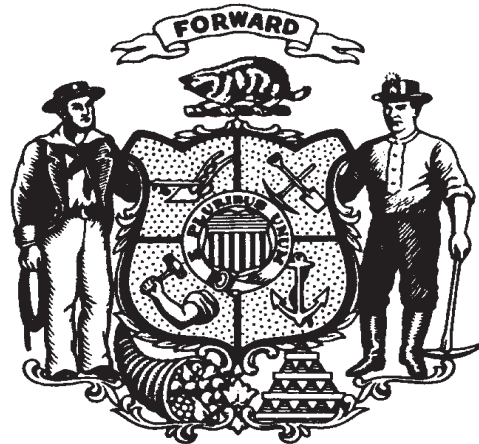


Wisconsin Administrative Register

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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.

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, 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.

Agriculture, Trade & Consumer Protection (2)

1. Rules adopted revising **chs. ATCP 10 and 11** relating to chronic wasting disease in cervids.

Finding of emergency

(1) Chronic wasting disease is a contagious disease known to affect several species of the cervid family, including elk, white-tailed deer, black-tailed deer, red deer and mule deer. The disease is always fatal. At the present time, there is no scientific evidence to suggest that chronic wasting disease is transmitted to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(2) The cause of chronic wasting disease is not fully understood. The disease appears to be related to aberrant protein molecules called prions. By an unknown mechanism, prions apparently cause other protein molecules in the cervid brain to take aberrant forms. The disease causes microscopic vacuoles (holes) in the brain. Diseased cervids become emaciated, display abnormal behavior patterns, and experience loss of bodily functions.

(3) Science does not understand how chronic wasting disease is spread. It is thought that infected cervids can transmit the disease to other cervids, either directly or by contaminating their environment. It appears that cervid-to-cervid contact facilitates the spread of the disease.

(4) On February 27, 2002, the national veterinary services laboratory informed Wisconsin that it had confirmed chronic wasting disease for the first time in this state. The laboratory confirmed the disease in test samples collected from 3 free-ranging white-tailed deer killed by hunters during the November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected these samples as part of a statewide disease surveillance program. With the voluntary cooperation of hunters, DNR collected test samples

from deer killed and registered by hunters at selected hunting registration sites around the state. DNR collected a total of 345 samples statewide, including 82 samples at the Mt. Horeb registration station. The 3 deer that tested positive for chronic wasting disease were all registered at the Mt. Horeb station. The 3 deer were shot in close proximity to each other in Vermont Township in Dane County. We do not know how the 3 deer were exposed to chronic wasting disease, nor do we know the extent of infection in the free-ranging herd.

(5) We do not know whether any captive cervids in Wisconsin are infected with chronic wasting disease (there are no findings to date). If captive cervids are infected, the close proximity of cervids within a captive herd may facilitate the spread of disease within the herd. The movement of infected cervids between herds may spread the disease to other herds. Contact between free-ranging and captive cervids may also spread the disease.

(6) Persons importing captive cervids to Wisconsin must obtain an import permit from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Importers must identify the herd of origin and the herd of destination. A veterinarian must certify that the cervids appear to be in good health, and that they have been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing requirement, because there is no way to test live cervids for the disease.

(7) Since 1995, a total of 2,604 captive cervids have been legally imported into Wisconsin. This includes 2,020 elk, 191 whitetail deer, 12 mule deer and 387 other cervids. Chronic wasting disease has been found in free-ranging herds or in some captive herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming. Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from these states. Most other states lack active chronic wasting disease surveillance programs, so the full extent of the disease is not known with certainty.

(8) DATCP currently registers captive cervid herds, other than white-tail deer herds. DNR currently licenses captive white-tail deer herds. Since 1998, DATCP has sponsored a voluntary program to monitor for chronic wasting disease among the captive herds that it registers. Approximately 50 herd owners currently participate in this program.

(9) Since chronic wasting disease was confirmed in this state, there has been widespread public concern about the disease. The public has expressed concern about the health of free-ranging deer and elk, and about potential threats to humans, livestock and deer-related businesses. Hunters and consumers have expressed food safety concerns. There is currently no scientific evidence to suggest that chronic wasting disease is transmissible to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(10) In order to protect the public peace, health, safety and welfare, it is necessary to take immediate steps to prevent and control the spread of chronic wasting disease in this state. Among other things, it is necessary to impose further controls on the import and movement of captive cervids and to implement a mandatory monitoring program. DATCP may adopt rules to implement these measures.

(11) Normal rulemaking procedures require up to a year or more to complete. A temporary emergency rule is needed to protect the public peace, health, safety and welfare, pending

the adoption of longer-term rules. This emergency rule will implement essential prevention and control measures on an immediate, interim basis.

Publication Date: April 9, 2002
Effective Date: April 9, 2002
Expiration Date: September 6, 2002
Hearing Date: May 22, 2002

2. Rules adopted revising **ch. ATCP 96** relating to milk producer security.

Finding of emergency

(1) The Legislature, in 2001 Wis. Act 16, repealed and recreated Wisconsin's agricultural producer security program. The new program is codified in ch. 126, Stats. (the "new law"). The new law takes effect, for milk contractors, on May 1, 2002. The new law is intended to protect milk producers against catastrophic financial defaults by milk contractors.

(2) The new law applies to milk contractors, including dairy plant operators, producer agents and other milk handlers, who procure producer milk in this state. Under the new law, milk contractors must be licensed by the Wisconsin department of agriculture, trade and consumer protection (DATCP). Milk contractors must pay license fees and do one or more of the following:

(a) Contribute to Wisconsin's agricultural producer security fund, to help secure milk payments to milk producers.

(b) File security with DATCP.

(c) File financial statements with DATCP, showing that the contractor meets minimum financial standards specified in ch. 126, Stats.

(3) The new law regulates producer agents (who market milk and collect payment for milk producers, without taking title to the milk), but treats them differently than other milk contractors. Producer agents may have lower fund participation requirements, and may file smaller amounts of security, than other milk contractors. The program may provide correspondingly less compensation to producers if a producer agent defaults.

(4) It is important to clarify the following matters before the new law takes effect for milk contractors on May 1, 2002:

(a) The treatment of dairy plant operators who provide custom processing services to milk producers, without marketing or taking title to milk or dairy products.

(b) The treatment of producer agents. Under s. 126.51, Stats., DATCP must adopt rules for milk contractors who wish to qualify as producer agents under the new law.

(c) The treatment of persons who market only processed dairy products for milk producers, without procuring, marketing or processing raw producer milk.

(d) The method by which milk contractors calculate and report milk payment obligations, for the purpose of calculating fund assessments and security requirements under the new law.

(5) Under s. 126.81 (4), Stats., DATCP may require milk contractors to disclose their security and fund contribution status to milk producers. It is important for milk contractors to begin making these disclosures soon after the new law takes effect, so that producers can evaluate the financial risk associated with milk procurement contracts. Disclosures are important, because not all milk contractors are required to participate in the agricultural security fund or file security with DATCP.

(6) It is not possible, by normal rulemaking procedures, to adopt these essential clarifications and disclosure requirements by May 1, 2002. DATCP must, therefore, adopt them by emergency rule. This emergency rule is needed to implement the new law, to protect the financial security of milk producers, to preserve fair competition in the dairy industry, and to avoid unnecessary confusion and expense for dairy businesses.

Publication Date: April 29, 2002
Effective Date: April 29, 2002
Expiration Date: September 26, 2002
Hearing Date: May 16, 2002

Commerce

(Financial Assistance for Businesses and Communities) (Chs. Comm 105–128)

Rules adopted revising **ch. Comm 110** relating to brownfields redevelopment grants.

Finding of emergency

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

The facts constituting the emergency are as follows. Under section 3628 of 2001 Wis. Act 16, the Department must begin accepting applications from trustees and nonprofit organizations, for brownfields redevelopment grants. And, under section 3630 of the Act, the Department must begin disallowing use of the grant funds to pay either delinquent real estate taxes or lien claims of the Department of Natural Resources or the federal Environmental Protection Agency.

The Department's rules for administering the brownfields grant program are currently contained in ch. Comm 110 Wis. Adm. Code. These current rules do not recognize trustees and nonprofit organizations as eligible applicants, and do not include disallowing grant funds for payments on either back taxes, or on state or federal lien claims.

In November, the Department expects to begin promulgating permanent rules for making ch. Comm 110 consistent with Act 16. Due to the mandatory rulemaking procedures under ch. 227, Stats., the permanent rules are not expected to become effective until July 1, 2002. In order to comply with Act 16 by accepting applications and issuing grants for trustees and nonprofit organizations prior to then, emergency rules reflecting these changes are needed, as included herein. These emergency rules also address the above disallowance for grant proceeds, and include some minor updating of the ch. Comm 110 criteria for submitting grant applications and for filing subsequent financial and program reports.

Pursuant to s. 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

Publication Date: October 27, 2001
Effective Date: October 27, 2001
Expiration Date: March 26, 2002
Hearing Date: January 11, 2002
Extension Through: May 24, 2002

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

Rules adopted revising s. NR 20.20 (73) (j) 4., relating to sport fishing for yellow perch in Lake Michigan and Lake Michigan tributaries.

Finding of emergency

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

Yellow perch reproduction has been poor in Lake Michigan since 1990, leading to the closure of commercial fishing and severe limitations on sport fishing. Reproduction was moderately good in 1998, and reproduction by fish spawned in that year now provides the best hope for an early recovery of the population. This rule is needed to adequately protect fish spawned in 1998 during the 2002 spawning season.

Publication Date: April 15, 2002
Effective Date: April 15, 2002
Expiration Date: September 12, 2002
Hearing Date: April 8, 2002

Natural Resources

(Environmental Protection – General, Chs. NR 100—)

Rules adopted creating ch. NR 109, relating to aquatic plant management.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Many lake communities traditionally manage aquatic plants on the waters of the state to allow navigation and other beneficial recreational water use activities and to control invasive aquatic species. Without aquatic plant management, many bodies of water would be inaccessible due to excessive growth of invasive aquatic plants like Eurasian water milfoil and purple loosestrife and native aquatic plant communities would be threatened. 2001 WI Act 16 included new statutory language, s. 23.24, Stats., for the protection of native aquatic plant communities and control of invasive plant species. The new law prohibits a person from managing aquatic plants without a valid aquatic plant management permit issued under this chapter. This order is designed to allow beneficial aquatic plant management activities to continue on waters of state through the 2002 open-water, growing season. Normal rule-making procedures will not allow the establishment of these rules for the 2002 open-water, aquatic plant-growing season. Failure to create NR 109 will result in unnecessary threats to valued native aquatic plant communities by invasive species and loss of navigation and beneficial recreational activities on Wisconsin lakes, rivers and wetlands.

Publication Date: May 10, 2002
Effective Date: May 10, 2002
Expiration Date: October 7, 2002

Pharmacy Examining Board

Rules adopted revising chs. Phar 1 and 2, relating to a pharmacy internship program.

Finding of emergency

2001 Wis. Act 16 creates and amends rules relating to a pharmacy internship program.

Section 3608L of Wis. Act 16, Wis. Stats. s. 450.045, which had previously authorized a Pharmacy Internship Board to implement and oversee the practice of pharmacy in this state by pharmacy interns prior to receiving licensure from the Pharmacy Examining Board.

Section 2154 of Wis. Act 16 mandates that effective December 31, 2001, the repeal of Wis. Stats. s. 450.045 becomes effective. As of December 31, 2001, there will currently be pharmacy interns still serving internships in this state and additional pharmacy students beginning January 1, 2001, who will seek to begin an internship program. However, no standards or oversight will be in place by administrative rule of the Pharmacy Examining Board which is now charged with authority for the pharmacy internship process.

The administrative rule-making process will not allow rules to be in place as of January 1, 2002, without the use of the emergency rule procedure. The emergency rule is needed therefore to effect a transfer of oversight from the extinguished Pharmacy Internship Board to the Pharmacy Examining Board as of January 1, 2001.

Publication Date: December 30, 2001
Effective Date: January 1, 2002
Expiration Date: May 31, 2002
Hearing Date: February 12, 2002

Public Instruction

Rules adopted revising ch. PI 35, relating to the Milwaukee parental choice program.

Finding of emergency

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

In the past, private schools that intended to participate in the Milwaukee parental choice program were required to submit to the state superintendent a notice of intent to participate by May 1, 2001. Wis. Act 16 changed the submission date of the notice from May 1 to February 1. The rules allow a private school to choose from a variety of student application periods. The student application period chosen by the private school must be indicated on its notice. Because the notice is due at the department by February 1, emergency rules must be in place as soon as possible.

Publication Date: January 28, 2002
Effective Date: January 28, 2002
Expiration Date: June 27, 2002
Hearing Date: April 9, 2002

State Treasurer

Rules adopted creating **ch. Treas 1** relating to the Wisconsin College Savings Program Board.

Exemption from finding of emergency

Section 15 (1), 2001 Wis. Act 7 provides an exemption from a finding of emergency for the adoption of ch. Treas 1.

Analysis prepared by the Office of the State Treasurer

Statutory authority: Section 14.64 (2) (e), Stats., and section 15, 2001 Wis. Act 7.

Statutes interpreted: s. 14.64 *et seq.*, Stats.

The Wisconsin College Savings Program Board establishes a rule for the operation of the College Savings Program. The rule is designed to grant flexibility to program participants wherever possible, while enabling the State and its private-sector partners to administer the program in a manner that protects the program's financial integrity and viability. Maintaining eligibility as a "qualified tuition program" pursuant to section 529 of the Internal Revenue Code [26 USC 529] is another primary objective. "529" programs are eligible for a number of federal tax benefits that are attractive to families saving for future college costs. Significant features of the rule are addressed below:

Sections Treas 1.03, 1.04 and 1.05 describe who may open an account and how to open an account. Section Treas 1.06 discusses designating a successor owner and describes how to change ownership of an account. Sections Treas 1.07 and 1.08 define the account beneficiary and how to change the beneficiary on an account.

Section Treas 1.09 details how to make contributions to an account, including minimum and maximum contribution limits, and how to "rollover" an account balance to another section 529 program. IRS requirements relating to investment direction are also detailed.

Sections Treas 1.11, 1.12 and 1.13 describe account withdrawals, distributions and refunds. Special circumstances are also provided for in these sections, such as the death or disability of the beneficiary or receipt of a scholarship by a beneficiary. Section Treas 1.14 sets forth conditions under which the Board may terminate an owner's account. Sections Treas 1.15 and 1.16 address related fees and penalties.

Publication Date: January 7, 2002
Effective Date: January 7, 2002
Expiration Date: See section 15, 2001 Wis. Act 7
Hearing Date: March 5, 2002

Workforce Development

(Unemployment Compensation, Chs. DWD 100–150)

Rules adopted amending **s. DWD 129.01 (1)**, relating to extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

Exemption from finding of emergency

Pursuant to 2001 Wis. Act 35, s. 72 (2) (b), the Department is not required to provide evidence that promulgating this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for this rule.

Analysis Prepared by the Department of Workforce Development

Statutory authority: s. 108.08 (1), Stats. and 2001 Wis. Act 35, s. 72 (2) (b).

Statute interpreted: s. 108.08 (1), Stats.

Pursuant to s. 108.08 (1), Stats., a claimant must give notice to the department with respect to a week of unemployment "within such time and in such manner as the department may by rule prescribe" in order to receive benefits for that particular week.

Under the current s. DWD 129.01 (1), a claimant must file his or her initial claim for benefits no later than the close of the week in which the claimant intends the claim to start. For example, a claimant who files two weeks late cannot obtain unemployment benefits retroactively unless the department waives the time limit under the exceptional circumstances provision in s. DWD 129.01 (4). This emergency rule extends the time period for filing an initial claim by seven days beyond the end of the week for which the claimant expects to get the benefits.

Increasing the time frame within which a claimant may file a timely initial unemployment insurance benefit claim would reduce disparate treatment of claimants in like situations by removing the subjectivity of finding "exceptional circumstances" before allowing late claims and ease an increasing workload for the unemployment insurance division. The institution of this change would eliminate approximately 67% of untimely filing issues. This would translate into savings of 5 to 6 full-time employees (FTEs). These positions would then be able to turn attention and time to resolving other eligibility issues at a time when the unemployment insurance division is currently experiencing a sharp increase in workload and anticipates continued increase over the next three years.

The telephone initial claims system allows the department to be more lenient in proscribing filing deadlines due to its expanded accessibility and speed in identifying and resolving eligibility issues. Programming changes to the telephone initial claims system are estimated to require 50 hours at approximately \$50 to \$60 per hour for a total of \$2500 to \$3000.

