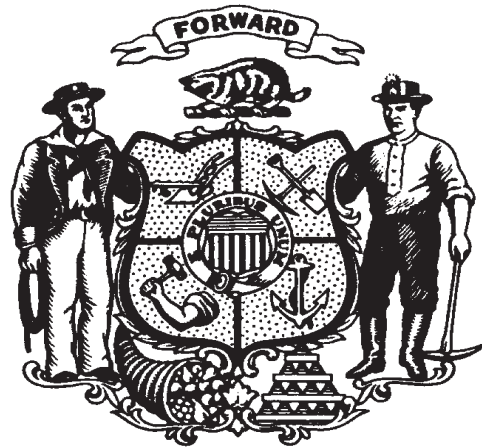


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WISCONSIN ADMINISTRATIVE REGISTER

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Questions, comments, or corrections should be directed to:

Bruce Hoesly (608) 266-7590

email: bruce.hoesly@legis.wisconsin.gov

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Table of Contents

Emergency Rules Now in Effect.**Pages 6 to 13**

Agriculture, Trade and Consumer Protection:

Creates s. ATCP 70.03 (7) (e) and (f), relating to food processing plant license exemptions for certain home-canners and maple sap processors. **EmR1012**

Children and Families:

Safety and Permanence, Chs. DCF 37–59Creates ss. DCF 57.485 and 57.49 (1) (am), relating to determination of need for new group homes. **EmR1034*****Family and Economic Security, Chs. DCF 101–153***Creates Ch. DCF 110, relating to transitional jobs for low-income adults. **EmR1024*****Early Care and Education, Chs. DCF 201–252***Revises Ch. DCF 201, relating to authorized hours of subsidized child care and affecting small businesses. **EmR1015**Revises Ch. DCF 201, relating to child care subsidy program integrity. **EmR1027**

Commerce:

Wis. Commercial Building Code, Chs. Comm 60–66Creates s. Comm 62.0400 (5), relating to no smoking signs. **EmR1022*****Financial Resources for Businesses and Communities, Chs. Comm 104–***Creates Ch. Comm 121, relating to the small business innovation research assistance program, and affecting small businesses. **EmR1013**Creates Ch. Comm 135, relating to tax credits for investments in food processing plants and food warehouses. **EmR1019**Creates Ch. Comm 139, relating to rural outsourcing grants. **EmR1026**Repeals and recreates Ch. 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. **EmR1029**

Corrections:

Revises Ch. DOC 302, relating to sentence calculations and prison release and to administrative review of inmate classification decisions. **EmR0939**Earned Release Review Commission:
(Formerly Parole Commission)Revises Ch. PAC 1, relating to the release of inmates through parole or other procedures. **EmR0940**

Government Accountability Board:

Creates s. GAB 1.91, relating to organizations making independent disbursements. **EmR1016**Repeals and recreates Ch. GAB 4, relating to observers at a polling place or other location where votes are being cast, counted or recounted. **EmR1035** *[First Appearance]*

Health Services:	Revises Ch. DHS 137, relating to anatomical gifts and the Wisconsin Donor Registry. EmR1009
Insurance:	Creates s. Ins 3.75, relating to continuation of group health insurance policies. EmR0925 Creates s. Ins 3.75 (8), relating to the continuation of group health insurance policies. EmR0945 Revises Ch. Ins 17, relating to annual injured patients and families compensation fund fees and medical mediation panel fees for the fiscal year beginning July 1, 2010, and may have an effect on small business. EmR1020
Military Affairs:	Creates Ch. DMA 1, relating to military family financial aid. EmR1030
Natural Resources:	<i>Fish, Game, etc., Chs. NR 1—</i> Creates s. 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. EmR1014 Revises s. NR 10.104 (7) (a), relating to the use of archery deer hunting licenses. EmR1028 Revises s. NR 10.01 (1), relating to hunting and the 2010 migratory game bird seasons and waterfowl hunting zones. EmR1033 <i>Environmental Protection — Hazardous Waste Management, Chs. NR 600—</i> Revises s. NR 660.10, relating to hazardous waste management. EmR1007
Public Instruction:	Creates Ch. PI 45, relating to the use of race–based nicknames, logos, mascots, and team names by school boards. EmR1018 Creates Ch. PI 43, relating to education form. EmR1023
Regulation and Licensing:	Creates s. RL 91.01 (3) (k), relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker. EmR0827 Revises ss. RL 180.02 and 181.01, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife. EmR0828 Revises Chs. RL 110 to 116, relating to the regulation of professional boxing contests. EmR1031 Creates Chs. RL 192 to 196, relating to the regulation of mixed martial arts sporting events. EmR1032
Technical College System Board:	Amends Ch. TCS 17, relating to training program grant funds. EmR1025
Transportation:	Creates s. Trans 100.25, relating to mandatory insurance exemptions. EmR1017

Scope Statements.**Pages 14 to 16**

Agriculture, Trade and Consumer Protection:

Revises Ch. ATCP 21, relating to Thousand Canker Disease (Pest Control).

Commerce:

Licenses, Certifications and Registrations, Ch. Comm 5
Revises Ch. Comm 5, relating to the rules and procedures for licenses, certifications and registrations.

Government Accountability Board:

Repeals and recreates Ch. GAB 4, relating to the conduct and regulation of election observers to monitor compliance with election laws by local election officials.

Health Services:

Management and Technology and Strategic Finance, Chs. DHS 1—
Revises s. DHS 1.03, relating to the Parental Payment Limit.

Natural Resources:

Fish, Game, Forestry, etc., Chs. NR 1—
Creates Ch. NR 63, relating to the administration of incentive grants to private landowners who permit public all-terrain vehicle (ATV) corridors on their lands and who apply for the grant payments.**Submittal of Rules to Legislative Council Clearinghouse.****Page 17 to 18**

Agriculture, Trade and Consumer Protection:

Revises Ch. ATCP 30, relating to pesticide product restrictions regarding Atrazine. **CR 10-110**

Commerce:

Financial Resources for Businesses and Communities, Chs. Comm 100—
Revises Ch. Comm 129, relating to tax credits for Angel Investments and Early Stage Seed Investments. **CR 10-108**

Creates Ch. Comm 139, relating to rural outsourcing grants. **CR 10-113**

Controlled Substances Board:

Relates to the scheduling of lisdexamfetamine under ch. 961, Stats., of the Uniform Controlled Substances Act (s. CSB 2.35). **CR 10-112**

Military Affairs:

Creates Ch. DMA 1, relating to Military Family Financial Aid. **CR 10-111**

Natural Resources:

Fish, Game, Forestry, etc., Chs. NR 1—
Revises Ch. NR 27, relating to management of bats with White Nose Syndrome. **CR 10-114**Revises Ch. NR 40, relating to the listing of White Nose Fungus as an invasive species. **CR 10-115***Environmental Protection — Water Supply, Chs. NR 800—*
Creates Ch. NR 860, relating to the process and procedures for the water use permit program in the Great Lakes basin. **CR 10-109****Rule-Making Notices.****Pages 19 to 35**

Agriculture, Trade and Consumer Protection:

Hearing to consider rules to revise Ch. ATCP 69, relating to buttermaker license qualifications. **CR 10-106**Hearing to consider rules to revise Ch. ATCP 20, relating to agricultural and vegetable seed. **CR 10-107**

	Hearing to consider rules revising Ch. ATCP 30 creating a new atrazine prohibition area adjacent to the Lower Wisconsin River Valley in Sauk County, and expanding and joining two current atrazine prohibition areas north of Pardeeville in Columbia County. CR 10-110
Commerce:	<i>Financial Resources for Businesses and Communities, Chs. Comm 100—</i> Hearing to consider rules to revise Ch. Comm 129, relating to tax credits for Angel Investments and Early Stage Seed Investments. CR 10-108
	Hearing to consider emergency rules and permanent rules to create Ch. Comm 139, relating to rural outsourcing grants. EmR1026, CR 10-113
Controlled Substances Board:	Notice of proposed rulemaking relating to the scheduling of lisdexamfetamine under ch. 961, Stats., of the Uniform Controlled Substances Act (s. CSB 2.35). CR 10-112
Military Affairs:	Hearing to consider emergency rules and permanent rules to create Ch. DMA 1, relating to Military Family Financial Aid. EmR1030, CR 10-111
Natural Resources:	<i>Fish, Game, Forestry, etc., Chs. NR 1—</i> Hearings to consider emergency rules and permanent rules to revise Ch. NR 27, relating to management of bats with White Nose Syndrome. CR 10-114
	Hearings to consider emergency rules and permanent rules to revise Ch. NR 40, relating to the listing of White Nose Fungus as an invasive species. CR 10-115
	<i>Environmental Protection — Water Supply, Chs. NR 800—</i> Hearings to consider rules to create Ch. NR 860, relating to the process and procedures for the water use permit program in the Great Lakes basin. CR 10-109
Rule Orders Filed with the Legislative Reference Bureau.	Page 36
Commerce:	<i>Financial Resources for Businesses and Communities, Chs. Comm 100—</i> Creates Ch. Comm 137, relating to reallocations for recovery zone facility bonds. CR 10-041
	Creates Ch. Comm 121, relating to small business innovation research assistance grants. CR 10-054
Corrections:	Repeals and recreates Ch. DOC 346, relating to juvenile detention facilities and juvenile portions of a county jail. CR 09-039
Natural Resources:	<i>Fish, Game, Forestry, etc., Chs. NR 1—</i> Revises Ch. NR 46, relating to the administration of the forest crop law and managed forest law. CR 10-031
	<i>Environmental Protection — Water Supply, Chs. NR 800—</i> Repeals and recreates Chs. NR 809 and 811, and creates Ch. NR 810, relating to safe drinking water design requirements for community water systems, and requirements for the operation and maintenance of public water supply systems. CR 09-073

Rules Published with this Register and Final Regulatory Flexibility Analyses.**Pages 37 to 38**

Administration:

Ch. Adm 80, relating to the administrative procedures for the Wisconsin Covenant Scholars Program. **CR 10-027**

Children and Families:

Safety and Permanence, Chs. DCF 35 to 59Chs. DCF 56 and 58, relating to foster care and kinship care. **CR 10-021*****Early Care and Education, Chs. DCF 201 to 252***Ch. DCF 201, relating to authorized hours of subsidized child care. **CR 10-056**

Financial Institutions — Securities:

Chs. DFI-Sec 1, 2, 4, 5, 7, 8 and 32, relating to minor revisions to securities law and franchise law sections. **CR 10-062**

Health Services:

Health, Chs. DHS 110—Ch. DHS 131, relating to hospices. **CR 10-034**

Insurance

Ch. Ins 18, relating to independent review procedures. **CR 10-023**Ch. Ins 3, relating to autism spectrum disorders. **CR 10-043**

Natural Resources:

Environmental Protection — General, Chs. NR 100—Chs. NR 102 and 106, relating to water quality standards for heat and associated procedures for the calculation of point source effluent limitations. **CR 07-111*****Environmental Protection — Air Pollution Control, Chs. NR 400—***Ch. NR 400, relating to the definition of volatile organic compound. **CR 10-012**

Public Instruction:

Ch. PI 35, relating to a temporary waiver from the requirement that teachers have a bachelor's degree to teach in a private school under the Milwaukee Parental Choice Program. **CR 09-084**

Transportation:

Ch. Trans 101, relating to the demerit point system and graduated driver license restriction extensions. **CR 10-040**

Workforce Development:

Unemployment Insurance, Chs. DWD 100-150Ch. DWD 128, relating to the ability to work and availability for work. **CR 10-017**Ch. DWD 129, relating to unemployment benefit claiming procedures. **CR 10-018****Sections Affected by Rule Revisions and Corrections.****Pages 39 to 40****Executive Orders.****Page 41****Public Notices****Page 42**

Health Services:

Medicaid Reimbursement for Wisconsin's 1915(i) Community Recovery Services Psychosocial Rehabilitation State Plan.

Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection

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

Finding of Emergency

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

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

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

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

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

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

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

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

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

Children and Families

Safety and Permanence, Chs. DCF 37–59

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

Exemption From Finding of Emergency

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

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

Publication Date: September 2, 2010
Effective Dates: September 2, 2010 through January 29, 2011
Hearing Date: October 21, 2010

Children and Families

Family and Economic Security, Chs. DCF 101–153

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

Finding of Emergency

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

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

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

Children and Families (2)

Early Care and Education, Chs. DCF 201–252

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

Finding of Emergency

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

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

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

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

Finding of Emergency

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

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

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

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

Commerce

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

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

Finding of Emergency

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

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

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

Commerce (4)

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

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

Exemption From Finding of Emergency

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

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

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

Finding of Emergency

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

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

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

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

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

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

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

Exemption From Finding of Emergency

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

Publication Date: July 2, 2010
Effective Dates: July 2, 2010 through
 November 28, 2010
Hearing Date: October 13, 2010
 (See the Notice in this Register)

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

Exemption From Finding of Emergency

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

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

Corrections

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

Finding of Emergency

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

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

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

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

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

Earned Release Review Commission

(Formerly Parole Commission)

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

Finding of Emergency

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

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

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

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

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

Government Accountability Board (2)

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

Finding of Emergency

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

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

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

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

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

Finding of Emergency

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

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

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

Publication Date: To be determined

Effective Dates: To be determined

Health Services

Health, Chs. DHS 110—

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

Finding of Emergency

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

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

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

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

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

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

Publication Date: March 29, 2010

Effective Dates: March 29, 2010 through August 25, 2010

Extension Through: October 24, 2010

Hearing Date: May 5, 2010

Insurance (3)

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

Exemption From Finding of Emergency

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

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

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

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

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

Publication Date: October 1, 2009

Effective Dates: October 2, 2009 through October 1, 2010

Extension Through: November 29, 2010

Hearing Date: December 8, 2009

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

Exemption From Finding of Emergency

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

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

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

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

Publication Date: January 7, 2010

Effective Dates: January 8, 2010 through January 7, 2011

Hearing Date: May 5, 2010

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

Finding of Emergency

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

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

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

Military Affairs

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

Exemption From Finding of Emergency

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

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

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

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

(See the Notice in this Register)

Natural Resources (3)

Fish, Game, etc., Chs. NR 1—

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

Finding of Emergency

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

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

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

Finding of Emergency

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

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

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

Finding of Emergency

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

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

Natural Resources

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

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

Exemption From Finding of Emergency

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

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

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

Public Instruction (2)

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

Finding of Emergency

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

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

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

Finding of Emergency

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

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

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

Regulation and Licensing (4)

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

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

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

Exemption From Finding of Emergency

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

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

Technical College System Board

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

Finding of Emergency

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

In May 2010, the Wisconsin C.O.R.E. Jobs Act provided an additional \$1 million GPR for the training program grants authorized in Wis. Stats. §§ 20.292 (1) (eh) and 38.41. These funds were provided to address a critical need of Wisconsin employers for skills training and education necessary to protect the state's economic vitality and health, with a special emphasis on advanced manufacturing and welding.

The WTCS Board is required to award these funds by June 30, 2011, the end of the current 2009–11 biennium. In addition, s. TCS 17.06 (1), Wis. Adm. Code, requires that district boards or employers receiving skills training or education under the grant shall contribute matching funds,

other than in-kind matching funds, equal to at least 25% of total approved project costs.

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

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

Transportation

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

Finding of Emergency

The Department of Transportation finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public health and welfare. A statement of the facts constituting the emergency is the requirements of the mandatory insurance laws in Chapter 344, Stats., as created by 2009 Wis. Act 28, contain exceptions to furnishing proof of a motor vehicle liability insurance policy. This emergency rule defines the administration of those exceptions. These mandatory insurance requirements, and the exceptions, are effective June 1, 2010, thereby necessitating an emergency rule being put into place until the effective date of the permanent rule. Clarification of the mechanism to be used to qualify for an exception under the new statute will be useful to persons wishing to file for an exception. Persons whose religious beliefs preclude them from buying insurance will benefit from this rule making.

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

Scope Statements

Agriculture, Trade and Consumer Protection

Subject

Revises Chapter ATCP 21, relating to Thousand Canker Disease (Pest Control).

Objective of the Rule

This rule will do the following:

- Establish a quarantine that will restrict the movement of untreated black walnut wood items (regulated items) into Wisconsin from or through states and provinces known to be affected by Thousand Canker Disease (TCD). TCD kills black walnut trees.
- Provide an exemption for items that have been inspected and certified by a pest control official and are accompanied by a written certificate issued by the pest control official (some products, such as nursery stocks, cannot be given an exemption).
- Provide an exemption for businesses that enter into a state compliance agreement. The compliance agreement spells out what a company can and cannot do with regulated articles.

Policy Analysis

DATCP administers laws related to the control of plant pests. DATCP has authority under s. 93.06 (1p), Stats. to provide inspection and testing services related to all DATCP programs. DATCP has authority under s. 93.07 (12), Stats. to conduct surveys and inspections for the detection and control of pests injurious to plants, and to make, modify, and enforce reasonable rules needed to prevent the dissemination of pests. DATCP also has plant inspection and pest control authority under s. 94.01, Stats. DATCP may by rule impose restrictions on the importation or movement of serious plant pests, or items that may spread serious plant pests.

TCD is caused by a fungus, *Geosmithia morbida*, that affects the tree via the walnut twig beetle (*Pityophthorus juglandis*). TCD was first observed in New Mexico in the 1990's and has spread throughout the west causing dieback and mortality in eastern black walnut trees. The first known mortality from TCD was found in Colorado in 2003 and TCD has killed black walnut trees in eight western states during the past decade and is considered widespread in those areas. In July 2010, TCD was confirmed in the Knoxville, Tennessee area. The Tennessee infestation is the first find of TCD east of the Mississippi, in the native range of the host.

The TCD pest complex is carried by untreated black walnut wood products. The most common pathway for introduction of TCD is raw wood, including logs, burls, stumps, firewood, and wood packing material. Nursery stock and natural spread are other potential pathways. Movement of untreated wood from western states to the east is uncommon, but does occur. Campgrounds and sawmills may be the most likely pathways for the eastern movement of TCD.

Currently there are no known insecticide sprays that reliably control this disease. Some techniques directed at the vector ultimately may prove to be useful in suppressing the rate of disease spread. However, it may be unlikely that

effective treatments will be found that can control walnut twig beetles once tree attacks have begun.

There are approximately 18.4 million black walnut trees in Wisconsin, with over 13% found in the southeastern part of the state. Black walnut lumber is extremely valuable. Wisconsin exports to other countries approximately 362,602.45 board feet of Black walnut veneer logs and 361,301.00 board feet of Black walnut lumber for an estimated \$2 million in exports annually. The estimated dollar figure for in-country sales is similar.

This rule will establish a quarantine for TCD to protect the black walnut resource in Wisconsin. Regulated items, including hardwood firewood, will not be allowed into Wisconsin from states or provinces known to be affected by TCD.

Policy Alternatives

If DATCP does nothing, Wisconsin's black walnut resource will be increasingly vulnerable to TCD. If TCD is found in Wisconsin, it could kill all 18.4 million trees and eliminate over \$4 million in international and national exports annually.

Statutory Authority

Sections 93.06 (1p), 93.07 (12), and 94.01, Wis. Stats.

Comparison with Federal Regulations

In order to limit the spread of TCD, several states, including Kansas, Missouri, Nebraska and Michigan enacted quarantines for TCD. Currently there is no federal quarantine for the pathogen or the insect vector. DATCP rules currently prohibit imports from any federally quarantined area, except under authorized conditions. This proposed rule is consistent with current state and federal rules.

Entities Affected by the Rule

This rule will affect any person or business in a state or province known to be affected with TCD that brings the regulated articles to or through Wisconsin.

Estimate of Time Needed to Develop the Rule

DATCP estimates that it will use approximately 0.1 FTE staff time to develop these rules. This includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings, and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5

Subject

Revises Chapter Comm 5, relating to the rules and procedures for licenses, certifications and registrations.

Objective of the Rule

One objective of the rulemaking project is to evaluate the rules in order to improve the efficiency in the department's processing of the various licenses, certifications and

registrations procedures. Another objective is to review the rules for consistency in light of statutory revisions that have occurred such as the statutory revision for the definition of “plumbing” and the elimination of term “indentured” regarding apprentices and apprenticeships. The rules are also to be reviewed for clarity and consistency.

A specific objective would be to establish continuing education obligations for automatic fire sprinkler testers.

The objectives of this rule project may be incorporated into more than one rule package, and may include revisions to other chapters affected by the proposal.

Policy Analysis

Chapter Comm 5 establishes licensing, certification and registration programs for a variety of building trades, both for individuals and businesses. The current rules establish provisions for the activities, qualifications, exams, responsibilities and renewal obligations for the various credentials.

Not evaluating and updating chapter Comm 5 periodically would not provide the department the opportunity to increase efficiencies in the processes relating to the issuance and renewal of credentials.

Statutory Authority

Chapters 101, 145 and 167, Wis. Stats.

Comparison with Federal Regulations

An internet-based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not find any federal regulations relating to the licensing activities to be regulated under the rules.

Entities Affected by the Rule

The current rules of Chapter Comm 5 cover blasters, firework manufacturers, building contractors, dwelling contractors, HVAC contractors, welders, electricians, inspectors, plumbers, elevator and lift installers, automatic fire sprinkler installers, refrigerant handling technicians, soil testers, automatic fire sprinkler testers, manufactured home manufacturers, dealers, salespersons and installers, and liquefied gas suppliers.

Estimate of Time Needed to Develop the Rule

The department estimates approximately 400 hours will be needed to perform the review and develop any needed rule changes. This time includes meeting with various advisory councils, if necessary, drafting the rule changes and processing the changes through public hearings, legislative review, and adoption. The department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

Government Accountability Board

Subject

Repeals and recreates Chapter GAB 4, relating to the conduct and regulation of election observers to monitor compliance with election laws by local election officials.

Objective of the Rule

To repeal the Government Accountability Board’s existing rule, Chapter GAB 4, Election Observers, and to recreate it as a new rule implementing s.7.41, Stats., Public’s right to access, and s.6.855, Stats., Alternate absentee ballot sites, to clarify standards of conduct applicable to persons who are present at a polling place, or elsewhere, for the purpose of

observing all public aspects of an election, including voting, and the counting and canvassing of ballots.

Policy Analysis

Existing Ch. GAB 4 was originally adopted to implement s. 7.39, Stats., relating to the appointment of election observers at polling places in a municipality. Subsequently, the legislature enacted a much broader statute, s.7.41, Stats., which expanded the class of persons who may observe the proceedings at a polling place to include “any member of the public,” and repealed s.7.39, Stats.

In 2005 Act 451, the Wisconsin Legislature expanded the number of locations at which observers had the right to observe elections to include “the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855, Stats., on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process.”

The Government Accountability Board now needs to promulgate a new rule implementing the amended s. 7.41, Stats., and new s. 6.855, Stats., by setting forth standards of conduct applicable to persons who are present at a polling place, or elsewhere, for the purpose of observing all public aspects of an election, including voting, and the counting and canvassing of ballots.

Statutory Authority

Sections 5.05 (1) (f), 7.41, 6.855, and 227.11 (2) (a), Wis. Stats.

Comparison with Federal Regulations

Neither the federal government nor federal law attempts to regulate the right of citizens to observe elections at polling places or attempts to regulate the conduct of persons who act as observers at polling places

Entities Affected by the Rule

This rule will affect all persons who wish to observe elections in Wisconsin by maintaining a presence at polling places, communications media present at the polls, accessibility advocates, and local election inspectors.

