Written Comments

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **Wednesday, July 7, 2010**, at noon (**Tuesday, July 6, 2010**, at noon, if filed by fax). All written comments must include a reference on the filing to docket 1−AC−231. File by one mode only.

Industry:

File comments using the Electronic Regulatory Filing (ERF) system. This may be accessed from the Commission's website http://psc.wi.gov.

Members of the public:

If filing electronically: Use the Public Comments system or the Electronic Regulatory Filing system. Both of these may be accessed from the Commission's website at http://psc.wi.gov.

If filing by fax: Send fax comments to (608) 266−3957. Fax filing ***cover*** sheet MUST state "Official Filing," the docket number 1−AC−231, and the number of pages (limited to 25 pages for fax comments).

If filing by mail, courier, or hand delivery: Address as shown in the box.

Comments Due:	Address Comments To:
Wednesday	Sandra J. Paske, Secretary to the
July 7, 2010 – Noon	Commission
	Public Service Commission
FAX Due:	P.O. Box 7854
Tuesday	Madison, WI 53707−7854
July 6, 2010 – Noon	FAX (608) 266−3957

Analysis Prepared by the Public Service Commission

Statutes interpreted

This rule interprets ss. 66.0401 (3) to (6) and 196.378 (4g), Stats. These statutes deal with wind energy system site suitability testing, local processes for wind energy system applications for approval, commission review process, the applicability of wind siting ordinances, and the role of the Commission and the Wind Siting Council.

Statutory authority

Sections 196.02 (1) and (3), 196.378 (4g) (b) to (d), and 227.11, Stats.

Explanation of agency authority

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the Commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the Commission specific authority to promulgate rules. Sections 196.378 (4g) (b) to (d) grants the Commission specific authority to promulgate rules dealing with the siting of wind energy systems.

Related statutes or rules

Section 196.491 is related because, although these rules specify the restrictions a political subdivision may impose on the construction and operation of a wind farm with an operating capacity of less 100 megawatts, the Commission is required to consider these requirements when determining whether to grant a certificate of public convenience and necessity (CPCN) to a wind energy system with an operating capacity of 100 megawatts or more.

Summary of rule

2009 Wisconsin Act 40 (Act 40) establishes statewide criteria for the installation or use of a wind energy system with a nominal operating capacity of less than 100 megawatts, and helps ensure consistent local procedures for the review and approval of such systems. Act 40 requires the Commission to promulgate a variety of rules that specify the conditions a city, village, town, or county (political subdivision) may impose on such a system. If a political subdivision chooses to regulate such systems, its ordinances may not be more restrictive than the Commission's rules. Appeals regarding the rules and their application may be made to the Commission.

Currently, an electric generating facility with a nominal operating capacity of 100 megawatts or more may not be constructed unless the Commission grants a certificate of public convenience and necessity. Act 40 requires the Commission to consider the restrictions specified in these rules when determining whether to grant a certificate of public convenience and necessity.

The rule is broken down into three general categories: developer responsibilities, political subdivision procedure and commission procedure.

Developer Responsibilities

Before filing an application to construct a wind energy system, a developer must provide notice to landowners within one mile of the system, all political subdivisions within which the system may be located, the Wisconsin department of natural resources, Wisconsin department of transportation (DOT), and emergency first responders in the area. If the system has a capacity of 100 kilowatts or larger (large system), notice must be filed with the commission. A transportation plan including plans for mitigating and repairing road damage must be prepared in consultation with DOT, and an emergency response plan must be prepared in consultation with first responders.

Any wind easement or lease that is entered into must be in writing and wind easements must be filed with the county register of deeds. In this way, anyone wanting to buy the property will be aware of the wind easement. Certain provisions are required and others prohibited in wind leases.

A developer must consider existing land uses and commercial enterprises on nonparticipating land within one mile of the proposed system site and must meet certain setback requirements described in the rule.

A political subdivision may not set height or distance requirements that are more stringent than in this rule or certain requirements already in existence, such as Federal Aviation Administration (FAA) standards for public use airports. A wind energy system may not be built in the path of existing line−of−sight communications technologies.

The rule sets noise, shadow flicker, and television/radio and cell telephone interference criteria and provides for mitigation efforts. It also provides for stray voltage testing. Construction, electrical, operation and maintenance standards are set. A complaint process and requirements for decommissioning are established, including requirements for site restoration and demonstrating financial responsibility to complete decommissioning.

Political Subdivision Procedure

The rule specifies information that must be included in an application for approval by a political subdivision and provides procedures if the application is found to be incomplete. The rule allows for a joint application review process for projects proposed in more than one political subdivision. A reasonable application fee may be charged. On the same day an application is filed, detailed notice must be sent to property owners and residents within one−half mile of participating properties. The rule requires that political subdivisions hold at least one public hearing and provide for written comments concerning the project. A political subdivision must issue a written decision and keep a written record of its decision−making.

The rule also specifies certain things that may, and may not, be included in a local ordinance or as a condition for project approval. It allows for modifications to approved systems and a monitoring committee to examine complaints and compliance.

Commission Procedure

This section specifies the process for commission review of political subdivision decisions and enforcement actions. It identifies what must be in a request for review and what the political subdivision must provide to the commission. Notice of the appeal must be provided, depending on the situation, to the political subdivision or the energy system developer, owner or operator. The Commission may hold a hearing on the matter. Finally, the rule establishes timeframes for action if the Commission remands the decision to the political subdivision.

Comparison with federal regulations

There are a number of federal laws that interact with the issues in this rulemaking, although the Commission is not aware of any that deal with the specific requirements that a political subdivision may impose. A few of the federal laws that may interrelate include the National Environmental Policy Act, 42 U.S.C. 4321 *et. seq.*, the Endangered Species Act, 16 U.S.C. 1531–1544, and 14 C.F.R. Pt. 77, which requires a Federal Aviation Administration airspace study before constructing certain types of projects.

Comparison with similar rules in adjacent states

Illinois:

Illinois statutes provide that a municipality or county may regulate wind farms within its zoning jurisdiction and within the 1.5 mile radius surrounding its zoning jurisdiction. A county or municipality may not require a wind tower or other renewable energy system that is used exclusively by an end−user to be setback more than 1.1 times the height of the system from the end−user's property line. A setback requirement imposed by a municipality on a system may not be more restrictive.

There must be at least one public hearing not more than 30 days prior to a siting decision by the county board. Notice of the hearing must be published in a newspaper of general circulation in the county.

Michigan:

Michigan statutes require the Michigan Public Service Commission (Michigan PSC) to designate the area(s) of the state likely to be most productive of wind energy. In making its determination, the Michigan PSC is required to base its decision on the findings of a Wind Energy Resource Zone Board, a cost/benefit analysis and various other factors. At the same time, the Michigan PSC was to report to the legislature about the effect that local setback requirements and noise limitations might have on wind energy development, including any recommendations the Michigan PSC had for legislation. The Michigan PSC has issued both documents and, in its report to the legislature, recommended that setback requirements and noise limitations should continue to be decided at the local level where feasible so that the needs of local citizens can be appropriately considered. The Michigan PSC has a Renewable Energy Group which it intends to have sponsor periodic meetings to provide needed scientific information to decision−makers.

In 2008 the Energy Office, Michigan Department of Labor and Economic Growth, put out guidelines to help local governments, other than those in urban areas, develop siting guidelines. The guidelines contain recommended zoning language for local governments to use if they amend their zoning ordinance to address wind energy systems. They recommend different requirements for on−site use (generally small) and utility grid (generally large) wind energy systems.

On−site systems are systems designed to primarily serve the needs of a home, farm, or small business with tower heights of 20 meters or less.

For these systems, the guidelines establish a setback designed to protect neighbors in the event of a tower failure. The minimum recommended setback from the landowner's property lines is the height of the turbine, including the top of the blade in its vertical position. It is recommended that all parts of a wind energy system structure, including guy wire anchors, be setback the greater of ten feet or the zoning district setback distance from the landowner's property lines.

It is recommended that sound levels for on−site use systems not exceed 55 dB(A) at the property line closest to the wind energy system, except for short−term events such as utility outages or severe wind storms. It also recommended that if the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

Finally, the guidelines recommend that an on−site use wind energy system have both lightning protection, and automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. If a tower is supported by guy wires, it is recommended that the wires be clearly visible to a height of at least six feet above the guy wire anchors and that the minimum vertical blade tip clearance from grade be 20 feet for a wind energy system employing a horizontal axis rotor.

Utility grid systems are systems designed to provide power to wholesale or retail customers using the electric grid, and on−site systems with tower heights over 20 meters.

For these systems, the guidelines establish a setback designed to protect neighbors in the event of a tower failure. The minimum recommended setback from the landowner's property lines is the greater of local zoning setbacks, road right of way setbacks, or the height of the turbine, including the top of the blade in its vertical position.

It is recommended that sound levels for utility grid systems not exceed 55 dB(A) at the property line closest to the wind energy system, except that this level may be exceeded for up to three minutes in any hour of the day. It also recommended that if the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

During the application process a developer must analyze shadow flicker impact and expected durations of the flicker

from sunrise to sunset over the course of a year, as well as mitigation measures to eliminate or minimize these impacts. It must also submit a planning commission approved decommissioning plan and complaint resolution process.

No system can be installed in a way that causes interference unless the applicant provides a replacement signal to at least the pre−installation level. It also cannot be installed within the path of a line−of−sight communication technology unless doing so will produce only insignificant interference.

Minnesota:

The Minnesota state statute defines a large wind system as 5,000 kilowatts or more. Applications for a permit to site such a system must be filed with the Minnesota Public Utility Commission (Minnesota PUC). The only exception to this general rule is that a county board may assume responsibility for processing permit applications for a large wind system with a capacity of less than 25,000 kilowatts. Under the administrative rule, a local government may establish siting and construction requirements for a small system, meaning under 5,000 kilowatts.

The statutes require that the Minnesota PUC establish general permit standards, including appropriate property line set−backs, governing site permits. These standards apply to permits issued by counties and to permits issued by the Minnesota PUC for large wind systems with a capacity of less than 25,000 kilowatts. The Minnesota PUC or a county may grant a variance from a general permit standard if the variance is found to be in the public interest.

The statute preempts all zoning, building, or land use rules, regulations, or ordinances adopted by local government units. However, a county may adopt standards for large wind systems that are more stringent than those in Minnesota PUC rules or permit standards. The Minnesota PUC, in considering a permit application for system in a county that has adopted more stringent standards, must consider and apply those more stringent standards, unless it finds good cause not to apply those standards.

The administrative rule contains detailed information about what must be in an application, including information about wind conditions at the proposed site, environmental factors, project design, construction and operation details, and decommissioning plans.

Setbacks developed by the Minnesota PUC include:

- Wind Access Buffer (setback from lands and/or wind rights lot under permittee's control) – 3 rotor diameters (RD) (760 − 985 ft) on east−west axis and 5 RD (1280−1640ft) on north−south axis,
- Homes – at least 500 ft and sufficient distance to meet state noise standards, and road rights−of−way − no closer than 250 feet from the edge of public road rights−of−way.