Publication Date: April 14, 2002
Effective Date: April 14, 2002
Expiration Date: September 11, 2002

Workforce Development

(Prevailing Wage Rates, Chs. DWD 290–294)

Rules adopted revising **ch. DWD 290** and creating **ch. DWD 293**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

Finding of emergency

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

The Department of Workforce Development is acting under its statutory authority to adjust thresholds for the

application of prevailing wage laws on state or local public works projects and the application of payment and performance assurance requirements for a public improvement or public work. The thresholds are adjusted in proportion to any change in the construction cost index since the statutes were effective or the last adjustment.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process. The department is proceeding with this emergency rule to adjust the thresholds of the application of the prevailing wage rates to avoid imposing an additional administrative burden on local governments and state agencies caused by an effective

decrease of the thresholds due solely to inflation in the construction industry. The department is proceeding with this emergency rule to adjust the thresholds of the application of the payment and performance assurance requirements in s. 779.14, Stats., to avoid imposing an additional administrative burden on contractors for the same reason. Adjusting the thresholds by emergency rule will also ensure that the adjustments are effective on a date certain that is prior to the time of year that the relevant determinations are generally made.

Publication Date: December 27, 2001
Effective Date: January 1, 2002
Expiration Date: May 31, 2002
Hearing Date: February 27, 2002

Scope statements

Commerce

Subject

Objective of the rule. To update the Department's codes for user fees, credentials, flammable and combustible liquids, and other related rules to be consistent with associated changes that are currently being developed for ch. Comm 47, which contains the Department's rules for awarding grants for cleanup of properties contaminated by petroleum product discharges.

Policy Analysis

Chapter Comm 2 contains a schedule of all the fees charged by the Department in administering the PECFA program. Chapter Comm 5 establishes the minimum standards for the qualifications and responsibilities of persons and businesses that are required or permitted to obtain licenses, certifications or registrations from the Department, relating to the PECFA program. Chapter Comm 10 contains the Department's rules for storing and handling flammable and combustible liquids, and primarily addresses petroleum-based products.

The Department implemented ch. Comm 47 in 1993 as a means of controlling PECFA program costs and establishing necessary administrative and regulatory procedures. The changes that are currently being developed for ch. Comm 47 will update that code to be consistent with various recent statutory changes and to accommodate several administrative and process improvements. This update may identify several related changes that would then be helpful in chs. Comm 2, 5, 10, and other Department codes relating to the PECFA program. These related changes may be developed through more than one rulemaking proposal.

The only feasible alternative to rule development at this point in time would be a temporary delay in the rulemaking process. This delay would reduce the public benefits that would otherwise be achieved through a comprehensive rule revision.

Statutory authority

Sections 101.02 (1), 101.143, 101.144, 227.10 (1), and 227.11 (2), Stats.

Staff time required

The Department estimates approximately 200 hours will be needed to develop the rule changes. This time includes drafting the changes and processing them through public hearings, legislative review, and adoption. The Department will assign existing staff to develop the rule changes, and no other additional resources will be needed.

Health and Family Services

Subject

The Department proposes to develop a rulemaking order that modifies ch. HFS 119 regarding the Wisconsin Health Insurance Risk-Sharing Plan (HIRSP). Modifications to ch. HFS 119 need to reflect the annual actuarial update of HIRSP policyholder health insurance premiums, insurer assessments and provider payment rates for the period beginning July 1, 2002. These modifications are made in accordance with s. 149.143 (2) (a) 2. to 4., Stats.

Policy Analysis

The Department has a longstanding Health Insurance Risk-Sharing Plan (HIRSP) for medically at-risk citizens. The Department has regularly amended ch. HFS 119 in the past (2001, 2000, 1999 and 1998). This proposed rulemaking order involves the annual HIRSP update for 2002. The rule changes affect policyholder premiums, insurance assessments and provider assessments. The rule changes must be updated in accordance with current HIRSP costs and funding requirements, statutory requirements, generally accepted actuarial principles and actions taken by the HIRSP Board of Governors at its April 17, 2002 meeting. The health care insurance industry has been experiencing significant premium increases. There will be a significant increase in HIRSP policyholder premiums in order to reflect that fact, and consistent with s. 149.143 (1) (b) 1. a., Stats., that HIRSP premiums be set at 150% of industry standard risk rates. Provider reimbursement rates will also be reduced and insurer assessments increased, in order to comply with the statutory requirement that insurers and providers fund twenty percent of plan costs after General Purpose Revenue (GPR) is applied. The effect of the amended rule will be to ensure DHFS coverage of ongoing HIRSP costs for state fiscal year 2003. Without this annual update, HIRSP program costs will soon exceed program revenues.

Statutory authority

Sections 149.143 (2) (a) 2. to 4., Stats.

Staff time required

The estimated DHCF staff time and other resources needed to develop and promulgate these rules will be about 120 hours. Included in this estimate is the time required to make actuarial calculations, rule drafting and promulgation.

Natural Resources

Subject

Chapter NR 165 pertaining to the Small Loan Program and ch. NR 162 pertaining to the Clean Water Fund Program.

Policy Analysis

The main substantive change proposed is increasing the dollar limit on eligible Small Loan Program projects from \$750,000 to \$1,000,000 in recognition of increases in the State Trust Fund's loan limit and increases in project costs during the six years since ch. NR 165 was last revised. The Bureau of Community Financial Assistance also proposes to incorporate ch. NR 165 into ch. NR 162 and to update the code for greater consistency, clarity, and simplicity.

Chapter NR 165 contains rules for administering the Small Loan Program (SLP), which is a subprogram of the Clean Water Fund Program (CWFP). Under the SLP, municipalities receive subsidy payments to reduce the interest they pay on loans received from the Board of Commissioners of Public Lands (also known as the State Trust Fund) for eligible wastewater projects. The SLP offers municipalities a streamlined application process for small loans secured through a general obligation pledge and reduces Department administrative time for such loans. The amount of subsidy awarded may not exceed the amount a municipality would receive through a regular CWFP loan.

When ch. NR 165 was last revised in 1996, the dollar limit for loans granted by the Board of Commissioners of Public Lands was \$750,000. Both that dollar limit and the cost of wastewater projects have increased since then.

Regular CWFP loans for similar projects are administered under ch. NR 162. That chapter was revised effective March 1, 2001. The revisions included incorporating as subchapters the old ch. NR 161, relating to the CWFP's project priority system, and the old ch. NR 163, relating to the CWFP's hardship subprogram. Those incorporations were made in part to provide greater clarity, simplicity, and consistency in the administrative code. Incorporating ch. NR 165 into ch. NR 162 as a subchapter would provide similar benefits.

Statutory authority

Sections 281.58 (2) and s. 227.11 (2), Stats.

Staff time required

260 hours

Revenue

Subject

Sections Tax 11.46, 11.65 and 11.87, relating to summer camps; admissions; and meals, food, food products and beverages. The objectives of the proposed rule are to:

- Reflect law changes relating to:
 - a. Restaurants' meals provided to employees.
 - b. Vending machine sales being considered sales for off-premises consumption.
 - c. Sales of and admissions to time-share properties.
- Reflect a change in department policy, to now exempt campgrounds' sales of certain food, food products and beverages to campers for consumption at their campsites.

- Clarify provisions relating to:
 - a. The taxability of admissions to campgrounds.
 - b. Sales of admissions to places of amusement or athletic events.
 - c. The transfer of food, food products and beverages to an employee for consideration.
- Update the presumed rate for lodging, based on the consumer price index, when no allocation is made between taxable and exempt receipts by a camp.
- List additional instances of nontaxable sales of admissions.
- Add a provision relating to when and where a sale of admissions takes place.
- Provide additional definitions relating to "meal," "sandwich" and "work hours."

Policy Analysis

Existing policies are as set forth in the rules. In addition to revised policies to reflect law changes, a new policy is being proposed, to exempt campgrounds' sales of certain food, food products and beverages to campers for consumption at their campsites.

If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy. In addition, the presumed rate for lodging will remain outdated, and the department will be unable to implement the new policy to exempt certain food, food product and beverage sales at campgrounds.

Statutory authority

Statutory authority: s. 227.11 (2) (a), Stats.

Staff time required

The department estimates it will take approximately 80 hours to develop this rule order.

Submittal of rules to legislative council clearinghouse

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

Barbering and Cosmetology Examining Board

Rule Submittal Date

On May 2, 2002, the Barbering and Cosmetology Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order relates to cutting, disinfectants, disinfection, massaging, delegated medical procedures, body piercing, tattooing, tanning booths, managers, relocation of establishments, sterilization and forfeiture.

Agency Procedure for Promulgation

A public hearing is required and will be held on June 3, 2002 at 10:00 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI 53702.

Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

Employee Trust Funds

Rule Submittal Date

On May 2, 2002, the Department of Employee Trust Funds submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The subject matter of the proposed rule related to employer medical certification requirements under the Long-Term Disability Insurance (LTDI) program.

Agency Procedure for Promulgation

A public hearing is scheduled for Tuesday, June 18, 2002, at 1:00 p.m. in room 2A, at the Department of Employee Trust Funds, 801 West Badger Road, Madison, WI.

Contact Person

If you have any questions, you may contact Mary Pierick, Division of Insurance Services, at (608) 267-2847.

Financial Institutions – Division of Corporate and Consumer Services

Rule Submittal Date

On May 8, 2002, The Department of Financial Institutions, Division of Corporate and Consumer

Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 182.01 (4) and 227.11 (2), Stats.

The proposed rule-making order relates to certain fees regarding partnerships, corporations, limited liability companies and cooperatives.

Agency Procedure for Promulgation

A hearing on this rule is required. The organizational unit primarily responsible for the promulgation of this rule is the Department of Financial Institutions, Division of Corporate and Consumer Services.

Contact Person

If you have any questions, the agency person to be contacted for substantive questions and responsible for the agency's internal processing is Ray Allen, Administrator, Department of Financial Institutions, Division of Corporate and Consumer Services, telephone (608) 264-9566.

Insurance

Rule Submittal Date

On May 15, 2002, the Office of the Commissioner of Insurance submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect ch. Ins 9, relating to defined network plans.

Agency Procedure for Promulgation

A public hearing is scheduled for June 19, 2002.

Contact Person

A copy of the proposed rule may be obtained from the OCI internet Web site at: <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110. For additional information, please contact Julie E. Walsh at: (608) 264-8101 or e-mail at: Julie.Walsh@oci.state.wi.us in the OCI Legal Unit.

Natural Resources

Rule Submittal Date

On May 2, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 173, relating to brownfields green space and public facilities grant program.

Agency Procedure for Promulgation

A public hearing is scheduled for June 11, 2002.

Contact Person

Anna Bates, Bureau of Remediation and Redevelopment.

Natural Resources**Rule Submittal Date**

On May 2, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 200, relating to WPDES permit exemptions for large private onsite sewage systems.

Agency Procedure for Promulgation

A public hearing will be scheduled for July 2002.

Contact Person

Tom Gilbert, Bureau of Watershed Management.

Natural Resources**Rule Submittal Date**

On May 2, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 300, relating to time limits for applications for waterway and wetland permits.

Agency Procedure for Promulgation

A public hearing is scheduled for June 11, 2002.

Contact Person

P. Scott Hausmann, Bureau of Fisheries Management and Habitat Protection.

Natural Resources**Rule Submittal Date**

On May 2, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 447, relating to the asbestos citation program.

Agency Procedure for Promulgation

Public hearings are scheduled for June 11, 12, 13 and 18, 2002.

Contact Person

Mark Davis, Bureau of Air Management.

Natural Resources**Rule Submittal Date**

On May 2, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 544, relating to the pilot program for alternative compliance within the effective recycling program.

Agency Procedure for Promulgation

A public hearing is scheduled for June 13, 2002.

Contact Person

John Melby, Bureau of Waste Management.

Natural Resources**Rule Submittal Date**

On May 2, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. NR 549, relating to recycling efficiency incentive grant program.

Agency Procedure for Promulgation

A public hearing is scheduled for June 13, 2002.

Contact Person

Robert Goode, Bureau of Community Financial Assistance.

Regulation and Licensing**Rule Submittal Date**

On May 9, 2002, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 227.11 (2) and 458.24, Stats.

The proposed rule-making order relates to the 2003 edition of the Uniform Standards of Professional Appraisal Practice (USPAP).

Agency Procedure for Promulgation

A public hearing is required and will be held on June 26, 2002, at 10:00 a.m. in Room 180, 1400 East Washington Avenue, Madison, WI, 53702.

Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

Regulation and Licensing**Rule Submittal Date**

On May 9, 2002, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 227.11 (2), 458.03 (1) (b) and 458.085, Stats.

The proposed rule-making order relates to applications, examinations, experience, education, renewal requirements and unprofessional conduct with regard to real estate appraisers.

Agency Procedure for Promulgation

A public hearing is required and will be held on June 26, 2002, at 10:00 a.m. in Room 180, 1400 East Washington Avenue, Madison, WI, 53702.

Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

Rule-making notices

Notice of Hearing

Agriculture, Trade and Consumer Protection [CR 02-054]

(reprinted from Mid-May Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed rule to revise current animal health rules under chs. ATCP 10-12 Wis. Adm. Code. The department will hold one hearing at the time and place shown below. The department invites the public to attend the hearing and comment on the rule. Following the public hearing, the hearing record will remain open until June 7, 2002, for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Animal Health, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling 608-224-4883. Copies will also be available at the hearing.

Hearing impaired persons may request an interpreter for the hearing. Please make reservations for a hearing interpreter by **May 27, 2002**, by writing to Melissa Mace, Division of Animal Health, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4883. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearing.

One hearing is scheduled:

Monday, June 3, 2002, commencing at 11:00 a.m.

Prairie Oaks State Office Building, Board Room

2811 Agriculture Drive

Madison, WI 53708

Handicapped accessible

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

Statutory Authority: ss. 93.07 (1), and 95.197 (2), Stats.

Statute Interpreted: s. 95.197, Stats.

This rule modifies current animal health rules under chs. ATCP 10-12, Wis. Adm. Code. The Wisconsin department of agriculture, trade and consumer protection (DATCP) administers these rules.

Disease Testing; General

Current rules require disease testing of certain animals. According to current rules, required tests must be conducted at a DATCP laboratory or at a laboratory approved by the animal and plant health inspection service of the United States department of agriculture (USDA-APHIS). However, DATCP no longer operates Wisconsin's animal health laboratories (the labs are currently operated by the University of Wisconsin). This rule modifies current testing requirements to state that tests must be conducted at laboratories *approved* by DATCP or USDA-APHIS.

Under current rules, veterinarians testing for certain diseases must report the test results to DATCP unless the test sample is analyzed at a DATCP laboratory. This rule modifies the current rules to reflect the fact that DATCP no longer operates Wisconsin's animal health laboratories. Under this rule, a veterinarian must report certain test results to DATCP unless the laboratory analyzing the test sample

simultaneously reports the test result to DATCP and the veterinarian.

Testing Live Fish and Fish Eggs

Under current rules, an accredited veterinarian or fish health inspector must issue a health certificate for the following:

- Live fish or fish eggs imported into Wisconsin.
- Farm-raised fish released into the waters of the state.

Under current rules, whenever salmonid fish or salmonid fish eggs are imported or released, the health certificate must state that the salmonids are free of whirling disease. But there is no reliable way to test for whirling disease in salmonid *eggs*. This rule therefore eliminates the whirling disease testing requirement for salmonid *eggs* (the testing requirement still applies to live fish).

Bovine Tuberculosis

USDA-APHIS classifies states according to the prevalence of bovine tuberculosis within each state. Classifications affect interstate movement of animals. USDA-APHIS previously classified states with a prevalence greater than .1% as "non-modified accredited" states, but now classifies them as "modified accredited" states. This rule incorporates the new federal terminology.

Equine Infectious Anemia

Under current rules, tests for equine infectious anemia (EIA) must be performed by an accredited veterinarian or a veterinarian employed by DATCP or USDA-APHIS. This rule allows a technician employed by DATCP or USDA-APHIS to perform routine screening tests for EIA if the technician is working under the direct supervision of a veterinarian employed by DATCP or USDA-APHIS.

Under current rules, a horse may not be exhibited at a fair or show unless it has tested negative for EIA within the preceding 12 months. Under this rule, the horse must have tested negative for EIA during the same calendar year in which the horse is exhibited, except that a horse may be exhibited in January if it tested negative during the preceding calendar year. This is consistent with current rules related to permanent imports.

Cervids

This rule modifies current rules related to cervids (including deer and elk):

- Under current rules, a cervid may not be imported to Wisconsin unless it has tested negative for brucellosis within the preceding 30 days. This rule changes the pre-import brucellosis testing requirements by incorporating federal *Uniform Methods and Rules* adopted by USDA-APHIS effective September 30, 1998. This will make Wisconsin import requirements consistent with federal requirements.