Estimate of Time Needed to Develop the Rule

10 to 20 hours of state employees’ time.

Health Services

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

Subject

Revises section DHS 1.03, relating to the Parental Payment Limit.

Objective of the Rule

The objective is to remove the Parental Payment Limit which requires parents who have children in the Department’s centers for the developmentally disabled to pay a small portion of the costs when the client’s cost of care is covered by Medicaid.

Policy Analysis

Parents of minor children receiving inpatient care and services from the Department’s developmentally disabled centers are liable for the amounts established under s. DHS 1.03 (18) and (21) for those services. The Department is required to bill parents up to the Parental Payment Limits when the client’s cost of care is covered by Medicaid. As of

July 1, 2010, the Parental Payment Limit for care in the Department's developmentally disabled centers for minor residents receiving Medicaid is \$10 dollars per day.

When the Parental Payment Limit was first created, Central Wisconsin Center (CWC) provided care to a large number of children; however, the number of children at the centers for the developmentally disabled has since declined, as most of the children have reached the age of majority and long-term admission of children to the centers for the developmentally disabled has ended. The precipitous decline in the number of children at the centers has made it administratively unfeasible for the Department to continue to assess and collect the Parental Payment Limit. It is our understanding that as of July 1, 2010, there are no children at the centers for the developmentally disabled that fall under the purview of s. DHS 1.03 (18) and (21). Thus, the Department will institute rule changes that will remove the assessment of the Parental Payment Limit.

Statutory Authority

Sections 46.03 (18), 46.10 (1) to (14) (a), and 227.11(2), Wis. Stats.

Comparison with Federal Regulations

There appears to be no existing or proposed federal regulation that addresses the activities to be regulated by the proposed rules.

Entities Affected by the Rule

The Division of Long Term Care (DLTC), the Bureau of Fiscal Services (BFS), the centers for the developmentally disabled, and any parents of minor residents at the centers for the developmentally disabled.

Estimate of Time Needed to Develop the Rule

The Department expects less than 10 hours to develop the rule and needs no other resources.

Natural Resources

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

DNR # CF-43-10

Subject

Creates Chapter NR 63, Wis. Adm. Code, relating to the administration of incentive grants to private landowners who permit public all-terrain vehicle (ATV) corridors on their lands and who apply for the grant payments.

Objective of the Rule

To establish a new grant program for private landowners who permit public all-terrain vehicle (ATV) corridors on their lands.

Policy Analysis

At present, there are approximately 1,900 miles of ATV trails on public, tribal, and private land throughout the state. It is estimated that 15 % of these trails are on private land. Continuity of many ATV trails requires the continued cooperation of private landowners. When private landowners cease to participate, ATV trails must be rerouted. If other willing private landowners cannot be found to continue the trail, ATV trails may be truncated or segments become inaccessible, thereby diminishing the riding experience for ATV trail users.

The need for ATV trail continuity is intensified by tremendous growth in the popularity of ATV riding over the past ten years among Wisconsin families and visitors to

Wisconsin. According to the 2005–2010 *Wisconsin Statewide Comprehensive Outdoor Recreation Plan* (SCORP), over 23% of Wisconsinites currently participate in ATV recreation. More ATVs are being ridden on ATV trails every year. The 2006 Legislative Council Special Committee on State Trails Policy estimated that 12,500 non-resident trail passes are sold each year.

There have been “growing pains” associated with the rise in ATV usage. Those objecting to ATVs cite noise and displacement of other recreational uses as a concern. Although the motorsports industry and a number of ATV clubs have had limited success addressing these issues in Wisconsin, proper recreation planning and ATV trail management initiated at the state level are essential to the long-term sustainability of this sport. A state-funded grant program that encourages private landowner to allow ATV trails on their property is a necessary part of this sustainability. By drafting and implementing rules for a private landowner incentive program, the Department will be better able to support the overall trail system, ensure a quality ride, and public safety.

Funding for this new grant program comes from the sale of non-resident trail passes. Approximately 12,500 trail passes are sold each year, netting approximately \$215,000 for this grant program. If submitted applications exceed available funding, s. 23.33 (5r) (f), Wis. Stats., directs the Department to establish a system to prorate payments to landowner applicants.

Statutory Authority

Authority for the rule is found in s. 23.33 (5r), Wis. Stats. In addition, the Department has general rule-making authority under s. 227.11 (2) (a), Wis. Stats.

Comparison with Federal Regulations

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

Entities Affected by the Rule

The proposed rule will primarily affect private landowners who permit public ATV corridors on their lands and who apply for the incentive payments from the Department of Natural Resources. ATV trail users will also be affected by this rule since this rule offers incentives to landowners to maintain ATV trails across private property, thereby ensuring a quality ride for ATV enthusiasts. County governments will also be affected by the rule because s. 23.33 (5r) (c), Wis. Stats., requires foresters or another county employee to measure the length of the ATV corridor within their jurisdiction prior to the Department calculating payments to the participating landowners.

Estimate of Time Needed to Develop the Rule

The Department will need approximately 300 hours of staff time to develop this rule.

As the rule is developed, the Department anticipates active participation from the Off-Road Vehicle Advisory Council and the Wisconsin ATV Association. Input will be solicited from the general public at public hearings

Agency Contact Information

Diane Conklin, ATV Grant Manager
DNR — Bureau of Community Financial Assistance
1341 2nd Avenue, Cumberland, WI 54829
Phone: 715-822-8583
E-mail: Diane.Conklin@Wisconsin.gov

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 10–110**

On September 13, 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 30, relating to pesticide product restrictions regarding Atrazine.

Agency Procedure for Promulgation

Public hearings will be held on October 26 and 27, 2010. The department's Division of Agricultural Resource Management is primarily responsible for this rule.

Contact Information

Rick Graham
Phone: (608) 224–4502

Commerce

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

CR 10–108

On September 7, 2010, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter Comm 129, relating to tax credits for Angel Investments and Early Stage Seed Investments.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 11, 2010. The department's Division of Business Development is primarily responsible for this rule.

Contact Information

Sam Rockweiler
Phone: 266–0797
Email: sam.rockweiler@wi.gov

Commerce

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

CR 10–113

On September 15, 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 139, relating to rural outsourcing grants.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled at a later time. The department's Division of Business Development is primarily responsible for this rule.

Contact Information

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

Controlled Substances Board **CR 10–112**

On September 14, 2010, the Controlled Substances Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order relates to the scheduling of lisdexamfetamine under ch. 961, Stats., of the Uniform Controlled Substances Act (s. CSB 2.35).

Agency Procedure for Promulgation

A 30-day notice is published in this Register. A public hearing is not required.

Contact Information

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

Military Affairs **CR 10–111**

On September 8, 2010, the Department of Military Affairs submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter DMA 1, relating to Military Family Financial Aid.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 13, 2010. The Department of Military Affairs is primarily responsible for this rule.

Contact Information

Randi Milsap
Phone: (608) 242–3072
Email: randi.milsap@wisconsin.gov

Natural Resources*Fish, Game, Forestry, etc., Chs. NR 1—***CR 10–114***DNR #ER–35–10*

On September 15, 2010, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter NR 27, relating to management of bats with White Nose Syndrome.

Agency Procedure for Promulgation

Public hearings will be held on October 25, 26, 28 and 29, 2010. The department's Bureau of Endangered Resources is primarily responsible for this rule.

Contact Information

Erin Crain

Phone: (608) 267–7479

Natural Resources*Fish, Game, Forestry, etc., Chs. NR 1—***CR 10–115***DNR #IS–41–10*

On September 15, 2010, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter NR 40, relating to the listing of White Nose Fungus as an invasive species.

Agency Procedure for Promulgation

Public hearings will be held October 25, 26, 28 and 29, 2010. The department's Bureau of Endangered Resources is primarily responsible for this rule.

Contact Information

Erin Crain

Phone: (608) 267–7479

Natural Resources*Environmental Protection — Water Supply,**Chs. NR 800—***CR 10–109***DNR #DG–34–10*

On September 13, 2010, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter NR 860, relating to the process and procedures for the water use permit program in the Great Lakes basin.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 13 and 14, 2010. The Department's Bureau of Drinking Water and Groundwater is primarily responsible for this rule.

Contact Information

Kristy Rogers

Phone: (608) 266–9254

Rule–Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

CR 10–106

(Reprinted from 9/15/10 Register)

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on rules to create section ATCP 69.01 (3) (e) and (f), relating to buttermaker license qualifications. DATCP will hold the public hearing at the time and location shown below.

Hearing Information

October 1, 2010

10:00 a.m. – 11:30 a.m.

WI Department 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 **September 30, 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 invites the public to attend the hearing and comment on the rules. Following the hearing, the hearing record will remain open until Friday, **October 8, 2010** for additional written comments. Comments may be sent to the Debra Mazanec, Division of Food Safety at the address above, by email to debbie.mazanec@wi.gov or online at <http://AdminRules.Wisconsin.gov/>.

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

Copies of Proposed Rule

You may obtain free copies of the rule by contacting the Wisconsin Dept. 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 to debbie.mazanec@wi.gov. Copies will also be available at the hearing. To view the proposed rule online, go to:

Analysis Prepared by Dept. of Agriculture, Trade and Consumer Protection

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) currently licenses buttermakers under s. 97.17, Stats. This rule provides more ways for an individual to qualify for licensing as a buttermaker.

Statutes interpreted

Section 97.17 (2), Stats.

Statutes interpreted

Sections 93.07 (1), 97.17 (2) and 227.24, Stats.

Explanation of agency authority

DATCP has broad general authority under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. DATCP has specific authority under s. 97.17 (2), Stats., to establish license qualifications for buttermakers.

Plain language analysis

DATCP licenses individuals as buttermakers under s. 97.17, Stats. DATCP has adopted licensing rules under ch. ATCP 69, Wis. Adm. Code. Currently, an applicant for a 2–year buttermaker license must pass an examination (required only for initial license) and must show that he or she has done at least one of the following (required for initial and renewal license):

- Been licensed as a buttermaker for at least 10 years.
- Worked directly under a licensed buttermaker for at least 24 months.
- Worked directly under a licensed buttermaker for at least 18 months and completed a DATCP–approved training course from an accredited post–secondary institution.
- Obtained a 4–year degree in food science (or an equivalent major) from an accredited post–secondary educational institution, and worked directly under a licensed buttermaker for at least 12 months.

Under this rule, an applicant may also qualify for licensing if either of the following apply, with the proviso that the applicant must also pass an examination for an *initial* license:

- The applicant holds a Wisconsin *cheesemaker* license and has done all of the following:
 - Completed a DATCP–approved buttermaker training course.
 - Worked in buttermaking operations for at least 40 hours under the direct personal supervision of a licensed buttermaker.
- The applicant has done all of the following:
 - Worked in the complete process of buttermaking for at least 120 hours under the direct personal supervision of a licensed buttermaker.
 - Completed DATCP–approved courses in all of the following:
 - Buttermaking.
 - Production of safe dairy foods.
 - Hazard analysis — critical control point (HACCP) process control.
 - Principles of milk pasteurization.
 - Dairy sanitation.

Comparison with federal regulations

The United States food and drug administration has adopted food safety and labeling standards for butter,

including a butter “standard of identity” (a product such as margarine may not be sold as “butter”). The United States department of agriculture has also adopted grading standards for butter. Neither FDA nor USDA licenses buttermakers.

This rule is not affected by current federal rules. However, buttermakers licensed under this rule must be aware of the relevant federal rules.

Comparison with rules in adjacent states

Buttermakers are not required to hold an individual professional license any of the surrounding states (dairy plant operators must be licensed, as in Wisconsin).