Noise standards for residential and similar areas are:

- DaytimeNightime
  L_{50}[1]L_{10}[2] $_{50}L_{10}$
- 60655055

[1] L_{50} means the sound level, expressed in dB(A), which is exceeded 50 percent of the time for a one hour survey, as measured by test procedures approved by the Minnesota PUC.

[2] L_{10} means the sound level, expressed in dB(A), which is exceeded ten percent of the time for a one hour survey, as measured by test procedures approved by the Minnesota PUC.

If disruptions to television, microwave, telecommunication, navigation, or other facilities occur, the permittee must take whatever steps are necessary to correct the problem.

Prior to construction, the permittee must submit procedures for handling complaints. It must also prepare an emergency plan and register with the area 911 system. Finally, it must make arrangements for the use, maintenance and repair of roads that it will use.

Within 15 days after an application is accepted, notice must be provided to the county board, city council, township board, and each landowner within the system site. Notice must also be published in a newspaper of general circulation in the area. The Minnesota PUC must provide notice to those persons it knows are interested in the proposed project.

Ohio:

Ohio's statutes require that a certificate be obtained from the state power siting board before constructing an economically significant wind farm, one with a capacity of 5 megawatts or more, and requires that the application process be identical, to the extent practicable, to the process applicable to certificating major utility facilities. It orders that a rule be written including the following minimum setbacks:

- For the wind farm property − at least 1.1 times the total height of the turbine.
- For the exterior of the nearest habitable residential structure on property adjacent to the wind farm – at least 750 feet measured from the tip of the nearest blade at ninety degrees.

Ohio has an administrative rule with very detailed requirements for applications including project description, project area analysis, financial data, technical data, environmental data, and ecological and social data. Applications must include information such as: potential impact from ice throw and blade shear at the nearest property boundary, including plans to minimize it; the potential impact from shadow flicker at adjacent residential structures and primary roads, including plans to minimize it; the potential for interference with radio and television reception and measures that will be taken to minimize it; the anticipated impact to roads and bridges and measures planned for returning them to their prior condition; and a plan for decommissioning, including a discussion of any financial arrangements designed to ensure the requisite financial resources.

Wisconsin:

All of the rules, including Wisconsin's, differentiate between small systems and larger systems.

In Minnesota, applications are generally filed with the Minnesota PUC, although political subdivisions may deal with applications for smaller systems. Political subdivisions can have more stringent requirements, and the Minnesota PUC must apply them unless there is good cause not to do so. In Ohio, applications are filed with a state siting board. In the other states, including Wisconsin, applications are generally filed with a local political subdivision.

Like some of the other states, the Wisconsin rule requires large system development applicants to address issues such as shadow flicker and possible mitigation, road damage and possible mitigation, signal interference and possible mitigation, and decommissioning. Like others, it requires the establishment of a complaint process. Like Michigan, it does not allow placement in the path of a line−of−sight communications technology, although Michigan allows it if interference would be insignificant.

All of the states except Michigan have some setback and noise requirements. In Michigan there are some guidelines, but not requirements, which are left to political subdivisions. Wisconsin's noise requirement is in the same range as that of other states. Setback requirements in the different states vary somewhat by what the setback is measured from, for example a property line or a residence. Wisconsin's setbacks, other than from certain property lines, is similar to those of other states. This is not surprising as these distances are generally set to ensure that if a turbine or other facilities fell over they would not fall on a residence or other buildings. Wisconsin's setback for the property lines of nonparticipating properties and buildings such as schools is larger than those specified in other states.

Because Minnesota's PUC reviews certain applications, its rules contain more detail about what must be in applications. Ohio also has detailed application requirements, perhaps because the applications are filed with a state siting board. The Wisconsin requirements, while dealing with many of the same topics, are less detailed in the rules. The rules require the Commission to publish detailed siting criteria. The states where a decision is made by a political subdivision rather than a state entity do not have an appeal process like that in the Wisconsin law.

Summary of factual data and analytical methodologies

In creating this rule, the Commission considered information from a wide variety of sources including:

- Advice and suggestions offered by members of the Wind Siting Council.
- Wind−siting regulations and guidelines from a variety of states, including those immediately adjacent to Wisconsin.
- A wide variety of local ordinances and community agreements throughout the state.
- Various white papers and best practices.
- Papers from a conference on wind−siting effects.
- Commission experience and precedent in wind siting decisions.
- Environmental impact statements prepared for wind projects in Wisconsin.
- Technical and scientific research and writing on wind siting.
- Presentations and lectures given on wind siting issues.
- Research by non−profit organizations on wind siting.
- Research by educational institutions on wind siting topics.
- Expert testimony on wind siting issues.
- Other state commissions' investigations and precedent on wind siting.
- Research and writing by other states' health institutions regarding wind siting.
- Consulting professionals with experience in public health in Wisconsin.
- Court cases on wind siting issues and political subdivision jurisdiction in Wisconsin to affect wind siting.
- Joint Development agreements between wind developers and political subdivisions.
- Lease agreements for wind development.
- Complaint resolution documentation from past complaints about wind projects.
- Wisconsin Public Service Commission Noise Measurement Protocols.
- Wisconsin Public Service Commission Stray Voltage Protocols.
- Wisconsin Public Service Commission Application Filing Requirements.
- Code of Federal Regulations regarding example emergency and safety regulations in gas pipeline safety regulations.
- Federal Aviation Administration processes, standards and provisions.
- Other Wisconsin agency processes regarding political subdivision decision−making, such as Department of Agriculture, Trade and Consumer Protection regulations regarding siting concentrated animal feeding operations.
- Research, writing and presentations by the federal government and national energy labs on wind siting issues.
- Public comments received in Commission cases.
- Public comments received by Commission staff outside of Commission cases.

Small Business Impact

The business entities this rule may affect are wind system developers, owners or operators and business owners that may wish to install small wind energy systems. The Commission cannot estimate how many of these qualify as small businesses.

The rule differentiates between large projects and small projects (100 kilowatts or less), in part to make it easier for small businesses to install small systems and in part because it seems likely that a small wind energy development company would not be taking on a very large project. Many of the approval decisions are left in the hands of political subdivisions, although their standards cannot be more restrictive than those in the rule. As a result, some political subdivisions may make additional efforts to ease any burdens on small businesses. Some of the differences contained in this rule for developers of small systems are:

- Lessened notice requirements.
- No advance transportation plan required.
- No advance emergency evacuation plan required.
- The minimum setback despite a landowner waiver is somewhat less.

In addition, a political subdivision may only establish certain requirements for a large system developer. These include:

- An advance written procedure for shutting down in case of a wind energy emergency.
- Proving financial ability to pay for operation, maintenance and decommissioning.
- Providing the political subdivision with a list of tax parcel numbers for property within one mile of the system.
- Specific requirement to cooperate with studies about bat and bird migratory patterns.
- Annual monetary compensation to an owner of a nonparticipating residence within one−half mile of a turbine site.
- Filing an annual operations and maintenance report.

Under certain circumstances, a political subdivision does not have to hold a hearing. Further, the rule allows a political

subdivision to set a fee based on the size and complexity of the system.

Initial regulatory flexibility analysis

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

It is possible that this proposed rule may have an effect on small business, as defined in Wis. Stat. § 227.114 (1). The business entities this rule may affect are wind energy system developers, owners, or operators. The Commission cannot estimate how many of these entities qualify as a small business.

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

Small businesses are more likely to be constructing small wind energy systems than other businesses. The rule establishes lesser requirements for small wind energy systems, defined as a system that produces up to 100 kilowatts of electricity. These requirements are described in the analysis, as well as the reporting, bookkeeping, and procedures applicable to a small business.

Types of professional skills necessary for compliance with the rules.

The proposed rule does not impose any additional professional skill requirements.

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

State fiscal effect

There are potential costs to the Public Service Commission (PSC) under PSC 128. However, these costs are indeterminate and will be absorbed within existing resources.

Potential staff and Intervenor Compensation costs under PSC 128 are related to the potential number of petitions filed with the Commission to appeal a political subdivision's decision approving or denying construction of a wind energy system or decommissioning a wind energy system.

As drafted, PSC 128 minimizes the potential costs per appeal under 2009 Wisconsin Act 40. PSC 128 does not require the Commission to open a docket or hold a hearing to decide an appeal. However, PSC 128 could increase rather than decrease the potential number of appeals.

Under 2009 Wisconsin Act 40, local governments may not be more restrictive in their wind energy system siting regulations than the statewide set of siting requirements to be established under PSC 128. PSC 128 may result in an increased number appeals from residents because it excludes local governments from considering certain factors in siting decisions, but allows the PSC to make exceptions to the Rule. PSC 128 could also increase the potential number of appeals from owners, operators or developers if a local government enacts more restrictive siting permit and application requirements, than the political subdivision had previously enacted or considered enacting, because PSC 128 allows the more restrictive approach.

Costs from the potential increase in appeals could be offset by the reduced cost per appeal from the rule's more flexible approach to dockets and hearings. However, the total fiscal effect cannot be accurately projected at this time.

PSC 128 as currently drafted does not increase costs to other state agencies. PSC 128 allows political subdivisions flexibility to maintain current levels of consultation and involvement with state agencies (if the overall consultation is allowable under PSC 128).

Local fiscal effect

PSC 128 may increase local governments' permitting process and record retention costs, but it allows local governments to cover these costs with wind siting application fees from owners, operators or developers of wind energy systems. Therefore, PSC 128 does not have a significant local fiscal effect.

State fiscal effect

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

Local government fiscal effect

Increase Costs − Permissive.

Increase Revenues − Permissive.

Types of local governmental units affected

Towns, Villages, Cities, Counties.

Fund sources affected

PRO.

Affected Ch. 20 appropriations

Section 20.155 (1) (g) and (j), Stats.

Long−range fiscal implications

Indeterminate.

Text of Proposed Rule

SECTION 1. Chapter PSC 128 is created to read:

CHAPTER PSC 128
WIND ENERGY SYSTEMS
Subchapter I
General

PSC 128.01 Definitions. In this chapter:

(1) "Commission" means the public service commission.

(2) "Developer" means a person involved in acquiring the necessary rights, permits and approvals, and otherwise planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system. "Developer" includes, prior to completion of construction of a wind energy system, an owner and an operator.

(3) "Decommissioning" means removal of all of the following:

(a) The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner.

(b) All below ground facilities, except for underground collector circuit facilities, and concrete structures four feet or more below grade.

(4) "DNR" means the Wisconsin department of natural resources.

(5) "Large wind energy system" means a wind energy system with an installed nameplate capacity of greater than 100 kilowatts.

(6) "Maximum blade tip height" means the nominal hub height plus the nominal blade length, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.

(7) “Nameplate capacity” means the nominal generating capacity, as listed in the wind turbine specifications provided by the wind turbine manufacturer.

(8) “Nonparticipating property” means real property for which there is no agreement between the landowner and developer that permits the construction of any part of a wind energy system on the property.

(9) “Nonparticipating residence” means an occupied permanent residence located on a nonparticipating property.

(10) “Occupied community building” means a school, church, daycare facility or public library.

(11) “Operator” means the person responsible for the operation and maintenance of a wind energy system.

(12) “Owner” means a person with an ownership interest in a wind energy system.

(13) “Participating property” means any of the following:

(a) Real property which is subject to an agreement between the landowner and the developer, owner, or operator for the construction of any portion of a wind energy system on the property.