- Under current rules, a cervid may not be moved within Wisconsin unless it has tested negative for tuberculosis within the preceding 90 days. There are several current exceptions to this requirement. This rule creates an additional exception, for cervids originating from a certified tuberculosis-free herd.

- Under current rules, captive deer must test negative for tuberculosis within 90 days before they are moved within Wisconsin. White-tailed deer are exempt from this requirement. This rule repeals the current exemption, so that

captive white-tail deer will also be subject to the TB testing requirement before they are moved within this state.

- This rule requires any veterinarian or diagnostic laboratory that finds evidence of chronic wasting disease in deer in Wisconsin to report it to DATCP within one day after making the finding.

Poultry Testing and Identification

Under current rules, DATCP may certify a poultry flock as “U.S. pullorum-typhoid clean,” and may certify a turkey flock as “mycoplasma-gallisepticum clean,” based on test samples collected by an authorized agent of DATCP. Under current rules, DATCP’s agent must individually identify tested birds when collecting test samples for these purposes. This rule clarifies that the birds must be identified with leg bands or wing bands.

Under this rule, if DATCP’s agent tests 25 or more birds, DATCP’s agent may forego individual identification if the owner or the owner’s agent isolates the test group from other birds in the flock. The owner or the owner’s agent must keep the test group isolated until DATCP authorizes their release from isolation. If one or more of the tested birds tests positive for disease, the owner or the owner’s agent must submit all of the isolated birds for further testing or disposition.

“Pullorum-Typhoid Clean” Poultry Flocks

Under current rules, poultry used for breeding purposes and poultry eggs used for hatching must originate from a flock that is tested annually *and* classified “U.S. pullorum-typhoid clean” under the national poultry improvement plan. This rule retains the source flock classification requirement, but eliminates the annual testing requirement. Flock testing must still be consistent with the national poultry improvement plan.

This change will make it possible for a new breeding flock to claim the “U.S. pullorum-typhoid clean” status of its parent flock until the new flock can be tested and certified in its own right. It will also make Wisconsin rules consistent with those of other states and USDA-APHIS.

“Mycoplasma Gallicepticum Clean” Turkey Flocks

Under current rules, turkeys used for breeding purposes and turkey eggs used for hatching must originate from a flock that is tested annually *and* classified “Mycoplasma gallicepticum clean” under the national poultry improvement plan. This rule retains the source flock classification requirement, but eliminates the annual testing requirement.

Flock testing must still be consistent with the national poultry improvement plan. This change will make it possible for a new breeding flock to claim the “Mycoplasma gallicepticum clean” status of its parent flock until the new flock can be tested and certified in its own right. It will also make Wisconsin rules consistent with those of other states and USDA-APHIS.

Poultry Quarantines

Under current rules, DATCP must quarantine poultry flocks classified as “reactor,” “infected” or “suspect” flocks under the national poultry improvement plan. Quarantined birds may only be moved to slaughter. DATCP may release a quarantine following 2 negative flock tests conducted at least 21 days apart.

This rule modifies current quarantine provisions. Under this rule, quarantined birds moved to slaughter must be accompanied by a USDA permit for movement of restricted animals, form VS 1-27. This rule repeals the current requirement for releasing a quarantine (2 negative flock tests at least 21 days apart). Instead, the quarantine order will spell out quarantine release terms, based on surrounding circumstances.

Poultry Diseases; Test Reports

This rule changes current poultry disease reporting requirements, consistent with the national poultry improvement plan:

- Under current rules, a veterinarian who diagnoses pullorum in poultry must report the disease to DATCP within 10 days after it is diagnosed. This rule shortens the reporting deadline from 10 days to one day.

- This rule adds a reporting requirement for mycoplasma meleagridis. Under this rule, a veterinarian who diagnoses this disease in poultry must report the disease to DATCP within one day after it is diagnosed.

Dogs and Cats

Under current rules, a dog or cat imported to Wisconsin must be accompanied by a certificate of veterinary inspection. The certificate must disclose the rabies vaccination status of the animal. If the dog or cat has never been vaccinated, or is due for re-vaccination, it must be vaccinated by a licensed veterinarian within 30 days after it enters the state or within 30 days after it reaches 4 months of age, whichever is later.

The Legislature recently modified the rabies vaccination statute. Under the new statute, a dog or cat may be vaccinated (with an appropriate vaccine) before the animal reaches 4 months of age, and must be vaccinated before the animal reaches 5 months of age. This rule modifies the current rules to conform to the new statute. Under this rule, if an imported dog or cat has never been vaccinated, or is due for re-vaccination, it must be vaccinated by a licensed veterinarian within 30 days after it enters the state or before it reaches 5 months of age, whichever is later.

Fiscal Estimate

The rule will not have a major impact on State or Local government resources. This rule integrates minor state law changes that have already been enacted into rule, and creates consistency within animal health rules, and with federal programs and with other states. Increases in workload will be absorbed by existing staff.

Regulatory Flexibility Analysis

Rule Description

The rule modifies current animal health rules, including rules related to animal disease, animal movement and livestock markets. This rule updates a number of current rules. Among other things, this rule:

- Modifies current disease testing and reporting requirements to reflect the fact that DATCP no longer operates Wisconsin’s animal health laboratories (the labs are currently operated by the University of Wisconsin).

- Modifies current import testing requirements for fish, eliminating a whirling testing requirement for salmonid *eggs* (because no reliable test exists). The testing requirement still applies to live fish.

- Updates bovine tuberculosis import requirements to reflect new federal terminology (no substantive change).

- Makes technical changes to current testing requirements for equine infectious anemia (EIA).

- Modifies current rules related to cervids (including deer and elk):

- Modifies pre-import brucellosis testing requirements to make them consistent with federal *Uniform Methods and Rules*.

- Modifies pre-import tuberculosis testing requirements to create an exemption for cervids originating from certified tuberculosis-free herds.

- Modifies current TB testing requirements for *intrastate* movement of captive deer. This rule extends the current

testing requirement to white-tail deer (current rules exempt white-tails).

– Requires veterinarians and diagnostic laboratories to report any findings of chronic wasting disease within one day.

- Modifies current testing, identification and classification procedures under voluntary programs to certify poultry flocks free of pullorum-typhoid and mycoplasma-gallisepticum.

- Modifies current rules related to poultry quarantines. Under this rule, a permit must accompany quarantined birds moved to slaughter. This rule repeals current requirements for quarantine release (2 negative flock tests at least 21 days apart). Instead, the quarantine order will spell out quarantine release terms, based on surrounding circumstances.

- Changes current poultry disease reporting requirements, consistent with the national poultry improvement plan:

– Under current rules, a veterinarian who diagnoses pullorum in poultry must report it to DATCP within 10 days. This rule shortens the reporting deadline from 10 days to one day.

– This rule adds a reporting requirement for mycoplasma meleagridis. A veterinarian who diagnoses this disease must report it to DATCP within one day.

- Modifies current rabies vaccination requirements for imported dogs and cats, based on recent statutory changes. Under this rule, if an imported dog or cat has never been vaccinated, or is due for re-vaccination, it must be vaccinated by a licensed veterinarian within 30 days after it enters the state or before it reaches 5 months of age, whichever is later.

Small Businesses Affected by this Rule

This rule affects livestock owners and veterinarians. Some of these persons are “small businesses” as defined in s. 227.114 (1) (a), Stats.

Effects on Small Business

This rule will have a slight impact on small business. This rule eliminates some unnecessary burdens by making Wisconsin rules more consistent with federal rules. In some cases, this rule imposes slight additional record keeping and reporting requirements on veterinarians, but these requirements are necessary to protect Wisconsin livestock.

Notice of Hearing

Employee Trust Funds [CR 02-057]

The Wisconsin Department of Employee Trust Funds will hold a public hearing to consider a revision of ch. ETF 50, relating to employer medical certification requirements under the Long-Term Disability Insurance (LTDI) program in accordance with the provisions of s. 227.16 (1), Wisconsin Statutes.

Date, Time and Place of Hearing

Tuesday, **June 18, 2002** at 1:00 p.m.
Department of Employee Trust Funds
Room 2A
801 West Badger Road
Madison, Wisconsin.

The public record on this proposed rule making will be held open until 4:30 p.m. on Wednesday, June 19, 2002, to permit the submission of written comments from persons unable to attend the public hearing in person, or who wish to supplement testimony offered at the hearing. Any such written comments should be addressed to Mary Pierick,

Department of Employee Trust Funds, 801 West Badger Road, P.O. Box 7931, Madison, Wisconsin 53707-7931.

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

Currently under the LTDI program, an employee is eligible for a LTDI disability benefit from the Wisconsin Retirement System (WRS) if he or she meets certain requirements under ch. ETF 50, including the requirement to be certified by the employer as having left employment due to an apparent disability. Under ss. ETF 50.48 (3) and 50.50 (5), the employer is required to provide a medical determination whether the employee is disabled within the meaning of the LTDI subchapter and to certify whether the disability was employment related in cases where the employee did not meet the service requirement.

If the Department receives a certification from the employer indicating that the employee is not disabled within the meaning of the LTDI subchapter or if the employer indicates they have no information on which to base an opinion, the Department is required to deny the application (claim) for LTDI benefits. The application is denied even if the Department receives the required medical documentation from the two required physicians certifying the claimant's disability. The proposed rule will be amended to remove the responsibility of the employer to make a medical determination related to employment and to instead rely on the physicians' medical determinations.

Fiscal Estimate

The proposed rule has no fiscal impact on county, city, village, town, school district, technical college district or sewerage district fiscal liabilities and revenues. The rule itself has no anticipated state fiscal effect during the current biennium and no future side effect on state funds.

Initial Regulatory Flexibility Analysis

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

Copies of Rule and Contact Persons

Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53707, telephone (608) 266-1071. For questions about this rule making, please call Mary Pierick, Division of Insurance Services, at (608) 267-2847.

Notice of Hearings

Employment Relations Commission [CR 02-037]

NOTICE IS HEREBY GIVEN that pursuant to ss. 111.09 (1) and (2), 111.11, 111.61, 111.70 (4) (c) 3. b., (4) (cm) 8s. and (8) (c), 111.71 (1) and (2), 111.88 (3) and 111.94 (1) and (2), Stats., and interpreting ch. 111, Stats., Subchapters I (Employment Peace Act); III (Public Utilities); IV (Municipal Employment Relations Act); and V (State Employment Labor Relations Act), the Wisconsin Employment Relations Commission will hold public hearings at the dates, times and places identified below to receive public input regarding the creation, amendment and repeal of rules relating to the administration of Chapter 111, Stats., Subchapters I (Employment Peace Act); III (Public Utilities); IV (Municipal Employment Relations Act); and V (State Employment Labor Relations Act).

The Commission invites the public to attend the hearings and to present verbal and/or written comments regarding the proposed rules. In addition to or instead of verbal testimony,

written comments can also be sent directly to the Commission at Wisconsin Employment Relations Commission, P. O. Box 7870, Madison, Wisconsin 53707-7870 postmarked anytime prior to July 26, 2002.

Date, Time and Place of Hearing

Tuesday June 18, 2002 – 10:00 a.m., Room C-106, North Central Technical College, 1000 West Campus Drive, Wausau, WI.

Thursday June 27, 2002 – 10:00 a.m., Room 301-A, City Hall, 200 East Wells Street, Milwaukee, WI.

Friday, June 28, 2002 – 10:00 a.m., Courtroom 2-B, City-County Building, 210 Martin Luther King, Jr. Boulevard, Madison, WI.

Analysis Prepared by the Wisconsin Employment Relations Commission

Introduction

The Wisconsin Employment Relations Commission has undertaken a comprehensive review and revision of its rules concerning procedures in the administration of the following portions of ch. 111, Stats.,

Subchapter I — the (Wisconsin) Employment Peace Act (WEPA)

Subchapter III — concerning Public Utilities

Subchapter IV — the Municipal Employment Relations Act (MERA)

Subchapter V — the State Employment Labor Relations Act (SELRA)

Because the Public Utilities statute was declared to be pre-empted by federal law many years ago in *AMALGAMATED ASSOCIATION V. WERB*, 340 US 383 (1951), the ERC chapters relating to Subchapter III have been renumbered but otherwise left entirely unchanged. Accordingly, none of the references to rules changes below relate to the rules concerning the Public Utilities statute.

Overall Objectives

The overall objectives of the rules review project have been as follows:

- correcting/updating outdated statutory references
- conforming to the related statutes
- conforming to the agency's established practices
- removing internal inconsistencies
- removing requirements that are unnecessarily burdensome
- improving ease of understanding
- adapting to changes in communications technology

Changes Common to All or Many Chapters

An effort has been made, wherever possible, to maintain or establish parallelism among the chapters concerning parallel subject areas under WEPA, MERA and SELRA.

The general chapters concerning WEPA, MERA and SELRA have been greatly shortened, with unnecessarily complex general rules eliminated and with other provisions replicated in each of the substantive chapters to which they apply. In that way, as many as possible of the rules concerning a particular type of case will now be found in the chapter specific to that type of case, rather than in multiple interrelated chapters. Those changes are intended to improve the ease of use and understandability of each substantive chapter at the recognized cost of a longer set of rules overall.

Throughout the rules, legalistic expressions such as "pursuant," "thereof," "deemed" etc. have been replaced with plainer English. In addition, the term "employee" has been replaced with "employeee."

Throughout the rules, changes have been made to enable filing with commission by delivery, mail, fax, e-mail or other modes authorized in future, (compare, e.g., old s. ERC 10.10 (2) with new s. ERC 12.02 (1)). Exceptions to that approach have been made where a particular mode of transmittal is specifically required by law (e.g., new s. ERC 10.07 (1) (f) requiring compliance with s. 111.07 (2) (a), Stats., as regards service of hearing notices and complaints on persons or parties located outside the state). Exceptions have also been made where a particular mode of transmittal is warranted by strong policy considerations (e.g., new s. ERC 11.02 (2), requiring that a showing of interest supporting a representation election petition be filed in paper form by personal delivery or mail).

Changes have also been made to enable service of other parties by delivery, mail or fax, with initiating parties called upon to include the fax and e-mail addresses of parties and representatives if available (compare e.g., ss. ERC 10.08 (4) and 12.03 (2) with new ss. ERC 10.07 and 12.03 (2)).

For parties who choose to file in paper form, the number of copies required to be submitted has been reduced to the number the agency typically needs in its processing of the case (compare e.g., old s. ERC 10.02 (3) with, e.g., new s. ERC 12.02(1)).

Requirements of service both on parties and on their representatives have been changed to make service only on parties' representatives the norm. An additional copy is required to be sent to parties themselves only where specifically required by law (compare, e.g., old s. ERC 10.10 (3) with new s. ERC 10.06 and 10.07).

To emphasize the importance of impartiality of decision-makers and mediators, provisions on that subject have been added to all chapters relating to case handling (e.g., new ss. ERC 12.05 (3) (c), 23.04 (4) and 23.07 (4)).

For completeness and parallelism, rules describing rehearing procedures have been added to each of the substantive chapters that involves hearings (e.g., new s. ERC 12.10).

Changes Specific to Particular Chapters

General Provisions (Chs. ERC 1, 10 and 20)

As described below, the general provisions chapters have been greatly shortened, eliminating some unnecessarily complex provisions and revising and moving most of the retained provisions into each of the substantive chapters to which they apply.

The "purpose" and "policy" rules have been combined. The general interpretation standard has been revised to provide that rules are to be interpreted "to serve the purposes of the statutes and to permit the commission or examiner to encourage voluntary settlement of disputes" rather than the existing "liberally construed to effectuate the purposes of [the statute]." (E.g., compare old ss. ERC 10.01 and 10.02 with new s. ERC 10.01).

The scope of the general provisions has been limited to proceedings before commission and commission examiners. References to the applicability of the general provisions to fact finders are eliminated and no new references to their applicability to interest arbitrators has been added (compare, e.g., old ERC 10.01 with new ERC 10.01). These changes have been made because rules applicable to the functions performed by the commission and its staff are sometimes not suitable to ad hoc fact finders and interest arbitrators. It is therefore considered preferable to place procedures concerning fact finders and interest arbitrators exclusively in the respective separate substantive chapters (new ERC 14, 25, and 30-33).

The standard for waiver of a rule has been limited to situations “where necessary to avoid a significant injustice” rather than the existing “the commission may waive any requirement of these rules unless a party shows prejudice thereby.” (Compare, e.g., old ERC 10.01 with new ERC 10.01). This change is intended to promote compliance with comprehensively updated rules instead of reliance on waivers of outdated rules.