Summary of data and analytical methodologies

This rule does not rely on any special data or analytical methodologies.

Small Business Impact

This rule will have a positive impact on the Wisconsin dairy industry, including Wisconsin’s butter industry. The rule will promote the development and diversification of the dairy industry, and will not have any negative impact on business. The rule will:

- Provide more options for individuals who wish to be licensed as buttermakers.
- Help relieve a current acute shortage of licensed buttermakers, which is putting the state’s butter industry at risk.
- Allow more people to enter the industry as licensed buttermakers, including makers of artisan and farmstead butter.
- Help ensure the safety and quality of Wisconsin butter, by ensuring that buttermakers are adequately trained and qualified.
- Make it easier for licensed *cheesemakers* to obtain a buttermaker license. That may give them more job flexibility, and provide more opportunities for value-added dairy enterprise.

This rule does not increase license fees, add new recordkeeping requirements, or require businesses to pay for additional professional services. Small businesses will benefit from this rule, and will not be adversely affected in any way. A complete *business impact analysis* is attached.

Fiscal Estimate

This rule will have no significant fiscal impact on Wisconsin state or local government. This rule does not increase buttermaker license fees. This rule may increase the number of buttermaker licenses, but the increase is not expected to have a significant impact on DATCP license revenues or administrative costs. DATCP expects to absorb any increased costs with current budget and staff. A complete *fiscal estimate* is attached.

Agency Contact Person

Questions or comments related to this rule may be sent to the following address:

Dept. of Agriculture, Trade and Consumer Protection
Trade and Consumer Protection Division — Food Safety
P.O. Box 8911
Madison, WI 53708–8911
Attn: Debra Mazanec
Phone: (608) 224–4712
Email: debbie.mazanec@wisconsin.gov

Notice of Hearing

Agriculture, Trade and Consumer Protection CR 10–107

(Reprinted from 9/15/10 Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on its proposed rule, Chapter ATCP 20, Wis. Adm. Code, relating to agricultural and vegetable seed. DATCP will hold one public hearing at the time and place shown below.

Hearing Information

Wednesday, October 13, 2010

9:00 a.m. – 11:00 a.m.

Dept. of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive, Board Room (CR–106)
Madison, Wisconsin, 53718–6777

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by **October 8, 2010**, by writing to Deb Bollig, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4584. Alternatively, you may contact the DATCP TDD at (608) 224–5058. The hearing facility is handicap accessible.

Submittal of Written Comments

DATCP invites the public to attend the hearing and comment on the proposed rule. Following the public hearing, the hearing record will remain open until **October 27, 2010** for additional written comments. Comments may be sent to Greg Helmbrecht, Division of Agricultural Resource Management at the address above, by email at greg.helmbrecht@wisconsin.gov or online at <http://AdminRules.Wisconsin.gov/>.

To provide comments or concerns relating to small business, please contact DATCP’s small business regulatory coordinator, Keeley Moll, at the address above, by emailing to Keeley.Moll@wisconsin.gov or by telephone at (608) 224–5039.

Copies of Proposed Rule

You may obtain a free copy of this proposed rule by contacting the Dept. of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–4596 or emailing greg.helmbrecht@wisconsin.gov. Copies will also be available at the hearing. To view the proposed rule online, go to: <http://AdminRules.Wisconsin.gov/>.

Analysis Prepared by Dept. of Agriculture, Trade and Consumer Protection

Prior to the adoption of 2009 Wis. Act 28, Wisconsin had detailed statutes (See ss. 94.38 through 94.46, Wis. Stats.) that prescribed standards for seed germination and seed labeling.

As part of 2009 Wis. Act 28, the Legislature amended the statutes that govern the regulation of seed. The changes adopted as part of 2009 Wis. Act 28 repealed those germination and labeling standards effective January 1, 2011 and gave the Department of Agriculture, Trade and Consumer Protection (DATCP) authority to establish standards for germination, labeling, distribution and sale of agricultural seed and vegetable seed by rule. This rule establishes new rules related to seed labeling and modifies current rules related to standards of germination, analysis, testing, sampling, inspection and examination. The rule also establishes new standards for native seeds. DATCP administers the seed program.

Statutes interpreted

Sections 93.07 (1) and 94.38 to 94.46, Stats.

Statutory authority

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

Explanation of agency authority

DATCP has general authority, under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. DATCP has authority, under s. 94.45 (6), Stats., to promulgate rules to prescribe standards for the labeling, distribution, and sale of agricultural seed and vegetable seed, to govern methods of sampling, inspecting, analyzing, testing, and examining agricultural seed and vegetable seed, to prescribe tolerances for purity and rate of germination of agricultural seed and vegetable seed, to prescribe tolerances for the occurrence of noxious weed seeds in agricultural seed and vegetable seed, to identify noxious weeds and prohibited noxious weeds, to govern the issuance of seed labeler licenses and to govern the administration and enforcement of ss. 94.38 to 94.46, Stats. DATCP has authority, under s. 100.20 (2), Stats., to regulate business practices and methods of competition.

Related rules or statutes

This rule is consistent with DNR rules under ch. NR 40, Wis. Adm. Code, for classification and control of invasive species.

Rule content

This rule modifies Wisconsin's agricultural and vegetable seed rule. Among other things, this rule:

- Establishes new rules related to seed labeling;
- Modifies current rules related to standards of germination, analysis, sampling, inspection, and examination;
- Establishes new rules related to native seeds;
- Incorporates the fees for seed labeler licenses contained in s. 94.43, Stats.
- Makes other minor changes to update, clarify and correct current agricultural and vegetable seed rules.

The standards used for label contents, germination, weed seed and other tolerances as well as the definitions applicable to those standards that were included in the statute have changed substantially since the adoption of the seed law statutes. The primary effect of the rule is to update those standards and definitions to make them consistent with current practice throughout the U. S. and with the standards maintained by the Association of Official Seed Analysts. The

standards proposed in this rule, like the statutes that exist through December 31, 2010 have the purpose of maintaining a fair marketplace for purchasers of agricultural seed and vegetable seed labeled, distributed, and sold in Wisconsin.

Comparison with federal regulations

The USDA–Agricultural marketing Service, Seed Regulatory and Testing Branch uses the published Association of Official Seed Analyst (AOSA) standards included in this rule for its regulatory work. The same seed rules are also used internationally and are published by the International Seed Trade Association.

Comparison with rules in adjacent states

Surrounding states have adopted the same AOSA published agricultural seed and vegetable seed standards as are included in this rule. The AOSA standards have been adopted by most states as the rules for testing seeds in their respective states. The AOSA's standards were developed to promote uniformity and accuracy in seed testing methods.

Data and analytical methodologies

DATCP consulted DNR, UWEX and the Association of Seed Analysts and worked with an advisory body made up of representatives of the Wisconsin seed industry and seed consumers in Wisconsin to develop the standards in the rule.

Environmental Impact

This rule will prohibit and restrict certain noxious weed seeds, some of which were previously prohibited or restricted under statute. The addition of new prohibited and restricted weed seeds may have a minor positive impact on the environment. The majority of the rule provisions have no environmental impact.

Small Business Impact

This rule updates current rules related to agricultural seeds and vegetable seeds. The primary purpose of this rule is to ensure a fair marketplace by establishing germination, labeling, examination, sampling, inspecting, and analysis standards that agricultural seeds and vegetable seeds sold in Wisconsin must meet. This rule establishes and updates these standards. The rule also establishes new standards for native seeds, a growing category of seeds not previously subject to regulation. Standards contained in the applicable statutes will be repealed as of January 1, 2011 and will be established in this rule. This rule also clarifies current seed rules, to facilitate understanding and compliance.

This rule will not have a significant impact on small businesses. This rule is expected to positively affect businesses by ensuring the all agricultural seed and vegetable seed producers, labelers, distributors, and wholesalers are using uniform standards for germination, labeling, analysis, testing, sampling, inspection and examination. The standards will ensure a fair agricultural seed and vegetable seed marketplace for businesses and consumers.

Fiscal Estimate

The proposed rule will have no fiscal impact on state or local government. Seed labeler license fees included in the proposed rule have already been created by statute. (See s. 94.43, Stats.)

Agency Contact Person

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

Greg Helmbrecht
Dept. of Agriculture, Trade and Consumer Protection
P.O. Box 8911, Madison, WI 53708-8911
Phone: (608) 224-4596
E-Mail: Greg.Helmbrecht@wisconsin.gov

Notice of Hearing**Agriculture, Trade and Consumer Protection
CR 10-110**

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") announces that it will hold two public hearings on rules affecting Chapter ATCP 30 creating a new atrazine prohibition area adjacent to the Lower Wisconsin River Valley in Sauk County, and expanding and joining two current atrazine prohibition areas north of Pardeeville in Columbia County.

Hearing Information

DATCP will hold the public hearings at the times and locations shown below.

Tuesday, October 26, 2010

3:00 – 5:00 PM and 6:00 – 8:00 PM
Prairie du Sac Town Hall
S9903 Highway 12
Prairie du Sac, WI 53578

Wednesday, October 27, 2010

3:00 – 5:00 PM and 6:00 – 8:00 PM
Angie W. Cox Public Library
119 N. Main Street
Pardeeville, WI 53954

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by October 16, 2010 by writing to Claire Fried, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, Claire.Fried@wi.gov, telephone (608) 224-4523. Alternatively, you may contact the DATCP TDD at (608) 224-5058. Handicap access is available at the hearings.

Submittal of Written Comments

DATCP invites the public to attend the hearings and comment on the rules. Following the hearings, the hearing record will remain open until **November 12, 2010** for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, by email to Rick.Graham@wi.gov or online at <https://health.wisconsin.gov/admrules/public/Home>.

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

Copies of Proposed Rule

You may obtain free copies of the proposed rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911,

Madison, WI 53708. You may also obtain copies by calling (608) 224-4502 or emailing Rick.Graham@wi.gov or you can view online at <https://health.wisconsin.gov/admrules/public/Home>. Copies will also be available at the hearing.

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

In order to protect Wisconsin groundwater, the Department of Agriculture, Trade and Consumer Protection ("DATCP") administers rules that limit atrazine herbicide application rates throughout the state, and prohibit atrazine applications in areas where groundwater contamination levels attain or exceed state enforcement standards adopted by the Department of Natural Resources (DNR"). Based on new groundwater test data, this rule will add one new atrazine prohibition area in Sauk County, and expand and join two current atrazine prohibition areas in Columbia County.

Statutes interpreted

Sections 94.69, 160.19 (2), and 160.21 (1), Stats.

Statutory authority

Sections 93.07 (1), 94.69 (1), 160.19 (2), and 160.21 (1), Stats.

Explanation of agency authority

DATCP has broad authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. DATCP has authority to adopt pesticide rules under s. 94.69 (1), Stats. Under ss. 160.19 (2) and 160.21 (1), Stats., DATCP must regulate pesticide use, as necessary, to prevent groundwater contamination and restore groundwater quality.

Related rules or statutes

Under the state groundwater law, ch. 160, Stats., DATCP must regulate pesticide use as necessary to prevent groundwater contamination and restore groundwater quality. DATCP has adopted general rules for its groundwater protection program under ch. ATCP 31, Wis. Adm. Code. DNR has adopted groundwater enforcement standards and preventive action limits for atrazine and its metabolites under ch. NR 140, Wis. Adm. Code.

This rule is consistent with the state groundwater law (ch. 160, Stats.) and DATCP's general groundwater protection rules (ch. ATCP 31, Wis. Adm. Code), and is designed to attain compliance with the groundwater enforcement standards and preventive action limits specified by DNR rules (ch. NR 140, Wis. Adm. Code).

