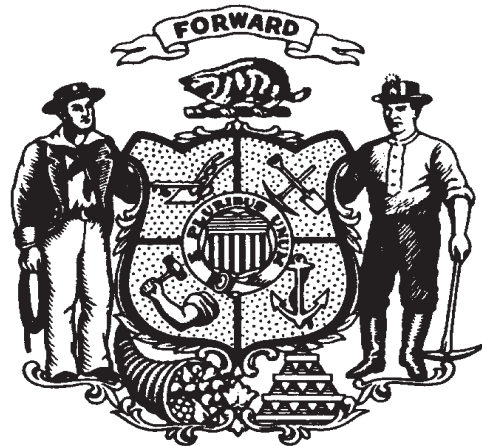


Wisconsin Administrative Register

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Emergency Rules Now in Effect

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

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

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

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

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

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

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

Agriculture, Trade & Consumer Protection (2)

1. **EmR0804** – Creating **subch. IV of Ch. ATCP 161**, relating to the “buy local” grant program created under s. 93.48, Stats.

Exemption From Finding of Emergency

DATCP has general authority under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. Section 93.48 (1), Stats., specifically requires DATCP to adopt rules for the “buy local” grant program. Section 9103(3i) of 2007 Wisconsin Act 20 (biennial budget act) authorizes DATCP to adopt temporary emergency rules without the normal “finding of emergency,” pending the adoption of “permanent” rules. This temporary emergency rule implements the “buy local” grant program on an interim basis, pending the adoption of “permanent” rules.

Publication Date: February 22, 2008
Effective Date: February 22, 2008
Expiration Date: May 1, 2009
Hearing Date: May 30, 2008

2. **EmR0822** – Rules adopted revising **Ch. ATCP 10**, relating to diseases of fish and farm-raised deer.

Finding of Emergency

(1) The Wisconsin department of Agriculture, Trade and Consumer Protection (“DATCP”) administers Wisconsin’s animal health and disease control programs, including programs to control diseases of fish and farm-raised deer.

Disease Testing of Fish

(2) DATCP regulates fish farms, including fish farms operated by the Wisconsin Department of Natural Resources (“DNR”). DATCP also regulates the import, movement and disease testing of fish.

(3) Viral hemorrhagic septicemia (VHS) is a serious disease of fish. VHS was first reported in Wisconsin on May 11, 2007, after the Wisconsin Veterinary Diagnostic Laboratory confirmed positive samples from freshwater drum (sheepshead) in Little Lake Butte des Mortes (part of the Lake Winnebago system). VHS was subsequently found in Lake Winnebago, and in Lake Michigan near Green Bay and Algoma. The source of VHS in these wild water bodies is not known. VHS has not yet been reported in any Wisconsin fish farms. VHS can be fatal to fish, but is not known to affect human beings.

(4) Current DATCP rules require health certificates for fish and fish eggs (including bait) imported into this state, for fish and fish eggs stocked into waters of the state, and for fish and fish eggs (including bait species) moved between fish farms in this state. Import health certificates must include VHS testing if the import shipment includes salmonids (salmon, trout, etc.) or originates from a state or province where VHS is known to occur. VHS testing is *not* currently required for fish or fish eggs stocked into waters of the state from Wisconsin sources, for bait fish or eggs originating from Wisconsin sources, for fish or fish eggs moved between fish farms in Wisconsin, or for non-salmonids imported from states where VHS has not yet been found.

(5) Because VHS has now been found in waters of the state, it is necessary to expand current VHS testing requirements. Because of the urgent need to minimize the spread of VHS in this state, it is necessary to adopt VHS testing requirements by emergency rule, pending the adoption of a “permanent” rule.

Disease-Free Herd Certification of Farm-Raised Deer Herds

(6) DATCP registers farm-raised deer herds in this state. DATCP also regulates the import, movement and disease testing of farm-raised deer. Under current DATCP rules, DATCP may certify a farm-raised deer herd as brucellosis-free or tuberculosis-free, or both, based on herd test results provided by the farm-raised deer keeper. Certification is voluntary, but facilitates sale and movement of farm-raised deer.

(7) Under current rules, a tuberculosis-free herd certification is good for 3 years, but a brucellosis-free herd certification is good for only 2 years. There is no compelling veterinary medical reason for the difference. A rule change (extending the brucellosis-free certification term from 2 to 3 years) is needed to harmonize the certification terms, so that farm-raised deer keepers can conduct simultaneous tests for both diseases. Simultaneous testing will reduce testing costs and limit stress on tested deer. An emergency rule is needed to avoid some unnecessary costs for farm-raised deer keepers this year, pending the adoption of permanent rules.

Publication Date: July 9, 2008
Effective Date: July 9, 2008
Expiration Date: December 6, 2008
Hearing Date: August 1, 2008

Publication Date: June 27, 2008
Effective Date: June 27, 2008
Expiration Date: November 24, 2008
Hearing Date: July 29, 2008

Children and Families (2)

(Formerly Workforce Development)

Family Supports, Chs. DWD 12 to 59

1. **EmR0814** – Rule adopted repealing EmR0807 affecting s. **DWD 56.04**, relating to child care enrollment underutilization.

Finding of Emergency

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

The Department implemented the child care enrollment underutilization emergency rule as a cost-saving measure effective March 30, 2008. 2007 Wisconsin Act 226 provides \$18.6 million to address the fiscal year 2007–08 Wisconsin Shares funding shortfall. The Governor’s veto message directs the Department of Workforce Development to “suspend the current attendance-based rule for the remainder of fiscal year 2007–08.” The Department is repealing the enrollment underutilization emergency rule and will be withdrawing the corresponding proposed permanent rule.

Publication Date: May 25, 2008
Effective Date: May 25, 2008
Expiration Date: October 22, 2008
Hearing Date: June 27, 2008

2. **EmR0821** – Rules adopted creating ss. **DWD 40.02 (12m), 40.05, and DWD 40 Appendix D**, relating to establishment of birth cost orders based on child support guidelines.

Finding of Emergency

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

The federal Office of Child Support Enforcement (OCSE) has notified Wisconsin that OCSE will not certify the state’s request for federal income tax refund offset for birth cost orders that have not been set in accordance with the child support guidelines in Chapter DWD 40, which take into consideration the payer’s ability to pay.

Federal income tax refund offset is one of the primary tools for collection of birth cost orders owed to the State of Wisconsin. In calendar year 2007, the child support program collected \$11,481,000 in birth costs through federal income tax refund offset. Of the nearly \$11.5 million collected, approximately \$6.62 million was returned to the federal government to reimburse Medicaid costs, \$1.72 million was used by county child support agency programs to benefit children in the state, and the remaining \$3.14 million was returned to the state Medicaid program.

Commerce

Licenses, Certifications, etc., Ch. Comm 5

Rules adopted revising **Ch. Comm 5**, relating to licensing of elevator contractors and installers.

Exemption From Finding of Emergency

Under the nonstatutory provisions of 2005 Wis. Act 456, the Department of Commerce was directed to issue emergency rules that implement provisions of the Act. The Act specifically states: “Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.”

The Act mandates the licensing of elevator contractors and installers. Under the Act no person may engage in the business of installing or servicing conveyances or working on a conveyance unless licensed as of June 1, 2007. These emergency rules are being adopted in order to provide the elevator industry the ability to comply with licensing aspects of the Act and continue working until permanent rules are implemented.

Publication Date: June 1, 2007
Effective Date: June 1, 2007
Expiration Date: See section 7 (2), 2005 Wis. Act 456
Hearing Date: June 27, 2007

Commerce (2)

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

1. **EmR0802** – Creating **Ch. Comm 132**, relating to implementing a program for certifying applicants and allocating dairy manufacturing facility investment tax credits, and affecting small businesses.

Finding of Emergency

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

The facts constituting the emergency are as follows. Under sections 71.07 (3p) (b), 71.28 (3p) (b), and 71.47 (3p) (b) of the Statutes, as created in 2007 Wisconsin Act 20, a taxpayer may claim a dairy manufacturing facility investment credit for dairy manufacturing modernization or expansion during taxable years beginning after December 31, 2006. Sections 71.07 (3p) (a) 3., 71.28 (3p) (a) 3., and 71.47 (3p) (a) 3. of the Statutes define dairy manufacturing modernization or expansion as “constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for dairy manufacturing . . . if acquired and placed in service in this state during taxable years that begin after December 31, 2006, and before January 1, 2015.” Section 71.07 (3p) (c) 2m. a. of the

Statutes states that the maximum amount of credits that may be claimed in fiscal year 2007–08 is \$600,000.

Section 560.207 of the Statutes, as likewise created in 2007 Wisconsin Act 20, requires the Department to (1) implement a program for certifying taxpayers as eligible for the dairy manufacturing facility 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 2007 Wisconsin Act 20, 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 incurred during taxable years that began after December 31, 2006.

Entities that may be eligible for the tax credits for the 2007–08 fiscal year face near-term time constraints for filing their tax returns with the Department of Revenue. Although the Department of Commerce has begun promulgating the permanent rule that is required by 2007 Act 20, the time periods in chapter 227 of the Statutes for promulgating permanent rules preclude the permanent rule from becoming effective in time to readily accommodate claiming the tax credits for the 2007–08 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 need to soon file their tax returns for taxable years beginning after December 31, 2006.