Most existing general provisions rules regarding initiation of proceedings, method, forms, where to file, filing, form, number of copies and service have been deleted from the general provisions chapter. Most of those provisions have been replicated in each of the various substantive chapters to which they relate (compare e.g., old ERC 10.06, 10.08, 10.09 and 10.10 with new ERC 10.06, 10.07, 12.02 (1) and 12.02 (2)). General provisions have been retained regarding filing and service (e.g., new ERC 10.06 and 10.07).

Provisions regarding the computation of time have been simplified by elimination of unnecessarily complex provisions regarding “Additional time after service by mail” and “extension of time.” (Compare old ERC 10.08 and 20.08 with new ERC 1.09, 10.09 and 20.09).

Signature requirements have been moved to those substantive chapters involving pleadings, petitions or stipulations, and revised to treat a signature facsimile as equivalent to an actual signature. Those changes enable all documents to be electronically transmitted except showing of interest documents (compare old ERC 10.09 (4) and 20.09 (4) with e.g., new 12.02 (1)). Requests for services generally do not require a signature or signature facsimile (e.g., new 23.03 (1)).

Statement of service requirements have been simplified. The new provisions require only that the commission be provided with the names of those receiving copies of the document involved rather than a formal and more elaborate affidavit of service (compare, old ERC 10.10 (4) and 20.10 (4) with new ERC 1.06 (3), 10.06 (3) and 20.06 (3)).

Rules regarding motions have been replicated in the various substantive chapters’ provisions to which they apply and expanded to include provisions concerning the limited nature and extent of pre-hearing discovery (e.g., new ERC 12.04 and 18.06). The previously specified time limit for filing a motion to reschedule hearing has been eliminated (compare e.g., old ERC 10.12 (1) with, e.g., new ERC 12.04 (2) (e)).

Topics related to the conduct of hearings have been moved to the various substantive chapters and combined, reorganized and in some respects expanded as appropriate to the chapter involved. The resultant hearings provisions fall into the following five categories:

- adversary hearings by agency personnel (e.g., new ERC 12.05 regarding complaint cases);
- investigatory hearings by agency personnel (e.g., new ERC 11.07 regarding representation election cases; e.g., new ERC 18.07–18.08 regarding declaratory ruling cases; e.g., new ERC 14.04 (3) regarding formal investigations by agency personnel prior to orders initiating fact finding or interest arbitration);
- grievance arbitration hearings by agency personnel (e.g., new ERC 23.05);
- grievance arbitration hearings by ad hoc arbitrators (e.g., new ERC 23.08); and
- impasse resolution hearings by ad hoc fact finders and interest arbitrators (e.g., new ERC 14.07).

The general provision in old ERC 10.13 (1) and 20.13 (1) to the effect that hearings are open to the public has been

moved to each chapter regarding hearings in statutory proceedings (e.g., new ERC 12.05 (1) and 18.08 (1)). However, no similar provision has been included in the rules regarding grievance arbitration hearings (e.g., new ERC 23.05).

The general provisions in old ERC 10.14 and 20.14 regarding hearing subpoenas has been moved to the various substantive chapters involving hearings and revised to include subpoenas issued by parties’ representatives and to cover subpoena enforcement (e.g., ERC 12.05 (6) (e) and 18.08 (6) (d)).

The general provisions in old ERC 10.15 and 20.15 regarding depositions has been moved to the motions sections of the various substantive chapters involving hearings and revised to narrowly limit use of depositions (e.g., new ERC 12.04 (2) (c) and 18.08 (6) (d)).

The general provisions in old ERC 10.16 (2) and 20.16 (2) regarding the rules of evidence applicable in hearings has been moved to the various substantive chapters involving hearings; retaining reference to Sec. 227.45 (1), Stats., evidence rules in all such chapters (e.g., ERC 12.05 (6) and 18.08(6)).

The general provisions in old ERC 10.17 and 20.17 making the person conducting the hearing responsible “to inquire fully into all matters in issue” and “to obtain a full and complete record” have been moved to the various substantive chapters involving hearings other than complaints (e.g., new ERC 18.08 (1)). That language has not been included in the adversary hearing provisions regarding complaint hearings (e.g., new ERC 12.05 (2)).

The general provision rules in old ERC 10.19 and 20.19 entitled “close of hearing” have been renamed “close of evidence” and moved to the various specific chapters involving hearings (e.g., ERC 12.05 (8) and 18.08 (8)). Separate references have been included in the various chapters regarding hearing type cases regulating the exhaustion of time for submission of final arguments (e.g., new ERC 12.05 (9) and 12.06 (1), and 18.08 (9)).

The general provisions in old ERC 1.08, 10.21 and 20.21 concerning fee administration have been replicated in each of the various substantive chapters to which filing fees are applicable (e.g., new ERC 2.02 (1)). However, a schedule of filing fees and transcript fees has been retained in each of the revised general provisions chapters (new ERC 1.08, 10.08 and 20.08).

The complaint filing fee has been increased \$10 to \$50 (new ERC 1.08 (1), 10.08 (1) and 20.08 (1)).

Complaints (Chs. ERC 2, 12 and 22)

In addition to common changes noted above, the complaint chapters have been substantially reorganized, revised, updated and expanded.

The requirement in old ERC 12.02 (1) and 22.02 (1) that the complaints be sworn to has been eliminated.

The old provisions regarding amendment and withdrawal of complaint have been revised to specify standards for amendment and withdrawal of complaints (compare old ERC 12.03 (5) and 22.03 (5) with new ERC 2.02 (4), 12.02 (4) and 22.02 (4)). The amendment standards preclude amendments that “would unduly delay or disrupt the proceeding, or would result in an injustice to any party.” (new ERC 2.02 (4) (a), 12.02 (4) (a) and 22.02 (4) (a)). The withdrawal standard provides that a motion to withdraw “shall be granted unless withdrawal would result in an injustice to any party.” (new ERC 2.02 (4) (b), 12.02 (4) (b) and 22.02 (4) (b)).

Provisions have been added to describe the nature and effects of the complaint conciliation process. Those

provisions establish a procedural presumption that parties agree to hold hearing scheduling in abeyance pending conclusion of conciliation unless a party requests otherwise (compare 12.04 (2) and 22.04 (2) with new ERC 2.02 (5) and 2.02 (6) (a), 12.02 (5) and 12.02 (6) (a), and 22.02 (5) and 22.02 (6) (a)).

Provisions specifying the contents of the complaint case notice of hearing have been added (new ERC 2.02 (6), 12.02 (6) and 22.02 (6)) including references to the newly revised deadline for a motion to make complaint more definite and certain and the newly revised consequences of failure to answer described below.

The old provisions requiring a motion to make complaint more definite and certain to be filed within 5 days after service of the complaint have been revised. The new provisions require such a motion to be filed within 10 days after the date of issuance of the notice of hearing (compare old ERC 12.03 (3) and 22.03 (3) with 2.02 (7), 12.02 (7) and 22.02 (7)).

The old provisions requiring respondent to file an answer and precluding a respondent who fails to timely answer from offering evidence and argument contrary to complaint allegations (old ERC 2.04, 12.03 (6) and (7), 22.03 (6) and (7)) have been revised in new ERC 2.03 (1), 12.03 (1) and 22.03 (1). The revisions permit but do not require respondent to file an answer. They also provide that failure to file a timely answer waives all affirmative defenses (including statute of limitations) without precluding respondent from offering evidence and argument contrary to complaint allegations. They also specify that the answer shall be due on the date specified in the notice of hearing. These changes modify the existing agency practice of routinely waiving all effects of a failure to answer.

The new rules concerning motions specify what pre-hearing discovery is and is not available, narrowly limiting the scope of such discovery consistent with existing agency practice and the requirements of Sec. 227.45 (7), Stats. (compare old ERC 10.15 and 20.15 with new ERC 2.04 (2) (c) and 2.05 (6) (b), 12.04 (2) (c) and 12.05 (6) (b) and 22.04 (2) (c) and 22.05 (6) (b)).

The rules relating to the nature and conduct of adversary hearings in complaint cases have been revised and expanded (compare old 12.04 and 22.04 with new ERC 2.05, 12.05 and 22.05)).

The old provisions concerning the consequences of a party's failure to appear at a properly noticed hearing (old ERC 10.13 (4) and 20.13 (4)) have been revised to those contained in new ERC 2.05 (3) (b), 12.05 (3) (b) and 22.05 (3) (b). Those revisions make a "for good cause shown" exception applicable to all consequences of a failure to appear. They also expressly protect the right of a non-appearing party to submit timely post-hearing arguments that evidence submitted at an ex parte hearing was insufficient to prove complaint allegations.

Language has been added in new ERC 2.05 (3) (c), 12.05 (3) (c) and 22.05 (3) (c) concerning parties' rights to an impartial tribunal and related procedures.

Language has been moved from two of the three old general provision chapters regarding the powers of the commission or examiner conducting a hearing. (compare old ERC 10.18 and 20.18 with new ERC 2.05 (4), 12.05 (4) and 22.05(4)).

The rules regarding evidence have been reorganized and expanded, incorporating evidentiary standards contained in Sec. 227.45, Stats. (compare old ERC 10.14 and 10.16 and 10.14 and 20.16 with new ERC 2.05 (6), 12.05 (6) and 11.05(6)).

Language common to all chapters involving hearings has been added concerning objections, close of evidence, written closing arguments and waiver of procedures (new ERC 2.05 (7)-(10), 12.05 (7)-(10) and 22.05 (7)-(10)).

The old provision concerning contempt (old ERC 2.15) has been expanded and modified to include a procedure providing an opportunity to be heard before sanctions are imposed (new ERC 2.05 (1), 12.05 (1) and 22.05 (1)).

Language common to all chapters involving hearings has been added regarding rehearing procedures, Sec. 227.49, Stats. (new ERC 2.10, 12.10 and 22.10).

Scope of Bargaining Declaratory Rulings (Ch. ERC 18)

Rules concerning motions likely to arise in this type of case have been added (compare old ERC 10.11 and 10.12 with new ERC 18.06).

The rules concerning "notice of hearing" have been retained with minor revisions (compare old ERC 18.06 with new ERC 18.07).

The old rule concerning "inclusion of additional parties" (old ERC 18.06 (2)) has been replaced by the intervention reference in the particular motions subsection, new ERC 18.06 (2) (a)).

Language common to all chapters involving investigative (i.e., non-adversary) hearings has been added, including a rules of evidence standard based on Sec. 227.45, Stats. (compare old ERC 10.13-10.19 with new ERC 18.06-18.08). The ERC 18 hearing rules are used as the hearing procedures referred to in various other chapters, as well (new ERC 14.04 (3), 25.04 (3), 30.08 (3), 31.06 (3), 32.09 (3) and 33.11 (3)).

Language common to all chapters involving hearings has been added regarding rehearing procedures, Sec. 227.49, Stats (new ERC 18.11).

Discretionary Ch. 227, Stats., Declaratory Rulings (new Chs. ERC 9, 19, and)

These new chapters have been added concerning discretionary declaratory ruling proceedings under Sec. 227.41 (2), Stats. The basic provisions parallel those in the revised ERC 18, above, but they are modified as necessary to reflect differences between Sec. 111.70 (4) (b), Stats., scope of bargaining declaratory ruling proceedings and discretionary declaratory ruling proceedings under Sec. 227.41 (2), Stats.

Grievance Arbitration (new Chs. ERC 5, 16 and 23)

Chapters ERC 16 and 23 have been substantially revised and a parallel new chapter ERC 5 has been added regarding private sector grievance arbitration cases. These chapters include the common changes described above.

These chapters' newly separate procedures regarding requests for arbitrators employed by the commission from procedures for ad hoc roster arbitrators not employed by the commission (see new ERC 5.03-5.05, 16.03-16.05 and 23.03-23.05).

In conformity with existing agency practice, these chapters newly include options for parties requesting grievance arbitration services. The newly added options permit parties to request a randomly selected panel of available commission-employed arbitrators or to jointly request designation of a particular commission-employed arbitrator or one of a specified group of commission-employed arbitrators (new ERC 5.03 (3) (c), 16.03 (3) (c) and 23.03 (3) (c)).

In further conformity with existing agency practice, these chapters newly include fee administration provisions limiting refunds to instances of the other party's non-acquiescence in arbitration. They also newly describe the circumstances in which multiple filing fees will be assessed (compare 1.08 (2),

10.21 (2) and 20.21 (2) with new ERC 5.04 (1) and (2), 16.04 (1) and (2) and 23.04 (1) and (2)).

Specific language regarding commission–employed arbitrator impartiality and related procedures has been added in new ERC 5.04 (4), 16.04 (4) and 23.04 (4), and general impartiality language has been added regarding ad hoc grievance arbitrators (new ERC 5.07 (4), 16.07 (4) and 23.07 (4)).

In conformity with existing agency practice, these chapters newly include language regarding the ordinarily public nature of awards and related procedures (new ERC 5.04 (5) and 5.09; 16.04 (5) and 16.09; and 23.05 and 23.04 (5) and 23.09).

In conformity with existing agency policy, these chapters newly include language making the National Academy of Arbitrators, Federal Mediation and Conciliation Service and American Arbitration Association Code of Professional Responsibility applicable to all grievance arbitration proceedings (new ERC 5.05, 16.05 and 23.05 regarding commission–employed grievance arbitrators and new ERC 5.08, 16.08 and 23.08 regarding ad hoc grievance arbitrators).

In conformity with existing agency practice, these chapters newly include language regarding random arbitrator selection and regarding panel composition (new ERC 5.07 (1), 16.07 (1) and 23.07 (1)).

Roster of Interest Arbitrators and Fact Finders (new Ch. ERC 50)

This new ERC chapter consists in large part of provisions of a longstanding agency policy on the subject.

The provisions regarding selection and composition of panels more fully describe the existing agency practice (new ERC 50.06).

Mediation (new Chs. ERC 6, 13 and 24)

These chapters incorporate various of the common changes noted above and are (re)organized somewhat along lines of the revised grievance arbitration in, e.g., new ERC 23.

The new provisions concerning requests for mediation services call for parties requesting mediation to more clearly identify and describe the nature of the dispute involved (new ERC 6.03 (3) (d), 13.03 (3) (d) and 24.03 (3) (d)).

In conformity with existing agency practice, new language offers requesting parties the option of jointly requesting assignment of a particular mediator or assignment of one of several mediators (new ERC 6.03 (3) (e), 13.03 (3) (e), and 24.03 (3) (e)).

Provisions have been added describing the circumstances in which multiple filing fees will be assessed (compare old ERC 1.06 (3), 10.21 (3) and 20.21 (3) with new 6.04 (2), 13.04 (2) and 24.04 (2)).

Consistent with agency practice, the revised rules address only mediation services by commission–employed mediators (compare e.g., old ERC 13.03 and 24.03 with new ERC 6.04 (2), 13.04 (2) and 24.04 (2)).

The rules concerning the confidentiality of the mediation process have been revised to follow Sec. 904.085, Stats. However, the old rule text has been retained and conditionally made applicable if that statute is repealed or for any other reason not applicable (compare old ERC 13.04 (2) and 24.04 (2) with ERC 6.04 (4), 13.04 (4) and 24.04 (4)).

A provision has been added to make it clear that if mediation is initiated by the commission, rather than by a request of one or both parties, then no filing fee is payable (ERC 6.05, 13.05, 24.05).

Fact Finding (Chs. ERC 14 and 25)

These chapters have been reorganized and revised substantially, generally conforming to the revised ERC 32 where applicable.

The old separate rules concerning transcripts (old ERC 14.10 (5) and 25.10 (5)) have been eliminated. The fact finder compensation rule has been expanded to refer to transcript and other costs and revised to give only the parties and not the fact finder control over whether a transcript is ordered (new ERC 14.09 and 25.09).

Consistent with agency practice, new language provides that, except as otherwise provided in the commission's rules, the fact finding hearing shall be conducted in accordance with the Code of Responsibility of the National Academy of Arbitrators, the Federal Mediation Service and the American Arbitration Association (new ERC 14.07 (2) and 25.07 (2)).

New language has been added to ERC 14 and the existing language of ERC 25 has been revised concerning the obligation of each party to notify the other and the commission regarding whether it accepts or rejects the recommendations of the fact finder (compare old ERC 25.13 with new ERC 14.11 and 25.11).

Interest Arbitration under Sec. 111.77, Stats. (Ch. ERC 30)

This chapter has been generally revised to conform to ERC 32 except where statutory differences prevent doing so.

The scope definition has been conformed to changes in Sec. 111.77 making it applicable to Milwaukee County law enforcement supervisory personnel and to a lower population threshold of "2500 or more" (compare old and new ERC 30.01).

Consistent with agency practice, language has been newly added to the effect that withdrawal of the petition does not relieve either party of its obligation to pay the filing fee once the petition has been filed (new ERC 30.06).