Background

Atrazine is a widely used agricultural herbicide that has been found in groundwater throughout the state. Current DATCP rules under ch. ATCP 30, Wis. Adm. Code, limit atrazine application rates throughout the state to ½ the current federal label rate. The current rules also *prohibit* the use of atrazine where atrazine contamination of groundwater has attained or exceeded the state groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 101 designated areas, including major prohibition areas in the lower Wisconsin River Valley and much of Dane and Columbia counties.

Rule content

Based on new groundwater sampling data, this rule creates one new atrazine prohibition area in Sauk County and expands and joins two existing atrazine prohibition areas in Columbia County. The total statewide acreage of atrazine prohibition areas will increase by approximately 8,640 acres.

By creating one new atrazine prohibition area in Sauk County and expanding and joining two existing atrazine prohibition areas in Columbia County, there will be no change to the total number of atrazine prohibition areas in Wisconsin, which remains at 101.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface that complies with s. ATCP 29.45, Wis. Adm. Code.

Comparison with federal regulations

Pesticides and pesticide labels must be registered with the federal Environmental Protection Agency (“EPA”). Persons may not use pesticides in a manner inconsistent with the federal label.

The maximum atrazine application rate in Wisconsin is ½ of the maximum federal rate. However, the current federally-registered atrazine label suggests that atrazine should not be used on permeable soils with groundwater near the soil surface. Wisconsin has clearer, more definite restrictions on atrazine use, based on actual findings of groundwater contamination in this state.

The EPA recently announced that it will conduct a new evaluation of atrazine to assess any possible links between atrazine and cancer, as well as other health problems, such as premature births. The EPA may determine that new restrictions for the product are necessary, which will be reflected on product use labels. These rule changes are not anticipated to be affected by EPA’s review and any subsequent actions.

Comparison with rules in adjacent states

Wisconsin atrazine regulations are stronger than those in adjacent states:

Iowa:

Iowa restricts atrazine application rates to 1/2 the federal label rate in 23 counties (7 with county-wide restrictions and 16 with restrictions in some townships).

Minnesota:

Minnesota has a program of voluntary use limitations when surface water or groundwater contamination exceeds a level of concern. This program suggests pesticide use restrictions or “best management practices” will reduce surface water or groundwater contamination.

Illinois and Michigan:

Illinois and Michigan have no atrazine regulations.

Summary of data and analytical methodologies

This rule is based on groundwater sample results for atrazine and atrazine metabolites obtained from the affected areas during the past year. Groundwater samples contained atrazine contamination in excess of 3.0 ug/L (the state enforcement standard established by DNR groundwater rules under ch. NR 140, Wis. Adm. Code).

Preliminary contamination findings for the atrazine prohibition expansions were based on groundwater samples analyzed by the University of Wisconsin – Stevens Point. DATCP confirmed the existence of groundwater contamination, in excess of the state enforcement standard, based on DATCP analysis of groundwater samples collected by DATCP. DATCP collected and analyzed the samples using official collection and analytical methods.

Environmental Impact

This rule will not have any adverse environmental impacts, and will help to protect and restore groundwater quality in Sauk and Columbia counties. This rule is consistent with the state groundwater law, and with the overall protocol for atrazine regulations that has been in effect since 1991.

Small Business Impact

This rule will affect between 20 to 30 farmers in the new and expanded prohibition areas who currently use atrazine to control weeds in corn. Those farmers, who are “small businesses,” will no longer be able to use atrazine. However, other effective weed control products are available, so the rule will not have a significant effect on the affected farmers. This rule may also have a slight effect on distributors and applicators of atrazine herbicides, crop consultants and equipment dealers, but the effect will not be significant.

This rule will not have a significant adverse impact on small business, and is not subject to the delayed small business effective date provided in s. 227.22(2)(e), Stats.

Small business regulatory coordinator

Keeley Moll
Wisconsin DATCP
Division of Agricultural Resource Management,
2811 Agriculture Drive, P.O. Box 8911,
Madison, WI 53708
Email: Keeley.Moll@wi.gov
Telephone: (608) 224-5039.

Fiscal Estimate

Administration and enforcement of this rule will involve some new costs for DATCP. Staff time will be needed to monitor compliance (0.1 FTE, costing approximately \$7,800). Compliance monitoring will be coordinated with current compliance monitoring activities. Soil sampling and testing may be used to monitor compliance, and may require an estimated \$2,000 in analytical services.

Total costs are estimated at \$9,800. DATCP expects to absorb these costs within its current budget. There will be no additional costs to any other state agencies or local governments.

Agency Contact Person

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

Rick Graham, DATCP
P.O. Box 8911
Madison, WI 53708-8911
Telephone (608) 224-4502
E-Mail: rick.graham@wi.gov

Notice of Hearing

Commerce

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

CR 10-108

NOTICE IS HEREBY GIVEN that pursuant to section 560.205 (3) (d) of the Statutes, the Department of Commerce will hold a public hearing on proposed rules in Chapter Comm 129, relating to tax credits for angel investments and early stage seed investments, and affecting small businesses.

Hearing Information

Date and Time: **Monday**
October 11, 2010
2:00 p.m.

Location:
Thompson Commerce Center
Third Floor, Room 3B
201 West Washington Avenue
Madison, WI

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

Submittal of written comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing, via e-mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **October 13, 2010**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. E-mail comments should be sent to sam.rockweiler@wi.gov. If e-mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

Copies of Proposed Rule

The proposed rules and an analysis of the rules are available on the Internet by entering "Comm 129" in the search engine at the following Web site:
<http://health.wisconsin.gov/admrules/public/Home>.

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

Analysis Prepared by the Department of Commerce

Statutes interpreted

Section 560.205 (3) (d), as modified by 2009 Wisconsin Act 265.

Statutory authority

Sections 227.11 (2) (a) and 560.205 (3) (d), 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 560.205 (3) (d) directs the Department to promulgate rules for administering the corresponding statutory requirements for angel investment tax credits and early stage seed investment tax credits.

Related statute or rule

Several statutes and other Departmental rules address tax incentives for business development in Wisconsin. For example, (1) sections 560.70 to 560.7995 of the Statutes and

chapters Comm 100, 107, 112 and 118 address statewide tax-credit programs for job creation, capital investment, employee training and corporate headquarters; and (2) several other sections of chapter 560 and other Comm chapters address more-narrowly targeted business development incentives, such as for film productions, dairy manufacturing facilities, and fuel and electricity used in manufacturing.

Plain language analysis

The rules in this order would update this chapter to make it consistent with the portion of 2009 Wisconsin Act 265 that raises the yearly limits on tax credits for angel investments and for early stage seed investments, as regulated by the Department under section 560.205 of the Statutes.

Comparison with federal regulations

Neither the Department nor the Department of Revenue is aware of any existing or proposed federal regulation that applies these tax credits.

Comparison with rules in adjacent states

Minnesota:

Minnesota offers various tax credit programs, but none that are similar to the Early Stage Business Investment program in Wisconsin.

Iowa:

Iowa offers a University-Based Research Utilization Program to provide tax credits to businesses and university employees to promote the adoption of new technology developed at the state universities. Businesses must be utilizing technology based on patents awarded to Iowa State University, the University of Iowa, or the University of Northern Iowa and be less than 1 year old. Researchers who developed the intellectual property utilized by the business are also eligible for up to 10 percent of the businesses tax liability in individual income tax credits. Administrative rules for this program are available in the Iowa Administrative Code, 261-Chapter 63. Further information is available through the Iowa Department of Economic Development Web site at www.iowalifechanging.com.

Illinois:

Illinois offers various tax credit programs, but none that are similar to the Early Stage Business Investment program in Wisconsin.

Michigan:

Michigan offers a High-Tech and High Wage MEGA Tax Credit program that provides tax credits to promote the development of high-tech businesses in traditional and emerging industries. A business is eligible for tax credits to offset their Michigan business tax liability. Tax credit amounts are based on job creation. There are no rules for the program, however guidelines can be found through the Michigan Economic Development Corporation's Web site at www.themedc.org.

Summary of factual data and analytical methodologies

The data and methodology for developing these rules were derived from and consisted of incorporating the criteria in 2009 Wisconsin Act 265.

Analysis and supporting documents used to determine effect on small business

The primary document that was used to determine the effect of the rules on small business was 2009 Wisconsin Act 265. This Act applies its private-sector requirements only to businesses and individuals for which a corresponding tax credit is desired.

Small Business Impact

The rules are not expected to impose significant costs or other adverse impacts on small businesses because the rules only address raising the yearly limits on tax credits for angel investments and for early stage seed investments.

Initial regulatory flexibility analysis

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

Businesses and individuals that choose to pursue tax credits for angel investments and early stage seed investments, as established under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), 76.638, and 560.205 of the Statutes.

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

The rules would not impose any new reporting, bookkeeping or other procedures on small businesses.

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**Summary**

Raising the yearly limits on tax credits for angel investments and for early stage seed investments is not expected to significantly change either Department revenues or staff workload.

The proposed rules are not expected to impose any significant costs on local governments or the private sector, because the rules would only raise the yearly limits on tax credits for angel investments and for early stage seed investments.

State fiscal effect

None.

Local government fiscal effect

None.

Long-range fiscal implications

None known.

Agency Contact Person

Chris Schiffner, WI Dept. of Commerce
Division of Business Development
201 West Washington Avenue
Madison, WI 53703
Phone: (608) 267-2425
Email: chris.schiffner@wi.gov

**Notice of Hearing
Commerce****Financial Resources for Businesses and Communities,
Chs. Comm 100—
EmR1026, CR 10-113**

NOTICE IS HEREBY GIVEN That pursuant to SECTION 45 (1) (b) of 2009 Wisconsin Act 265, the Department of Commerce will hold a public hearing on emergency rules and proposed permanent rules to create Chapter Comm 139, relating to rural outsourcing grants, and affecting small businesses.

Hearing Information

The public hearing will be held as follows:

Date and Time:	Location:
October 13, 2010 Wednesday at 2:30 p.m.	Thompson Commerce Center Third Floor, Room 3B 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.

Appearance at Hearing and Submittal of Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing, via e-mail. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **October 15, 2010**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. E-mail comments should be sent to sam.rockweiler@wi.gov. If e-mail submittal is not possible, written comments may be submitted to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

Copies of Proposed Rules

The proposed rules and an analysis of the rules are available on the Internet by entering "Comm 139" in the search engine at the following Web site: <https://health.wisconsin.gov/admrules/public/Home>.

Paper copies may be obtained without cost from Sam Rockweiler at the Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427,

Madison, WI 53707, or at sam.rockweiler@wi.gov, or at telephone (608) 266-0797, or at Contact Through Relay. Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

SECTION 45 (1) of 2009 Wisconsin Act 265.

Statutory authority

Section 227.11 (2) (a), Stats., and SECTION 45 (1) (b) of 2009 Wisconsin Act 265.

Explanation of agency authority

SECTION 45 (1) (b) of 2009 Wisconsin Act 265 requires the Department to promulgate rules for awarding the rural outsourcing grants established in SECTION 45 (1). Section 227.11 (2) (a), Stats., authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

Related statute or rule

The Department has rules for several other programs associated with economic and business development grants, but those programs are not targeted specifically to grants to businesses for outsourcing work to rural municipalities.

Summary of rule

The rules in this order address (1) the eligibility requirements for applicants and projects; (2) the documentation that must be submitted by applicants; (3) the Department's response to the submitted documentation; and (4) the Department's use of any funds that are not applied for by the end of the 2009-11 fiscal biennium.

Comparison with federal regulations

No similar existing or proposed federal regulations or programs were found through review of the Code of Federal Regulations and pertinent federal agency Web sites — including at the US Department of Agriculture, the US Department of Commerce, the US Economic Development Administration, and the US Small Business Administration.

Comparison with rules in adjacent states

Review of existing rules and programs in adjacent States and review of proposed state legislation through the National Conference of State Legislatures did not reveal any similar rules or programs in the adjacent States.

