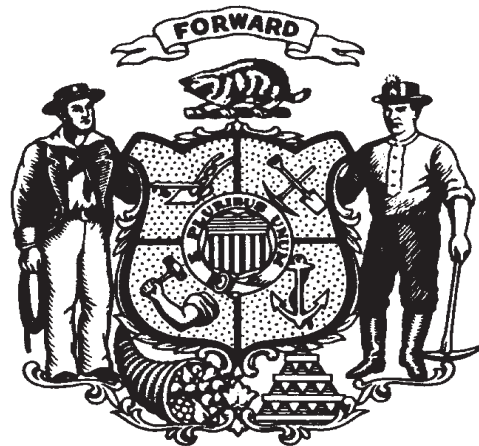


Wisconsin Administrative Register

No. 558



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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

Elections Board

Rules adopted amending **s. EIBd 6.05** relating to filing campaign reports by electronic transmission.

Finding of emergency

The Elections Board finds that an emergency exists in the implementation of the requirement of s. 11.21 (16), Stats., that each registrant for whom the board serves as filing officer and who or which accepts contributions in a total amount or value of \$20,000 or more during a campaign period, shall file each required campaign finance report in an electronic format, and finds that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

With the close of the legislature's 2001-02 biennial session, it is now apparent that the Board will not receive an additional appropriation to develop a software program that enables registrants to file reports that integrates with the agency's information management system. Implementing an alternate means to permit registrants to comply with s. 11.21 (16), Stats., is necessary for use of campaign finance reports filed in 2002 and thereafter. Filings in electronic format will improve the welfare of Wisconsin's citizens by making campaign finance information more readily available to citizens, candidates, journalists and advocacy groups. Filing reports electronically is the only viable means of ensuring that the public has the information necessary to participate in the selection of our governmental leaders.

Publication Date: June 1, 2002
Effective Date: June 1, 2002
Expiration Date: October 29, 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
Hearing Dates: July 22, 23, 24 & 25, 2002
 [See Notice this Register]

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
Extension Through: July 29, 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
Extension Through: August 25, 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 "roll over" 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

Hearing Dates: July 15, 16 & 17, 2002

[See Notice this Register]

Scope statements

Administration

Subject

Objective of the rule. The Department of Administration proposes to amend ch. Adm 9 regarding the Bidders List Registration Fee.

Policy Analysis

Section 16.702, Stats., created by the Legislature in 1995 Wis. Act 27, related to maintaining a list of bidders and required registration fees. In 1995 Wis. Act 351 (section 1df) the Legislature repealed s. 16.702 effective July 1, 2000. Accordingly, there is no longer a statutory requirement to maintain a bidders list registration fee.

Statutory authority

Sections 16.004 (1) and 227.11, Stats.

Staff time required

The Department of Administration estimates 30 hours.

Administration

Subject

Payroll Deduction for Charitable Purposes. *Objective of the rule.* The Department of Administration proposes to amend the rule to conform to existing statutory provisions.

Policy Analysis

In April 1980, the Department of Administration created ch. Adm 30 to implement payroll deductions for charitable purposes as provided in s. 20.921 (1) (a) 4, Stats. The current s. Adm 30.05 (11), does not include a requirement of nondiscrimination in terms of sexual orientation which is required by s. 227.10 (3) (a), Stats. In addition, DOA proposes the rule should recognize that charities participating in the Combined Charities Campaign retain their First Amendment rights. This later change relates to the issue that has been raised regarding the continued participation of certain charities in the Combined Charities Campaign.

Statutory authority

Sections 16.004 (1), and 20.921 (1) (a) 4., Stats.

Staff time required

The Department of Administration estimates 30 hours to promulgate this rule.

Agriculture, Trade and Consumer Protection

Subject

Chapter ATCP 146, Wis. Adm. Code (New), relating to Pork Marketing Order. *Objective of the rule.* Create a marketing order for pork produced from domestic hogs that are raised and sold by Wisconsin producers, for the purposes of funding market development, research and educational programs.

Policy Analysis

DATCP administers agricultural commodity marketing orders under ch. 96, Stats. The Wisconsin Pork Producers Association has requested DATCP to develop a marketing order for pork produced from domestic hogs that are raised and sold by Wisconsin producers for the purposes of funding market development, research and educational programs.

Wisconsin pork producers are currently affected by the federal pork promotion order. However, the industry association would like to be prepared to implement a state marketing order in the event that the federal promotion order is revised or terminated following a national producer referendum. The referendum on the federal order will occur in 2004. The state marketing order would not go into effect if the federal promotion order remains intact.