(b) Real property that is the subject of an agreement that includes all of the following terms:

1. Provides for the payment of monetary compensation to the landowner from the developer, owner or operator regardless of whether any part of a wind energy system is constructed on the property.

2. Specifies in writing that the landowner’s acceptance of payment establishes the landowner’s property as a participating property.

(14) “Political subdivision” has the meaning given in s. 66.0401 (1e) (c), Stats.

(15) “Residence” includes a permanent occupied personal residence, hospital, community−based residential facility, residential care apartment complex or similar facility, and nursing home.

(16) “Regulation” includes any ordinance or resolution adopted by the governing body of a political subdivision relating to a wind energy system and any contract or agreement entered into by a political subdivision and a developer relating to a wind energy system.

(17) “Shadow flicker” means a pattern of changes in light intensity resulting from the shadow of rotating wind turbine blades being cast on a residence or an occupied community building.

(18) “Small wind energy system” means a wind energy system that has an installed nameplate capacity of 100 kilowatts or less.

(19) “Turbine host property” means real property which is subject to an agreement between a landowner and a developer, owner, or operator for the construction of one or more wind turbines.

(20) “Wind easement” means a written document that creates a legal interest in real property that permits a developer or owner to place and construct a wind turbine or associated facilities on the property.

(21) “Wind energy system” has the meaning given in s. 66.0403 (1) (m), Stats.

(22) “Wind lease” means a written agreement between a landowner and a developer, owner or operator that establishes terms and conditions associated with the placement or construction of a wind turbine or associated facilities on a landowner’s property.

PSC 128.02 Applicability. (1) (a) Except as provided in par. (b), this chapter applies to wind energy systems.

(b) This chapter does not apply to any of the following:

1. A wind energy system for which a certificate of public convenience and necessity application has been filed with the commission before the effective date of this chapter…[LRB inserts date].

2. A wind energy system for which construction began before the effective date of this chapter …[LRB inserts date].

3. A wind energy system placed in operation before the effective date of this chapter … [LRB inserts date].

4. A wind energy system approved by a political subdivision before the effective date of this chapter … [LRB inserts date].

5. A wind energy system proposed by a developer in an application filed before the effective date of the chapter … [LRB inserts date] with a political subdivision that has an established procedure for review of applications for wind energy systems.

(c) If a developer intends to submit an application for the installation or use of a wind turbine with a maximum blade tip height exceeding 500 feet or for a wind energy system proposed to be located in Lake Michigan or Lake Superior, the developer shall file a petition with the commission for the commission to promulgate rules for the use and installation of such wind energy systems.

(2) Nothing in this chapter shall preclude the commission from giving individual consideration to exceptional or unusual situations and applying requirements to an individual wind energy system that may be lesser, greater, or different from those provided in this chapter.

Subchapter II
Developer Requirements

PSC 128.10 Development of a wind energy system; Notice requirements. (1) GENERAL NOTIFICATION REQUIREMENTS. (a) At least 270 days before a developer files an application to construct a wind energy system, or 180 days before the planned start of construction of a wind energy system, whichever is earlier, a developer shall provide written notice of the planned wind energy system to landowners within one mile of the planned wind energy system and to all political subdivisions within which the wind energy system may be located. For a large wind energy system, a developer shall file a copy of the notice with the commission.

(b) The developer shall include all of the following in the notice under par. (a):

1. A complete description of the wind energy system, including the number and size of the wind turbines.

2. A map showing the planned location of the wind energy system.

3. Contact information for the developer.

4. A list of all potential permits or approvals the developer anticipates may be necessary for construction of the wind energy system.

5. Whether the developer is requesting a joint application review process under s. PSC 128.30(7) and the names of any other political subdivision that may participate in the joint review process.

(2) DNR NOTIFICATION. (a) At least 90 days before a developer files an application to construct a wind energy

system, or 120 days before the start of construction if no application process is required by the political subdivision, the developer shall notify the DNR of the proposed wind energy system and the proposed location of all wind energy system facilities. A developer shall consult with the DNR and incorporate into wind energy system siting decisions required permitting considerations for wetlands, waterways, construction site erosion control, and threatened or endangered resources.

(3) TRANSPORTATION NOTIFICATIONS. (a) At least 90 days before a developer files an application to construct a wind energy system, or 120 days before the start of construction if no application process is required by the political subdivision, the developer shall notify the Wisconsin Department of Transportation of the proposed wind energy system and the proposed location of all wind energy system facilities. The developer shall also notify the highway department of any political subdivision within which the wind energy system may be located.

(b) For a large wind energy system, a developer shall prepare a transportation plan, in consultation with the Department of Transportation and affected political subdivisions, that minimizes impacts to existing traffic patterns, adheres to established road weight limits and provides for mitigating, assessing and repairing, at the developer, owner or operator's expense, road damage caused by construction and operation of the wind energy system.

(5) EMERGENCY SERVICE NOTIFICATIONS. (a) At least 90 days before a developer files an application to construct a wind energy system, or 120 days before the start of construction if no application process is required by the political subdivision, the developer shall notify all of the following of the proposed wind energy system:

1. Emergency first responders including fire, police, ambulance and air ambulance services serving the proposed wind energy system location.

2. Emergency first responders of a political subdivision within which the wind energy system may be located.

(b) For a large wind energy system, the developer shall consult and coordinate with local first responders and air ambulance services regarding the development of an emergency evacuation plan, including the locations of alternate landing zones for emergency services aircraft. The developer shall file the final plan with the political subdivision, using confidential filing procedures if necessary.

PSC 128.11 Real property provisions. (1) WIND EASEMENT. (a) A property owner may grant another person a wind easement in the same manner and with the same effect as a conveyance of an interest in real property. A wind easement shall be in writing and shall be filed with the register of deeds for the county in which the property is located.

(b) A wind easement shall include a legal description of the property subject to the wind easement.

(2) WIND LEASE REQUIREMENTS. A wind lease shall include provisions that require all of the following:

(a) Require the developer, owner and operator of the wind energy system to comply with all federal, state and local laws and regulations applicable to the wind energy system.

(b) Permit the property owner to terminate the wind lease if the portion of the wind energy system located on the property has not operated for a period of at least 18 months unless the property owner receives the normal minimum payments that would have occurred if the wind energy system had been operating during that time. In this paragraph, "normal minimum payments" means the minimum payments as provided in the wind lease, or if not provided for in the wind lease, payments at least equal to the periodic payments received by the property owner in the last full calendar year that the wind energy system was in full operation.

(c) Specify the circumstances under which the developer, owner or operator of the wind energy system may withhold payments from the property owner.

(d) Permit the property owner to rescind an executed wind lease within 3 business days of signing the wind lease.

(3) WIND LEASE PROHIBITIONS. A wind lease may not include provisions that require any of the following:

(a) Require the parties to maintain the confidentiality of any terms of a proposed wind lease except that the parties may include a confidentiality agreement regarding the compensation terms contained in the final signed wind lease.

(b) Make the property owner liable for any property tax associated with the wind energy system or other equipment related to the production of electricity by the wind energy system.

(c) Make the property owner liable for any violation of federal, state or local laws and regulations by the developer, owner or operator of the wind energy system.

(d) Make the property owner liable for any damages caused by the wind energy system or the operation of the wind energy system, including liability or damage to the property owner or to third parties.

(4) MITIGATION AGREEMENTS. A developer, owner or operator may not, as a condition of accepting any benefit to settle a noise, signal interference, stray voltage or shadow flicker mitigation issue, require a property owner to keep the settlement confidential or require the property owner to waive any right to make a future claim about an unrelated issue.

PSC 128.12 Existing property uses. A developer shall make reasonable efforts to ascertain and accommodate existing land uses and commercial enterprises located on nonparticipating properties within one mile of a proposed wind turbine site.

PSC 128.13 Siting criteria. (1) DISTANCE AND HEIGHT REQUIREMENTS. (a) A developer shall design and construct a wind energy system using the wind turbine setbacks shown in Table 1.

(b) Wind turbine setback distances shall be measured as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.

(c) A developer shall work with a political subdivision to site wind turbines to minimize individual hardships.

(d) The owner of a participating residence, occupied community building or nonparticipating residence may waive the wind turbine setbacks in Table 1 for those structures, except that the setback for a large wind energy system may not be less than 1.5 times the maximum blade tip height, and the setback for a small wind energy system may not be less than 1.1 times the maximum blade tip height.

Table 1	
Setback Description	**Setback Distance**
Occupied Community Buildings	3.1 times the maximum blade tip height
Participating Residences	1.5 times the maximum blade tip height
Nonparticipating Residences	3.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.1 times the maximum blade tip height
Public Road Right−of−Way	1.1 times the maximum blade tip height
Wetlands; Ordinary High Water Mark of Lakes and Waterways	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines − Not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height
Overhead Utility Service Lines − Lines to individual houses or outbuildings	None

(2) POLITICAL SUBDIVISION CRITERIA. (a) A political subdivision may not establish distance or height requirements different than those in this chapter.

(b) A political subdivision may not set height or distance limitations for a wind turbine near a public use airport or heliport that are more restrictive than existing airport and airport approach protection provisions under ss. 114.135 and 114.136, Stats. If no provisions have been established for public use airports or heliports under ss. 114.135 or 114.136, Stats., the political subdivision may adopt wind turbine height or distance provisions that are based on, but not more restrictive than, the federal aviation administration obstruction standards in CFR title 14, part 77.

(c) A political subdivision may not set height or distance limitations for wind turbines near a private medical facility heliport used for air ambulance service that are more restrictive than federal aviation administration obstruction standards that apply to public use heliports.

(d) A political subdivision may not set height or distance limitations for a wind turbine near a private use airport.

(e) A political subdivision may not establish long−term land use planning requirements or practices that preclude the construction of a wind turbine or a wind energy system within the political subdivision's jurisdiction.

(3) LINE−OF−SIGHT COMMUNICATION TECHNOLOGIES STANDARD. The developer, owner or operator may not construct wind energy system facilities within the path of existing line−of−sight communication technologies. A political subdivision may require a developer to provide information showing that wind turbines and other wind energy system facilities will not be placed within the path of existing line−of−sight technologies.

PSC 128.14 Noise Criteria. (1) PLANNING. A developer shall comply with the noise standards in this section when making wind turbine siting decisions.

(2) NOISE STANDARD. (a) Compliance with noise limits shall be measured or otherwise evaluated at the outside wall of the nonparticipating residence or occupied community building. If sound level measurements are used to evaluate compliance, those measurements shall be made at the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the resident. The developer may take additional measurements to evaluate compliance in addition to those specified by this section.

(b) Except as provided in sub. (3)(a) and (d), a developer shall operate the wind energy system in a manner that does not exceed 50 dBA at any nonparticipating residence or occupied community building existing on the date of approval of the wind energy system by the political subdivision.

(3) MITIGATION. (a) A developer, owner or operator shall test for compliance with the noise limits upon complaint by a nonparticipating resident. If the complaint relates to noise during nighttime hours, the noise limit for those areas related to the complaint shall be reduced to 45 dBA during nighttime hours and the developer, owner or operator shall ensure the seasonally−reduced nighttime noise limit is met. For purposes of this paragraph, nighttime hours are the hours between 10:00 p.m. to 6:00 a.m. daily, from April 1 to September 30.