Publication Date: February 4, 2008
Effective Date: February 4, 2008
Expiration Date: July 3, 2008
Hearing Date: May 14, 2008
Extension Through: September 1, 2008

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

Finding of Emergency

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health, safety, and welfare. The facts constituting the emergency are as follows.

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

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

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

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

Publication Date: July 16, 2008
Effective Date: July 16, 2008
Expiration Date: December 16, 2008
Hearing Date: August 27, 2008

Corrections

EmR0812 – Rules adopted revising **s. DOC 332.19**, relating to the establishment of a sex offender registration fee to partially offset the costs of monitoring persons who are required to register as sex offenders.

Finding of Emergency

The department of corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is: 2007 WI Act 20, section 3132, amended s. 301.45 (10), Stats., in three ways which requires an immediate amendment of s. DOC 332.19.

First, the newly amended s. 301.45 (10), Stats., expands the persons whom the department of corrections may require to pay an annual sex offender registration fee. Previously, the department was limited to assessing the fee only against those persons who were required to register and who were in its custody or under its supervision as a person on probation, parole, or extended supervision. The new law permits the department to require all persons who are required to register as a sex offender to pay an annual fee.

Second, the new law limits the use of the collected sex offender fees to partially offset the costs of monitoring sex offenders. Previously, the department was authorized to use the collected fees to partially offset the costs of monitoring those persons on probation, parole, or extended supervision, regardless of whether they were required to register as sex offenders.

Third, the legislature increased the maximum annual rate from \$50 to \$100. If the rule is not amended promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of monitoring persons who are required to register as sex offenders. This could result in a lessening of supervision due to budget limitations.

The purpose of the emergency rule is to amend the current rule to require all persons who are required to register as sex offenders under s. 301.45 to pay the annual fee which is used to partially offset the costs of monitoring registrants. The emergency rule also increases the annual rate to \$100. The

permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of fees while permanent rules are being developed.

Publication Date: May 15, 2008
Effective Date: May 15, 2008
Expiration Date: October 12, 2008
Hearing Date: July 24, 2008

Health Services

(Formerly Health and Family Services)

Management & Technology & Strategic Finance, Chs. HFS 1—

EmR0810 – Rule adopted amending **ss. HFS 10.55 (1) and 10.56 (2)**; and creating **ss. HFS 10.55 (1m) and 10.56 (2m)**, relating to fair hearings and continuation of benefits pending the outcome of a grievance, Department review, or fair hearing under the family care program.

Finding of Emergency

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

2007 Wisconsin Act 20 eliminates entitlement to non-Medicaid eligibility for Family Care, which could result in some Family Care enrollees being determined ineligible and disenrolled from the program.

In addition, the federal Centers for Medicare and Medicaid Services (CMS) has restricted the Family Care benefit for enrollees at the non-nursing home level of care.

Currently, under **ss. HFS 10.55 and 10.56**, persons whose services are terminated may request a hearing and continuation of benefits during an appeal. Individuals who appeal the loss of non-Medicaid eligibility or reduction of services as a result of the restriction of the benefit for people eligible at the non-nursing home level of care will lose the appeal because the change in law and federal policy makes it clear that they are no longer entitled to those benefits. In addition, if benefits continued during an appeal, the individual would be responsible for repayment of the cost of continued services. Therefore, the right to appeal is of no real benefit.

HFS 10.56 (2) gives enrollees whose services are reduced or terminated the option to request continuation of services during a fair hearing, grievance, or Department review of the termination or reduction of services. For individuals appealing the loss of non-Medicaid eligibility, or termination or reduction of services as a result of the restriction of the benefit for people eligible at the non-nursing home level of care, continuation of services will be counter-productive to the welfare of the appellant, because the termination and reduction of benefits will have resulted from a change in law. The appellant will lose the appeal and as a result of the loss, be responsible for the cost of the continued services, which may be significant as costs could be in the thousands of dollars.

Under this emergency order, the Department is providing an exception to the right to a fair hearing and continuation of services during a fair hearing, grievance, or Department review when Family Care benefits are reduced or terminated by an act of the federal government or the state legislature and

the individual whose benefits have been terminated or reduced does not dispute that he or she falls within the category of persons for whom the benefit was reduced or terminated. The Department has determined that appeals and continuation of benefits under these circumstances would be detrimental to the welfare of approximately 730 individuals and should be prevented.

Publication Date: April 7, 2008
Effective Date: April 7, 2008
Expiration Date: September 4, 2008
Hearing Date: May 12, 2008

Insurance

EmR0817 – Rule adopted revising **Ch. Ins 3**, relating to long-term care plans including the long-term care partnership program qualifying policies and affecting 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:

The State of Wisconsin will be implementing the Wisconsin Partnership Program effective January 1, 2009, the date approved by the federal government in accordance with the Department of Health and Family Services' application for participation. As part of the enabling statute as amended, the state requires that all insurance intermediaries receive specific training prior soliciting any long-term care products on or after January 1, 2009. In order to minimize the impact of the additional training, the proposed rule permits the training, if approved, to qualify for continuing education therefore, intermediaries can meet two training requirements simultaneously. For training to be approved and courses offered prior to January 1, 2009, the office needs to promulgate this rule to provide the guidelines necessary for creation and submission of training programs. Therefore the office must promulgate this rule as an emergency rule.

In addition, in order for insurers to offer products intended to qualify for the Wisconsin partnership program, such products shall be submitted to the office prior to use. The insurers must submit those products sufficiently in advance of January 1, 2009, so that there is time for review by the office and implementation time for the insurers. These changes include modifications to **s. Ins 3.455** including repealing and recreating the applicable definitions and modifying the conversion requirements; modifications to **s. Ins 3.46** including deletion of the blanket exemption for group long-term care products replaced with narrow exceptions, modification to the marketing and advertising requirements with notable new requirements for insurers and intermediaries to submit to OCI marketing and advertisement material prior to use, new group insurance requirements, modifications to the permissive limitations and exclusions, disclosures, replacement requirements, reporting requirements for insurers added regarding suitability; conversion modifications, incontestability and standards for marketing. The appendices to **s. Ins 3.46** have also been repealed and recreated and now include several reporting forms for tracking suitability, rescissions, claims denial, replacement and lapses by state to be filed by insurers. As noted above, the major addition to **s. Ins 3.46** is the intermediary training requirement as required by **s. 628.348 (1)**, Stats. Finally, the changes also include a new section, **s. Ins 3.465** and appendices, related to the Wisconsin

Partnership Program that is to be available beginning January 1, 2009.

A combined rule hearing will be held for both the emergency and permanent rule on June 16, 2008.

Publication Date: June 2, 2008
Effective Date: June 3, 2008
Expiration Date: October 3, 2008
Hearing Date: June 16, 2008

Natural Resources

Environmental Protection – General, Chs. NR 100—

EmR0809 – Rule adopted to repeal s. NR 198.15 (2), to renumber s. NR 198.12 (6) to (10), to amend ss. NR 198.11, 198.14 (1) (e) and (f) 2., 198.23 (5) to (7), 198.33 (5), and 198.44 (5) and to create ss. NR 198.12 (6) and (7), 198.33 (6) and subch. V of ch. NR 198, relating to grants for the control of aquatic invasive species.

Finding of Emergency

The substantial increase in grant funding is a strong message from the Legislature that concern over the welfare of our public waters is growing, along with the expectation that these additional funds be put to work as soon as possible. The appropriation from which these funds are spent is a biennial appropriation, meaning that any unspent funds at the end of the biennium automatically lapse back to the Water Resources Account of the Conservation Fund. The timeline for permanent rule promulgation and the lack of staff to provide support to eligible sponsors may impede the Department's ability to fully and responsibly invest the authorized spending by the end of the biennium because of the current rule's limitations. An emergency rule will help to minimize or eliminate the amount of funds that are lapsed.

Publication Date: April 7, 2008
Effective Date: July 1, 2008
Expiration Date: November 28, 2008

Pharmacy Examining Board

EmR0815 – Rule adopted revising Ch. Phar 13, relating to the regulation of wholesale prescription drug distributors.

Finding of Emergency

The Board has made a finding of emergency. The Board finds that failure to have the proposed rules in effect on June 1, 2008, the effective date of the applicable provisions of 2007 Wisconsin Act 20, will create a danger to the public health, safety and welfare, by disrupting the wholesale distribution of prescription drugs in the state of Wisconsin.

Publication Date: May 29, 2008
Effective Date: June 1, 2008
Expiration Date: October 29, 2008
Hearing Date: July 23, 2008

Public Instruction (3)

- EmR0805** – Creating Ch. PI 16, relating to four-year-old kindergarten grants.

Finding of Emergency

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

The 4-year-old kindergarten grant program under s. 115.445, Stats., was created under 2007 Wisconsin Act 20. The Act became effective October 27, 2007, and appropriated \$3 million annually beginning in the 2008–09 school year. In order for school districts to develop application criteria and procedures in time for the program to operate in the upcoming school year, rules must be in place as soon as possible.