Paralleling ERC 32 and consistent with agency practice, rules have been added specifying the requirements regarding final offer contents and precluding a close of investigation unless offers conform to those requirements (new ERC 30.09).

Paralleling ERC 32 and consistent with agency practice, procedures have been provided for raising objections to non–mandatory subjects and for resolving those objections via declaratory ruling (new ERC 30.10 and 30.11).

Consistent with agency practice, a provision has been newly added providing that, except as otherwise provided in the commission's rules, the arbitration hearing shall be conducted in accordance with the Code of Responsibility of the National Academy of Arbitrators, the Federal Mediation Service and the American Arbitration Association (new ERC 30.14 (3)).

A revised rule concerning costs includes a provision limiting arbitrator charges to rates in the arbitrator's biographical and fee information on file with commission (new ERC 30.17).

A provision has been added describing the method of enforcing/vacating a Sec. 111.77, Stats., interest award (new ERC 30.19).

Interest Arbitration under Sec. 111.70 (4) (cm), Stats. (Ch. ERC 32)

Where applicable, the common changes noted above have been incorporated.

The scope definition in old ERC 32.01 has been revised to eliminate the outdated effective date (new ERC 32.01).

Fee administration language has been added to the withdrawal section (new ERC 32.07).

Conforming to Sec. 111.70 (4) (cm) 6. am., Stats., provisions have been added allowing the investigation to be closed based on the last written position of a party failing to submit a final offer within the time period established by the investigator (new ERC 32.09 (2) and (3)).

Consistent with agency practice, a provision has been newly added providing that, except as otherwise provided in the commission's rules, the arbitration hearing shall be conducted in accordance with the Code of Responsibility of the National Academy of Arbitrators, the Federal Mediation Service and the American Arbitration Association (new ERC 32.15 (8)).

The costs provision has been revised to empower only the parties and not the arbitrator to decide that the hearing will be transcribed (new ERC 32.15 (13)).

The old "Civil liability" subheading has been changed to "Attorney fees, interest and other costs" (compare old and new ERC 32.16 (2)).

Interest Arbitration for School District Professionals (Ch. ERC 33)

This chapter has been revised, where applicable, to incorporate the common changes noted above and the other changes made in ERC 32.

Fee administration language has been added to the rule concerning withdrawal of a petition (new ERC 33.10 (4)).

In order to conform with the Court of Appeals decision in *RACINE EDUCATION ASSOCIATION V. WERC*, 238 Wis.2d 33 (CtApp, 2000), the definition of a Qualified Economic Offer has been revised to remove the words "at least" and "minimum" (compare old and new ERC 33.10 (2), (3) (a) and (3) (a) 2.).

To conform to statutory changes in Sec. 111.70 (4) (cm) 5s, Stats., language has been added regarding agreement by operation of law (new ERC 33.10 (4), (7) and (8) and 33.16 (1)).

The costs provision (old ERC 33.19 (13)) has been revised to eliminate the right of the arbitrator to insist on a transcript that neither party desires (new ERC 33.19 (13)).

The "Civil liability" sub-heading of old ERC 33.20 (2) has been changed to "Attorney fees; interest; other costs" (new ERC 33.20 (2)).

Interest Arbitrator for Milwaukee Police under Sec. 111.70 (4) (jm) (Ch. ERC 31)

This newly created chapter conforms to agency practice regarding Milwaukee Police interest arbitration cases. It parallels revised ERC 32 except to the extent required by statutory differences.

Consistent with Sec. 111.70 (4) (jm) 2. and 4., the parties are precluded from submitting to arbitration subjects that were not certified by the commission as being at impasse. However, the parties are permitted to change their positions regarding the certified subjects at any time prior to a deadline established by the arbitrator (new ERC 31.07 (2)).

Representation Elections (Chs. ERC 3, 11 and 21)

These chapters have been revised to incorporate the common changes and to make them parallel with each other except to the extent required by statutory differences.

Language has been added reflecting the agency's existing practice of requiring a showing of interest in support of a petition for a representation election in certain cases (new ERC 3.02 (3), 11.02 (3) and 21.02 (3)). Where a showing of interest is required, the new language requires that it be submitted in paper form by personal delivery or mail (new ERC 3.02 (2), 11.02 (2) and 21.02 (2)). Related procedures for agency determination of the sufficiency of the showing of

interest are also added (new ERC 3.05 (2), 11.05 (2) and 21.05 (2)).

Language has been added reflecting the agency's existing practice regarding efforts to reach an informal settlement of all or part of the issues presented by a representation election petition (new ERC 3.05 (3), 11.05 (3) and 21.05 (3)).

These chapters provide for investigative/non-adversary type hearing procedures (e.g., new ERC 3.01 (1), 11.01 (1) and 21.01 (1)).

Language has been added regarding rehearing procedures (new ERC 11.13).

Unit Clarifications (Chs. ERC 7, 17 and 27)

These chapters are all newly created. They incorporate the common changes described above and otherwise generally conform to agency practice regarding the resolution of bargaining unit clarification issues.

Consistent with agency practice, the procedures prescribed for unit clarification proceedings closely parallel those provided for representation election proceedings.

Union Security Referenda (Chs. ERC 4, 8, 15 and 26)

Chapters ERC 4 and 15 have been revised to incorporate the common changes noted above, where applicable, and to parallel the revised representation election chapters except where statutory differences require otherwise.

Chapters ERC 8 and 26 are newly created. They parallel the revised ERC 15 except where statutory differences require otherwise.

Statutory differences result in variations among the chapters regarding who may file a petition regarding deauthorization. New ERC 15.04 (1) permits a petition for deauthorization to be filed by "the municipal employer or a labor organization" as provided in Sec. 111.70 (2), Stats. In contrast, new ERC 4.04 (1), 8.02 (1), and 26.02 (1) limit deauthorization petition filings to the employer or the exclusive representative of the bargaining unit involved under Secs. 111.06 (c) 1., 111.075 (2) (a) and 111.85 (2) (a), Stats.).

Statutory differences regarding whether approval of an authorization referendum must be achieved before implementation of a union security arrangement result in variations among the chapters regarding whether provisions are included for a pre-implementation petition for an authorization referendum (compare new ERC 4.03 (1), 8.02 (1) and 26.02 (1) with the absence of such a provision from new ERC 15.04 (1)).

Showing of interest procedures are set forth in new ERC 8.03, 15.05 and 26.03, in conformity with the showing of interest provisions in Secs. 111.075, 111.70 (2) and 111.85, Stats., respectively.

Copies of Rule and Contact Person

Copies of these proposed rules are available without cost upon request to the Wisconsin Employment Relations Commission at 18 South Thornton Avenue, P.O. Box 7870, Madison, WI 53707-7870, peter.davis@werc.state.wi.us, (608) 266-1381. Due to the great length of the proposed rules, the Commission suggests that the public use electronic access to the text of the proposed rules (listed as CR02-037) which can be obtained at:

http://www.legis.state.wi.us/lc/adm_rules.htm

Questions about the proposed rules can be directed to Paul A. Hahn, Commissioner, paul.hahn@werc.state.wi.us, 18 South Thornton Avenue, P.O. Box 7870, Madison, Wisconsin 53707-7870, (608) 266-1381, or Marshall L. Gratz, Attorney-Supervisor, marshall.gratz@werc.state.wi.us, Wisconsin Employment Relations Commission, 4449 North Maryland Avenue, Shorewood, Wisconsin 53211, (414) 963-4695, or Peter G. Davis, General Counsel,

peter.davis@werc.state.wi.us, Wisconsin Employment Relations Commission at 18 South Thornton Avenue, P.O. Box 7870, Madison, Wisconsin 53707-7870, (608) 266-1381.

Fiscal Estimate

The Wisconsin Employment Relations Commission estimates that the overall fiscal impact of its proposed revision of existing administrative rules and creation of new administrative rules will be to decrease the cost to all parties using the services of the Wisconsin Employment Relations Commission. This overall estimate is based on the assumption that the proposed rules will increase the ability of all parties to use inexpensive technology when using the Wisconsin Employment Relations Commission's services and to more easily understand how the Wisconsin Employment Relations Commission administers its statutory responsibilities.

The proposed rules increase the filing fee for complaints filed with the Wisconsin Employment Relations Commission from \$40 to \$50. Based on the average annual number of complaints filed during the prior eight years (152), the Wisconsin Employment Relations Commission estimates that the increased fee will generate an additional \$1520 of program revenue each year.

Because counties, cities, villages, towns, school districts, technical college districts and sewerage districts rarely file complaints, the fiscal impact on these entities will be negligible.

Initial Regulatory Flexibility Analysis

Having considered s. 227.114 (2), Stats., the Commission concludes these proposed rules will have little, if any, impact on small businesses.

Notice of Hearing

Financial Institutions – Division of Corporate and Consumer Services

Pursuant to s. 227.17, Stats., notice is hereby given that the Department of Financial Institutions, Division of Corporate and Consumer Services will hold a public hearing at the time and place indicated below to consider creating a rule relating to certain fees regarding partnerships, corporations, limited liability companies and cooperatives.

Date, Time and Place of Hearing

June 13, 2002 Tommy G. Thompson Conference Room
Thursday 5th Floor
10:00 a.m. Department of Financial Institutions
345 West Washington Avenue
Madison, WI 53703

This facility is accessible to individuals with disabilities through levels A, B or the first floor lobby. If you require reasonable accommodation to access any meeting, please call Mark Schlei at (608) 267-1705 or TTY (608) 266-8818 for the hearing impaired at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided by the Americans with Disabilities Act. Written comments in lieu of public hearing testimony must be received not later than the hearing date and should be addressed to Mr. Ray Allen, Administrator, Department of Financial Institutions, Division of Corporate and Consumer Services, P.O. Box 7846, Madison, WI 53707-7846.

Analysis Prepared by the Department of Financial Institutions, Division of Corporate and Consumer Services

Analysis: Statutory authority: ss. 182.01 (4) and 227.1 (2), Stats. Statutes interpreted: 182.01 (4). Summary: 2001 Act 16 amended ss. 178.48 (2) and (3), 179.16 (5), 179.88, 180.0122 (1) (z), (2) and (4), 181.0122 (1) (zm), (2) and (4), 183.0114 (1) (t) and (u), and 185.83 (1) (d) and (h); repealed s. 179.16 (4), 180.0122 (1m), and 185.83 (1) (f) and (1) (fm); and repealed and recreated s. 182.01 (4), Stats. The act authorizes the Department of Financial Institutions to adopt rules relating to certain fees regarding partnerships, corporations, limited liability companies and cooperatives. The proposed rule sets these fees.

Fiscal Estimate

Statutory Authority: Sections 182.01 (4) and 227.11 (2), Stats.

The rule has no state fiscal effect. There are no local government costs. Program fund sources and s. 20.144 (1) (g) appropriations are affected.

Initial Regulatory Flexibility Analysis

The rule may have an impact on small business. Types of small business that will be affected by the rule: business entities. Description of the proposed reporting, bookkeeping and other procedures required for compliance: payment of fee to the department. Types of professional skills necessary for compliance: no new skills.

Copies of Rule and Contact Person

A copy of the full text of the proposed rule and fiscal estimate may be obtained through the following:

Ray Allen, Administrator
Department of Financial Institutions
Division of Corporate and Consumer Services
P.O. Box 7846
Madison, WI 53707-7846
Tel. (608) 264-9566
TTY (608) 266-8818

A copy of the full text of the proposed rule may also be obtained at the Department of Financial Institutions' website, www.wdfr.org.

Notice of Hearing

Insurance [CR 02-069]

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting ch. Ins 9, Wis. Adm. Code, relating to Defined Network Plans.

Date, Time and Place of Hearing

June 20, 2002

10:00 a.m., or as soon thereafter as the matter may be reached.

Room 6, OCI, 121 East Wilson Street, Madison, WI

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Julie E. Walsh, OCI, PO Box 7873, Madison WI 53707.

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41 (3), 609.38, and 632.85, Stats.

Statutes interpreted: ch. 609 and s. 632.85, Stats.

Most of the revisions are based on a terminology change in how managed care plans are to be referred to as defined network plans as established in 2001 Wis. Act 16. In addition, the 2001 Wis. Act 16 modified some requirements of ch. 609, Stats., as they apply to preferred provider plans, and those changes are reflected accordingly within ch. Ins 9.

Chapter Ins 9 differentiates between preferred provider plans that may or may also be defined network plans. For a preferred provider plan to be eligible for distinct treatment from defined network plans, the insurer offering the plan must provide the covered services without requirement of a referral including pre-authorization even if such pre-authorization is used by the plan for utilization management or use of incentives. The insurer offering a preferred provider plan must comply with s. 609.35, Stats., and cover the same services both in-plan and out-of-plan without material disincentives. The coverage must be substantial with coverage not less than 70% of usual and customary rates and no material exclusions, deductibles, maximum limits or other conditions uniquely applied to out-of-plan provider services resulting in significantly limited out of plan benefits.

In addition, the insurer offering preferred provider plans must have participating plan providers who are accepting patients within a reasonable distance of the insured and provide an adequate number of participating providers in each geographic area to service all insureds in that area. Preferred provider plans will need to provide telephone access for emergency care or authorization of care 24 hours per day. Whenever a participating provider's participation with the plan terminates, the preferred provider plan must directly or by contract notify the insureds. However, if the insurer contracts for the notification of provider termination, the insurer remains responsible for ensuring that notification is sent.

If a plan qualifies as a preferred provider plan, the plan would no longer be required to develop quality assurance standards relating to access to, and continuity and quality of care. However, the insurer would still be responsible for developing procedures for remedial action to address quality problems in each of these areas. Also, a preferred provider plan that assume direct responsibility for clinical protocols and utilization management of the plan would be required to appoint a physician as a medical director.

Insurers offering preferred provider plans that contain material exclusions, deductibles, maximum limits or other conditions uniquely applied to out of network provider services resulting in significantly limited out of network benefits must comply with statutes and regulations as a defined network plan.

Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

Copies of Rule and Contact Person

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

Notice of Hearings

Natural Resources

[CR 02-063]

NOTICE IS HEREBY GIVEN that pursuant to ss. 292.79 and 227.11 (2) (a), Stats., interpreting s. 292.79, Stats., the Department of Natural Resources will hold a public hearing on the creation of ch. NR 173, Wis. Adm. Code, relating to the administration of the brownfield green space and public facilities grant program. The grant program directs the Department to award \$1 million in grants to local governments for the remediation of brownfields sites where the end use will have a long-term public benefit, including the preservation of green space, the development of recreational areas or public use by a local government. The proposed rule includes the following elements:

1. Eligible activities include actions to remedy environmental contamination.

2. Eligible local governments include cities, villages, towns, counties, redevelopment authorities, community development authorities and housing authorities.

3. Eligible projects are brownfields where the end use will promote the preservation of green space, the creation of a recreational area or another use by a local government.

4. Local governments, or an appropriate private non-profit organization in partnership with a local government, are required to contribute matching funds as cash or in-kind, or both, equal to 20%, 35% or 50%, depending upon the amount of the grant.

5. A grant may not be awarded for more than \$200,000.

6. The rule specifies that at least 20% of the funds be allocated to grants less than \$50,000.

7. If there are more requests for grants than funding allows, applications will be scored on a variety of criteria, including the severity of the environmental contamination, the applicant's financial commitment, the need of the community for the proposed end use and the community's commitment to the project.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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

Date, Time and Place of Hearing

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

June 11, 2002, Tuesday, at 1:00 p.m.

Video conference participation will be available at:

Room 021, GEF #2 Bldg., 101 S. Webster Street, Madison

Rm 139, State Office Bldg., 718 W. Clairemont Ave, Eau Claire

Room 618, State Office Bldg., 200 N. Jefferson St, Green Bay

Room 98, State Office Bldg., 819 N. 6th Street, Milwaukee

Room 2, DNR Regional Headquarters, 107 Sutliff Ave., Rhinelander

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Anna Thomas Bates at (608) 264-6007 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Ms. Anna Thomas Bates, Bureau of Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than June 28, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [RR-25-02] and fiscal estimate may be obtained from Ms. Bates.

Notice of Hearing**Natural Resources
[CR 02-065]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 281.36 and 227.11 (2) (a), Stats., interpreting s. 281.36 (4) to (6), Stats., the Department of Natural Resources will hold a public hearing on amendments to s. NR 300.04 (1) to (3), Wis. Adm. Code, relating to time limits for applications for waterway and wetland permits. The proposed amendments are a part of the revisions to ch. NR 300 that consolidate all water regulation permit time limits into ch. NR 300. The remainder of the proposed changes were included in Board Order No. FH-06-02 which had public hearings in March, 2002. Included in the amendments is the requirement that the Department notify an applicant within 60 days whether or not a permit application under ss. 30.10 to 30.27, Stats., is considered complete. For permit applications under s. 281.37, Stats., the Department has 30 days to notify the applicant whether or not the permit application is considered complete.