(b) Methods available for the developer, owner or operator to comply with noise limits shall include operational curtailment of a wind turbine.

(c) A developer shall provide notification of the requirements of this section to potentially−affected owners of nonparticipating residences and occupied community buildings before the initial operation of the wind energy system.

(d) In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the developer, owner or operator shall promptly take corrective action to eliminate the cause of the steady pure tone. Operational curtailment of a wind turbine during nighttime hours may be used to comply with this paragraph until the cause of the steady pure tone can be permanently eliminated. This paragraph does not apply to rhythmic sound that may be generated by the rotation of wind turbine blades.

(e) A developer shall evaluate compliance with the noise limits as part of pre− and post−construction noise studies. A developer, owner or operator shall conduct pre− and post−construction noise studies as described in the most current version of the noise measurement protocol.

(f) The commission shall establish a noise measurement protocol, which shall contain minimum requirements for pre− and post−construction noise studies. The commission may revise the noise measurement protocol as necessary. The commission shall make the noise measurement protocol available to the public on the commission's website.

(g) An owner of an affected residence may relieve the developer of the requirement to meet any of the noise requirements in this section at the affected residence by written contract with the developer. Unless otherwise provided in a contract signed by an owner of an affected residence, a waiver by an owner of an affected residence is an

encumbrance on the real property and runs with the land until the wind energy system is decommissioned.

PSC 128.15 Shadow flicker. (1) PLANNING. A developer shall consider shadow flicker in wind turbine siting decisions. A developer shall plan the proposed wind energy system in a manner that minimizes shadow flicker at an occupied community building or participating or nonparticipating residence to the extent reasonably practicable. A developer shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a large wind energy system.

(2) STANDARD. The developer shall design a wind energy system so that computer modeling indicates that no nonparticipating residence would experience more than 30 hours per year of shadow flicker.

(3) MITIGATION. (a) A developer, owner and operator shall work with an owner of a residence to mitigate the effects of shadow flicker. The developer shall provide shadow flicker mitigation for a residence experiencing 25 hours per year or more of shadow flicker. The developer shall model shadow flicker and a residence is eligible for mitigation if computer modeling shows that shadow flicker exceeds 25 hours per year at the residence. The owner of the residence is not required to document the actual hours per year of shadow flicker if modeling indicates the residence is eligible for mitigation. A residence that exceeds 25 hours per year of shadow flicker based on records kept by the resident shall also be eligible for mitigation.

(b) A developer, owner or operator may provide shadow flicker mitigation for residences experiencing less than 25 hours per year of shadow flicker.

(c) The requirement under par. (a) to mitigate shadow flicker at an eligible residence is triggered when the developer, owner or operator receives a complaint regarding shadow flicker. If shadow flicker mitigation is required, the developer, owner or operator shall allow the owner of the residence to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the developer, owner or operator's expense.

(d) A developer, owner or operator shall provide notification to the owners of potentially−affected residences of the provisions of this section before initial operation of the wind energy system.

(e) An owner of an affected residence may by written contract waive the developer, owner or operator's requirement to provide shadow flicker mitigation. A waiver by an owner of an affected residence is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned.

PSC 128.16 Signal interference. (1) PLANNING. A developer shall consider radio, television and cellular telephone signal interference in wind turbine siting decisions and shall use reasonable efforts to avoid causing such interference to the extent practicable. A political subdivision may establish reasonable standards regarding radio, television, cellular telephone interference.

(2) RADIO AND TELEVISION INTERFERENCE MITIGATION. A developer, owner or operator shall use reasonable efforts to mitigate radio and television signal interference to the extent practicable. Before implementing remedial measures, the developer, owner or operator shall consult with affected residents regarding the preferred reasonable mitigation solutions for radio and television interference problems. A developer, owner or operator shall mitigate radio and television interference by making a resident's preferred reasonable mitigation solution permanent.

(3) CELLULAR TELEPHONE INTERFERENCE MITIGATION. A developer, owner or operator shall use reasonable efforts to mitigate cellular telephone signal interference to the extent practicable. The developer, owner or operator shall work with affected cellular providers to provide adequate coverage in the affected area. Acceptable mitigation techniques for lost or weakened cellular telephone communications include installing an additional micro cell, cell, or base station facility to fill in the affected area. The micro cell, cell, or base station may be installed on a structure within the wind energy system.

PSC 128.17 Stray voltage. (1) STRAY VOLTAGE TESTING REQUIRED. Developer, owner, or operator shall work with the local electric distribution companies to test for stray voltage at all dairy and confined animal operations within one−half mile of any wind energy system facility, before any construction that may interfere with testing commences and again after construction of the wind energy system is completed. Before any testing, a developer, owner or operator shall work with commission staff to determine the manner in which stray voltage measurements will be conducted and on which properties.

(2) RESULTS OF TESTING. A developer, owner, or operator shall provide to commission staff the results of stray voltage testing.

(3) REQUIREMENT TO RECTIFY PROBLEMS. Developer, owner or operator shall work with the electric distribution utilities and farm owners to rectify any stray voltage problems arising from the construction and operation of the wind energy system.

PSC 128.18 Construction and operation. (1) PHYSICAL CHARACTERISTICS. (a) A developer, owner or operator may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. A developer, owner or operator may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. A developer, owner or operator may attach a safety feature or wind monitoring device to a wind turbine.

(b) A developer, owner or operator shall ensure that a wind turbine has a neutral finish.

(c) A developer, owner or operator shall install lighting that complies with standards established by the federal aviation administration.

(d) A developer, owner or operator of a wind turbine shall ensure that a wind turbine is not climbable except by authorized personnel.

(e) An owner or operator of a wind energy system shall ensure that all access doors to the wind turbines and electrical equipment are locked when authorized personnel are not present.

(f) A developer, owner or operator of a wind energy system shall place appropriate warning signage on or at the base of each wind turbine.

(g) An owner or operator of a wind energy system shall post and maintain up−to−date signs containing a twenty−four hour emergency contact telephone number, information identifying the owner or operator, and sufficient information to identify the location of the sign within the wind energy

system. An owner or operator shall post these signs at every intersection of a wind energy system access road with a public road.

(2) ELECTRICAL STANDARDS. (a) A developer, owner or operator shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and Wis. Admin. Code ch. PSC 114 and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the national electrical code.

(b) A developer shall construct collector circuit facilities underground to the extent practicable.

(c) A developer, owner or operator shall establish an inspection schedule for all overhead collector circuits to ensure that third−party facilities such as cable television and telecommunications cables are not attached and bonded to overhead collector circuit grounding. If third−party facilities are found attached to the overhead collector facilities, developer shall ensure that the third−party facilities are promptly removed.

(3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS. (a) A developer, owner or operator shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition.

(b) Except for the area occupied by the wind energy system and related facilities, including permanent access roads, a developer shall restore the topography, soils and vegetation of the project area to original condition after construction is complete.

(c) A developer, owner or operator of a wind energy system shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction or operation of the wind energy system and shall include turbine host property owners as additional insured persons on the policy.

(4) EMERGENCY PROCEDURES. (a) In this subsection, "wind energy system emergency" means a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property. "Wind energy system emergency" includes natural events that cause damage to wind energy system facilities.

(b) An owner or operator shall notify a political subdivision within 24 hours of a wind energy system emergency and the nature of the wind energy system emergency.

(c) An owner or operator shall establish and maintain liaison with a political subdivision and with fire, police, and other appropriate first responders serving within one−half mile of the wind energy system to do all of the following:

1. Learn the responsibility and resources of each government organization or first responder entity that would respond to a wind energy system emergency.

2. Acquaint the political subdivision and fire, police and other appropriate first responders serving within one−half mile of the wind energy system with the owner and operator's abilities to respond to a wind energy system emergency and provide annual training for appropriate officials regarding responding to a wind energy system emergency until the wind energy system has been decommissioned.

3. Identify the types of wind energy system emergencies subject to notification under par. (b).

4. Plan how the owner or operator and fire, police, and other first responders can engage in mutual assistance to minimize hazards to life and property.

(d) An owner or operator of a large wind energy system shall establish written procedures that provide for shutting down the wind energy system or a portion of the system, as appropriate, in the event of wind energy system emergency. The procedures shall provide for all of the following:

1. Establishing and maintaining adequate means of communication with a political subdivision and with fire, police, and other appropriate first responders.

2. Advising an affected political subdivision of a wind energy system emergency.

3. Prompt and effective response to a notice of any of the following types of emergencies:

a. Mechanical failure of wind turbine facilities.

b. Fire associated with a wind turbine or associated facilities.

c. Emergency situations requiring the evacuation of a person or persons from the wind energy system.

d. Natural disaster.

e. Police actions, such as a request or order by police or fire officials to interrupt operation of any wind energy system facility due to an emergency.

4. Actions directed toward protecting people first and then property.

5. Making safe any actual or potential hazard to people or property.

6. Notifying a political subdivision and fire, police, and other appropriate first responders of a wind energy system emergency and coordinating with planned and actual responses during an emergency.

(e) An owner or operator of a large wind energy system shall do all of the following:

1. Furnish its supervisors and employees who are responsible for emergency action a copy of the latest edition of the emergency procedures established under par. (d) to ensure compliance with those procedures.

2. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.

3. As soon as possible after the end of a wind energy system emergency, the owner, or operator shall review employee activities to determine whether the procedures were effectively followed.

(5) COMPLAINT PROCESS. (a) Before construction of a wind energy system begins, a developer shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within one−half mile of the wind energy system. A developer shall include a contact person and telephone number for complaints or concerns during construction, operation, maintenance and decommissioning. A developer shall provide a copy of the notice to any political subdivision within which the wind energy system will be located, and the developer, owner or operator shall keep the contact person and telephone number up−to−date and on file with the political subdivision.

(b) A developer, owner or operator shall maintain a log of all complaints received regarding the wind energy system. The log shall include the name and address of the complainant, the nature of the complaint, and the steps taken to resolve the complaint. A developer, owner or operator shall

make copies of this complaint log available, at no cost, to any monitoring committee established under s. PSC 128.36 by a political subdivision in which the wind energy system is located. If a monitoring committee has not been established, the developer, owner or operator shall make a complaint log available to the political subdivision upon request.

(c) A developer, owner or operator shall make a complaint log available to the commission upon request.

PSC 128.19 Decommissioning. (1) REQUIREMENT TO DECOMMISSION. (a) Except as provided in par. (e), the owner or operator of a wind energy system shall decommission and remove a wind energy system when the system is at the end of its useful life.

(b) A developer shall include in an application to construct a wind energy system a decommissioning and site restoration plan that provides reasonable assurances that the developer, owner or operator will be able to comply with this section.

(c) A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 6 month period. This presumption may be rebutted by the owner or operator by submitting to the political subdivision a plan outlining the steps and schedule for returning the wind energy system to service within 6 months after the date the wind energy system is presumed to be at the end of its useful life. Upon application by the owner or operator, a political subdivision shall grant an extension of the time period for returning the wind energy system to service by an additional 6 month period if the owner or operator demonstrates an ongoing good faith effort to return the wind energy system to service. A wind energy system that generates no electricity for a continuous 18 month period is irrebuttably presumed to be at the end of its useful life.