Publication Date: February 25, 2008
Effective Date: February 25, 2008
Expiration Date: July 24, 2008
Hearing Date: April 17, 2008
Extension Through: September 20, 2008

- EmR0813** – A rule is adopted revising Ch. PI 37, relating to grants for national teacher certification and master educator licensure.

Finding of Emergency

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

The new provisions modifying the grants for the national teacher certification program under 2007 Wisconsin Act 20, the biennial budget bill, took effect October 27, 2007. In order to establish the new application criteria and procedures to award grants to eligible applicants in the 2007–08 school year, emergency rules must be in place as soon as possible.

Publication Date: May 17, 2008
Effective Date: May 17, 2008
Expiration Date: October 14, 2008
Hearing Date: July 23, 2008

- EmR0816** – A rule adopted revising Ch. PI 30, relating to state special education aid for certain pupil services personnel.

Finding of Emergency

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

The new provisions under 2007 Wisconsin Act 221 modifying the percentage of the salaries of licensed school nurses, licensed school social workers, licensed school psychologists, and licensed school counselors that are eligible for state aid reimbursement first applies to state aid distributed in the 2008–09 school year. In order to establish instructions this spring as to how school districts are to account for these pupil services staff on special education claim forms, rules must be in place as soon as possible.

Publication Date: May 30, 2008
Effective Date: May 30, 2008
Expiration Date: October 27, 2008
Hearing Date: July 14, 2008

Regulation and Licensing (2)

1. **EmR0811** – Rule adopted amending s. **RL 16.06 (1) (a), (b) and (d)**, relating to how to use approved forms for the practice of real estate.

Finding of Emergency

The Department of Regulation and Licensing finds that preservation of the public peace, health, safety or welfare necessitates putting the rule amendments into effect prior to the time the amendments would take if the agency complied with the notice, hearing and publication requirements established for rule-making in ch. 227, Stats. The facts warranting adoption of these rule amendments under s. 227.24, Stats., are as follows:

The department reviewed a proposed draft of a modified form of the residential real estate listing contract, WB-1, which contained inserted text that appeared to be or could be construed to be approved by the department. The modified form was forwarded to the department as an example of work product that was purportedly to be the subject of a continuing education class demonstrating the allowed means to modify an approved form. The modified form was shown to industry stakeholders, the department's council on forms, and the Real Estate Board, for review and comment. All parties agreed that the modified form was, or could be, construed to be misleading based upon its formatting that the modified text was approved by the department, when in actuality, it was not. This potential for consumer confusion was agreed to be a cause for immediate rule-making to prevent modification of forms such as WB-1 in the manner submitted.

Publication Date: April 16, 2008
Effective Date: April 16, 2008
Expiration Date: September 13, 2008
Hearing Date: June 26, 2008

2. **EmR0819** – A rule adopted revising s. **RL 161.04**, relating to examinations for substance abuse professionals.

Finding of Emergency

The department has made a finding of emergency. The current rules require an applicant for a clinical substance abuse counselor credential to pass an oral examination. The company that produced that examination is not giving that examination after June 1, 2008. This emergency rule creates a time period for a transition to enable a category of applicants to get a clinical substance abuse counselor credential. Persons

holding a clinical substance abuse counselor credential can apply for a supervisory credential. There is a strong need for more supervisors in this field because services can only be provided under supervision. This rule will enable more applicants to receive a supervisor credential and is therefore necessary to maintain the health, safety and welfare of the public.

Publication Date: June 18, 2008
Effective Date: June 18, 2008
Expiration Date: November 15, 2008

Revenue

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

Exemption From Finding of Emergency

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

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

Note: The expiration date was incorrectly stated in the July 31, 2008 Register.

Transportation

EmR0818 – A rule adopted creating **Ch. Trans 263**, relating to multiple trip overweight permits for vehicles transporting granular roofing materials.

Exemption From Finding of Emergency

The Legislature, by 2007 Wisconsin Act 171, Section 6 (2), provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: July 1, 2008
Effective Date: July 1, 2008
Expiration Date: July 1, 2009 or the date on which permanent rules take effect, whichever is sooner.
Hearing Date: July 30, 2008

Scope Statements

Employee Trust Funds

Subject

Revises Chapters ETF 10, 20, 52, and 60, conforming existing administrative rules to statutory changes made by 2007 Wis. Act 131 and also making other technical changes to ETF rules.

Policy Analysis

This rule-making will revise various provisions of the Administrative Code for the purpose of conforming to statutory changes made by 2007 Wis. Act 131. The proposed rule will:

- Amend s. ETF 20.07 (6) and 60.53 (1) (c), Wis. Admin. Code, to conform to the new effective date for waivers in s. 40.08 (3), Stats., as affected by 2007 Wis. Act 131.
- Amend ss. ETF 20.18 (9), 60.60 (2) (h) and 60.60 (8) to conform to the definition of “internal revenue code” in s. 40.02 (39m), Stats., added by 2007 Wis. Act 131 by deleting former reference to s. 71.01 (6), Stats.
- Amend s. ETF 52.04 (2) and 52.26 (1) to conform to the treatment of s. 40.65 (3), Stats., by 2007 Wis. Act 131 by both (a) removing the mandate for the Department to obtain a certified copy of each duty disability recipient’s tax return each year, and (b) treating a failure to provide a tax return, if one is requested, in the same manner as other refusals to failure to provide requested information.
- Renumber and amend s. ETF 10.01 (9) to delete the obsolete defined term “widow or widower” and substitute the term “surviving spouse.” This same treatment was applied to s. 40.08 (8) (a) 2., Stats., by 2007 Wis. Act 131. In addition, for purposes of determining a beneficiary in the event of death, the definition will be amended to conform to the interpretation that a marriage is terminated in Wisconsin for property purposes by entry of a judgment of legal separation. This rule change will not affect spousal health insurance coverage in the event of a legal separation.
- Create s. ETF 10.01 (3r) to define the term “per stirpes” consistent with the modified per stirpes distribution described in s. 854.04 (2), Stats. The term “per stirpes” was added to s. 40.02 (8) by 2007 Wis. Act 131 to describe the beneficiary distribution to surviving descendants. Under the proposed rule, for example, if a deceased participant is survived only by the two children of one deceased child and the five children of another deceased child, the grandchildren will share the death benefit equally. Under an ordinary per stirpes distribution, two grandchildren would each receive 25% of the total and five grandchildren would each receive 10% of the benefit.
- Amend ss. ETF 10.70 (4), 10.70 (5) (b) 1 and 20.04 (2) to conform usage of the term “beneficiary” in those rules with Act 131’s treatment of s. 40.02 (8), Stats., defining “beneficiary” and to make certain the usage in rules is logical, correct and consistent. This rule-making amends the current rule allowing disclosure of confidential personal information in case of death, disabling injury or disease, to clarify that disclosure to a beneficiary may be made only after the participant has died, since only then can the actual beneficiary be determined.
- Amend ETF 20.03 (2) and create s. ETF 20.03 (2) (bm) to update the obsolete reference to an “integrated” annuity and to require the actuary to take into account the change in the accelerated annuity option made by 2007 Wis. Act 131. Formerly, accelerated annuity options consisted of two annuities: a reduced annuity payable for the life of the annuitant in different optional forms and a temporary annuity payable until the earlier of the annuitant’s death or reaching age 62, the minimum age for Social Security benefits. Once called “Social Security Integrated” or “integrated” annuities, these two-part annuity options are now known as accelerated annuity options. For annuities effective after July 1, 2008, s. 40.24 (1) (e), Stats., was revised by Act 131 to remove the alternative provision terminating the temporary annuity portion of the benefit at death. As a result, the secondary annuity will be an annuity certain payable until the annuitant reaches or would have reached age 62. In addition to deleting the last remaining code reference to an “integrated” annuity, the proposed rule requires the actuary to take into account in making actuarial assumptions, tables and calculations that the temporary portion of accelerated annuity benefits will be an annuity certain.
- Create s. ETF 20.39 to clarify that the treatment of ss. 40.08 (1) and (1r) by 2007 Wis. Act 131 concerning Department of Revenue attachments for delinquent state tax obligations applies to joint-and-survivor annuities being paid to a named survivor who has a delinquent tax obligation, but does not apply to certain lump sum benefits and death benefits payable under statutes other than s. 40.23, 40.24, 40.25(1) or (2), or 40.63, Stats. This rule-making also provides that the attachment of an annuity will result in continued monthly withholding until the entire delinquent tax amount has been withheld, or the department is instructed to stop withholding. This rule-making also provides that the statutory authority to attach a payment does not confer any right for the department of revenue to ask the department of employee trust funds to pay out a benefit for which the person has not applied.