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

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Date, Time and Place of Hearing

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on:

June 11, 2002, Tuesday, at 11:00 a.m.

Room 611B, GEF #2

101 South Webster Street, Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call P. Scott Hausmann at (608) 266-7360 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. P. Scott Hausmann, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than June 14, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FH-06-02A] and fiscal estimate may be obtained from Mr. Hausmann.

Notice of Hearing**Natural Resources
[CR 02-045]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.10 (2), 30.126 (5) (j) and (6a), Stats., interpreting s. 30.126 (5) and (6), Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 324, Wis. Adm. Code, relating to the regulation of fishing rafts on the Wolf river and its tributaries. The proposed revisions will:

1. Recognize that registering a structure as a boat does not relieve the owner from also registering the structure as a fishing raft if it meets the definition of s. NR 324.03 (1).
2. Provide a clearer definition for fishing rafts to assure that structures more appropriately considered residences or storage sheds do not fall within the definition of a fishing raft.
3. Delete several provisions which are unnecessarily duplicative of statutory language.
4. Modify the requirements for proving riparian status due to court decisions which hold that easements and leases do not establish riparian owner status.
5. Clarify the requirements for seasonal removal from the waterway.

NOTICE IS HEREBY FURTHER GIVEN that the pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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

Date, Time and Place of Hearing

NOTICE IS HEREBY FURTHER GIVEN that the hearing will be held on:

June 12, 2002, Wednesday, at 5:00 p.m.

New London Public Library, 406 S. Pearl Street, New London.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Dan Helf at (920) 982-0627 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Dan Helf, Northeast Region Headquarters, P.O. Box 10448, Green Bay, WI 54307 no later than June 21, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FH-17-02] and fiscal estimate may be obtained from Mr. Helf.

Notice of Hearings

Natural Resources [CR 02-064]

NOTICE IS HEREBY GIVEN that pursuant to ss. 285.86 and 227.11 (2) (a), Stats., interpreting s. 23.50 to 23.99, Stats., the Department of Natural Resources will hold public hearings on the creation of s. NR 447.19, Wis. Adm. Code, relating to citation authority for asbestos program violations. The proposed rule creates citations and forfeiture amounts for asbestos abatement and demolition operation violations. The violations that can receive citations include: failure to do a pre-inspection, failure to provide the 10 working day notice with filing a notification of abatement work, wetting of regulated asbestos containing material, carefully lowering or transporting the regulated asbestos containing material to the ground, ensuring no visible emissions if using ventilation and prior removal of all regulated asbestos containing material, including Category I and II nonfriable asbestos containing material prior to intentional burning.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rules may have an impact on small business. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Asbestos abatement contractors and any small business that does asbestos demolition and renovation.

b. Description of reporting and bookkeeping procedures required: No procedures not already required.

Description of professional skills required: No skills not already required.

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

Date, Time and Place of Hearing

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

June 11, 2002 Chippewa Room, Phillips Memorial
Tuesday Library, 400 Eau Claire Street, Eau Claire
at 1:30 p.m.

June 12, 2002 Lower Level, Appleton Public Library
Wednesday 225 North Oneida Street, Appleton

at 4:00 p.m.

June 13, 2002 Auditorium, Havenwoods State Forest
Thursday 6141 N. Hopkins, Milwaukee
at 1:30 p.m.

June 18, 2002 Room 027, GEF #2
Tuesday 101 South Webster Street, Madison
at 1:30 p.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Mark Davis at (608) 266-3658 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Mark Davis, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than June 28, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings.

A copy of proposed rule AM-20-02 and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707
Phone: (608) 266-7718
FAX: (608) 267-0560

Notice of Hearings

Natural Resources [CR 02-062]

NOTICE IS HEREBY GIVEN that pursuant to ss. 287.11 (4) and 227.11 (2) (a), Stats., interpreting s. 287.11 (4), Stats., the Department of Natural Resources will hold public hearings on the creation of ss. NR 544.20 to 544.27, Wis. Adm. Code, relating to a pilot program for an alternative method of compliance with solid waste recycling requirements. The pilot will provide flexibility in complying with the effective program recycling requirements specified in ch. NR 544 to recycle materials subject to the 1995 landfill and incineration bans. The proposed rule establishes criteria and guidelines for the development of pilot programs for alternative compliance, and include the following elements:

1. Establish criteria to determine the eligibility of applicants. The Department will select 3 responsible units with a population of less than 5,000, 3 responsible units with a population of at least 5,000 but less than 25,000, and 3 responsible units with a population of at least 25,000. In addition to meeting these requirements, applicants shall demonstrate the ability to report tonnage of materials recycled and landfilled in a base period and annually throughout the life of the pilot. Applicants additionally shall demonstrate the cooperation of, or consent from all entities that would be impacted by the change from current program status to a pilot program.

2. Establish a procedure for program application. The procedure includes identification of materials to be recycled, application submittal deadlines and the materials from which the applicant may select to recycle.

3. Establish an evaluation and selection process and criteria. Criteria used in the selection and notification of successful applicants are identified.

4. Establish annual reporting procedures for program evaluation. The procedure identifies the elements compromising a pilot annual report, and establishes the methodology to determine a baseline recycling rate, an annual recycling rate and the recycling goal of the responsible unit.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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

Date, Time and Place of Hearing

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

June 13, 2002, Thursday at 12:00 noon

Video conference participation will be available at:

Room 021, GEF #2 Bldg., 101 South Webster St. Madison

Rm 139, State Office Bldg., 718 W. Clairemont Ave.,
Eau Claire

Rm 618, State Office Bldg., 200 N. Jefferson St, Green Bay

Room 98, State Office Bldg., 819 N. 6th Street, Milwaukee

Room 159, UW Platteville Pioneer Tower, 1 University Plaza, Platteville

Room 2, DNR Regional Headquarters, 107 Sutliff Ave., Rhinelander

June 13, 2002, Thursday at 6:30 p.m.

Room 021, GEF #2 Bldg., 101 South Webster St, Madison

Room 1130, Old Library, 105 Garfield Street, Eau Claire

Room IS 1034, Instructional Services Bldg., UW-Green Bay, Green Bay

Suite 6000, Univ. Ctr for Continuing Education, Plankington Bldg., UW-Milwaukee, 161 W. Wisconsin Ave., Milwaukee

Room 159, UW Platteville Pioneer Tower, 1 University Plaza, Platteville

Room 2, DNR Regional Headquarters, 107 Sutliff Ave., Rhinelander

Conference Room, DNR Regional Headquarters, 810 W. Maple Street, Spooner

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Lindsey Gieck at (608) 267-7522 (TDD (608) 267-6897) with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Ms. Lindsey Gieck, Bureau of Waste Management, P.O. Box 7921, Madison, WI 53707 no later than June 21, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WA-27-02] and fiscal estimate may be obtained from Ms. Gieck.

Notice of Hearings

Natural Resources

[CR 02-060]

NOTICE IS HEREBY GIVEN that pursuant to ss. 287.235 and 227.11 (2) (a), Stats., interpreting s. 287.235, Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 549, Wis. Adm. Code, relating to recycling efficiency incentive grants. The 2001-03 biennial budget provided \$1.9 million for recycling efficiency incentive grants to responsible units. Proposed ch. NR 549 describes the policies and procedures for a voluntary grant program. This proposed rule provides additional grant funding to responsible units (municipalities, counties, another unit of government including a federally recognized Indian tribe or band in this state, or solid waste management system that have undertaken certain recycling activities). The funding is an incentive to participating responsible units to have more efficient recycling programs. The proposed rule identifies consolidation and cooperative agreements as key efficiency activities.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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

Date, Time and Place of Hearing

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

June 13, 2002, Thursday, at 12:00 noon

Video conference participation will be available at:

Room 021, GEF #2 Building, 101 South Webster Street, Madison

Room 139, State Office Building, 718 W. Clairemont Ave., Eau Claire

Room 618, State Office Building, 200 N. Jefferson Street, Green Bay

Room 98, State Office Building, 819 N. 6th Street, Milwaukee

Room 159, UW Platteville Pioneer Tower, 1 University Plaza, Platteville

Room 2, DNR Regional Headquarters, 107 Sutliff Ave., Rhinelander

June 13, 2002, Thursday at 6:30 p.m.

Room 021, GEF #2 Building, 101 South Webster Street, Madison

Room 1130, Old Library, 105 Garfield Street, Eau Claire

Room IS 1034, Instructional Services Bldg., UW–Green Bay, Green Bay

Suite 6000, University Center for Continuing Education, Plankington Building, UW–Milwaukee, 161 W, Wisconsin Ave., Milwaukee

Room 159, UW Platteville Pioneer Tower, 1 University Plaza, Platteville

Room 2, DNR Regional Headquarters, 107 Sutliff Ave., Rhinelander

Conference Room, DNR Regional Headquarters, 810 W. Maple Street, Spooner

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kathy Wells at (608) 266–0918 (TDD (608) 267–6897) with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rules may be submitted to Ms. Kathy Wells, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than June 21, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [CF–30–02] and fiscal estimate may be obtained from Ms. Wells.

Notice of Proposed Rule**Regulation and Licensing
[CR 02–066]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) and 458.24, Stats., and interpreting ss. 458.24 and 458.26 (3) (b), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Regulation and Licensing will adopt the following rules as proposed in this notice, without public hearing unless, within 30 days after publication of this notice, on **June 1, 2002**, the Department of Regulation and Licensing is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 227.11 (2) and 458.24, Stats.

Statutes interpreted: ss. 458.24 and 458.26 (3) (b), Stats.

In this proposed rule-making order the Department of Regulation and Licensing proposes to repeal and recreate ch. RL 87, Appendix I, which contains the 2002 edition of the USPAP and recreate it to incorporate by reference the 2003 edition of USPAP.

As required under s. 227.21, Wis. Stats., the department has obtained the consent of the attorney general and revisor of statutes to the incorporation of the 2003 edition of USPAP into the rules by reference.

Text of Rule

SECTION 1. Chapter RL 87, Appendix I, is repealed and recreated to read:

APPENDIX I**UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE**

The 2003 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this Appendix. The 2003 edition of USPAP is effective January 1, 2003 to December 31, 2003.

After January 1, 2003, copies of the 2003 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005–3517, (202) 347–7722. After January 1, 2003, copies of the 2003 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at <http://www.appraisalfoundation.org>.

Note: As required under s. 227.21, Wis. Stats., the attorney general and revisor of statutes have consented to the incorporation by reference of the 2003 edition of the Uniform Standards of Professional Appraisal Practice. After January 1, 2003, copies of the 2003 edition of the USPAP will be on file in the offices of the department, the secretary of state and the revisor of statutes.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708–8935, (608) 266–0495.

Notice of Hearing**Regulation and Licensing
[CR 02–067]**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 458.03 (1) (b) and 458.085, Stats., and interpreting ss. 458.06 (3) (b), 458.06 (4) (b), 458.08 (3) (c) and 458.13, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order of the Department of Regulation and Licensing to revise chs. RL 81, 84 and 85, relating to applications, examinations, experience, education, renewal requirements and unprofessional conduct with regard to real estate appraisers.

Hearing Date, Time and Location

Date: **June 26, 2002**

Time: 10:00 a.m.

Location: 1400 East Washington Avenue

Room 180
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by July 10, 2002 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 227.11 (2), 458.03 (1) (b) and 458.085, Stats.

Statutes interpreted: ss. 458.06 (3) (b), 458.06 (4) (b), 458.08 (3) (c) and 458.13, Stats.

In this proposed rule-making order the Department of Regulation and Licensing amends, renumbers, repeals and recreates several provisions contained in chs. RL 81, 84 and 85, Wis. Admin. Code.

1. Section RL 81.01 (4) is being repealed because the 15 hours of instruction in professional standards and code of ethics course referred to in the rule is also included in the 90, 120 and 180 hours of instruction required under sub. (3).

2. Sections RL 84.01 (6) (c) and RL 85.02 (7) (d) are created to state that credit may be granted for a distance education course that is approved by the International Distance Education Certification Center for the course design and delivery mechanism; provided the course is approved by the Appraiser Qualifications Board of the Appraisal Foundation or by the department.

3. Sections RL 84.02, RL 84.03 and RL 84.04 are being revised to clarify that an applicant must submit evidence of completion of an approved program of study. In addition, an approved program of study must include the fifteen-hour National Uniform Standards of Professional Appraisal Practice (USPAP) Course or its equivalent. The fifteen-hour National USPAP Course is approved by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

4. Section RL 85.01 (1) is being revised to state that credential holders must complete the 7-hour National USPAP Update Course or its equivalent. Appraisers initially licensed or certified within a biennium shall complete 14 hours of continuing education for each year of licensure or certification, 7 of which shall include the National USPAP Update Course or its equivalent. The 7-hour National USPAP Update Course is approved by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

Notice of Proposed Rule

Revenue [CR 02-033]

Notice is hereby given that, pursuant to ss. 71.80 (1) (c) and 227.11 (2) (a), Stats., and interpreting, ss. 66.0615 (1m) (f) 2., 71.24 (1), (1m) and (3), 71.30 (4), 71.365 (4) and (5), 71.44 (1) (a) and (c) and (1m), 71.738 (2), 71.74, 71.75, 71.76, 71.77, 71.80 (18), 71.88 (1), 71.90 (1), 77.59 (6), 77.61 (14), 77.76 (2), 77.96 (4), 77.982 (2), 77.991 (2), 77.9941 (4), 77.9951 (2), 77.9964 (2), 78.67, 78.69, 139.094, 139.11 (2m), 139.355, 139.38 (2m), 139.83, 139.835, 139.93 (1) and 168.12 (9), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **June 1, 2002**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule:

Analysis prepared by the Department of Revenue

Statutory authority: ss. 71.80 (1) (c) and 227.11 (2) (a), Stats.

Statutes interpreted: ss. 66.0615 (1m) (f) 2., 71.24 (1), (1m) and (3), 71.30 (4), 71.365 (4) and (5), 71.44 (1) (a) and (c) and (1m), 71.738 (2), 71.74, 71.75, 71.76, 71.77, 71.80 (18), 71.88 (1), 71.90 (1), 77.59 (6), 77.61 (14), 77.76 (2), 77.96 (4), 77.982 (2), 77.991 (2), 77.9941 (4), 77.9951 (2), 77.9964 (2), 78.67, 78.69, 139.094, 139.11 (2m), 139.355, 139.38 (2m), 139.83, 139.835, 139.93 (1) and 168.12 (9), Stats.

SECTIONS 1 AND 2. Tax 2.03 (1) (j) is repealed, to reflect the discontinuance of the use of form 4X. Consequently, pars. (k) to (x) are renumbered (j) to (w).

As renumbered, Tax 2.03 (1) (n), (o) and (s) are revised, to correct the names of forms 5S and 5S-1, and schedule DC.

SECTION 3. Tax 2.03 (1) (x) is created, to list schedule Z-1.

SECTION 4. Tax 2.03 (4) is revised, to provide updated filing procedures per the amendment to s. 71.80 (18), Stats., by 1997 Wis. Act 27.

The 2 notes at the end of Tax 2.03 are revised, to provide correct department office location and mailing address, and to add a statutory reference.

SECTIONS 5 AND 7. Tax 2.12 (title) is revised, to clarify that claims for refund are amended returns.

Tax 2.12 (1) and (3) (a), (b), (c) and (e) are revised, to remove the word "temporary" and a note is added at the end of the rule, to reflect the replacement of the "temporary recycling surcharge" with a "recycling surcharge" pursuant to

the amendment of subch. VII of ch. 77, Stats., by 1999 Wis. Act 9.

Tax 2.12 (3) (b) is further revised, to remove a statutory reference that is no longer applicable and to add a reference to subs. (5) and (6), for clarity.

Tax 2.12 (4) (b) 1. and 2. are revised, to incorporate the term "claim for refund" as defined in sub. (2) (a).

Tax 2.12 (4) (b) 2. is further revised, to explain the provisions of s. 71.88 (1) (a), Stats., and to add examples.

SECTION 6. Tax 2.12 (2) is repealed and recreated, to change the title to "Definitions," to provide a definition of "claim for refund" in par. (a) and to revise the definition of "timely filed" in par. (b), to reflect the amendment of s. 71.80 (18), Stats., by 1997 Wis. Act 27.

SECTION 8. Tax 2.12 (4) (b) 3. is repealed and recreated, to update provisions relating to filing a refund claim after paying an uncontested office audit or field audit assessment or refund, to reflect the amendment of s. 71.75 (5), Stats., by 1997 Wis. Act 27. Several examples are also added.