Summary of factual data and analytical methodologies

The data and methodology for developing these rules were derived from and consisted of (1) incorporating the applicable criteria in SECTION 45 of 2009 Wisconsin Act 265; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic 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 that was used to determine the effect of the rules on small business was SECTION 45 (1) of 2009 Wisconsin Act 265. This SECTION authorizes the Department to award grants to businesses for outsourcing work to rural municipalities and requires the Department to promulgate rules for administering the program. This

SECTION applies its private-sector requirements only to businesses that chose to apply for the grants.

Small Business Impact

The rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by applicants that choose to pursue grants for outsourcing work to rural municipalities.

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.

Initial regulatory flexibility analysis

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

Businesses that choose to pursue grants for outsourcing work to rural municipalities, under SECTION 45 (1) (b) of 2009 Wisconsin Act 265.

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

An application must be submitted to the Department, that includes information enabling the Department to determine the corresponding potential economic impacts of a proposed project.

Types of professional skills necessary for compliance with the rules.

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

Rules have a significant economic impact on small businesses.

No.

Environmental 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

Although the rules will newly result in review of documentation relating to issuing grants to businesses for outsourcing work to rural municipalities, the number of these reviews and grants is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

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

State fiscal effect

None.

Local government fiscal effect

None.

Long-range fiscal implications

None known.

Agency Contact Person

Mary Gage, Wisconsin Dept. of Commerce
Bureau of Business Finance and Compliance
P.O. Box 7970
Madison, WI 53707-7970
Phone: (608) 266-2766
Email: Mary.Gage@Wisconsin.gov

**Notice of Proposed Rulemaking
(Without Public Hearing)
Controlled Substances Board
CR 10-112**

NOTICE IS HEREBY GIVEN that pursuant to ss. 961.11 (1) and 961.16, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Controlled Substances Board will adopt the following rule as proposed in this notice, without public hearing unless, within 30 days after publication of this notice on September 30, 2010, the Controlled Substances Board is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Submission of Written Comments

Comments may be submitted to Pamela Haack, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@wisconsin.gov. Comments must be received on or before **October 15, 2010** to be included in the record of rule-making proceedings.

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

Sections 961.11 (1) and 961.16, Stats.

Statutory authority

Sections 961.11 (1) and 961.16, Stats.

Explanation of agency authority

The Controlled Substances Board is authorized by s. 961.11 (1), Stats., to add substances to or delete or reschedule substances listed under schedule II, in s. 961.16, Stats., pursuant to the rule-making procedures of ch. 227, Stats.

Related statute or rule

21 CFR Sec. 1308.12 (d) (5)

Plain language analysis

By final rule of the Drug Enforcement Administration (DEA), adopted effective June 4, 2007, lisdexamfetamine was classified as a schedule II controlled substance under the federal Controlled Substances Act (CSA). Lisdexamfetamine has not been so scheduled under the Wisconsin Controlled Substances Act in ch. 961, Stats. The objective of this proposed rule-making is to bring the treatment of this drug into conformity with that at the federal level.

Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal

penalties for their illicit possession, distribution and use. Health care providers are also subject to greater recordkeeping requirements regarding procuring, prescribing and dispensing of such drugs. This is because certain drugs, like lisdexamfetamine, have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately, than do other drugs.

Lisdexamfetamine is also known by the trade name Vyvanse TM and has the DEA Drug Code 1205. It will be marketed as a prescription drug product for the treatment of Attention Deficit Hyperactivity Disorder (ADHD).

The DEA found reason to classify Lisdexamfetamine, including its salts, isomers, and salts of isomers, as a schedule II drug based on the following findings:

- (1) Lisdexamfetamine has a high potential for abuse;
- (2) Lisdexamfetamine has a currently accepted medical use in treatment in the United States; and
- (3) Abuse of lisdexamfetamine may lead to severe psychological or physical dependence.

Comparison with federal regulations

21 CFR Sec. 1308.12 (d) (5)

Lisdexamfetamine has been classified as a schedule II controlled substance in the federal Controlled Substances Act since June 4, 2007. This regulation change will make Wisconsin regulations consistent with the federal CSA.

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

Not scheduled. Provisions relating to permit authorization application requirements and renewal: Federal registration is required before activity can occur. Illinois grants an “independent activity” license that expires on December 31 of even-numbered years. A registered person who fails to renew before the expiration date of the registration must apply for a new registration. The registration expires on the date specified. Section 3100, Illinois Rules.

Iowa:

Schedule II Controlled Substance. House File 2167, Sec. 2. Provisions relating to permit authorization application requirements and renewal: Iowa’s regulations identify who must register and include application requirements. A \$100 late renewal fee is assessed if there is a failure to remit payment by the first day of the month following expiration. Grounds for revocation, suspension and denial are specified. Section 657, Iowa Administrative Code.

Michigan:

Not scheduled. Provisions relating to permit authorization application requirements and renewal: Michigan requires a research license. Rules deal separately with personal training for euthanasia, thefts and diversion, storage, employees and records. Chapter 338, Michigan Rules.

Minnesota:

As of March 8, 2010, Minnesota classified lisdexamfetamine as a schedule II controlled substance.

Summary of factual data and analytical methodologies

The Wisconsin Controlled Substances Board reviewed the federal rule summary and supplemental information for the scheduling of this substance, and agrees with the conclusions therein regarding the potential for abuse.

Analysis and supporting documents used to determine effect on small business

Since there is no anticipated impact on small business from this rule, no additional compliance, bookkeeping, reporting, recordkeeping or professional skills are required.

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

Anticipated Costs Incurred By Private Sector

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

Small Business Impact

These proposed rules will not have any significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at hector.colon@wisconsin.gov, or by calling (608) 266–8608.

Fiscal Estimate

There is no fiscal impact on the department.

Agency Contact Person

Pamela Haack
Department of Regulation and Licensing
Division of Board Services
1400 East Washington Avenue, Room 116
P.O. Box 8935, Madison, WI 53708–8935
Telephone: (608) 266–0495
Email: pamela.haack@wisconsin.gov.

Text of Proposed Rule

SECTION 1. CSB 2.35 is created to read:

CSB 2.35 Addition of lisdexamfetamine to schedule II. (1) Section 961.16 (5) (e) is created to read:

Section 961.16 (5) (e) lisdexamfetamine, commonly known as “Vyvanse TM.”

Notice of Hearing

Military Affairs

EmR1030, CR 10–111

NOTICE IS HEREBY GIVEN that pursuant to s. 321.45 (2), Stats., the Department of Military Affairs will hold a public hearing on emergency rules and the promulgation of permanent rules to create Chapter DMA 1, relating to Military Family Financial Aid.

Hearing Information

Date: Wednesday, October 13, 2010
Time: 1:00 p.m. – 2:00 p.m.
Location: MADISON
Witmer Hall
2400 Wright St.
Madison, WI 53704

The public hearing site is accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact Randi Milsap at (608) 242–3072.

Copies of Proposed Rule

Copies of the proposed rule will be provided at the public hearing. Copies may also be obtained at no charge by emailing a request to Randi Milsap at randi.milsap@wisconsin.gov

Submittal of Written Comments

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Randi Milsap, Department of Military Affairs, 2400 Wright St., P. O. Box 14587, Madison, WI 53708–0587. You may also contact Randi Milsap by phone at (608) 242–3072 or email randi.milsap@wisconsin.gov.

Analysis Prepared by Department of Military Affairs

Statute interpreted

Section 321.45 (2), Wis. Stats.

Statutory authority

Section 321.45 (2), Chapter 321, Wis. Stats.

Explanation of agency authority

The Department of Military Affairs is charged with promulgating rules to administer Military Family Financial Aid under Wis. Stat. 321.45 (2).

Related statute or rule

Section 20.465 (2) (r), Wis. Stats.

Plain language analysis

The proposed rule, DMA 1, is being promulgated under the statutory authority of Wis. Stat. s. 321.45 (2) and is designed to provide the process for application and distribution of funds from the military family relief fund for the payment of financial aid to military families as provided under Wis. Stat. s. 20.465 (2) (r).

This rule establishes the eligibility criteria, the amount of financial aid and the application process for military family financial aid. The purpose of the military family financial aid is to provide financial support to service members and their immediate families dealing with emergency situations. The rule requires applicants be a member of the immediate family of a service member, that the service member and the applicant are residents of the state, and that the service member is serving on active duty in the U.S. armed forces.

The application is available free of charge and the fund administrator will make a decision to approve or deny an application within 14 days of the receipt of a completed application. An applicant has 30 days to appeal any final determination by the fund administrator in writing and an addition 30 days to appeal the administrator’s decision to the adjutant general.

A governing board comprised of military officials and the fund’s executive director will provide oversight of the family aid process, and application records will be archived for 5 years.

Comparison with federal regulations

Each military branch has its own emergency relief organizations. This rule most closely resembles Army Regulation 930–4, which sets out rules for the administration of Army Emergency Relief (AER) assistance.

Active Duty service members, their dependents, some retired service members, and surviving spouses and orphans

of service members who died on active duty are eligible to receive aid through AER. Military Family Financial Aid funds are available only to service members on active duty and their immediate family members. Both Army Emergency Relief and Military Family Financial Aid are funded through donations. Military Family Financial Aid will be administered by a Fund Administration committee as the Wisconsin Department of Military Affairs. Army Emergency Relief provides loans and grants to service members, whereas Military Family Financial Aid provides only grants. That aside, the substantive provisions of the Military Family Financial Aid Rule were based in large part on Army Emergency Relief.

Comparison with rules in adjacent states

Illinois:

The Illinois Military Family Relief Fund (IMFRF) is authorized by Title 95 Chapter 2 Part 200 of the Illinois Administrative Code and is funded by a voluntary check off on Illinois individual income tax forms.

The IMFRF provides grants to families of Illinois National Guard members and Illinois residents serving in the U.S. Armed Forces Reserve who are called to active duty as a result of the September 11, 2001 terrorist attacks. IMFRF grants are available to help service members and their families defray the costs of food, housing, utilities, medical services, and other expenses that become difficult to afford when a wage-earner.

The IMFRF provides three tiers of grants. All status and need based grants are awarded on a first-come, first-served basis. A status based grant of \$500 is available for National Guard and Reserve soldiers on active duty for a minimum of 60 days with a pay grade below a moderate amount. Members may reapply for the \$500 status based grant for every 6 months of consecutive duty.

A need based grant of \$2,000 is available for National Guard and Reserve soldiers on active duty for a minimum of 60 days with a pay grade below a moderate amount and the service member's military salary must be at least 30% less than his or her civilian salary. Members may reapply for the \$2,000 need based grant for every 6 months of consecutive duty. A casualty based grant of \$5,000 is available for Active Duty, National Guard and Reserve soldiers who suffer a service-connected injury.

Iowa:

The State of Iowa has established a Veterans Trust Fund to provide certain services to veterans under Iowa Administrative Code 801 Chapter 14. As of 2009 the trust fund is funded by a Joint Veterans Trust Fund and volunteer fire fighter preparedness fund income tax check off. Trust fund expenditures are approved through the Iowa Veterans Commission.

Funds are used for unemployment or underemployment assistance due to service-related causes, assistance with vision, hearing, dental care, durable medical equipment, and prescription drugs; counseling and substance abuse services; housing repair; and transitional housing in an emergency.

Disbursements are limited to members with income less than 200% of federal poverty level and less than \$15,000 in liquid assets. Interest funds are received monthly and approved applicants are placed on a waiting list based on the date received and approved.

Michigan:

The Michigan Military Family Relief Fund is authorized by MI ST 35.1211–35.1216 2004 and is funded by a voluntary check off on Michigan individual income tax forms.