In addition to these changes related to enactment of 2007 Wis. Act 131, the proposed rule will also make a number of other technical changes including:

- Create ss. ETF 10.01 (3o) and ETF 20.025 for the purpose of defining the term “minimum retirement age” consistent with s. 40.23 (1) (a) (intro.), Stats., as age 50 for protective occupation participants and age 55 for all other participants. The rule-making also sets the minimum retirement age as the deadline for receipt of an application for a separation benefit under s. 40.25 (2), Stats., and as the earliest age at which a person may become eligible for a retirement benefit from the Wisconsin Retirement System under ss. 40.23, 40.24 or 40.25 (1).
- Amend s. ETF 20.17 (4) (d) 2. intro. to make the list of factors to be considered in calculating the cost of purchasing other governmental service permissive rather than mandatory. This will give the actuary the maximum

flexibility to determine the amount actuarially necessary to fund the cost of the increased benefits resulting from the purchase, as required by s. 40.285 (2) (b) 1. d.

- Amend s. ETF 20.17 (4) (d) 2. g. to correct the accidental omission of the word “service” following “creditable” before the first comma.
- Amend ETF 20.30 for the purpose of changing the method for calculating interest due on the amount by which a benefit was underpaid, in order to conform to s. 40.08 (7) (c), Stats. Under this rule-making, interest will be calculated on an underpayment at the statutory rate of 0.4% for each full month from the date the underpayment occurred until the date the corrective payment is made. If an underpayment also occurred in another month, the amount of interest due for that month’s underpayment will be calculated separately. As provided by s. 40.08 (7) (c), Stats., no interest will be added to a corrective payment made less than 12 months after the underpayment occurred.
- Some additional provisions related to setting or calculating interest rates are also under consideration, and may be included in the proposed rule. These include possibly exercising the statutory authority created by 2007 Wis. Act 131 to set a rate by rule, for specified purposes, other than the “assumed rate” defined under s. 40.02 (7), Stats. The assumed rate is currently 7.8% per year as set by the Employee Trust Funds Board.

Statutory Authority

Sections 40.03 (2) (i) and 227.11 (2) (a), Stats.

Entities Affected by the Rule

This rule-making is intended to correct existing rules to comply with statutes or create rules clarifying the Department of Employee Trust Funds’ understanding of existing statutes. To the extent that the rule-making correctly interprets the statutes on which the rule is based or updates existing rules to conform to the statutes upon which the rule is based, including the effects of 2007 Wis. Act 131, no one is affected by the rule-making who is not already affected by the statute.

There are no substantive effects from this rule-making upon any entity, except for the following items that may affect persons who: were underpaid an annuity benefit more than 12 months ago; might purchase credit for other governmental service in the future; have a state tax delinquency; are not designated beneficiaries and survive a Wisconsin Retirement System participant from whom they are legally separated; and, owe money to, or are entitled to a refund from, the Wisconsin Retirement System:

- This rule-making will result in a different calculation of interest to be added to a payment correcting a previous underpayment of benefits. The calculation is intended to better comply with the statutory requirements and intent of s. 40.08 (7) (c), Stats., than the present rule does.
- This rule-making will allow the actuary to better estimate the actuarial value of benefits from purchasing credit for other governmental service and to establish the cost of the purchase accordingly.
- This rule-making clarifies what benefits the Department of Revenue may not attach, as provided by s. 40.08 (1r), Stats.
- Under this rule-making, the person surviving a deceased Wisconsin Retirement System participant and who was legally separated from the decedent by a judgment of legal separation will not be considered the surviving spouse for

purpose of identifying the default beneficiary of Wisconsin Retirement System death benefits and group life insurance benefits when there is no written beneficiary designation. Nothing in this rule-making or other law prevents a participant from designating such a former spouse as his or her beneficiary in a written designation as provided by s. 40.02 (8) (a) 1. Neither a judgment of divorce nor legal separation has any effect upon a prior beneficiary designation naming the former spouse. This treatment of a legal separation as terminating a marriage is consistent with ss. 71.01 (8) and 767.67 (1), Stats., and with permitting division of a Wisconsin Retirement System account or annuity by court order as part of the property division, as permitted by s. ETF 20.35 (1) (c) and s. 40.08 (1m), Stats.

- The treatment of ss. 40.08 (4) and (6e), and 40.25 (5) (b), Stats., by 2007 Wis. Act 131, concerned interest rates and allows the Department to set a rate of interest for the specified purpose by rule. The Department is considering additional provisions in this rule-making establishing interest rates or describing the calculation of interest due in another manner, where it has statutory authority to do so.

Of these four substantive changes, only the last is not already required by, or consistent with, the applicable statutes and law.

Comparison with Federal Regulations

There do not appear to be any existing or proposed federal regulations intended to address the activities to be regulated by this rule-making.

Estimate of Time Needed to Develop the Rule

The Department estimates that state employees will spend 100 hours to develop this rule.

Regulation and Licensing

Subject

Creates Chapter RL 186, relating to applications, renewal, limited registration and discipline for Professional Employer Organizations.

Objective of the Rule

The passage of 2007 Wisconsin Act 189 will amend s. 440.08 (2) (a) (intro.) and create s. 440.03 (13) (b) 57m., chapter 461 and s. 635.02 (7) (b) 3. and 4. of the statutes relating to the registration of Professional Employer Organizations.

Policy Analysis

The registration of the Professional Employer Organizations is a new requirement; therefore there are no existing policies relevant to the rules, and no policy alternatives.

Statutory Authority

2007 Wisconsin Act 189 and Chapter 461, Stats.

Entities Affected by the Rule

Professional Employer Organizations and Professional Employer Groups.

Comparison with Federal Regulations

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

Estimate of Time Needed to Develop the Rule

Total hours: 160.

Revenue

Subject

Revises sections Tax 1.12, 2.03, 2.04, 2.08, 4.001, 7.001, 8.001, 9.001, and 11.01, relating to electronic funds transfer; corporation returns; information returns and wage statements; returns of persons other than corporations; motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms; fermented malt beverage tax return and refund claim forms; intoxicating liquor report, tax return, and refund claim forms; cigarette and tobacco products report, tax return, and refund claim forms; and sales and use tax, local exposition tax, and premier resort area tax return forms.

Objective of the Rule

The objective of the proposed rule is to expand the taxes, fees, and other amounts required to be paid or deposited using electronic funds transfer (EFT) and the returns, reports, and refund claims the department may require be filed electronically.

Policy Analysis

A new policy is being proposed, whereby the department will expand its EFT and electronic filing requirements. If the rules are not changed, they will not reflect proposed department policy.

Statutory Authority

Section 227.11 (2) (a), Stats.

Entities Affected by the Rule

Entities involved in the preparation and filing of any of the types of returns, reports, or refund claims indicated above or involved in the payment or deposit of any of the tax types associated with those returns, reports, or refund claims.

Comparison with Federal Regulations

The department is not aware of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Estimate of Time Needed to Develop the Rule

The department estimates it will take approximately 100 hours to develop this rule order.

Transportation

Subject

Revises Chapter Trans 126, relating to the municipal and county vehicle registration fees, commonly known as the "wheel tax".

Objective of the Rule

This proposed amendment will require municipalities and counties to give DOT notice of enactment at least 90 days prior to the first day of the month in which the ordinance is effective.

The proposed rule making may also clarify existing procedural or operational questions.

Policy Analysis

Currently, ch. Trans 126 requires at least 60 days notice to DOT before the effective date of enactment, amendment or repeal of a municipal or county wheel tax. In recent years, since Wisconsin statutes establish an expiration date that may occur any time during a calendar month, the Department must actually print and mail renewal notices more than 60 days in advance. Thus, the 60-day notice from municipalities and counties is inadequate.

Statutory Authority

Sections 227.11 and 341.35 (4), Stats.

Entities Affected by the Rule

Municipalities and counties that are considering enacting, amending or repealing wheel tax would be affected by a longer advance notice to DOT.

Comparison with Federal Regulations

No federal regulations address this activity.

Estimate of Time Needed to Develop the Rule

100 hours.

Submittal of Rules to Legislative Council Clearinghouse

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

Government Accountability Board CR 08–081

On August 12, 2008, the Government Accountability Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order repeals sections GAB 21.01 and 21.04, relating to the filing of written communications and documents and to transcripts of proceedings before the former Ethics Board and amends section GAB 20.01, relating to procedures for complaints with the former State Elections Board.

Agency Procedure for Promulgation

The Board proposes to promulgate pursuant to the 30-day notice procedure under s. 227.16 (2) (e), Stats.

Contact Information

George A. Dunst
Staff Counsel
608–266–0136

Transportation CR 08–080

On August 14, 2008, the Department of Transportation submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter Trans 145, relating to neighborhood electric vehicles.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for October 15, 2008. The Division of Motor Vehicles, Bureau of Vehicle Services is responsible for promulgation of the proposed rule.

Contact Information

Julie A. Johnson
Paralegal
608–267–3703

Rule–Making Notices

Notice of Proposed Rule Government Accountability Board CR 08–081

NOTICE IS HEREBY GIVEN that pursuant to ss. 5.05 (1) (f), 5.93, and 227.11 (2) (a), Stats., and interpreting Subchapter I of Chapter 5 of the Wisconsin Statutes, as amended by 2007 Wisconsin Act 1, and according to the procedure set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Government Accountability Board will adopt the following rule as proposed in this notice repealing ss. GAB 21.01 and 21.04, relating to the filing of written communications and documents and to transcripts of proceedings before the former Ethics Board and amending s. GAB 20.01, relating to procedures for complaints with the former State Elections Board.