(d) When decommissioning is required, the owner or operator shall begin decommissioning within 9 months after the wind energy system has reached the end of its useful life. The owner or operator shall complete decommissioning and removal of the wind energy system within 18 months after the wind energy system has reached the end of its useful life.

(e) A political subdivision may grant a temporary deferral of the requirement to decommission and remove a wind energy system if it is likely the wind energy system will operate again in the future and if any of the following apply:

1. The wind energy system is part of a prototype or other demonstration project being used for ongoing research or development purposes.

2. The wind energy system is being used for educational purposes.

(2) DECOMMISSIONING REVIEW. A political subdivision may establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life.

(3) FINANCIAL RESPONSIBILITY. A developer, owner or operator of a large wind energy system shall provide information to the political subdivision that demonstrates proof of the owner's financial ability to comply with requirements regarding decommissioning in sub. (1).

(4) SITE RESTORATION. If a large wind energy system was constructed on land owned by a person other than the owner or operator of the large wind energy system, the owner or operator of the wind energy system shall ensure that the property is restored so that the topography, soils, and vegetation are consistent with or similar to that of immediately adjacent properties at the time of decommissioning. If a large wind energy system was constructed on a brownfield, as defined in s. 560.13 (1) (a), Stats., the owner or operator shall restore the property to eliminate effects caused by the large wind energy system.

(5) DECOMMISSIONING COMPLETION. (a) An owner shall file a notice of decommissioning completion with the political subdivision when a wind energy system approved by the political subdivision has been decommissioned and removed.

(b) Within 12 months of receiving a notice of decommissioning, a political subdivision shall determine whether the wind energy system has satisfied the requirements of subs. (1)(a) and (4).

Subchapter III

Political Subdivision Procedure

PSC 128.30 Application and notice requirements. (1) CONTENTS OF AN APPLICATION. If approval by a political subdivision is required for a proposed wind energy system or expansion of an existing wind energy system, a developer seeking the political subdivision's approval shall complete and file with the political subdivision an application that includes all of the following:

(a) Wind energy system description and maps.

(b) Technical description of wind turbines and wind turbine sites.

(c) Construction process and timeline.

(d) Impact on local infrastructure.

(e) Information regarding noise.

(f) Information regarding shadow flicker.

(g) Effects on existing land uses within one−half mile of the wind energy system.

(h) Effects on air traffic.

(i) Effects on line−of−sight communications.

(j) A list of all state and federal permits required to construct and operate the wind energy system.

(k) Except as provided in sub. (3), information required under s. PSC 128.40.

(m) Any other information necessary to understand the proposed wind energy system.

(n) Information related to the wind energy system requested by the political subdivision.

(2) ACCURACY OF INFORMATION. The developer shall ensure that information contained in an application is accurate and internally consistent.

(3) SMALL WIND ENERGY SYSTEM APPLICATIONS. For a small wind energy system, a developer is not required to file the information required under sub. (1)(k).

(4) DUPLICATE COPIES. A political subdivision may specify a reasonable number of copies to be filed. Each copy shall include all worksheets, maps, and other attachments included in the application. A political subdivision may permit a developer to file an application electronically.

(5) NOTICE TO PROPERTY OWNERS. (a) On the same day a developer files an application for a large wind energy system, the developer shall mail or deliver written notice of the filing of the application to property owners and residents located within one−half mile of proposed turbine host properties or any wind energy system facility. The notification shall include all of the following:

1. A complete description of the wind energy system, including the number and size of the wind turbines.

2. A map showing the locations of all proposed wind energy system facilities.

3. The proposed timeline for construction and operation of the wind energy system.

4. Locations where the application is available for public review.

5. Developer contact information.

(b) After a political subdivision receives an application for a wind energy system, the notice required to be published by the political subdivision under s. 66.0401 (4) (a) 1., Stats., shall include the method and time period for the submission of public comments to the political subdivision and the approximate schedule for review of the application by the political subdivision.

(6) PUBLIC PARTICIPATION. (a) A political subdivision shall make an application for a wind energy system available for public review at a local library and at the political subdivision's business office or some other publicly−accessible location. A political subdivision may also provide public access to the application electronically.

(b) A political subdivision shall establish a process for accepting and considering written public comments on an application for a wind energy system.

(c) Except as provided in this paragraph, a political subdivision shall hold at least one public meeting to obtain comments on and to inform the public about an application. A political subdivision is not required to hold a public comment meeting on an application to construct a small wind energy system that is to be located entirely on land owned by the developer.

(7) JOINT APPLICATION REVIEW PROCESS. (a) If the wind energy system is proposed to be located in the jurisdiction of more than one political subdivision, the political subdivisions involved may conduct a joint application review process on their own motion or upon request. If a developer requests a joint application review, the developer shall include the request in its notice of intent to file an application with the political subdivision under s. PSC 128.10(1). If the developer requests a joint application review process, the political subdivisions involved shall consider this request within 60 days of receipt of the developer's notice of intent to file an application.

(b) If political subdivisions elect to conduct a joint application review process, the process shall be consistent with this chapter and the political subdivisions shall establish the process within 90 days of the date the political subdivisions receive the developer's notice of intent to file an application. A political subdivision may follow the review process of another political subdivision for purposes of conducting a joint application review process concurrently with the other political subdivision. If a joint application review process is adopted, the developer shall file the application with all of the political subdivisions participating in the joint review process.

PSC 128.31 Application completeness. (1) INCOMPLETE APPLICATIONS. A political subdivision shall determine whether an application is complete applying the detailed application filing requirements established by the commission under PSC 128.40. The political subdivision shall notify the developer in writing of the completeness determination no later than 45 days after the day the application is filed. An application is considered filed the day the developer notifies the political subdivision in writing that all the application materials have been filed. If a political subdivision determines that the application is incomplete, the notice shall state the reasons for the determination. A developer may file a supplement to an application that the political subdivision has determined to be incomplete. There is no limit to the number of times that the developer may re−file an application. For incomplete applications, the developer shall provide additional information as specified in the notice. Subsequent 45−day completeness review periods shall begin the day after the political subdivision receives responses to all items identified in the notice. If a political subdivision does not make a completeness determination within the applicable review period, the application is considered to be complete.

(2) REQUESTS FOR ADDITIONAL INFORMATION. A political subdivision may request additional information after determining that an application is complete. A developer shall provide additional information in response to all reasonable requests. A developer shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

PSC 128.32 Political subdivision review of a wind energy system. (1) APPROVAL BY POLITICAL SUBDIVISION. (a) Except as provided in par. (b), a political subdivision may require a developer to obtain approval from the political subdivision before constructing any of the following:

1. A wind energy system.

2. An expansion of an existing or previously−approved wind energy system.

(b) A political subdivision may not require a developer to obtain approval from the political subdivision under this chapter for any of the following:

1. A wind energy system placed in operation before the effective date of this chapter … [LRB inserts date].

2. A wind energy system for which construction began before the effective date of this chapter …[LRB inserts date].

3. A wind energy system approved by the political subdivision before the effective date of this chapter … [LRB inserts date].

4. A wind energy system proposed by a developer in an application filed before the effective date of the chapter … [LRB inserts date] with a political subdivision that has an established procedure for review of applications for wind energy systems.

(2) STANDARD FOR APPROVAL. A political subdivision may not unreasonably deny an application for a wind energy system or impose unreasonable conditions.

(3) WRITTEN DECISION. (a) A political subdivision shall issue a written decision to grant or deny an application for a wind energy system. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. An approval may be subject to the conditions in s. PSC 128.33(1).

(b) 1. A political subdivision shall provide its written decision to the developer and to the commission. If a political subdivision approves an application for a wind energy system, the political subdivision shall provide the developer with a duplicate original of the decision.

2. The developer shall file the duplicate original of a decision approving an application with the register of deeds for the county in which the wind energy system is located.

(4) EFFECT OF OWNERSHIP CHANGE ON APPROVAL. Approval by a political subdivision of a wind energy system remains in effect if there is a change in the owner or operator of the wind energy system. A political subdivision may require a developer, owner or operator to provide timely notice of any change in the owner or operator of the wind energy system.

(5) FEES. (a) A political subdivision may charge a reasonable application fee or require a developer to reimburse the political subdivision for reasonable expenses relating to the review of an application for a wind energy system.

(b) A political subdivision's fee or reimbursement requirement shall be based on the actual cost of the review of the wind energy system application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts. The political subdivision may set standardized application fees based on the size and complexity of a proposed wind energy system.

(c) A political subdivision may only charge a fee or require reimbursement if the political subdivision gives written notice to developer of its intent to do so within 60 days of the date the political subdivision receives a notice under s. PSC 128.10(1) and identifies an estimate of the amount of the fee and the relevant reimbursement requirements.

(d) The total fee or reimbursement permitted under this subsection for a wind energy system may not exceed 0.01 percent of the estimated cost of a small wind energy system; 0.03 percent of the estimated cost of a large wind energy system with an installed nameplate capacity of 20 megawatts or less, and; 0.05 percent of the estimated cost of a large wind energy system with an installed nameplate capacity of greater than 20 megawatts.

(e) A political subdivision may require a developer to submit up to 50 percent of the total fee or total estimated reimbursement under this subsection at the time the application is submitted.

(f) A political subdivision may not charge a developer, owner or operator an annual fee or other recurring fees to operate or maintain a wind energy system.

PSC 128.33 Political subdivision provisions. (1) PERMITTED PROVISIONS. A political subdivision may include any of the following as a regulation or as a condition for approval of an application to construct a wind energy system:

(a) Require information describing how the developer has incorporated current DNR guidelines for potential impacts to natural resource features and any project−specific DNR recommendations regarding natural resources not subject to specific DNR permits.

(b) Require a developer, owner or operator of a large wind energy system to cooperate with any state−wide or regional study of the effects of wind energy systems on bat or migratory bird populations, including providing access to sites for post−construction bird and bat mortality studies.

(c) For a large wind energy system, may require a developer to include in a transportation plan the proposed type and period of use of local roads, a proposed process for mitigation of any damage to local roads related to construction and operation of the large wind energy system, and provision for a pre− and post−construction review by the political subdivision.

(d) For a large wind energy system, may require a developer to offer agreements that include annual monetary compensation to the owner of a nonparticipating residence if the residence is within one−half mile of a planned wind turbine site. If a political subdivision requires a developer to offer such an agreement, the amount of annual monetary compensation shall be calculated by multiplying the number of installed wind turbines in the wind energy system located within one−half mile of each nonparticipating residence by a per−wind turbine compensatory amount, with annual payments escalating annually. The total annual payment to any owner of a nonparticipating residence may not exceed the amount paid by the developer, owner or operator to any owner of a turbine host property receiving payment under a wind lease for one wind turbine. An agreement offered under this paragraph shall specify in writing whether the landowner's acceptance of payment establishes the landowner's property as a participating property.

(e) For a large wind energy system, may require a developer, owner or operator to provide the political subdivision with a list of the tax parcel numbers of tracts of residential real property less than 5 acres in size located within one mile of a wind turbine at the time the wind energy system is constructed. The political subdivision may use this list to track the sale prices of residential real properties of less than 5 acres in size within one mile of a wind turbine.