SECTIONS 9 AND 13. Tax 2.12 (4) (b) 4. and 5. and (6) (c) are revised, to incorporate the term "claim for refund" as defined in sub. (2) (a).

Tax 2.12 (6) (b) is revised, to reflect the discontinuance of the use of form 4X.

Tax 2.12 (6) (d) and the note following are revised, to reflect that mailing addresses are listed on amended forms or in their instructions.

SECTIONS 10, 11 AND 12. Tax 2.12 (5) (a) is repealed and recreated, Tax 2.12 (5) (b) is renumbered Tax 2.12 (5) (c) and revised and new Tax 2.12 (5) (b) is created, to reflect the use of "tefile" and "netfile," and the discontinuance of the use of form 4X. The table in sub. (5) (a) is no longer needed.

Tax 2.12 (5) (d) is created, to set forth in a separate paragraph the format requirements for filing an amended return not requesting a refund.

Three obsolete notes at the end of Tax 2.12 are deleted and the last note is revised, to add an additional statutory reference.

SECTION 14. Tax 3.91 is moved to ch. Tax 1 and renumbered Tax 1.14, because the subject matter pertains to all taxes, credits and fees administered by the department's income, sales and excise tax division.

As renumbered, Tax 1.14 is revised, to:

- List additional taxes, credits and fees to which the section pertains – sub. (1).
- Remove outdated requirements relating to the format of a petition for redetermination – sub. (2).
- Update filing deadline provisions, pursuant to amendments to ss. 71.80 (18) and 77.61 (4), Stats., by 1997 Wis. Act 27 – sub. (3).
- Update provisions relating to deposits paid at the time of filing a petition for redetermination, pursuant to the amendment of s. 71.90 (1), Stats., by 1997 Wis. Act 27 – sub. (4).
- Clarify language and update style and format, per Legislative Council Rules Clearinghouse standards – all subsections, notes.

SECTION 1. Tax 2.03 (1) (j) is repealed.

SECTION 2. Tax 2.03 (1) (k) to (x) are renumbered Tax 2.03 (1) (j) to (w) and as renumbered Tax 2.03 (1) (n), (o) and (s) are amended to read:

Tax 2.03 (1) (n) Form 5S ~~Tax-option~~ Tax-option (S) corporation franchise or income tax return.

(o) Form 5S-1. Tax-option (S) corporation supplemental schedules.

(s) Schedule DC. Development zone ~~credits~~ zones credit.

SECTION 3. Tax 2.03 (1) (x) is created to read:

Tax 2.03 (1) (x) Schedule Z-1. Manufacturer's sales tax credits passed through from other entities.

SECTION 4. Tax 2.03 (4) is amended to read:

Tax 2.03 (4) FILING RETURNS. All forms and information required to be filed or furnished by corporations shall be ~~delivered to the department or mailed to the address specified by the department on the form or in the instructions or the department of administration, or delivered to the department or to the destination that the department or the department of administration prescribes.~~

Note to Revisor: Replace the 2 notes at the end of Tax 2.03 with the following:

Note: Forms may be delivered in person to the Department of Revenue at 2135 Rimrock Road, Madison, Wisconsin or mailed to the address specified on the form or in the instructions. Blank forms may be obtained at the same location, or by mail request to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 1-151, PO Box 8951, Madison WI 53708-8951.

Note: Section Tax 2.03 interprets ss. 71.24 (1), (1m) and (3), 71.365 (4) and (5), 71.44 (1) (a) and (c) and (1m) and 71.80 (18), Stats.

SECTION 5. Tax 2.12 (title) and (1) are amended to read:

Tax 2.12 (title) ~~Amended~~ Amended Claims for refund and other amended returns.

(1) SCOPE. This section applies to amended Wisconsin franchise or income tax returns, amended partnership returns, amended temporary recycling surcharge returns and amended farmland preservation credit and homestead credit claims.

SECTION 6. Tax 2.12 (2) is repealed and recreated to read:

Tax 2.12 (2) DEFINITIONS. In this section:

(a) "Claim for refund" means an amended Wisconsin return or credit claim as described in sub. (1), on which a refund is requested.

(b) "Timely filed," in the case of an amended return or credit claim, means either of the following:

1. If the amended return or credit claim is mailed, it is mailed in a properly addressed envelope with postage prepaid and is received by the department, or is received at the destination that the department or the department of administration prescribes, within 5 business days after the last day of the statutory limitation period or extended limitation period.

2. If the amended return or credit claim is not mailed, it is in the possession of the department, or is received at the destination that the department or the department of administration prescribes, prior to the expiration of the statutory limitation period or extended limitation period.

SECTION 7. Tax 2.12 (3) (a), (b), (c) and (e) and (4) (b) 1. and 2. are amended to read:

Tax 2.12 (3) (a) The department shall accept amended returns and credit claims to correct previously filed original, other amended or adjusted Wisconsin franchise or income tax returns, partnership returns, temporary recycling surcharge returns or farmland preservation credit or homestead credit claims.

(b) ~~Under s. 71.75(6), Stats., and as provided in this section, a~~ A refund of taxes or credits under ch. 71, Stats., or temporary recycling surcharge under s. 77.96 (4), Stats., may be claimed only by filing an amended return or credit claim, on a form and in the manner described in subs. (5) and (6).

(c) An amended Wisconsin return shall be filed with the department if either an amended federal return is filed or an amended return is filed with another state for which a credit for taxes has been allowed against Wisconsin taxes, and the changes to the amended federal or other state return affect the amount of Wisconsin net franchise or income tax or ~~temporary~~ recycling surcharge payable, a Wisconsin credit or a Wisconsin net operating loss, net business loss or capital loss carried forward.

(e) An amended return or credit claim does not begin or extend the statute of limitation periods for assessing additional tax or ~~temporary~~ recycling surcharge or claiming a refund.

(4) (b) 1. Except as provided in subds. 3. and 4., ~~an amended Wisconsin return or credit claim requesting a claim~~ for refund may not be filed for any year covered by a field audit ~~which that~~ resulted in a refund or no change in the tax owed, or in an assessment that has become final under s. 71.88 (1) (a) or (2) (a), 71.89 (2), 73.01 or 73.015, Stats., provided the department advises the taxpayer that the field audit is final unless the taxpayer appeals the result.

2. Except as provided in subds. 3. and 4., ~~an amended Wisconsin return or credit claim requesting a claim for~~ refund may not be filed for any item of income or deduction assessed as a result of an office audit, provided the assessment has become final under s. 71.88 (1) (a) or (2) (a), 71.89 (2), 73.01 or 73.015, Stats. Section 71.88 (1) (a), Stats., provides that a taxpayer may file a petition for redetermination within 60 days of receipt of a notice of additional assessment, refund or denial of refund. If a taxpayer does not file a petition for redetermination of a notice of assessment, refund or refund denial, the adjustments made in the notice are final and conclusive. The taxpayer is not entitled to a refund on any subsequent claim for refund based on the same adjustments as those in the notice of assessment, refund or denial of refund.

Note to Revisor: Insert the following examples at the end of Tax 2.12 (4) (b) 2.:

Examples: 1) Taxpayer A files an amended 2000 return to claim additional business expenses. The department allows only a portion of the claimed additional expenses, based on a difference in interpretation of the law. A notice of refund is issued March 1, 2003. The taxpayer does not file a petition for redetermination. In December 2003, the taxpayer files another amended return claiming the same additional business deductions as those disallowed in the prior notice of refund. The taxpayer is not entitled to a refund on the claim for refund. The March 1, 2003, notice of refund is final.

2) Taxpayer B files an amended 2000 return to claim additional business expenses. The department disallows a portion of the claimed additional expenses, due to lack of substantiation of the expenses as requested in a letter to the taxpayer. A notice of refund is issued March 1, 2003. The taxpayer does not file a petition for redetermination. In December 2003, the taxpayer submits adequate substantiation to support the full deduction. The deduction is not allowed and no additional refund will be issued. Since no petition for redetermination was filed for the March 1, 2003, notice of refund, that notice is final.

3) Taxpayer C files a timely 1998 return claiming a refund of earned income credit and excess income tax withheld. During the processing of the return the taxpayer is sent a letter requesting additional information to substantiate the earned income credit. The taxpayer does not respond to the request for additional information. A notice of refund is issued in July 1999, to refund the excess income tax withheld only. The taxpayer does not file a petition for redetermination. The

taxpayer files a timely 1999 return claiming a refund of earned income credit and excess income tax withheld. During the processing of this return the taxpayer is sent a letter requesting additional information to substantiate the earned income credit. This letter requests the same information that was requested for the processing of the 1998 return. The taxpayer submits the additional information needed for both the 1998 and 1999 returns. Since the taxpayer did not submit a petition for redetermination for the 1998 notice of refund, that notice is final. A notice of refund for the earned income credit is issued for 1999 only.

SECTION 8. Tax 2.12 (4) (b) 3. is repealed and recreated to read:

Tax 2.12 (4) (b) 3. a. For taxable years beginning on or after January 1, 2000, a claim for refund for each year for which an amount due is calculated as a result of items adjusted in an office audit or field audit assessment or refund may be filed within 4 years of the date of the adjustment notice, provided no petition for redetermination was filed and, if the adjustment notice was an assessment, the amount due was paid. No refund claim may be filed under this subd. 3.a. for any year that resulted in a refund or no change in the amount owed.

Examples: 1) Taxpayer D files a timely 2000 return. The department completes an office audit of this return by issuing a notice of refund dated March 30, 2005. The notice of refund allows an additional itemized deduction credit and disallows a portion of the claimed business expenses. The taxpayer does not file a petition for redetermination. The notice of refund is final, and the taxpayer is not entitled to any refund on a subsequent claim for refund for the disallowed business expenses.

2) Taxpayer E files timely 2000 and 2001 returns. The department completes an audit of the returns and issues a notice of refund dated March 30, 2005. The notice of refund allows an additional itemized deduction credit for each year but also disallows a portion of the claimed business expenses for each year, with the net result being a refund for each year. The taxpayer does not file a petition for redetermination. The notice of refund is final, and the taxpayer is not entitled to any refund on a subsequent claim for refund for the disallowed business expenses.

3) Taxpayer F files a timely 2000 return on April 15, 2001. The department completes an office audit of this return by issuing a notice of additional tax due dated March 30, 2005. The notice of additional tax due allows an additional itemized deduction credit and disallows a portion of the claimed business expenses. The taxpayer does not file a petition for redetermination. The taxpayer has until March 30, 2009, to file a claim for refund for the disallowed business expenses.

4) Taxpayer G files timely 2000 and 2001 returns. The department completes an office audit of these returns by issuing a notice of refund dated March 30, 2005. The notice of refund allows an additional itemized deduction credit resulting in a refund for 2000 and disallows a portion of the claimed business expenses for an assessment for 2001, with the net result being a refund for the two years combined. The taxpayer does not file a petition for redetermination. The taxpayer has until March 30, 2009, to file a claim for refund for the disallowed business expenses for the year 2001.

5) Taxpayer H files timely 2000 and 2001 returns. The department completes an office audit of these returns by issuing a notice of additional tax due dated March 30, 2005. The notice of additional tax due allows an additional itemized deduction credit resulting in a refund for 2000 and disallows a portion of the claimed business expenses resulting in an

assessment for 2001, with the net result being an assessment for the two years combined. The taxpayer does not file a petition for redetermination. The taxpayer has until March 30, 2009, to file a claim for refund for the disallowed business expenses for the year 2001.

b. For taxable years beginning prior to January 1, 2000, a claim for refund for each year for which an amount due is calculated as a result of items adjusted in an office audit or field audit net assessment may be filed within 2 years of the date of the assessment notice, provided no petition for redetermination was filed and the amount due was paid. No refund claim may be filed under this subd. 3. b. for any year that resulted in a refund or no change in the amount owed or, in the case of a multiple year audit resulting in a net refund, for any year for which an amount due is calculated.

Examples: 1) Taxpayer I files a timely 1999 return on April 15, 2000. The department completes an office audit of this return by issuing a notice of refund dated March 30, 2004. The notice of refund allows an additional itemized deduction credit and disallows a portion of the claimed business expenses. The taxpayer does not file a petition for redetermination. The notice of refund is final, and the taxpayer is not entitled to any refund on a subsequent claim for refund for the disallowed business expenses.

2) Taxpayer J files timely 1998 and 1999 returns. The department completes an office audit of these returns by issuing a notice of refund dated March 30, 2003. The notice of refund allows an additional itemized deduction credit resulting in a refund for 1998 and disallows a portion of the claimed business expenses for an assessment for 1999, with the net result being a refund for the two years combined. The taxpayer does not file a petition for redetermination. The notice of refund is final, and the taxpayer is not entitled to any refund on a subsequent claim for refund for 1998 or 1999.

SECTION 9. Tax 2.12 (4) (b) 4. and 5. are amended to read:

Tax 2.12 (4) (b) 4. ~~An amended Wisconsin return requesting a A claim for refund of an overpayment attributable to a capital loss carryback may be filed by a corporation within 4 years after the due date, or extended due date, for filing the return for the taxable year of the capital loss that is carried back.~~

5. If the limitation period for making an assessment or refund has been extended by written agreement between a taxpayer and the department, ~~an amended Wisconsin return or credit claim requesting a claim for refund relating to the year or years covered by the extension agreement may be filed during the extension period.~~

SECTION 10. Tax 2.12 (5) (a) is repealed and recreated to read:

Tax 2.12 (5) (a) Except as provided in par. (b) or (c), a claim for refund shall be filed on the same form as the original form, in the manner prescribed in sub. (6).

SECTION 11. Tax 2.12 (5) (b) is renumbered Tax 2.12 (5) (c) and amended to read:

Tax 2.12 (5) (c) The department may prescribe a special form for taxpayers to use in claiming a refund, to address a specific tax issue. In this situation, the special form may be used in lieu of the amended form prescribed in par. (a) ~~or (b).~~

SECTION 12. Tax 2.12 (5) (b) and (d) are created to read:

Tax 2.12 (5) (b) Except as provided in par. (c), a claim for refund shall be filed on a form 1X, in the manner prescribed in sub. (6), if any of the following apply:

1. The original return was filed on a form 1, 1A or WI-Z.
2. The original return was filed using "tefile" or "netfile."
3. The original credit claim was filed with a form 1 or 1A.

(d) An amended Wisconsin return or credit claim filed for a purpose other than to request a refund is not required to be filed on a specific form.

SECTION 13. Tax 2.12 (6) (b), (c) and (d) are amended to read:

Tax 2.12 (6) (b) An amended return or credit claim other than form 1X ~~or 4X~~ shall be identified as an amended form by checking the "amended return" box if one is provided on the form or by marking "AMENDED" across the top of the first page of the amended form.

(c) ~~An amended return or credit claim requesting a A claim for refund may not be made a part of or attached to any original Wisconsin return or credit claim.~~

(d) An amended return or credit claim shall be mailed to the department at the address specified on the form or in its instructions ~~or at the address provided for mailing amended Wisconsin returns or credit claims.~~

Note to Revisor: 1) Remove the first 4 notes at the end of Tax 2.12.

2) Insert the following note before the last remaining note at the end of Tax 2.12:

Note: Subchapter VII of ch. 77, Stats., was amended by 1999 Wis. Act 9, to create a recycling surcharge effective for taxable years beginning on or after January 1, 2000. For taxable years ending before April 1, 1999, subch. VII of ch. 77, Stats., provided for a temporary recycling surcharge; the term "recycling surcharge" as used in this section refers to the "temporary recycling surcharge" for those years.

3) Replace the last note at the end of Tax 2.12 with the following:

Note: Section Tax 2.12 interprets ss. 71.30 (4), 71.738 (2), 71.74, 71.75, 71.76, 71.77, 71.80 (18) and 77.96 (4), Stats.

SECTION 14. Tax 3.91 is renumbered Tax 1.14 and amended to read:

Tax 1.14 **Petition for redetermination.** (1) SCOPE. A person feeling aggrieved by a notice of additional assessment of income, franchise, sales, use, withholding ~~or gift tax, state, county or stadium sales or use, premier resort area, local exposition, motor vehicle fuel, alternate fuels, general aviation fuel, fermented malt beverages, liquor, cigarette, tobacco products or controlled substances tax or petroleum inspection, state rental vehicle or dry cleaning fee,~~ by a notice of reduced homestead, farmland preservation or other credits, or by a notice of refund or denial of refund may petition the department ~~of revenue~~ for redetermination. This section describes the administrative provisions related to the petition for department redetermination.