The proposed rule will be adopted without public hearing unless within 30 days after publication of this notice, on September 1, 2008, the Government Accountability Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

Analysis Prepared by the Government Accountability Board

Statutes interpreted

Subchapter I of Chapter 5 of the Wisconsin Statutes

Statutory authority

Sections 5.05(1) (f), 5.93, and 227.11 (2) (a)

Explanation of agency authority

This rule repeals rules sections GAB 21.01 and 21.04, and amends section GAB 20.01, which would have interpreted Subchapter I of Chapter 5 of the Wisconsin Statutes, as amended by 2007 Wisconsin Act 1. Those rules prescribe procedures related to processing complaints with the former State Ethics Board and with the former State Elections Board. Under 2007 Wisconsin Act 1, those agencies have merged to become the Government Accountability Board. The complaint procedure under ss. GAB 21.01 and 21.04 no longer applies to complaints filed with the Government Accountability Board under 2007 Wisconsin Act 1 and the complaint procedure under GAB ch.20 no longer applies to campaign finance complaints. The previous complaint procedure of the former Ethics Board, and the previous campaign finance complaint procedure of the Elections Board is inconsistent with the new Government Accountability Board complaint procedure, which is now provided by statute rather than administrative rule. Therefore, those rules need to be repealed.

Related statute or rule

Sections 11.60, 13.69, and 19.535, Stats., relating to the enforcement of the campaign finance, lobbying and ethics laws.

Plain language analysis

This rule repeals rules sections GAB 21.01 and 21.04, and amends section GAB 20.01, (which would have interpreted

Subchapter I of Chapter 5 of the Wisconsin Statutes, as amended by 2007 Wisconsin Act 1), in anticipation of a future rule governing campaign finance, ethics and lobbying complaints under the new law enacted in 2007 Wisconsin Act 1.

Comparison with federal regulations

Considering that this rule repeals two existing former Ethics Board rules and effectively repeals a portion of a rule of the former Elections Board, comparison with existing federal regulations is inapposite. Federal law does enforce violations of campaign finance, lobbying and ethics laws at the federal level only.

Comparison with rules in adjacent states

The States of Illinois, Iowa, Michigan and Minnesota have not enacted legislation comparable to 2007 Wisconsin Act 1 and have not sought the repeal of enforcement provisions comparable to those included in this rule.

Given the purpose and tenor of this rule, repealing administrative provisions, comparison with existing provisions of other states, as with a comparison to federal law, is inapposite.

Summary of factual data and analytical methodologies

Adoption of the rule was predicated on eliminating provisions of the former Ethics Board's and Elections Board's rules that were inconsistent with the provisions or intent of the new law merging those agencies into the new Government Accountability Board.

Analysis and supporting documents used to determine effect on small business

Preparation of an economic impact report is not required. The Government Accountability Board does not anticipate that the repeal of the described provisions will have an economic impact.

Effect on Small Business

The creation of this rule does not affect business.

Fiscal Estimate

The creation of this rule has no fiscal effect.

Agency Contact Person

George A. Dunst, Staff Counsel
Government Accountability Board
17 West Main Street, P.O. Box 2973
Madison, Wisconsin 53701–2973
Phone: 608–266–0136; Email: (george.dunst@wi.gov)

Submission of Written Comments

Written comments should be sent to the following address:
Government Accountability Board, 17 West Main Street, P.O. Box 2973, Madison, WI 53701–2973; (elections.state.wi.us)

Text of Proposed Rule

Pursuant to the authority vested in the State of Wisconsin Government Accountability Board by ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., the Government Accountability Board hereby repeals rules ss. GAB 21.01 and 21.04 and amends s. GAB 20.01, as follows:

SECTION 1. GAB 21.01 and 21.04 are repealed.

SECTION 2. GAB 20.01 is amended to read:

GAB 20.01 Applicability. This chapter applies to complaints filed with the ~~state elections~~ government accountability board pursuant to ~~ss.5.05(3), 5.06, 44.60(5) and 44.66 5.061, Stats.,~~ requesting the ~~elections~~ board to enforce the election and campaign finance laws and compliance with the Help America Vote Act. This chapter does not apply to complaints to challenge nomination papers or petitions which are filed under s. 2.05 or 2.11.

Notice of Hearing
Tax Appeals Commission
CR 07-113

NOTICE IS HEREBY GIVEN That pursuant to s. 73.01 (4) (b), Stats., and interpreting s. 73.01 (5), Stats., the Wisconsin Tax Appeals Commission will hold a public hearing at to consider proposed changes to the Commission's rules of practice and procedure in Chapter TA 1 of the Wisconsin Administrative Code.

Hearing Information

Date:	Location:
September 17, 2008 at 10:30 a.m.	5005 University Avenue Suite 110 Madison, Wisconsin

Following the hearing, the Commission will meet in open session. Topics on the agenda for the open session will include the status of cases before the Commission and miscellaneous matters. Following the open session, the Commission also may meet in closed session pursuant to s. 19.85 (1) (a), Wis. Stats., to deliberate on cases before the Commission.

Analysis Prepared by the Tax Appeals Commission

Statutes interpreted

Section 73.01 (5), Stats. allows parties to file petitions for review by the Tax Appeals Commission and describes the process by which the commission conducts such review. The proposed rule changes relate to the procedures for such review.

Statutory authority

Section 73.01 (4) (b), Stats., gives the commission authority to promulgate its rules of procedure.

Explanation of agency authority

Pursuant to Wis. Stat. s. 73.01 (4) and subject to judicial review, the Tax Appeals Commission is the final authority for the hearing and determination of all appeals arising in the following areas of state taxation: individual income; corporation franchise/income; fiduciary; withholding; gift; sales and use; recycling surcharge; county sales tax; car line; cigarette use; controlled substances; metalliferous minerals occupation; motor fuel and alternative fuel; International Registration Plan fees; intoxicating liquor; cigarettes and tobacco products; homestead credit; farmland preservation credit; assessments of manufacturing property; pollution abatement; taxation district appeals regarding the relative value of taxable property in taxation districts of a county; real estate transfer fees; telephone license fees; and electric cooperative association license fees. The commission's rules govern procedures in such appeals.

Related statute or rule

Appeals of state taxation assessments to the commission are permitted pursuant to Wis. Stats. §§ 70.38(4) (a), 70.397,

70.64, 70.995(8), 71.07(9e), 71.55(6m), 71.61, 71.88, 76.38(12) (a), 76.39(4) (c), 76.48(6), 76.91, 77.26(3), 77.59(5m) and (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.43 and 341.45.

Plain language analysis

Section by section details of this rule order are outlined as follows:

Section 1: TA 1.001 (1), (2), (3), (4), (5), (6), (7), (8) and (9) are created to provide definitions of certain terms used in this chapter. The definition of "business hours" conforms to the commission's current business hours. The definition of "party" is added to clarify that an intervenor or amicus curiae may participate in a matter under review only to the extent granted by order of the commission. The definition of "working day" is found in Wis. Stat. § 227.01 (14). Legal holidays are designated in Wis. Stat. § 230.35(4) (a). The definition of "small claims" is found in Wis. Stat. § 73.01 (1) (b).

Section 2: TA 1.01 (1), (2) and (3) are amended to show a preference for documents to be printed by a computer printer, to replace the term "petitioner" with the more inclusive term of "party" and to remove the requirement of filing additional copies of papers in a consolidated proceeding.

Section 3: TA 1.01 (4) and (5) are created to make the prescribed form of pleading mandatory. Sub. (4) is added to clarify that this rule does not apply to exhibits. Sub. (5) provides a method for the commission to enforce TA 1.01.

Section 4: TA 1.03 is renumbered to 1.03(1) and amended for consistency.

Section 5: TA 1.03(2) is created to codify the commission's current practice of requiring the filing of a written notice of appearance by a party's representative.

Section 6: The title of Subchapter II is amended from "Filing an Appeal" to "Petitions and Related Filings" to better describe the contents of this subchapter.

Section 7: TA 1.11 is amended to add references to TA 1.01 and 1.15 to the rule, and to change the note following the rule.

Section 8: The title of TA 1.13 is amended to "When a petition is filed" for consistency. TA 1.13(1) and (2) are amended to codify the practice of the commission to treat petitions filed after business hours as filed on the next working day, and to clarify that a petition may be timely filed even if it is not accompanied by the required filing fee.