(f) Specify provisions regarding blasting to protect against groundwater contamination, including notification requirements, timing limitations, plan requirements, and whether blasting may occur within the political subdivision.

(g) May establish a procedure for assessing when wind energy system facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of fees for conducting an assessment, and provide for notification to the public.

(h) May require the developer, owner or operator of a large wind energy system to file an annual report with the political subdivision documenting the operation and maintenance of the wind energy system during the previous calendar year.

(i) Establish reasonable requirements for the manner in which a developer, owner or operator of a large wind energy system may demonstrate proof of financial responsibility to ensure the availability of funds sufficient to keep the wind energy system in good repair and operating condition and to comply with decommissioning requirements.

(2) PROHIBITED PROVISIONS. A political subdivision may not include any of the following as a regulation or as a condition for approval of an application to construct a wind energy system:

(a) Require a developer, owner or operator to conduct a study of property value impacts.

(b) Except as provided in sub. (1)(d), require a developer, owner or operator to provide monetary compensation to landowners relating to property values.

(c) Impose a penalty on an owner or operator of a wind energy system if the owner or operator satisfies the requirements of this chapter regarding keeping the wind energy system in good operating condition and the requirements regarding decommissioning.

(d) Restrict wind turbine sites based on impacts to aerial spraying on participating properties.

(e) Establish structure lighting requirements for a wind energy system that conflict with standards established by the federal aviation administration.

128.34 Record of decision. (1) RECORDKEEPING. A political subdivision shall keep a complete written record of its decision−making related to an application for a wind energy system. If a political subdivision denies an application, the political subdivision shall keep the record for at least seven years following the year in which it issues the decision. If a political subdivision approves an application, the political subdivision shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.

(2) RECORD CONTENTS. The record of a decision shall include all of the following:

(a) The approved application and all subsequent additions or amendments to the application.

(b) A representative copy of all notices issued under ss. PSC 128.10 (1) (a), 128.18 (5) (a) and 128.30 (5).

(c) A copy of any notice or correspondence that the political subdivision issues related to the application.

(d) A record of any public hearing related to the application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by hearing participants.

(e) Copies of any correspondence or evidentiary material that the political subdivision considered in relation to the application, including copies of all written public comments filed under s. PSC 128.30(6)(b).

(f) Minutes of any board or committee meetings held to consider or act on the application.

(g) A copy of the written decision under s. PSC 128.32(3)(a).

(h) Other materials that the political subdivision prepared to document its decision−making process.

(i) A copy of any local ordinance cited in or applicable to the decision.

(3) POST−CONSTRUCTION FILING REQUIREMENT. Within 90 days of the date a wind energy system commences operation, the developer, owner or operator shall file with the political subdivision and the commission an as−built description of the wind energy system, an accurate map of the wind energy system showing the location of each wind turbine, geographic information system information showing the location of each wind turbine and current information regarding the developer, owner and operator of the wind energy system.

PSC 128.35 Modifications to an approved wind energy system. (1) MATERIAL CHANGE. (a) A developer may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the political subdivision that authorized the wind energy system.

(b) A developer shall submit an application for a material change to an approved wind energy system to the political subdivision that authorized the wind energy system.

(2) REVIEW LIMITED. A political subdivision that receives an application for a material change to a wind energy system may not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.

PSC 128.36 Monitoring and mitigation. (1) MONITORING COMMITTEE. A political subdivision may establish a committee to monitor complaints and to monitor compliance by the developer, owner or operator with any conditions to an approved large wind energy system or to monitor compliance with any local agreements. If a monitoring committee is established, the political subdivision shall include on the monitoring committee a member who is a local employee of a developer, owner or operator of a wind energy system and at least one nonparticipating landowner residing within one mile of the large wind energy system.

(2) DUTIES. A monitoring committee may do all of the following:

(a) Maintain a record of all complaints brought to the monitoring committee.

(b) Require the developer, owner or operator to investigate, at the developer, owner or operator's expense, any complaint forwarded by the committee.

(c) Recommend a reasonable resolution to a complaint based upon the committee's findings.

(3) COMPLAINT RESOLUTION. A developer, owner or operator shall use reasonable efforts to resolve complaints. A developer, owner or operator shall make a good faith effort to resolve complaints within 45 days of receiving a complaint. A developer, owner or operator shall notify the political subdivision of complaints that have not been resolved within 45 days of the date the developer, owner or operator received the original complaint. A political subdivision shall establish a process for determining whether the developer, owner or operator has met the requirements of this chapter regarding complaint resolution.

Subchapter IV

Commission Procedure

PSC 128.40 Detailed application requirements. The commission shall establish detailed application filing requirements for applications filed for political subdivision review of a wind energy system, which shall contain a detailed description of the information required to satisfy the filing requirements for applications under s. PSC 128.30(1)(j). The commission may revise these requirements as necessary. The commission shall make the filing requirements available to the public on the commission's website.

PSC 128.41 Commission review. (1) APPEALS TO THE COMMISSION. An appeal under s. 66.0401 (5) (b), Stats., shall be treated as a petition to open a docket under s. PSC 2.07, except the time provisions of that section do not apply.

(2) PETITIONER FILING REQUIREMENTS. An aggrieved person under s. 66.0401 (5) (a), Stats., may file a petition with the commission. The petition shall be submitted to the commission in writing or filed using the commission's electronic filing system and shall contain all of the following:

(a) The petitioner's name, address, and telephone number.

(b) The name, address, and telephone number of the political subdivision that is the subject of the petition.

(c) A description of the wind energy system that is the subject of the petition.

(d) A description of the petitioner's relationship to the wind energy system.

(e) The information specified in s. PSC 2.07 (2).

(3) POLITICAL SUBDIVISION FILING REQUIREMENTS. (a) A political subdivision shall file a certified copy of the information under s. 66.0401 (5) (c) Stats., using the commission's electronic regulatory filing system.

(b) The commission may require the political subdivision to file up to 25 paper copies of the record upon which it based its decision.

(c) The commission may require the political subdivision to file additional information.

(4) SERVICE AND NOTICE. (a) A developer, owner or operator submitting a petition under sub. (2) (intro.) shall serve a copy of the petition on the political subdivision and on any other person specified in s. PSC 2.07 (3).

(b) Any person other than a developer, owner or operator submitting a petition under sub. (2) (intro.) shall serve a copy of the petition on the developer, owner or operator, the political subdivision, and any other person specified in s. PSC 2.07 (3).

(c) A political subdivision that is subject to a petition under sub. (2) shall make a copy of the petition available for public inspection and, in the manner in which it is required to publish notice of a public meeting, publish notice of that petition.

(5) COMMISSION HEARING DiSCRETIONARY. The commission may review a petition under this section with or without a hearing.

(6) ENVIRONMENTAL ANALYSIS. A docket opened to review a petition under this section is presumed to be a Type III action under s. PSC 4.10 (3).

(7) STANDARD OF REVIEW. The commission may reverse or modify a political subdivision's decision or enforcement action if the decision or enforcement action does not comply with this chapter or is otherwise unreasonable.

(8) REMAND TO POLITICAL SUBDIVISION. (a) Except as provided in par. (c), if the commission remands any issue to the political subdivision, the political subdivision's review on remand shall be completed no later than 90 days after the day on which the commission issues its decision.

(b) Under this paragraph, a political subdivision may extend the 90−day period if the political subdivision authorizes the extension in writing. Any combination of the following extensions may be granted, except that the total amount of time for all extensions granted may not exceed 90 days:

1. An extension of up to 45 days if the political subdivision needs additional information to determine issues on remand.

2. An extension of up to 90 days if a developer makes a material modification to the application after remand.

3. An extension of up to 90 days for other good cause.

(c) If the commission remands a decision or enforcement action and directs the political subdivision to issue a decision consistent with the commission's decision, the political subdivision shall enter the decision within 20 business days.

Agency Contact Persons

Questions regarding this matter should be directed to:

Deborah Erwin, Docket Coordinator
(608) 266−3905
deborah.erwin@wisconsin.gov.

Small business questions may be directed to:

Anne Vandervort
(608) 266−5814
anne.vandervort@wisconsin.gov.

Media questions should be directed to:

Teresa Weidemann−Smith
Communications Specialist
Governmental and Public Affairs
(608) 266−9600

Hearing or speech−impaired individuals may also use the Commission's TTY number; if calling from Wisconsin (800) 251−8345, if calling from outside Wisconsin (608) 267−1479.

Submittal of Proposed Rules to the Legislature

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

Children and Families

Safety and Permanence, Chs. DCF 37−59

CR 10−028

A rule−making order to create Chapter DCF 35, relating to home visitation to prevent child abuse and neglect.

Employee Trust Funds

CR 10−004

A rule−making order to revise Chapters ETF 10, 20, and 40, relating to domestic partner benefits and the expansion of health insurance coverage to adult dependents up to the age of 27 years.

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."

Health Services

Health, Chs. DHS 110—

CR 10−015

A rule−making order to revise Chapter DHS 195, relating to carbon monoxide detectors in hotels, motels, tourist rooming houses, and bed and breakfast establishments.

Insurance

CR 10−026

A rule−making order to revise section Ins 2.81, relating to use of the 2001 CSO Preferred Class Structure Mortality Table in determining reserve liabilities.

Natural Resources

Environmental Protection — Water Supply, Chs. NR 800—

CR 09−073

*(*DNR # DG−19−09)

A rule−making order to revise Chapters NR 809 and 811, and to create Chapter NR 810, relating to the public drinking water system and the federal Safe Drinking Water Act.

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.

Natural Resources
Fish, Game, etc., Chs. NR 1—
CR 09−052

(DNR # WM−21−07)

Rule revises Chapters NR 12 and 16, relating to harmful wild animal designation for wild or feral hogs, mute swans, and wolf−dog hybrids.
Effective 7−1−10.

Revenue
CR 09−087

Rule creates sections Tax 2.85 and 11.90, relating to penalties for failure to produce records.
Effective 7−1−10.

Revenue
CR 10−001

Rule revises Chapter Tax 2, relating to apportionment and nexus.
Effective 7−1−10.

Veterans Affairs
CR 09−092

Rule revises section VA 1.11, relating to the duties and responsibilities of the secretary.
Effective 7−1−10.

Veterans Affairs
CR 09−122

Rule revises section VA 2.02 (2), relating to the veterans tuition reimbursement program.
Effective 7−1−10.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in the ***May 31, 2010,*** *Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

For subscription information, contact Document Sales at (608) 266−3358.

Accounting Examining Board

CR 09−100

Rule revises Chapters Accy 7 and 8, relating to granting certificates to applicants pursuant to an international mutual recognition agreement. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

These rules were reviewed and discussed by the department's Small Business Review Advisory Committee which determined that the 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.

Summary of Comments by Legislative Review Committees

No comments were reported.