The fund is available to any member of a reserve component of the United States armed forces based in Michigan or who is a resident of Michigan serving in a reserve component of the United States armed forces based in another state and is called to active duty by the president of the United States or the United States secretary of defense as a result of national response to September 11, 2001 or as a response to a national emergency declared by the president of the United States and for which funds are being spent by the federal government.

The fund provides financial assistance for clothing, food, housing, utilities, medical services or prescriptions, insurance payments, vehicle payments, or other related necessities of daily living. The fund covers needs that occurred during the time the individual was on active duty or needs that occurred because the individual has incurred a line of duty injury or illness. Michigan limits the fund to \$2,000 in one calendar year for each individual.

Minnesota:

Minnesota does not have a government administrated military family relief fund.

Summary of factual data and analytical methodologies

None.

Analysis and supporting documents used to determine effect on small business

Not necessary.

Small Business Impact

None.

Agency Contact Person

Randi Milsap
Department of Military Affairs
2400 Wright Street
Madison, WI 53708
Telephone: (608) 242-3072
Email: randi.milsap@wisconsin.gov

Notice of Hearing

Natural Resources

Fish, Game, Forestry, etc., Chs. NR 1— CR 10–114

DNR # ER-35-10 and ER-37-10(E)

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

Hearing Information

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

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

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Stacy Rowe at (608) 266-7012 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rules and Submittal of Written Comments

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

Analysis Prepared by Department of Natural Resources

Statutory authority

Sections 23.09 (2), 29.604, 227.11 (2) and 227.24, Stats.

Plain language analysis

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

Related statute or rules

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

Comparison with federal regulations

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

petition to list two cave bat species due to white-nose syndrome and is in the process of reviewing the petition.

Comparison with rules in adjacent states

Vermont, New York and Massachusetts are in the process of listing several cave bat species due to white-nose syndrome.

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

Summary of factual data and analytical methodologies

The proposed emergency rule is related to the addition of Wisconsin's four cave bat species to the state's threatened species list. The four species include the little brown bat (*Myotis lucifugus*), big brown bat (*Eptesicus fuscus*), northern long-eared bat (*Myotis septentrionalis*), and eastern pipistrelle (*Perimyotis subflavus*).

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

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

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

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

All four cave bat species met triggers #1 and #4, and the little brown bat also met trigger #7 (recommended for listing

by stakeholders), therefore indicating the need for the emergency rule change.

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

Analysis and supporting documents used to determine effect on small business

None.

Small Business Impact

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

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

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

Small business regulatory coordinator

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

Environmental Impact

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

Department’s consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

Rule summary

The proposed rule package amends Ch. NR 27, Wis. Adm. Code to add four species of bats to the endangered and threatened species list. This addition to the invasives list is being proposed as both an emergency rule, ER-37-10 (E), and a permanent rule, ER-35-10.

State fiscal estimate

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

Local fiscal estimate

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

Private entities fiscal impact

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

It is assumed the impact to farmers of this rule change will be positive; especially, in light of the fact that if bat populations in the state were to be devastated, the costs to agriculture from pest destruction and pesticide use would increase.

State fiscal impact

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

Local government fiscal impact

Indeterminate. Increase costs — Permissive.

Types of local governmental units affected

Towns, Villages, Cities, Counties.

Agency Contact Person

Erin Crain
Bureau of Endangered Resources
P O Box 7921
101 S. Webster Street, ER/6
Madison, WI 53707-7921
Phone: (608) 267-7479

Notice of Hearing

Natural Resources

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

DNR # IS-42-10(E) and IS-41-10

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

Hearing Information

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

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

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Ms. Rowe at (608)266-7012 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rules and Submittal of Written Comments

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

Analysis Prepared by Department of Natural Resources

Statutory authority

Sections 23.09 (2), 23.22, 227.11 (2) and 227.24, Stats.

Plain language analysis

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

Existing rules ban the transportation (including importation), possession, transfer (including sale) and introduction of invasive species that are listed or identified as “prohibited”, with certain exceptions. Transportation, possession, transfer and introduction without a permit are exempt if the department determines that the transportation, possession, transfer or introduction was incidental or unknowing, and was not due to the person’s failure to take reasonable precautions. Existing rules authorize the department to enter property with the permission of the owner or person in control of the property and, if permission cannot be obtained, to seek an inspection warrant from the Circuit Court. Entry is only for the purpose of inspection, sampling or control of prohibited invasive species.

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

Related statute or rule

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

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

Comparison with federal regulations

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

Comparison with rules in adjacent states

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

Summary of factual data and analytical methodologies

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

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

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

Analysis and supporting documents used to determine effect on small business

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

Under NR 40, the department may ask any person who owns, controls, or manages property where a prohibited species is present to control the prohibited species in accordance with a plan approved by the department. While a person who owns, controls or manages property where a prohibited species is present is responsible for controlling the prohibited species that exists on the property, the department will seek funds to assist in the control of prohibited species. Therefore, conducting control measures will not necessarily result in a cost to commercial cave operators. Additionally,

commercial caves will have the option to exclude bats from their cave(s) with the help of the department, allowing them to remain open for tourism, and resulting in no loss of tourism dollars.

Small Business Impact

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

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

Small business regulatory coordinator

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

Environmental Impact

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

Fiscal Estimate

Assumptions used in arriving at fiscal estimate

State government

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

Local government

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

Private entities

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

State fiscal effect

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

Local government fiscal effect

None.

Agency Contact

Erin Crain
Bureau of Endangered Resources
P O Box 7921
101 S. Webster Street, ER/6
Madison, WI 53707-7921
Phone: (608) 267-7479

Notice of Hearing

Natural Resources

Environmental Protection — Water Supply,

Chs. NR 800—

CR 10–109

DNR # DG–34–10

NOTICE IS HEREBY GIVEN That pursuant to ss. 227.11 (2) (a) and 281.346 (4s), (5), and (9), Stats., the Department of Natural Resources will hold public hearings on the creation of Chapter NR 860 — Water Use Permitting, relating to the application and permit process for withdrawals of water from the Great Lakes basin.

Hearing Information

The hearings will be held on:

October 13, 2010 DNR Milwaukee SER Headquarters
Wednesday Rooms 140–141
at 2:00 p.m. 2300 N. Dr. Martin Luther King Jr. Dr.
Milwaukee, WI

Concurrent sessions will be held at the following two locations:

October 14, 2010 University of Wisconsin Green Bay
Thursday Instructional Services Bldg. Rm. 1034
at 2:00 p.m. 2420 Nicolet Drive
Green Bay, WI

(<http://www.uwgb.edu/team/maps/index.htm#is1034>)

October 14, 2010 Wis. Indianhead Tech. College (WITC)
at 2:00 p.m. Conference Center Room 306
2100 Beaser Avenue
Ashland, WI

<http://www.witc.edu/ashland/map.htm>

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call James McLimans at (608) 266–2726 with specific information on your request at least 10 days before the date of the scheduled hearing.

Copies of Proposed Rules and Submittal of Written Comments

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. (Search this Web site using the Natural Resources Board Order No. DG–34–10.

Written comments on the proposed rule may be submitted via U.S. mail to Ms. Kristy Rogers, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 or by e-mail to Kristy.Rogers@wisconsin.gov. Comments may be submitted until **October 31, 2010**. Written comments whether submitted electronically or by mail will have the same weight and effect as oral statements presented at the public hearings. If you do not have Internet access, a personal copy of the proposed rule and supporting documents may be obtained from Kristy Rogers, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266–9254.

Analysis Prepared by Department of Natural Resources

Statute interpreted

Section 281.346(4m), (4s), (5), (5m), (6) and (9), Stats.

Statutory authority

Sections 227.11 (2) (a) and 281.346 (4s), (5), and (9), Stats.

Plain language analysis

This rule supports the implementation of 2007 Wisconsin Act 227 and the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact) by defining the process, requirements, and criteria for water use permitting in the Great Lakes basin. Beginning on December 8, 2011, coverage under a general permit or an individual permit is required for all persons who withdraw water from the Great Lakes basin in an amount that averages 100,000 gallons per day or more in any 30–day period. The rule establishes definitions, permit application information requirements, permit review time limits, required permit conditions, criteria for permit issuance, procedures for amending and terminating permits, and standards and procedures for public participation for the water use permitting program.

Summary of factual data and analytical methodologies

Information from the Great Lakes—St. Lawrence River Basin Water Resources Council, other Great Lakes states, existing state statutes, and existing department rules and procedures were used to guide the development of the proposed rule.

Comparison with federal regulations

There are no comparable federal regulations pertaining to withdrawals of Great Lakes basin water.

Comparison with rules in adjacent states

The following table compares permitting requirements for water withdrawals in adjacent states.

Wisconsin	Michigan	Illinois	Iowa	Minnesota
A water use general permit is required for withdrawals from the Great Lakes basin that average 100,000 gallons per day or more in any 30 day period. A water use individual permit is required for withdrawals from the Great Lakes basin that equal at least 1,000,000 gallons per day for any 30 consecutive days.	Permits are required for new and increased withdrawals of more than 2,000,000 gallons per day, new or increased withdrawals of more than 1,000,000 gallons per day if the withdrawal will have a certain type of impact (Zone C withdrawal), and new or increased intrabasin transfers of more than 100,000 gallons per day average over any 90–day period.	An allocation permit is required for withdrawals from the Great Lakes basin.	Water use permits are required of any person or entity that withdraws at least 25,000 gallons in a 24–hour period during any calendar year.	Water use permits are required for withdrawals greater than or equal to 10,000 gallons per day or 1 million gallons per year from surface or groundwater.

Analysis and supporting documents used to determine effect on small business

The department lacks complete data on the number and nature of operations withdrawing water above the thresholds requiring a permit. However, based upon the withdrawal data that does exist (e.g. high capacity well pumpage data), most small businesses are expected to fall within the general permit category with very few needing to obtain an individual permit.

Small Business Impact

This rule will affect small businesses that supply their own water with water supply systems that withdraw an average of 100,000 gallons per day. Small businesses, like other entities that are affected by this rule, will have to obtain a permit, measure the amount of water used on a monthly basis, and report that water use annually. Small businesses that receive water solely from a public water supply will not be impacted by this rule. Most small businesses regulated by this rule are expected to fall within the general permit category. The general permit requirements are straightforward and can be accomplished by most individuals with no specific professional background. The application for an individual permit may require the hiring of a professional environmental consultant to assist with the evaluation of impacts from a proposed withdrawal.

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

Small business regulatory coordinator

The Department's Small Business Regulatory Coordinator

may be contacted at SmallBusiness@wisconsin.gov or by calling (608) 266-1959.

Environmental Impact

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

Fiscal Estimate

A fiscal estimate has been prepared and a full copy can be obtained following the procedures set forth above. The rule is expected to have a minimal fiscal impact on existing withdrawers. New withdrawers and existing withdrawers that wish to increase their withdrawal will be required to apply for a permit. Preparation of the permit application may require the hiring of a consultant. The costs for a consultant will vary depending on the size of the withdrawal and potential impacts. There is little-to-no expected increase in annual costs for withdrawers. In most cases, the withdrawal measurement and annual reporting requirements are consistent with other existing Department requirements.

Agency Contact Person

Kristy J. Rogers, Water Supply Specialist
Wisconsin Department of Natural Resources
Bureau of Drinking Water & Groundwater
Phone: (608) 266-9254
Email: Kristy.Rogers@wisconsin.gov

Rule Orders Filed with the Legislative Reference Bureau

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

Commerce

*Financial Resources for Businesses and Communities,
Chs. Comm 100—
CR 10-041*

Creates 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.
Effective 11-1-10.

Commerce

*Financial Resources for Businesses and Communities,
Chs. Comm 100—
CR 10-054*

Creates Chapter Comm 121, relating to small business innovation research assistance grants, and affecting small businesses.
Effective 11-1-10.

Corrections

CR 09-039

Repeals and recreates Chapter DOC 346, relating to juvenile detention facilities and juvenile portions of a county jail.
Effective 11-1-10.