Section 9: TA 1.13 (3) is created to conform the commission's rules to the holding of the Court of Appeals in *Kuntz v. Dep't of Revenue*, 149 Wis. 2d 399, 439 N.W.2d 644 (Ct. App. 1989) (unpublished decision). In that case, the court held that a petitioner's failure to pay the commission's required filing fee by the date the petition is due under Wis. Stat. § 73.01 (5) (a) does not deprive the commission of jurisdiction in the case. The court effectively held that a petitioner's failure to pay the filing fee by the statutory due date is curable, and the commission's longstanding practice since that decision has been to assert jurisdiction in such a case if the petitioner subsequently pays the fee in a prompt manner. As an unpublished decision, *Kuntz* does not have precedential value. However, this issue arises frequently in connection with petitions filed with the commission, and it is likely that the courts would follow the rationale explained in *Kuntz* in reviewing the commission's handling of this issue in similar future cases. In cases where the petition is not accompanied by the required filing fee, the commission now requires payment of the filing fee within 30 days of receipt of notice from the commission, as provided in this new rule.

Section 10: The title of TA 1.15 is amended to "Forms for petitions" for consistency. TA 1.15 (1), (2), (3) and (4) are

amended to clarify these subsections. Subs. (1) and (4) are amended to change the reference to “department of revenue” to “department” for consistency. With regard to existing sub. (2), many of the suggested elements of the model petition for review are mandated by Wis. Stats. §§ 70.995 (8) (c) and (d) and 73.01 (5). For example (2) (c) and (d) are largely mandated by Wis. Stat. § 73.01 (5) (b). The amendment makes the elements specified in sub. (2) mandatory. The number of copies of each petition for review is reduced from four to three in sub. (3) for consistency. The notes following TA 1.15 are deleted, and new notes are created following TA 1.15 (5).

Section 11: TA 1.15 (5) is created to codify the practice of the commission to permit a petitioner to file an amended petition for review if the initial petition for review lacks information required by statute.

Section 12: TA 1.17 is renumbered to TA 1.17 (1) and amended for consistency and to refer to the newly created subsection 2.

Section 13: TA 1.17 (2) is created to adopt the policy the commission followed in *City of Niagara v. Dep't of Revenue and Niagara of Wisconsin Paper Corp.*, Wis. Tax Rptr. (CCH) ¶400-329 (WTAC Nov. 25, 1997), to assign the same docket number to a cross-appeal that it had assigned to the petition for review to which the cross-appeal relates.

Section 14: TA 1.19 is amended to conform the language of that section to the other sections of these rules.

Section 15: TA 1.20 is created to codify the commission's current practices concerning intervenors.

Section 16: TA 1.21 and note are amended to make the amendment of pleadings more consistent with the rules of civil procedure and Wis. Stat. § 802.09 (1).

Section 17: TA 1.23 and note are created to allow the filing of certain documents other than petitions by electronic transmission.

Section 18: TA 1.24 is created to codify the commission's current practice of permitting amicus curiae briefs as a matter of discretion.

Section 19: The title of Subchapter III is amended from “Procedures Prior to a Hearing” to “Practice and Procedure,” because this subchapter includes rules applicable to practice and procedure prior to, during and after a hearing, as well as practice and procedure in cases in which no hearing is held.

Section 20: TA 1.30 is created to replace TA 1.39 and state the commission practice of generally following the circuit court rules of civil procedure at the beginning of Subchapter III. The enumeration of statutes in the note is intended to assist non-lawyer representatives and pro se litigants.

Section 21: TA 1.31 (1) and (2) are renumbered to TA 1.31 (4) and (5) and amended to eliminate superfluous language in light of the newly created TA 1.30. The amended rule clarifies the current commission practice that only the commission issues notices of hearings.

Section 22: TA 1.31 (1), (2) and (3) are created to describe what types of motions may be made before the commission and when those motions may be made, and to require sufficient copies of motions and supporting papers be provided in cases where all three commissioners must render a decision.

Section 23: TA 1.32 is created to codify the commission's current practices concerning consolidation of matters before the commission.

Section 24: TA 1.33 (1) is renumbered to TA 1.33.

Section 25: TA 1.33 (2) and (3) are repealed to conform this section to the commission's current practices concerning prehearing conferences.

Section 26: The note following TA 1.33 (3) is amended for consistency.

Section 27: TA 1.34 (1), (2), (3), (4) and (5) and note are created to clarify that attorneys authorized to practice law in Wisconsin may issue subpoenas in proceedings before the commission, just as in civil proceedings, as authorized by Wis. Stat. § 227.45 (6m), and provides a framework for issuing subpoenas and subpoenas duces tecum in matters pending before the commission.

Section 28: TA 1.35 (1), (2) and note are amended to clarify certain language and replace the term “counsel” with the more inclusive term “party.”

Section 29: TA 1.37 is amended to make it clear that the commission's authority to grant extensions is limited.

Section 30: TA 1.39 is repealed in favor of TA 1.30.

Section 31: The title of TA Subchapter IV is amended from “Hearings” to “Hearings and Briefs.”

Section 32: TA 1.51 (1), (2) and note are amended to place the statutory reference in the note and to require a longer notice period for a hearing.

Section 33: TA 1.51 (3), (4), (5) and note are created to codify the commission's practice of exchanging witness names and exhibits prior to a hearing, to codify the commission's practice in allowing telephonic testimony as allowed by Wis. Stat. § 807.13, and to provide a penalty for unreasonable conduct by a party in a hearing.

Section 34: TA 1.53 and note are amended to clarify that evidence may be excluded at the presiding commissioner's discretion and for consistency.

Section 35: TA 1.55 (1), (2), (3) and (4) are amended to reflect that recordings are no longer recorded exclusively on “tape,” to allow for the use of different methods of recording in the future, and to reflect the commission's current practices regarding recordings and transcripts. The note following TA 1.55 (1) is amended for consistency and to state the correct statutory authority for recording contested hearings in Wis. Stat. § 227.44 (8).

Section 36: TA 1.57 (1) and (2) are amended to remove unnecessary language and to provide the method for disregarding briefs that are filed after the time designated by the commission.

Section 37: TA 1.57 (3), (4), (5) and (6) are created to provide specific guidelines for filing briefs with the commission.

Section 38: TA 1.61 and note are repealed in favor of TA 1.001.

Section 39: TA 1.63 (1) is renumbered and amended and the note is amended to simplify this rule and conform it more closely to Wis. Stat. § 73.01 (4) (am).

Section 40: TA 1.63 (2) and (3) are repealed to simplify TA 1.63 and conform it more closely to Wis. Stat. § 73.01 (4) (am).

Comparison with federal regulations

There are no federal regulations governing practice and procedure before the commission. The commission's rules are analogous to the rules of the U. S. Tax Court, and the commission consulted those rules in drafting these rule changes. However, as a state administrative agency, the commission's rules of practice and procedure are much less restrictive than the Tax Court's rules.

Comparison with rules in adjacent states

Adjacent states have various entities that review state tax appeals that range from a state tax court in Minnesota to a

hearing division within the Departments of Revenue in Iowa and Illinois. These entities have procedures for hearings that are generally comparable to those of the commission.

Summary of factual data and analytical methodologies

The commission has not collected any data nor adopted a methodology in connection with its development of these proposed rule changes. The proposed changes generally are intended to simplify and clarify a number of rules, bring the rules into conformity with applicable precedent and the commission's current practices, and update the rules to reflect changes in technology.

Analysis and supporting documentation used to determine effect on small business

The commission has not collected any data in connection with its determination of the impact of these proposed rule changes on small business or in preparation of an economic impact report.

Effect on Small Business

The commission's rules of procedure affect small businesses in that they may become parties to cases pending before the commission.

The proposed changes are not anticipated to have any significant effect on small businesses. These changes may benefit small businesses that come before the commission in that they will simplify and clarify existing procedural rules and enable the commission to operate more efficiently. The commission has not prepared an economic impact report.

Fiscal Estimate

Due to the nature of the proposed changes, the commission expects that the fiscal impact of the changes will be negligible.

Copies of Proposed Rule

The proposed rule-making order is posted on the Commission's webpage and may be downloaded at www.wisbar.org under the *Legal Research—Wisconsin—Tax Appeals Commission* tab, or may be obtained from the Commission upon request. The rule changes in the proposed rule-making order are not anticipated to have any significant effect on small businesses. The fiscal impact of these rule changes is expected to be negligible.

Agency Contact Person and Submission of Written Comments

The Commission's contact person for questions regarding the proposed rule changes is David C. Swanson, Chairperson, Tax Appeals Commission, 5005 University Avenue, Suite 110, Madison, WI 53705; telephone: 608-266-1391; email: davidc.swanson@wisconsin.gov. Written comments also may be sent by mail to that address, by email to TAC@wisconsin.gov, or by facsimile to 608-261-7060. The deadline for the submission of written comments is September 17, 2008.

Notice of Hearing Transportation CR 08-080

NOTICE IS HEREBY GIVEN that pursuant to ss. 84.01 (2), 227.10 (1), 227.11 (2) (a), 342.255 (3), 349.26, 340.01 (36r), 341.04 (1) and 341.297 (1), Stats., and interpreting ss. 349.26, 341.04 (1), 341.297 (1), Stats., the Department of Transportation will hold a public hearing to consider the

creation of Chapter Trans 145, Wisconsin Administrative Code, relating to neighborhood electric vehicles.

Hearing Information

Date:	Location:
October 15, 2008 at 10:00 a.m.	Room 144-B, Hill Farms State Transportation Building 4802 Sheboygan Avenue Madison, Wisconsin

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted

Sections 349.26, 341.04 (1), 341.297 (1), Stats.