Children and Families

Family and Economic Security, Chs. DCF 101−153

CR 08−068

Rule amends section DCF 120.05 (1) (c), relating to emergency assistance for needy families. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rule affects small businesses as defined in s. 227.114 (1), Stats., but does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce

Fee Schedule, Ch. Comm 2

CR 09−116

Rule amends section Comm 2.68, relating to public swimming pool and water attraction plan review and inspection fees. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

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. The department estimates that 3,700 existing pools and water attractions will need to undergo some type of modifications. The current plan review fees reflect the estimated average time and costs to provide the service. For types of pool and 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 fee structure of section Comm 2.68.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce

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

CR 09−063

Rule creates Chapter Comm 100, relating to tax incentives for job creation, capital investment, employee training, and corporate headquarters. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

Less stringent requirements are not included for small businesses because the directing legislation, 2009 Wisconsin Act 2, does not provide such flexibility.

No issues were raised by small businesses during the rulemaking process.

The reporting addressed in the rules is substantially similar to reporting that the Department currently requires in conjunction with administering economic development tax credits — and therefore is not expected to impose any significant new costs on small businesses.

The rules are not expected to impose significant costs on small businesses for other measures because the rules address submittal of documentation, and other activities, only by applicants that choose to pursue tax credits for economic development.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce

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

CR 09−082

Rule revises Chapter Comm 129, relating to tax credits for angel investments and early stage seed investments. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

Less stringent requirements are not included for small businesses because the directing legislation, 2007 Wisconsin Act 20 and 2009 Wisconsin Act 2, does not provide such flexibility.

Small businesses recommended (1) an informational Note for clarifying the purpose of side−by−side investments by in−state investors, for investments by out−of−state investors and (2) allowing approval of eligibility for tax credits that are then issued in the following year, for qualifying investments that are submitted after all available credits are issued in an individual year. The Department has incorporated both recommendations into the rules.

The transfer of tax credits that is newly enabled by the rules includes filing a required notice with the Department, but the cost of this notice is not expected to be significant.

The rules are not expected to impose significant costs on small businesses for other measures because the rules address submittal of documentation, and other activities, only by applicants that choose to pursue tax credits for angel investments and early stage seed investments.

Summary of Comments by Legislative Review Committees

No comments were received.

Employee Trust Funds
CR 09−047

Rule amends section ETF 11.11, relating to legal counsel advising the boards that are attached to the department while a board considers a final decision pertaining to an appeal. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Summary of Comments by Legislative Review Committees

No comments were reported.

Employee Trust Funds
CR 09−048

Rule amends section ETF 11.15 (4), relating to the agent for service of process upon the boards that are attached to the department. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Summary of Comments by Legislative Review Committees

No comments were reported.

Employee Trust Funds
CR 09−057

Rule revises Chapters ETF 10, 11, 20, 52, and 60, relating to technical and minor substantive changes in existing rules. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Summary of Comments by Legislative Review Committees

No comments were reported.

Health Services
Management and Technology and Strategic Finance, Chs. DHS 1—
CR 10−003

Rule creates Chapter DHS 19, relating to reduction or waiver of penalties for voluntary self−disclosure by a small business of actual or potential violations of rules or guidelines. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rules will have a direct impact on a substantial number of small businesses that are not covered under s. 48.685 or 50.065, Stats. The economic impact on the businesses affected by this rule is indeterminate.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services
Community Services, Chs. DHS 30—
CR 09−061

Rule repeals and recreates Chapter DHS 85, relating to non−profit corporations and unincorporated associations as guardians. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The fiscal impact of the rule requirements does not appear to be significant and will vary directly with the size of the guardianship agency. The overall effect of these changes on corporate guardian agencies should be minimal.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services
Community Services, Chs. DHS 30—
CR 09−109

Rule revises Chapter DHS 75, relating to substance abuse counselors, clinical supervisors, and prevention specialists. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rules will not directly affect small businesses. The rules under this order are to conform to the transfer of

authority under 2005 Wisconsin Act 25 from the Department to DRL. Any fiscal impact upon small business occurred when the changes from 2005 Wisconsin Act 25 were implemented by DRL in 2005 and 2006.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services

Health, Chs. DHS 110—

CR 09−115

Rule repeals Chapters DHS 117, 160 and 253, and revises Chapter DHS 172, relating to fees for copies of health care provider records, registration of sanitarians, safety, maintenance and operation of public swimming pools and water attractions, and child support cooperation for food stamps. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The rules will not have a fiscal effect on businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Hearings and Appeals

CR 09−101

Rule revises Chapter HA 2, relating to the procedure and practice for corrections hearings before the Division. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

This rule does not have a significant effect on small business.

Summary of Comments by Legislative Review Committees

Both the senate and assembly legislative committees took no action on the proposed rules.

Insurance

CR 09−076

Rule revises section Ins 3.39 and Appendix 3, relating to medicare supplement and replacement guarantee issue eligibility. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

This rule does not have a significant impact on regulated small businesses as defined in s. 227.114 (1), Wis. Stats., including intermediaries. OCI maintains a database of all licensed issuers in Wisconsin. The database includes information submitted by the companies related to premium revenue and employment. In an examination of this database, OCI identified that 75 insurance companies offer Medicare supplement, Medicare cost and Medicare select (Medigap) policies to Wisconsin consumers eligible for Medicare due to age or disability and none of those companies qualify by definition as a small business. In addition, 25 insurance companies have Medigap policyholders although the companies no longer market Medigap coverage in Wisconsin. Again, none of these 25 companies qualifies by definition as a small business. Although affected by this rule change, intermediaries qualifying as small businesses may be affected but such effect will not be significant as previously described.

Summary of Comments by Legislative Review Committees

No comments were reported.

Insurance

CR 09−093

Rule creates Chapter Ins 57, relating to care management organizations. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

This rule will have minimal to no effect on small businesses that are care management organizations. This rule may affect small businesses that are care management organizations seeking a permit from the commissioner. The office worked closely with the Department to minimize the impact on the care management organizations and will share information between departments so not to overly burden care management organizations.

Summary of Comments by Legislative Review Committees

No comments were reported.

Insurance

CR 09−095

Rule creates section Ins 3.34, relating to coverage of dependents to age 27. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were reported.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 09−024

Rule revises Chapters NR 10 and 19, relating to hunting, trapping and wildlife rehabilitation. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were reported.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 09−053

Rule revises section NR 10.104 (4) (b), relating to deer management unit population goals. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector or small businesses. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

Summary of Comments by Legislative Review Committees

These rules were reviewed by the Senate Committee on Transportation, Tourism, Forestry and Natural Resources and the Assembly Committee on Fish and Wildlife. On December 17, 2009 both committees held a joint hearing on these rules. On January 5, 2010 the Assembly Committee on Fish and Wildlife requested non−specific modifications to Clearinghouse Rule No. 09−053. The Natural Resources Board adopted modifications at its March 16, 2010 meeting. The department did not receive additional comments or requests for modification.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 09−103

Rule repeals section NR 45.04 (1) (g) and creates section NR 45.045, relating to regulation of firewood entering department lands. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

Small businesses affected by the rule include firewood vendors that get their wood more than 25 miles from state lands where they wish to sell wood. Currently, firewood dealers that contract with state properties have been able to continue with their contracts by providing wood from within the allowable distance if they segregate that wood from non−allowable wood. Other vendors such as convenience stores would need to switch to a supplier that got its wood from within the allowable distance from the park or from a wood vendor who was certified by the WI DATCP as treating their wood to prevent transmission of wood borne pests or diseases.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Transportation, Tourism, Forestry and Natural Resources. The department did not receive comments or requests for modification as a result of the review.

Natural Resources

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

CR 09−088

Rule revises Chapters NR 404, 438, and 484, relating to ambient air quality standards for ozone and lead, including new reporting requirements for lead compounds. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

The promulgation of the ozone and lead ambient air quality standards would not have any direct effect on business, including those defined as small business. Following the promulgation of the ozone and lead air quality standards, the EPA will determine if any areas in the state should be designated as nonattainment for either of the new air quality standards. The Department is required to develop an air quality management state implementation plan (SIP) to ensure that all ambient air quality standards are attained and maintained in all areas of the state. The future development of that SIP to address ozone and lead may result in emission limitations being developed for specific source categories or in the implementation of emission control technologies which may affect business, including small business. Any prospective SIP revisions would occur through the development of additional rules, which would include analyses of the rules' potential effects on the private sector, including small business.

Summary of Comments by Legislative Review Committees

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

Pharmacy Examining Board

CR 09−098

Rule revises sections Phar 6.08, 7.12, and 8.12, relating to security systems, utilization reviews, and prescription orders transmitted by facsimile machines. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

These rules were reviewed and discussed by the department's Small Business Review Advisory Committee which determined that the 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.

Summary of Comments by Legislative Review Committees

No comments were reported.

Public Defender Board

CR 09−068

Rule revises Chapters PD 2, 3, and 6, relating to representation by the state public defender of persons detained under Chapters 51 or 55, Stats., or subject to involuntary administration of psychotropic medication without a predetermination of financial eligibility. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

There will be no effect on small business.

Summary of Comments by Legislative Review Committees

No comments were reported.

Public Instruction

CR 09−074

Rule revises sections PI 35.03 and 35.05, relating to establishing a fee under the Milwaukee Parental Choice Program. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were reported.

Public Instruction
CR 09−106

Rule creates Chapter PI 39, relating to grants for tribal language revitalization. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were reported.

Public Instruction
CR 09−117

Rule creates section PI 8.01 (4), relating to waiver of school hours. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were reported.

Revenue
CR 09−090

Rule revises Chapter Tax 11, relating to sales and use tax. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

This rule does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Tourism
CR 09−111

Rule creates Chapter Tour 3, relating to grants to municipalities and organizations for regional tourist information centers created under 2009 Wisconsin Act 28. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

These rules will have no effect on small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were reported.

Transportation
CR 09−113

Rule creates Chapter Trans 148, relating to electronic recording and release of liens by non−individual creditors. Effective 6−1−10.

Summary of Final Regulatory Flexibility Analysis

Most non−individual secured parties are financial institutions, located in and outside Wisconsin. Virtually all financial institutions maintain their records in electronic format and possess computers and access to the Internet. On the other hand, the Department recognizes that some small businesses do not possess this capability.

While there is not a direct connection between the size of the business and the amount of business done with the Department, the Department believes that this is an adequate measure of a small business for which it may be difficult to purchase necessary hardware and software, or to hire sufficient staff to manage electronic security interest statement filing. Therefore, the rule exempts secured parties that have filed 48 or fewer security interest statements in motor vehicles during the previous calendar year.

Summary of Comments by Legislative Review Committees

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **May 2010,** and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266−7590.