Natural Resources

*Fish, Game, Forestry, etc., Chs. NR 1—
CR 10-031*

DNR # FR-04-10

Revises Chapter NR 46, relating to the administration of the forest crop law and managed forest law.
Effective 11-1-10.

Natural Resources

*Environmental Protection — Water Supply,
Chs. NR 800—
CR 09-073*

DNR # DG-19-09

Repeals and recreates Chapters NR 809 and 811, and creates Chapter NR 810, relating to safe drinking water design requirements for community water systems, and requirements for the operation and maintenance of public water supply systems.
Effective 12-1-10.

Rules Published with this Register and Final Regulatory Flexibility Analyses

*The following administrative rule orders have been adopted and published in the **September 30, 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.

Administration

CR 10-027

Creates Chapter Adm 80, relating to the administrative procedures for the Wisconsin Covenant Scholars Program. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The rules have no effect on small business in Wisconsin.

Summary of Comments by Legislative Review Committees

No comments were reported.

Children and Families

Safety and Permanence, Chs. DCF 35 to 59

CR 10-021

Revises Chapters DCF 56 and 58, relating to foster care and kinship care. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The 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.

Summary of Comments by Legislative Review Committees

No comments were received.

Children and Families

Early Care and Education, Chs. DCF 201 to 252

CR 10-056

Revises Chapter DCF 201, relating to authorized hours of subsidized child care. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The 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.

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions — Securities

CR 10-062

Revises Chapters DFI—Sec 1, 2, 4, 5, 7, 8 and 32, relating to minor revisions to securities law and franchise law administrative code sections. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

This rule will have no adverse impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Health Services

Health, Chs. DHS 110—

CR 10-034

Repeals and recreates Chapter DHS 131, relating to hospices, and affecting small businesses. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The fiscal impact on small business as defined in s. 227.114 (1), Stats., should be minimal. Most of the changes to this rule are technical in nature and similar to recently adapted federal regulations. Hospices electing to be certified by the Medicare program are required to meet these federal regulations. As of January 1, 2010, 75 of 76 licensed hospices (99 %) in Wisconsin are federally certified. According to Department criteria, a rule will have a significant economic impact on a substantial number of small businesses if at least 10% or the businesses affected by the rule are small businesses and if operating expenditures, including annualized capital expenditures increase more than the prior year's consumer price index or reduces revenues by more than the prior year's consumer price index. Since most hospices in Wisconsin are operated by hospitals, home health agencies, nursing homes, and other health care providers, data shows that one facility (1.3 %) in Wisconsin meets the definition of a small business. As a result, the rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Insurance

CR 10-023

Revises Chapter Ins 18, relating to independent review procedures. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Insurance
CR 10-043

Creates section Ins 3.36, relating to autism spectrum disorders. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Natural Resources

Environmental Protection — General, Chs. NR 100—
CR 07-111

Revises Chapters NR 102 and 106, relating to water quality standards for heat and associated procedures for the calculation of point source effluent limitations. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The rules will not have a significant economic impact on a substantial number of small businesses. The facilities affected by the rules are large industrial facilities and municipal wastewater facilities.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and the Assembly Committee on Natural Resources. The legislative review period has expired. No hearings were scheduled by either the Assembly or Senate committees.

Natural Resources

Environmental Protection — Air Pollution Control,
Chs. NR 400—
CR 10-012

Revises section NR 400.02, relating to the definition of volatile organic compound. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The rule will not have a significant economic impact on small business since it does not impose any new regulatory requirements, but rather removes two compounds from the state regulatory definition of VOC. This may provide lower cost alternatives to compounds currently being used.

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 modifications from the committees.

Public Instruction
CR 09-084

Creates section PI 35.07, relating to establishing a temporary, nonrenewable waiver from the requirement that a teacher have a bachelor's degree in order to teach in a private school under the Milwaukee Parental Choice Program. Effective 10-1-10.

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.

Transportation
CR 10-040

Revises Chapter Trans 101, relating to the demerit point system and graduated driver license restriction extensions. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The demerit point rule affects individual drivers and does not create or impose any regulation upon business. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@wisconsin.gov, or by calling (414) 438-4585.

Summary of Comments by Legislative Review Committees

No comments were reported.

Workforce Development

Unemployment Insurance, Chs. DWD 100-150
CR 10-017

Revises Chapter DWD 128, relating to the ability to work and availability for work. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The 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.

Summary of Comments by Legislative Review Committees

No comments were received.

Workforce Development

Unemployment Insurance, Chs. DWD 100-150
CR 10-018

Revises Chapter DWD 129, relating to unemployment benefit claiming procedures. Effective 10-1-10.

Summary of Final Regulatory Flexibility Analysis

The rule will not affect small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **September 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

Administration

Ch. Adm 80 (Entire Chapter)

Children and Families

Ch. DCF 56

DCF 56.01 (1)
 DCF 56.02 (2)
 DCF 56.03 (3)
 DCF 56.04 (4)
 DCF 56.05 (1) (e), (f)
 DCF 56.06 (12)
 DCF 56.07 (4) (a), (5) (a), (6) (d)
 DCF 56.08 (4) (b), (c), (5) (b), (9m), (10m)
 DCF 56.09 (1) (d), (g), (m), (1m), (2) (a), (g), (3) (a),
 (4) (b), (5) (f), (7), (11) (a)
 DCF 56.10 (2)
 DCF 56.12
 DCF 56.13
 DCF 56.14
 DCF 56.15

Ch. DCF 58

DCF 58.02
 DCF 58.03 (12), (15), (18)
 DCF 58.04
 DCF 58.065
 DCF 58.066
 DCF 58.13 (3)
 DCF 58.16 (3)

Ch. DCF 201

DCF 201.01
 DCF 201.02 (2m), (3), (19)
 DCF 201.03 (3), (5)
 DCF 201.04 (1) (a), (2), (2g)
 DCF 201.05 (title), (2) to (4)
 DCF 201.06 (title), (1) (b), (c), (2) (a), (b), (d), (e), (4)
 DCF 201.08 (3) (a)

Financial Institutions — Securities

Ch. DFI–Sec 1

DFI–Sec 1.02 (7), (8), (14) (intro.), (c)

Ch. DFI–Sec 2

DFI–Sec 2.02 (5) (d), (9) (c)
 DFI–Sec 2.028 (intro.)

Ch. DFI–Sec 4

DFI–Sec 4.01 (4) (g)
 DFI–Sec 4.04 (7) (d)

Ch. DFI–Sec 5

DFI–Sec 5.01 (2) (f), (4) (a)
 DFI–Sec 5.04 (5) (d), (6) (b)
 DFI–Sec 5.05 (8) (i)
 DFI–Sec 5.06 (25)
 DFI–Sec 5.10
 DFI–Sec 5.13 (2)

Ch. DFI–Sec 7

DFI–Sec 7.01 (3) (a)

Ch. DFI–Sec 32

DFI–Sec 32.07 (1)

Health Services

Ch. DHS 131 (Entire Chapter)

Insurance

Ch. Ins 3

Ins 3.36

Ch. Ins 18

Ins 18.01 (2m), (4), (10)
 Ins 18.05
 Ins 18.10 (4) (d), (4e), (4m)
 Ins 18.11 (2), (3) (bm), (4)
 Ins 18.12 (1) (b), (e), (k), (4), (5), (6m)
 Ins 18.13
 Ins 18.16 (2) (e), (em), (i)
 Ins 18.18 (5), (6)

Natural Resources

Ch. NR 102

NR 102.01
 NR 102.03
 NR 102.04
 NR 102.05 (3) (intro.), (b) to (f), (4)
 NR 102.07
 NR 102.08
 NR 102.09
 NR 102.20 to 102.30

Ch. NR 106

NR 106.50 to 106.62

NR 106.70 to 106.77

Ch. NR 209 (Entire Chapter)**Ch. NR 400**

NR 400.02 (162) (a)

Public Instruction**Ch. PI 35**

PI 35.02 (1g)

PI 35.047 (11m)

PI 35.07

Transportation**Ch. Trans 101**

Trans 101.02 (4) (d), (5) (sm), (8) (a), (c), (f)

Trans 101.10 (1) (b), (2) (b)

Workforce Development**Ch. DWD 128**

DWD 128.01 (3), (4) (a), (7)

Ch. DWD 129

DWD 129.01 (1), (2), (3)

DWD 129.05 (1)

Editorial Corrections

Corrections to code sections under the authority of s. 13.92 (4) (b), Stats., are indicated in the following listing.

Administration**Ch. Adm 80**

Adm 80.09 (2) (a) to (f), (3) (a) to (c)

Children and Families**Ch. DCF 56**

DCF 56.04 (4) (a)

DCF 56.12

DCF 56.14 (1), (5) (a), (6) (b), (7) (b), (c), (d)

Financial Institutions — Securities**Ch. DFI—Sec 5**

DFI—Sec 5.05 (14)

Health Services**Ch. DHS 131**

DHS 131.37 (1)

Natural Resources**Ch. NR 102**

NR 102.04 (8) (c)

NR 102.26 (1) (b)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 321. Relating to the Revocation of a Proclamation Declaring a Public Health Emergency.

Executive Order 322. Relating to a Declaration of a State of Emergency.

Executive Order 323. Relating to the Closure of the Milwaukee State Office Building Due to Power Outages Caused by Extreme Weather.

Executive Order 324. 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 Rod Nilsestuen, Secretary of the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

Executive Order 325. 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 Specialist Chad Coleman of the United States Army Who Lost His Life while Serving His Country in Operation Enduring Freedom.

Executive Order 326. Relating to a Proclamation That the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Private Adam Novak of the United States Army Who Lost His Life while Serving His Country in Operation Enduring Freedom.

Executive Order 327. Relating to a Proclamation That the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff to Commemorate the Nine Year Anniversary of the Terrorist Attacks on the United States.

Public Notices

Department of Health Services Medicaid Reimbursement for Wisconsin's 1915(i) Community Recovery Services Psychosocial Rehabilitation State Plan

The State of Wisconsin intends to revise the Home and Community Based Services (HCBS) state plan language that provides psychosocial rehabilitation services to support individuals with mental illness under the authority of section 1915(i) of the Social Security Act. There are three components of the service as described below.

- Community Living Supportive Services — services needed to allow consumers to live with maximum independence in community integrated housing.
- Supported Employment — assistance to consumers in acquiring and maintaining gainful employment.
- Peer/Advocate Supports — assistance to consumers in techniques in recovery and ongoing coping skills provided in the form of peer specialists who function as role models.

The Department is revising the existing state plan language to come into compliance with the requirements of the Patient Protection and Affordable Care Act, Public Law 111-148. The Department is also revising the functional need criteria to require a higher level of need to qualify for these services. The proposed amendment will have an effective date of October 1, 2010.

Copies of the Proposed Change:

A copy of the proposed change may be obtained free of charge at your local county agency or by calling or writing as follows:

Regular Mail:

Division of Mental Health and Substance Abuse Services
PO Box 7851
Madison, WI 53707-7851

Phone:

Joyce Allen
Bureau Director, Bureau of Prevention Treatment and Recovery
Division of Mental Health and Substance Abuse Services
(608) 266-1351

FAX:

(608) 266-1533
Attention: Joyce Allen

E-Mail:

Joyce.Allen@wisconsin.gov

A copy of the proposed change is available for review at the main office of any county department of social services or human services.

Written Comments:

Written comments are welcome. Written comments on the proposed change may be sent by FAX, e-mail, or regular mail to the Division of Mental Health and Substance Abuse Services. The FAX number is (608) 266-1533. The e-mail address is Joyce.Allen@wisconsin.gov. Regular mail can be sent to the above address. All written comments will be reviewed and considered.

All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 850 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made based on comments received.

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