Statutory authority

Sections 84.01 (2), 227.10 (1), 227.11 (2) (a), 342.255 (3), 349.26, 340.01 (36r), 341.04 (1) and 341.297 (1), Stats.

Explanation of agency authority

Current law prohibits the operation of any motor vehicle on any public road unless the motor vehicle is registered, or for which registration application is made. The Department of Transportation is required to issue biennial registration for a neighborhood electric vehicle for which it receives a proper application. Municipalities may authorize the operation of neighborhood electric vehicles on public roads under its jurisdiction having a speed limit of 35 miles per hour or slower. Current law contains no specific prohibition against the driver of a neighborhood electric vehicle operating on any public road not approved by the municipality for such operation. The Department concludes that the registration of a neighborhood electric vehicle is effective only on public roads authorized by municipalities for such travel, and that traveling on any other public road is done without valid registration.

Related statute or rule

Sections 340.01 (36r), 341.04 (1), 341.297 (1) and 349.26, Stats.

Plain language analysis

Section 349.26, Stats., allows a city, town or village by ordinance to authorize operation of Neighborhood Electric Vehicles (NEVs) on its roadways that have speed limits of 35 mph or less. The law specifies that the ordinance may apply to State Trunk Highways (STH) in only two circumstances: (1) crossing an STH at a location approved by DOT; or (2) traveling longitudinally upon a connecting highway segment approved by DOT.

While s. 349.26, Stats., implies that NEVs cannot operate on local roads not specified in the ordinance or at any unapproved location on STHs, statutes do not specifically prohibit NEV operation on those roads. Sections 341.25 (1) (b) and 341.297, Stats., establish NEV registration under Chapter 341, Stats. Because NEVs bear DMV-issued registration plates, NEVs traveling on unapproved roads may appear to violate no laws, despite s. 349.26 restriction on approved roads for NEV operation. This proposed rule clarifies that NEV registration is valid only on approved roads under s. 349.26, Stats.

Comparison with federal regulations

Federal motor vehicle safety standards, promulgated by the National Highway Traffic Safety Administration, define an

NEV as a lightweight, four-wheeled motor vehicle incapable of exceeding a top speed of 25 miles per hour. The federal regulations do not address registration and operation of NEVs, leaving that to states to determine.

Comparison with rules in adjacent states

Michigan: An NEV (low speed vehicle) may not be operated on any street with a posted speed limit greater than 35 mph. A low speed vehicle may cross a street with a posted speed limit greater than 35 mph. Low speed vehicles are required to be registered by the state.

Minnesota: An NEV may not be operated on a street with a posted speed limit greater than 35 mph. An NEV may cross a street with a posted speed limit greater than 35 mph. NEVs are required to be registered by state.

Illinois: An NEV may not be operated on a street with a posted speed limit greater than 35 mph. An NEV may cross a street with a posted speed limit greater than 35 mph, only at an intersection. NEVs are required to be registered by state.

Iowa: An NEV (low-speed vehicle) may not be operated on a street with a posted speed limit greater than 35 mph. A low-speed vehicle may cross a street with a posted speed limit greater than 35 mph. Low-speed vehicles are required to be registered by state.

Summary of factual data and analytical methodologies

This proposed rule clarifies that NEVs, while registered under ch. 341, Stats., are authorized to operate only on roadways authorized under local ordinance, under s. 349.26, Stats. The Department uses only this statutory intent in determining this proposed rule.

Analysis and supporting documentation used to determine effect on small businesses

This rule clarifies that NEV operation is only allowed on roadways designated by local authorities under s. 349.26, Stats. Any NEV owner, including any small business, is subject to the same operation limitations.

Effect on Small Business

This proposed rule will have no effect on small business other than limitation on NEV operation to which all NEV owners are subject. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal Estimate

Summary

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands.

Anticipated costs incurred by private sector

The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Agency Contact Person, Copies of Proposed Rule and Submission 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 comments should be submitted to Carson P. Frazier, Department of Transportation, Division of Motor Vehicles, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: carson.frazier@dot.state.wi.us. You may also request copies of the proposed rule from Ms. Frazier.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Submittal of Proposed Rules to the Legislature

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

Agriculture, Trade and Consumer Protection
CR 07–073

A rule-making order revising Chapters ATCP 99, 100, and 101, relating to producer security fees and assessments.

Agriculture, Trade and Consumer Protection
CR 07–093

A rule-making order revising Chapters ATCP 74 and 75, relating to the local regulation of retail food establishments for the Department.

Agriculture, Trade and Consumer Protection
CR 07–107

A rule-making order revising Chapters ATCP 10, 12, and 17, relating to animal health and disease control.

Agriculture, Trade and Consumer Protection
CR 08–027

A rule-making order revising Chapter ATCP 123, relating to electronic communications services.

Commerce
Amusement Rides, Ch. Comm 34
CR 08–054

A rule-making order revising Chapter Comm 34, relating to amusement rides.

Insurance
CR 08–053

A rule-making order revising Chapter Ins 50, relating to audit, control and financial reporting requirements.

Insurance
CR 08–064

A rule-making order revising sections Ins 6.79 and 8.10, relating to advisory councils and committees.

Pharmacy Examining Board
CR 08–051

A rule-making order revising Ch. Phar 13, relating to the regulation of wholesale prescription drug distributors.

**Physical Therapists Affiliated
Credentialing Board**
CR 08–049

A rule-making order revising Chapters PT 2, 3, and 9, relating to examination waivers, temporary licenses and continuing education.

Public Instruction
CR 08–052

A rule-making order revising Chapter PI 30, relating to state special education aid for certain pupil services personnel.

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.

Agriculture, Trade and Consumer Protection

CR 08-038

Revises Chapter ATCP 161, relating to the "Buy-Local" grant program.
Effective 10-1-08.

Commerce

Plumbing, Chs. Comm 81 to 87

CR 07-100

Revises Chapters Comm 81 to 87, relating to private onsite wastewater treatment systems.
Effective 10-1-08.

Natural Resources

Fish, Game, etc., Chs. NR 1-

CR 08-011

Revises Chapters NR 10, 11, 17, 19 and 45, relating to hunting and trapping regulations and the use of department managed lands.
Effective 2-1-09.

Natural Resources

Fish, Game, etc., Chs. NR 1-

CR 08-014

Revises Chapter NR 58, relating to the implementation and administration of grants for endangered resources.
Effective 10-1-08.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in the August 31, 2008, 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 07-078

A rule-making order to revise Chapter Adm 43, relating to non-municipal electric utility low-income assistance fees. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the rule amendments herein are not expected to negatively impact on small businesses. The rule will have no specific affect on small businesses. Small businesses will no longer be required to pay the efficiency portion of the "non-taxable fixed charge" currently included with utility bills. Rather, a comparable amount will now be included in the regular electricity bill. The State Low-Income Assistance Fee, which represents the low-income portion of the previous fee will appear on the electric bill after July 1, 2007, but the fee itself is imposed on all electric utility customers by s. 16.957(4), Stats. The rule does not establish any compliance or reporting requirements, or performance standards for small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Administration CR 07-079

A rule-making order to revise Chapter Adm 45, relating to low income assistance public benefits. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the rule amendments herein are not expected to negatively impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Administration CR 07-080

A rule-making order to repeal Chapter Adm 44, relating to energy conservation and efficiency and renewable resource programs. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the repeal of this rule is not expected to negatively impact on small businesses. A similar set of energy conservation and efficiency and renewable resource programs will be maintained by non-municipal electric utilities with oversight by the Public Service Commission, with no break in service to customers or small businesses.

Summary of Comments by Legislative Review Committees

No comments were reported.

Children and Families

(Formerly Department of Workforce Development)

CR 08-020

A rule-making order to revise section DWD 56.08, relating to child care copayments and affecting small businesses. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce CR 08-008

A rule-making order to create Chapter Comm 156, relating to manufactured housing rehabilitation and recycling. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

Under section 560.285 (3) of the Statutes, the Department is required to contract with one or more nonprofit entities for the administration of the grant program addressed by the proposed rules. Less stringent application and compliance requirements are not proposed for such entities that are small businesses, because uniform contractual and reporting criteria are expected to result in maximizing the effectiveness of the grant funding, and reasonable administrative costs can be covered by each grant.

The Hearing comments included recommendations to (1) not wait four months for classifying a manufactured home as being abandoned, after ownership has been relinquished because of hospitalization or other incapacity-type conditions; (2) more clearly convey that the definition for "manufactured home" includes mobile homes; (3) replace a requirement for having a lease of at least one year for a home site, to instead having a written lease in accordance with section 710.15 of the Statutes, in order to accommodate renters with month-to-month leases; and (4) further direct the funding to actual repairs for homeowners who are most in need of the financial assistance, rather than to inspections, appraisals or administrative costs. These recommendations have been incorporated into the rules.

Periodic progress reports will be required through the Department's contracts with the nonprofit entities

administering the grant program, and reasonable costs for that reporting can be covered by each grant.

Summary of Comments by Legislative Review Committees

No comments were received.