(2) FORMAT OF THE PETITION. The petition for redetermination ~~specified in ss. 71.88(1) and 77.59(6), Stats., shall be written, preferably typed, on only one side of plain white paper not more than 8 1/2 inches wide by 11 inches long and shall be filed in duplicate. It shall be in writing and shall set forth clearly and concisely the specific grievances to the assessment, reduced credit, refund or denial of refund, including a statement of the relevant facts and propositions of law upon which the grievance is based. Every petition shall be signed by the taxpayer or by a duly authorized representative.~~

(3) FILING DEADLINE. A (a) ~~To be considered "timely filed"~~ a petition for redetermination shall be filed within 60 days after receipt of a notice of additional assessment, reduced credit, refund or denial of refund. ~~A Except as provided in par. (b), a petition for redetermination is not "filed" within the proper statutory 60-day time period unless only if it is actually received by the department, or at the destination that the department prescribes, within the 60-day period, or unless it is mailed in a properly addressed envelope, with postage~~

prepaid, the envelope is postmarked before midnight of the ~~sixtieth~~ 60th day and the petition is actually received by the department, or at the destination that the department prescribes, within 5 business days of the prescribed ~~sixtieth~~ 60th day date.

(b) In lieu of being received by the department or at a destination prescribed by the department, a petition for redetermination may be received at a destination prescribed by the department of administration if the petition for redetermination relates to a notice of additional assessment, reduced credit, refund or refund denial of income, franchise, withholding, motor vehicle fuel, alternate fuels, general aviation fuel, fermented malt beverages, liquor, cigarette, tobacco products or controlled substances tax, homestead, farmland preservation or other credit or state rental vehicle fee.

Note to Revisor: Remove the note at the end of sub. (3).

(4) DEPOSIT OR PAYMENT. (a) *Deposit*. Any person who files a petition for redetermination may elect to deposit the amount of additional assessment, including interest and penalty, with the department of revenue, or with a person that the department prescribes, at any time before the department makes its redetermination. Any deposited amount ~~which that~~ is later refunded ~~will~~ shall bear interest at the statutory rate.

(b) *Payment*. A person may also pay any portion of the assessment admitted to be correct together with interest ~~to~~ computed to the date of payment. However, the payment shall be considered an admission that the paid portion of the assessment is correct. The admitted portion that is paid may not be recovered in an appeal or in any other action or proceeding.

(5) INFORMAL CONFERENCE. A taxpayer may request in a petition for redetermination or at any time before the department of revenue has acted on the petition, an informal conference at which the facts and issues involved in the assessment or determination may be discussed. The conference shall be held at a time and place determined by the department.

(6) CLOSING STIPULATIONS. If the informal conference specified in sub. (5) results in an agreement as to facts and issues and the applicable law, the taxpayer and the department of revenue may enter into a closing stipulation.

Note to Revisor: 1) Remove the statutory references following the title of Tax 3.91 before renumbering.

2) Insert the following note at the end of Tax 1.14:

Note: Section Tax 1.14 interprets ss. 66.0615 (1m) (f) 2., 71.80 (18), 71.88 (1), 71.90 (1), 77.59 (6), 77.61 (14), 77.76 (2), 77.982 (2), 77.991 (2), 77.9941 (4), 77.9951 (2), 77.9964 (2), 78.67, 78.69, 139.094, 139.11 (2m), 139.355, 139.38 (2m), 139.83, 139.835, 139.93 (1) and 168.12 (9), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

The proposed rule order updates rules relating to corporation returns, amended returns including claims for refund, and petitions for determination. It has no effect on tax revenues or Department of Revenue administrative expenses.

Contact Person

Please contact Mark Wipperfurth at (608) 266-8253 or mwipperf@dor.state.wi.us, if you have any questions regarding this proposed rule order.

Submittal of proposed rules to the legislature

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

Natural Resources

(CR 01-145)

Ch. NR 25, relating to commercial fishing for chubs in Lake Michigan.

Natural Resources

(CR 01-129)

Ch. NR 720, relating to the use of deed restrictions and deed notices for the closure of environmental remediation cases, and the implementation of a geographic information system registry of closed remediation sites for properties with residual soil contamination.

Rule orders filed with the revisor of statutes bureau

The following administrative rule orders have been filed with the Revisor of Statutes 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 Revisor of Statutes Bureau at gary.poulson@legis.state.wi.us or (608) 266-7275 for updated information on the effective dates for the listed rule orders.

Agriculture, Trade and Consumer Protection (CR 01-057)

An order affecting ch. ATCP 81, relating to cheese grading, packaging and labeling.
Effective 7-1-02

Agriculture, Trade and Consumer Protection (CR 01-114)

An order affecting ch. ATCP 30, relating to pesticide product restrictions.
Effective 7-1-02

Commerce (CR 01-109)

An order affecting ch. Comm 62, relating to building construction accessibility requirements.
Effective 7-1-02

Commerce (CR 01-139)

An order affecting chs. Comm 2, 3, 5, 7, 9, 10, 14, 16, 30, 32, 35, 41, 45, 50, 61 to 65, 71, 75, 81, 82, 84, 90, and 91 relating to construction of public buildings and places of employment.
Effective 7-1-02

Commerce (CR 01-157)

An order affecting ch. Comm 122, relating to physician and dentist loan assistance program and ch. Comm 128, relating to health care provider loan assistance program.
Effective 7-1-02

Health and Family Services (CR 01-108)

An order affecting ch. HFS 157, relating to protecting public health by regulating the sources and use of ionizing radiation.
Effective 8-1-02

Natural Resources (CR 00-154)

An order affecting ch. NR 10, relating to deer hunting.
Partially effective 8-1-02

Natural Resources (CR 01-103)

An order creating ch. NR 328, subch. II, relating to department standards for erosion control in lakes and impoundments.
Effective 7-1-02

Natural Resources (CR 01-128)

An order affecting ch. NR 16, relating to the permitting the use of natural bodies of water as fish farms.
Effective 7-1-02

Transportation (CR 01-093)

An order affecting chs. Trans 260 and 261, relating to single and multiple trip permits for mobile homes and modular building sections.
Effective 7-1-02

Transportation (CR 02-003)

An order affecting chs. Trans 325 and 326, relating to motor carrier safety regulations.
Effective 7-1-02

Workforce Development (CR 02-011)

An order affecting chs. DWD 290 and 293, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.
Effective 7-1-02

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **May 31, 2002**, 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.

Commerce (CR 01-147)

An order affecting ch. Comm 107, relating to the Wisconsin technology zone program.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

This rule should not materially impact the cost of report preparation by small business as most of the reporting requirements contained in this rule are currently as required by the Department of Revenue.

No oral or written hearing comments were received regarding significant small business issues.

Summary of Comments of Legislative Standing Committees

No comments were received.

Commerce (CR 01-150)

An order affecting ch. Comm 7, relating to explosive materials.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

There are no small businesses that will be affected by the rule.

Summary of Comments of Legislative Standing Committees

No comments were received.

Health and Family Services (CR 01-016)

An order affecting chs. HFS 172, 175, 178 and 195 to 198, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

Many of the 11,000 establishments regulated by the department are small businesses as defined in s. 227.114 (1) (a), Stats. These facilities will be impacted by an increase in annual permit fees. The department has historically addressed the concern over increased license fees in the lodging and campground industry by scaling fees based upon the capacity of the facility. Lodging and campground facilities with a smaller number of rooms or campsites will continue to require lower permit fees than larger, more

complex operations. In addition, in response to hearing comments from small lodging facility operators, the department has revised downward the proposed fee increases for the smallest lodging facilities (hotels and motels), campgrounds and tourist rooming houses.

Before the present rulemaking proposal, no distinction was made between permit fees for large or small full service restaurant operations. Smaller locally owned restaurants and taverns were especially negatively impacted by this licensing format. For this reason, the rulemaking order includes a proposal that fees for food service operations be divided into three categories, based on the complexity of the operation, as well as an analysis of the foods they prepare. Simple operations translate into relatively brief inspections, thus the fees for these types of small businesses are proposed to increase by only \$12 per year. The department proposes that permit fees for complex restaurant operations, that require a number of hours to properly inspect, be increased by \$82 for moderately complex restaurant establishments or \$152 for highly complex restaurant establishments per year.

The concern over the economic impact of permit fee increases on small businesses was raised frequently during the hearing process. To address these concerns, the department met with restaurant and tavern industry representatives subsequent to the hearings to review the criteria with which the department proposed to classify restaurant permits. As a result of the meeting, the proposed criteria set forth in HFS 196.04 (2) (d) and Table HFS 196.04, was revised to ensure that permits for operations that have a lesser public health risk would be placed in a "simple" permit category. The permit fee increase for these facilities is proposed at \$12 per year.

The department has attempted to minimize the fiscal impact of the proposed licensing increases on small businesses by scaling permit fees according to size and complexity of operations. Licensing fees are the department's only source of revenue for the regulation of the state's campgrounds, recreational and educational camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations. There are no alternative means of funding the regulatory program. The fee increases are necessary to continue to fund the department's program to ensure the health and safety of patrons using the regulated facilities.

The proposed rules will not require any additional costs or actions on the part of regulated facilities.

The department believes any impact on the public's health, safety, and welfare will be positive, in terms of an increased frequency of routine inspections, facility

consultations, better response to consumer complaints, and necessary enforcement actions.

Summary of Comments of Legislative Standing Committees

The Assembly Committee on Tourism and Recreation requested that the Department lower the proposed fee increases. At the Committee's request the Department lowered the proposed fee increases.

No comments were received from the Senate Committee on Human Services and Aging.

**Health and Family Services
(CR 01-148)**

An order creating s. HFS 119.07 (6m) and table, to establish a separate prescription drug coinsurance benefit relating to the Health Insurance Risk-Sharing Plan (HIRSP) with limits on HIRSP policyholder out-of-pocket expenses for covered prescription drugs.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

The rule changes will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance the Health Insurance Risk-Sharing Plan (HIRSP), no assessed insurer is a small business as defined in s. 227.114 (1) (a), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of an insurer's assessment to help finance HIRSP is to be determined.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Natural Resources
(CR 01-146)**

An order affecting ch. NR 47, relating to forest fire protection grants and sustainable forestry grants for county forests.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

The rules were reviewed by the Assembly Committee on Rural Affairs and Forestry and the Senate Committee on Environmental Resources. There were no comments.

**Pharmacy Examining Board
(CR 00-157)**

An order affecting chs. Phar 2, 4, 12 and 13, relating to consultation programs and licensure requirements.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments were received.

**Public Instruction
(CR 01-119)**

An order affecting ch. PI 25, relating to the children at risk program.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

These rules will have no impact on small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Public Instruction
(CR 01-131)**

An order repealing chs. PI 23, 33, 39 and 43, relating to the elimination of obsolete rules.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

These rules will have no impact on small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Public Instruction
(CR 01-132)**

An order affecting ch. PI 37, relating to technical modifications to chs. PI 10, 12, 20 and 37 pursuant to statutory changes made under 1999 Wis. Act 9 and 2001 Wis. Act 16.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

These rules will have no impact on small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Transportation
(CR 01-120)**

An order affecting ch. Trans 305, relating to standards for vehicle equipment.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

This proposed rule will have no significant adverse impact on small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Transportation
(CR 02-005)**

An order affecting ch. Trans 102, relating to the issuance of driver's licenses and identification cards.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

The provisions of this rule have no effect on small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

Volunteer Fire Fighter & EMT Service Award Board

(CR 01-123)

An order creating ch. VFF-EMT 1, relating to a Length of Service Award Program for Volunteer Fire Fighters and Emergency Medical Technicians.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments were received.

Workforce Development

(CR 01-138)

An order creating ch. DWD 44, relating to child support incentive payments.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rules have no significant impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments of Legislative Standing Committees

No comments were received.

Workforce Development

(CR 02-007)

An order affecting ch. DWD 55, relating to day care certification.

Effective 6-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rules affect certified child care providers but do not have a significant economic impact. The changes require no significant professional skills or reporting or bookkeeping procedures for compliance with the rule.

Summary of Comments of Legislative Standing Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **May 2002**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Commerce:

- Ch. Comm 7**
- S. Comm 7.35 (2)
- Ch. Comm 107** (entire chapter)

Health and Family Services:

- Ch. HFS 119**
- S. HFS 119.07 (6m)
- Ch. HFS 172**
- S. HFS 172.04 (1m) (a) and (d)
- Ch. HFS 175**
- S. HFS 175.03 (3) (a)
- S. HFS 178.05 (3) (a), (1m) (a), and (d)
- Ch. HFS 195**
- S. HFS 195.04 (1m) (a), (d), and (e)
- Ch. HFS 196**
- S. HFS 196.04 (2) (b) to (e), (f), and (2m)
- Ch. HFS 197**
- S. HFS 197.04 (1m) (a) and (d), and (e)
- Ch. HFS 198**
- S. HFS 198.04 (1) and (1m)

Natural Resources:

- Ch. NR 47**
- S. NR 47.008 (1)
- S. NR 47.75
- S. NR 47.903 (3) and (6)
- S. NR 47.905 (2) (f) and (g)

Pharmacy

- Ch. Phar 2**
- S. Phar 2.03 (1)
- S. Phar 2.06 (1), (3) (a), (b), and (c)
- Ch. Phar 4**
- S. Phar 4.02 (2) to (6)
- Ch. Phar 12**
- S. Phar 12.03 (2) (d) and (e)
- Ch. Phar 13**
- S. Phar 13.05 (2)

Public Instruction:

- Ch. PI 10**
- S. PI 10.03 (intro.), (3)

Ch. PI 12

S. PI 12.01 (1) (intro.), (b), (3), (4), (6), and (7)

Ch. PI 20

S. PI 20.02
S. PI 20.04 (1) (intro.)

Ch. PI 23

(entire chapter)

Ch. PI 25

S. PI 25.01 (1)
S. PI 25.02 (1), (2), (3), (6) and (9) (intro.)
S. PI 25.03 (1) (intro.), (a), (2) (intro.) and (e)
S. PI 25.04
S. PI 25.05 (1) (b) to (e), and (2)
S. PI 25.06 (3)
S. PI 25.07 (1) (b), (c), and (2) (a)

Ch. PI 33

(entire chapter)

Ch. PI 37

S. PI 37.02 (1) to (4)
S. PI 37.03 (1) (a), (b) and (2) (c)
S. PI 37.04 (1) (a) and (2)

Ch. PI 39

(entire chapter)

Ch. PI 43

(entire chapter)

Transportation:

Ch. Trans 102

S. Trans 102.15 (3) (a)

Ch. Trans 305

S. Trans 305.05 (7m)
S. Trans 305.19 (4) to (6)

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board:

Ch. VFF-EMT 1

(entire chapter)

Workforce Development:

Ch. DWD 44

(entire chapter)

Ch. DWD 55

S. DWD 55.02 (1), (3m), (4), and (4m)
S. DWD 55.04 (3) (b), (f), (5) (a), (b), (6) (c), (7) (b), and (9)
S. DWD 55.05 (1), (2), (3), (4), and (5)
S. DWD 55.06 (1), (2), (3), and (4)
S. DWD 55.08 (1) (a), (b), (2) (c), (cm), (d) to (h), (k), (o), (4) (i), (j), (5) (i), (6), (7) (b), (d) to (j), (8) (a), (9) (d), (e), (11) (c), (d), (12) (c), (f) to (i), (14) and (15)

Editorial corrections

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

Health and Family Services:**Ch. HFS 172**

S. HFS 172.03 (12)

S. HFS 172.15 (4)

Ch. HFS 175

S. HFS 175.07 (1) (b)

S. HFS 175.09 (1) (c) & (e) & (2)

S. HFS 175.12 (1)

S. HFS 175.13 (4) (c)

S. HFS 175.18 (4)

Ch. HFS 178

S. HFS 178.09 (1) (a) and (12)

S. HFS 178.11

S. HFS 178.16 (3)

S. HFS 178.17 (4)

Ch. HFS 195

S. HFS 195.05 (5) (c) and (e)

S. HFS 195.09 (1)

S. HFS 195.12 (4)

Ch. HFS 196

S. HFS 196.06 (4)

Ch. HFS 197

S. HFS 197.11 (4)

Ch. HFS 198

S. HFS 198.12 (4)

Transportation:**Ch. Trans 102**

S. Trans 102.15 (2) (c)

Ch. Trans 305

S. Trans 305.24 (4)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 42. Relating to a special session of the legislature relating to chronic wasting disease in Wisconsin.

Executive Order 43. 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 peace officers who have given their lives in the line of duty.

Executive Order 44. Relating to a special session of the legislature.

Executive Order 45. 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 Lieutenant Christopher T. Starkweather of the United States Navy who lost his life in a training accident over the Gulf of Mexico.

Executive Order 46. Relating to the creation of the Governor's Task Force on Ethics Reform in Government.

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