Revisions

Accounting Examining Board

Ch. Accy 7

Accy 7.05 (1) (c)

Ch. Accy 8

Accy 8.04 (intro.) to (4)
Accy 8.05

Children and Families

Ch. DCF 120

DCF 120.05 (1) (c)

Commerce

Ch. Comm 2

Comm 2.68 (3) (a), (d), Tables 2.68−1, 2.68−2

Ch. Comm 100 (Entire Chapter)

Ch. Comm 129

Comm 129.02 (3)
Comm 129.09 (10), (11)
Comm 129.10 (1), (5) to (7)
Comm 129.11 (1) (intro.)
Comm 129.12 (3) (b), (6)
Comm 129.125
Comm 129.13
Comm 129.135
Comm 129.14 (1) (a)
Comm 129.36 (1) (c)

Employee Trust Funds

Ch. ETF 10

ETF 10.01 (3o), (6m)
ETF 10.12 (1r) (b), (d), (2) (a), (b), (e)
ETF 10.25 (intro.), (1) (a), (b), (2), (3) (intro.), (b), (c), (d), (4)
ETF 10.30 (4) (a), (b), (5) (a), (f)
ETF 10.70 (4), (5) (b)

Ch. ETF 11

ETF 11.11
ETF 11.15 (4)
ETF 11.16 (2) (a)

Ch. ETF 20

ETF 20.025
ETF 20.03 (2) (intro.), (bm), (4)
ETF 20.04 (2) (b) to (g), (4)
ETF 20.045
ETF 20.07 (6)
ETF 20.17 (4) (d)
ETF 20.18 (9)
ETF 20.21
ETF 20.23 (2)
ETF 20.25 (intro.), (1) (a), (2)
ETF 20.30
ETF 20.37 (2)
ETF 20.39

Ch. ETF 52

ETF 52.04 (2)

Ch. ETF 60

ETF 60.53 (1) (c)
ETF 60.60 (2) (h), (8) (a)

Health Services

Ch. DHS 19 (Entire Chapter)

Ch. DHS 75

DHS 75.02 (6), (7), (9m), (10), (11) (a), (d) to (f), (15), (21m), (68), (70g), (70r), (78m), (81), (84), (94)
DHS 75.03 (2) (a), (h), (4) (e)
DHS 75.04 (3) (a), (b)
DHS 75.10 (5)
DHS 75.11 (5)
DHS 75.12 (5)
DHS 75.13 (4)
DHS 75.14 (5)
DHS 75.15 (4) (d), (dm), (e)
DHS 75 Appendix C

Ch. DHS 85 (Entire Chapter)

Ch. DHS 117 (Entire Chapter)

Ch. DHS 160 (Entire Chapter)

Ch. DHS 172

DHS 172.04 (13), (27) (c), (39), (40), (45)
DHS 172.05 (4) (a)
DHS 172.11 (1), Table 172.11−B
DHS 172.13 (1) (intro.), (a)
DHS 172.14 Table
DHS 172.15 (1)
DHS 172.17 (3)
DHS 172.19 (4) (b)
DHS 172.22 (2) (b)
DHS 172.23 Table B
DHS 172.26 (1) (b), (c)
DHS 172.29 (3) (f)
DHS 172.33 (1) (d), (g)
DHS 172.35 (1), (2)
DHS 172.36 (2) (a)

Ch. DHS 253 (Entire Chapter)

Hearings and Appeals

Ch. HA 2

HA 2.03
HA 2.04
HA 2.05 (1) (intro.), (b), (d), (f), (3), (6) (a), (7) (e), (f), (h), (8) (b)
HA 2.06 (title), (1), (2), (3) (a), (b), (4) (intro), (a), (5) (6) (c), (d), (7)
HA 2.07

Insurance

Ch. Ins 3

Ins 3.34
Ins 3.39 (5m) (e), (k), (6), (7) (a), (cm), (dm), (8) (a), (14m) (d), (30m) (p), (q), (34) (b), (c), (ez), (f), Appendix 3

Ch. Ins 57 (Entire Chapter)

Natural Resources

Ch. NR 10

NR 10.001 (1)
NR 10.01 (2) (f), (3) (d), (e), (ed), (et), (ev)
NR 10.07 (2m) (e)
NR 10.09 (1) (c), (2)
NR 10.102 (4m) (c)
NR 10.104 (4) (b)
NR 10.12 (1) (h)
NR 10.13 (1) (b)
NR 10.40 (5) (e)
NR 10.41 (3) (b)

Ch. NR 19

NR 19.025 (2) (b), (d), (e)
NR 19.71 (10)
NR 19.73 (3) (a)
NR 19.78 (4)

Ch. NR 45

NR 45.04 (1) (g)
NR 45.045

Ch. NR 404

NR 404.04 (5) (c), (7)

Ch. NR 438

NR 438.03 (1) Table 1

Ch. NR 484

NR 484.04 (3), (6t), (6v)

Pharmacy Examining Board

Ch. Phar 6

Phar 6.08

Ch. Phar 7

Phar 7.12 (2) (f)

Ch. Phar 8

Phar 8.12 (2) (b)

Public Defender Board

Ch. PD 2

PD 2.03 (1), (3), (5)

Ch. PD 3

PD 3.01

Ch. PD 6

PD 6.01
PD 6.02 (1)
PD 6.025 (4)
PD 6.055
PD 6.08

Public Instruction

Ch. PI 8

PI 8.01 (4)

Ch. PI 35

PI 35.03 (1m)
PI 35.05 (4n), (12) (a)

Ch. PI 39 (Entire Chapter)

Revenue

Ch. Tax 11

Tax 11.001 (2) (am), (bc), (bg), (bn), (br), (bw), (e), (f)
Tax 11.002 (1), (2) (a), (d), (3)
Tax 11.03 (2) (a), (b), (3) (intro.), (c), (4) (intro.)
Tax 11.04 (1), (2) (title), (3), (5)
Tax 11.05 (2) (title), (intro.) to (d), (g), (gm), (i) to (m), (o), (p), (r), (s), (t), (3) (intro.), (a), (b), (d), (j), (jm) to (m), (o), (q), (u), (y), (z), (zg), (zr), (4) (a), (b)
Tax 11.08
Tax 11.09 (title), (1) to (3), (4) (title), (intro.) to (d), (f), (5) (title), (intro.), (b)
Tax 11.11 (1), (2m), (3) (intro.), (5) (a), (c)
Tax 11.12 (title), (1), (2) (intro.), (d), (f), (k), (4), (5) (a), (6), (7)
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Tax 11.14 (2) to (6), (7) (a), (11), (12) (intro.), (b) to (f), (13), (15), (16)
Tax 11.15 (1) (a), (c), (2) to (6)
Tax 11.16 (1) (a) to (d), (f), (h), (2) (a), (b), (3) (a), (b)
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Tax 11.34 (2) (a), (3) (b), (4) (a), (5) (c)
Tax 11.35 (2) (b) to (d), (3), (4) (c), (5) (a), (b), (6) (b), (7) (d), (8)
Tax 11.38 (title), (1) (intro.), (a), (2) (e), (3) (b)
Tax 11.39 (1), (2), (4) (intro.), (a), (h) to (n)
Tax 11.40 (1) (a) to (c), (2) (a), (3) (b), (c), (e), (4)
Tax 11.41 (title), (1) (a) to (4) (a)
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Tax 11.46 (2) (a), (3) (c), (4), (5)
Tax 11.47 (title), (intro.) to (c), (e), (2), (3)
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Tax 11.49 (1) (b) to (e), (2) (a) to (c), (g) to (L), (3)
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Tax 11.51
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Tax 11.53 (1) to (5), (7)
Tax 11.535 (title), (1), (2) (b) to (d), (3), (5)
Tax 11.54 (title), (1) (a) to (4) (b), (d)
Tax 11.55 (title), (1), (2) (a), (3), (4)
Tax 11.56 (1), (2) (intro.), (b), (3) to (8)
Tax 11.57 (title), (1) (intro.), (a), (h), (i), (2) (intro.), (a), (i), (im), (L) to (q), (3), (4) (intro.), (c), (d), (5), (6)
Tax 11.61 (1) (a), (c), (2) (a), (b), (3) (a) to (d)
Tax 11.63 (1) (intro.), (b), (2) to (5)
Tax 11.64 (2), (3)
Tax 11.65 (1) (a), (b), (d) to (g), (2) (a), (b), (e), (g) to (k), (3) to (5)
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Tax 11.67 (1), (2), (3) (a), (b), (d) to (f), (h) to (L)
Tax 11.68 (1) to (4), (5) (b), (6) (intro.), (b), (bm), (d), (f) to (n), (7) to (13)
Tax 11.69 (1) to (3) (a), (f), (g), (4) (a) to (c), (5) (a)
Tax 11.70 (1) (a), (2) (a) to (c), (e), (3) (a), (d), (g) to (m), (4) to (7)
Tax 11.71 (1) (intro.), (b) to (k), (n) to (q), (2) (intro.) to (d), (3) (intro.), (b) to (f)
Tax 11.72
Tax 11.78 (1) (intro.), (d), (g), (2) (intro.), (c)
Tax 11.79 (1), (2) (title), (intro.), (a), (3), (4) (intro.), (5), (6) (intro.), (c)
Tax 11.80 (1), (2) (a), (b), (3) (a) to (c), (4) (a)
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Tax 11.82 (1), (2) (a) to (c)
Tax 11.83 (1), (2) (title), (intro.), (am) to (d), (3) (title), (a) to (c), (4) (a) to (c), (5), (6), (7) (title), (a), (c), (8), (10) to (13)
Tax 11.84 (1) (a) to (c), (e), (2) (a), (c), (3) (a), (b), (4) (intro.), (c) to (e)
Tax 11.85 (title), (1) (intro.) (a), (c), (2) (a) to (d), (f), (g), (3) (a), (d), (5)
Tax 11.86 (1) (a), (b), (2) (a), (3) to (6) (intro.), (b), (d)
Tax 11.87 (title), (1) (b), (e), (em), (h), (2), (3), (4) (b)
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Tax 11.92 (1), (2) (b), (3) (c), (6)
Tax 11.925 (1), (2) (a), (3) (a), (5) (a), (d)
Tax 11.93 (1)
Tax 11.94
Tax 11.945
Tax 11.95 (1) (a), (am), (c), (3) (d)
Tax 11.96
Tax 11.97 (1), (2) (a), (3) (b) to (f), (h), (i), (5) (a), (6)
Tax 11.98 (1) (intro.), (d), (2) (c), (3)
Tax 11.985

Tourism

Ch. Tour 3 (Entire Chapter)

Transportation

Ch. Trans 148 (Entire Chapter)

Editorial Corrections

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

Children and Families

Ch. DCF 39

DCF 39.08 (2) (a)
DCF 39.09 (4) (c)
DCF 39.10 (5) (i)

Ch. DCF 57

DCF 57.04 (8)
DCF 57.18 (1)

Employee Trust Funds

Ch. ETF 20

ETF 20.04 (2) (c)

Health Services

Ch. DHS 108

DHS 108.02 (12) (b)

Ch. DHS 172

DHS 172.05 (4) (a)

Hearings and Appeals

Ch. HA 2

HA 2.01 (1)
HA 2.05 (7) (g)

Insurance

Ch. Ins 3

Ins 3.34 (title), (6) (a)
Ins 3.39 (7) (cm)
Ins 3.40 (2)

Ch. Ins 57

Ins 57.30 (2) (k)

Natural Resources

Ch. NR 45

NR 45.075 (2)

Ch. NR 47

NR 47.952 (2)
NR 47.955 (2) (d)

Revenue

Ch. Tax 11

Tax 11.05 (3) (b)
Tax 11.29 (8)
Tax 11.38 (3) (intro.)
Tax 11.51 (2) (a)
Tax 11.52 (4) (a)
Tax 11.66 (2) (d)

Ch. Tax 13

Tax 13.10 (9) (intro.)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 313. Relating to a Proclamation That the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half−Staff as a Mark of Respect for Deputy Sheriff Kory Dahlvig of the Vilas County Sheriff's Department**.**

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