**Employee Trust Funds
CR 08-016**

A rule-making order to revise Chapter ETF 70, relating to the start date for phasing out investment options under the Wisconsin deferred compensation plan and to expand emergency financial hardship withdrawals for beneficiaries. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No person wished to testify concerning the rule. The record was held open for written comments until 4:30 p.m. on March 20, 2008, but no comments were received.

**Natural Resources
CR 07-012**

A rule-making order to revise section NR 1.212 (3) (a), relating to the referral of private timber sale requests to cooperating foresters. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

The proposed rule has an economic impact on a substantial number of small businesses. The rule will create an opportunity for private consulting forestry firms to expand to meet the demand for private timber harvest assistance. The rule removes competition from the State to provide timber harvest assistance on private land. The rule does not, however, impose any new regulatory or reporting requirements on small businesses. The rule would also impact landowners who operate their woodlands as a small business, causing them to pay for timber sale set up and administration services from private enterprise foresters rather than receive free assistance from the State.

Summary of Comments by Legislative Review Committees

The rule was reviewed by the Senate Committee on Campaign Finance Reform, Rural Issues and Information Technology and the Assembly Committee on Forestry. The Assembly Committee on Forestry held a public hearing on August 21, 2007 and requested modifications. The Committee had concerns about the Department's Private Forestry Handbook, a handbook used by Department staff to implement the policy. The handbook modifications include a 120-day (up from 60 days) referral period for non-tax law timber sale requests. All tax law timber sales (mandatory practices) are provided to Cooperating Foresters two years in advance of the year in which the mandatory practice is scheduled. Department foresters may begin work on those timber sales once the referral process has been met, starting January 1 of the year that the practice is scheduled. Department foresters are to work on the oldest mandatory practices first, so a 2005 practice takes priority and is to be

completed before a 2006 practice. The Department also developed a separate process for emergency events like wind storms.

The Assembly Committee on Forestry reviewed the modifications and referred the rule out of the Committee.

**Natural Resources
CR 08-012**

A rule-making order to revise Chapters NR 20 and 21, relating to the hook and line harvest of lake sturgeon. Effective 9-1-08 and 1-1-09.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not impose any compliance or reporting requirements on small businesses, nor are any design or operational standards contained in the rule. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On June 18, 2008, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive any comments or requests for modifications as a result of the hearing.

**Natural Resources
CR 08-013**

A rule-making order revising Chapters NR 10, 12 and 19, relating to deer hunting as it relates to the management of chronic wasting disease. Effective 9-1-08 and 9-1-09.

Summary of Final Regulatory Flexibility Analysis

The proposed rule pertaining to CWD herd control activities and zone boundaries, imposes no compliance or reporting requirements for small businesses, nor are there any design or operational standards contained within the proposed rule.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On June 10, 2008, the Senate Committee on Environment and Natural Resources held a public hearing. On June 18, 2008, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive any comments or requests for modifications as a result of the hearings.

**Public Instruction
CR 08-007**

A rule-making order to create Chapter PI 31, relating to grants for science, technology, engineering, and mathematics programs. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

The proposed 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 08-029**

A rule-making order revising Chapters Trans 137, 138, and 139, relating to motor vehicle dealer franchise operations, recordkeeping and trade practices. Effective 9-1-08.

Summary of Final Regulatory Flexibility Analysis

Most provisions are already in Department policy. For those that are not currently in policy, the proposals will ease regulatory requirements and costs on motor vehicle dealers and vehicle rental and leasing companies. The Department

enforces statute and rules through periodic auditing of motor vehicle records, inspection of motor vehicle dealership facilities, and investigation of consumer complaints. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Summary of Comments by Legislative Review Committees

No comments were reported.

Sections Affected by Rule Revisions and Corrections

The following administrative rule revisions and corrections have taken place in **August 2008**, 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 43

- S. Adm 43.01
- S. Adm 43.02
- S. Adm 43.03 (1), (7m), (9g), (9r), (15), (16)
- S. Adm 43.04 (2) and (3)
- S. Adm 43.05
- S. Adm 43.06 (1), (2) (a), (d), (e) and (3)
- S. Adm 43.07
- S. Adm 43.08 (title), (1), (3), and (4)
- S. Adm 43.09 (1) and (5)
- S. Adm 43.10 (1)
- S. Adm 43.11 (1)
- S. Adm 43.12 (1) and (2)

Ch. Adm 44 (Entire Chapter)

Ch. Adm 45

- S. Adm 45.01
- S. Adm 45.02
- S. Adm 45.03 (2), (3), (6), (9)
- S. Adm 45.04 (1), (2) (intro.) and (b)
- S. Adm 45.05
- S. Adm 45.06 (1)

Children and Families

Ch. DWD 56

- S. DWD 56.08 (1), (2) (a), (e), (f) and Table 56.08

Commerce

Ch. Comm 156 (Entire Chapter)

Employee Trust Funds

Ch. ETF 70

- S. ETF 70.02 (4m)
- S. ETF 70.08 (3) (intro.)
- S. ETF 70.10 (1) (intro.), (a), (b), (d) and (2) (a)

Natural Resources

Ch. NR 1

- S. NR 1.212 (3) (a)

Ch. NR 10

- S. NR 10.001 (5q), (6p), (11), (19e)
- S. NR 10.01 (3) (et)
- S. NR 10.02 (3)
- S. NR 10.07 (1) (a) and (2m) (b)
- S. NR 10.104 (11) (intro.) and (b)
- S. NR 10.105 (4) to (6)
- S. NR 10.106 (2) (f)
- S. NR 10.28 (3)
- S. NR 10.41 (1) (b), (3) and (4)

Ch. NR 12

- S. NR 12.06 (1), (2) and (4) (b)

Ch. NR 19

- S. NR 19.60 (2) (b)

Ch. NR 20

- S. NR 20.20 (2) (bm), (6) (bm), (7) (b), (9) (am), (17) (bm), (18) (bm), (26) (am), (47) (bm), (51) (bg), (55) (bg), (57) (c), (61) (ag), (73) (e) 3.

Ch. NR 21

- S. NR 21.04 (7) (a)

Public Instruction

Ch. PI 31 (Entire Chapter)

Transportation

Ch. Trans 137

- S. Trans 137.03 (8m) and (9) (b)

Ch. Trans 138

- S. Trans 138.02 (11m)
- S. Trans 138.04 (1) (a) and (3)

Ch. Trans 139

- S. Trans 139.02 (19m)
- S. Trans 139.03 (5)
- S. Trans 139.035
- S. Trans 139.04 (6) (a)

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 45

S. Adm 45.03 (3), (5) and (9)
S. Adm 45.04 (2) (a)

S. NR 445.12 (2)

S. NR 445.13 (1) (intro.)

S. NR 445.15 (1) and (4)

Natural Resources

Ch. NR 445

S. NR 445.07 (1) (b)

Transportation

Ch. Trans 137

S. Trans 137.01 (1)

S. Trans 137.03 (7)

Sections Affected by Corrections Not Published

Corrections under s. 13.92 (4) (b), Stats., identified in this Wis. Adm. Register.

Subscriber's note: Please make corrections (manually) in your printed code. The affected sections are shown as corrected on the Legislative Reference Bureau Internet site, [Http://www.legis.state.wi.us/rsb/](http://www.legis.state.wi.us/rsb/), and on the WisLaw® CD-ROM. Printed code will be shown as corrected in its next printing.

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 101.03 (4)	s. NR 149.03 (15)	s. NR 149.03 (41)
NR 101.03 (5)	s. NR 149.03 (16)	s. NR 149.03 (42)
NR 106.145 (10) (d)	ch. NR 149 s. NR 149.12 (2)	s. NR 149.42 s. NR 149.42
NR 219.05	s. NR 149.12	s. NR 149.42
NR 500.03 (125)	s. NR 149.03 (15)	s. NR 149.03 (41)
NR 500.03 (126)	s. NR 149.03 (16)	s. NR 149.03 (42)
NR 500.03 (146)	s. NR 149.03 (18)	s. NR 149.03 (15) (b)
NR 507.17 (4)	s. NR 149.12	s. NR 149.42
NR 507.26 (3) (b) 4. c.	s. NR 149.14	subch. VII of ch. NR 149
NR 700.13 (1)	s. NR 149.03 (5)	Appendix III to ch. NR 149
NR 716.03 (8)	s. NR 149.03 (27)	s. NR 149.03 (70)
NR 716.13 (3)	s. NR 149.03 (5) (twice)	Appendix III to ch. NR 149 (twice)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 260. Relating to a Proclamation Declaring a State of Emergency.

Executive Order 261. Relating to the Creation of the Position of Science Advisor to the Governor.

Executive Order 262. 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 1st Lieutenant Nick Dewhirst of the United States Army Who Lost His Life While Serving His Country in Operation Enduring Freedom.

Executive Order 263. 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 Fire Chief Frank Wichlacz of the Pulaski Tri-County Fire Department.

Executive Order 264. Relating to a Proclamation of a State of Emergency relating to the Permitting of Structures, Grading and Dredging for Flood Recovery.