The pork producers association and DATCP propose to create a state marketing order for pork, which would have the following objectives:

- Define an “affected producer” for determination of who is eligible for voting in the referendum to approve the marketing order and the election of a marketing board, and who is required to pay assessments under the order.
- Create a marketing board to be elected from among affected producers. The board is responsible for establishing budgets and allocating funds for market development, research and educational programs.
- Establish the rate or amount of assessments to be collected from affected producers on pork produced and sold in this state and the procedures for collecting and paying assessments.
- Establish the kinds of records that need to be maintained by producers and handlers in order to account for assessments collected and paid.
- Other provisions necessary to effectively administer the marketing orders.

Policy Alternatives

Marketing orders are tools for commodity producers or handlers to generate revenue for funding eligible programs under the agricultural marketing act (ch. 96, Stats.). DATCP oversees marketing board operations, including budget and marketing board elections. Producers vote in a referendum to determine whether or not to establish a marketing order. A state marketing order will not be created if a majority of eligible producers disapprove the order in a referendum. If DATCP takes no action, pork producers would not have an opportunity to choose whether or not a state marketing order would benefit them.

Statutory authority

DATCP proposes to create ch. ATCP 146, Wis. Adm. Code, under the authority of ch. 96, Stats.

Staff time required

DATCP estimates that it will use approximately 0.5 FTE staff to develop this rule. This includes time involved in drafting rules, communicating with affected parties, holding public hearings, preparing documents and conducting a producer referendum. DATCP will use existing staff to develop this rule.

Corrections

Subject

Rule amendment to update ch. DOC 308, relating to administrative confinement.

Objective of the rule. The Department of Corrections proposes to review this rule as part of an ongoing mission to refine the Department’s administrative rules and enhance their clarity, efficiency and function in light of today’s fiscal and institutional environments.

Policy Analysis

This proposed rule would create new procedures for the department in the administrative confinement process. The continual increase in prisoners, along with their increased level of sophistication, has placed a growing burden on correctional staff. This proposed rule would be evaluated and amended to reflect current needs of the institutions, the Department, the public and the inmate population.

Due to the ever-changing nature of the institutions, the procedures used today and the policies implemented in these current rules may not be functional, practical or efficient in today's prisons. For example, the Department intends to address the repeat victimization caused by predatory inmates who take advantage of accessible communication vehicles. This predatory behavior often results in additional crimes committed during incarceration, including sexual solicitation, fraud, identity theft, etc. The Department will review the use of administrative confinement in order to use security surveillance and more closely monitor these inmates.

The proposed rule would also make necessary changes in light of statutory updates and current case law, as well as changes upon evaluation of the rule's current effectiveness.

Statutory authority

Sections 227.11 (2), 301.02, and 301.03, Stats.

Staff time required

It is anticipated that 100 hours of staff time may be necessary to review and revise the administrative rule, including drafting, cost estimates, public hearings and complying with rule making requirements. Other than staff time, it is anticipated that the resources to develop the rule will be minimal.

Corrections**Subject**

Rule promulgation to amend the honesty testing of sex offenders program to include incarcerated sex offenders.

Policy Analysis

Objective of the rule. To bring the rules into conformity with s. 301.132, Stats., as amended by 1999 Act 89 (1999) which extended the honesty testing (polygraph) of sex offenders program to inmates, as well as probationers and parolees. Also, the department anticipates amending the title of ch. DOC 332 to include a reference to the honesty testing of sex offenders program.

The alternatives to the proposed policy would result in not extending the use of honesty testing devices in the supervision of incarcerated sex offenders as permitted by law.

Statutory authority

Sections 227.11 (2), 301.132, Stats.

Staff time required

The Department estimates that it will take approximately 10 hours to develop the rule, including drafting and complying with rulemaking requirements.

Corrections**Subject**

Chapter DOC 346 (Secure Detention for Juveniles)—Relating to the elimination of outdated provisions; clarification of language; updating citations to statutes for accuracy; clarification of requirements for secure detention facilities and juvenile portions of a county jail; and renumbering and reorganizing the chapter.

Policy Analysis

Description of the objectives of the rule:

The objective of the rule is to:

- bring the rules into conformity with ch. 938, Juvenile Justice Code;

- bring the rules into conformity with the federal Juvenile Justice and Delinquency Prevention Act;

- clarify the requirements for juvenile portions of county jails; and

- reorganize and renumber the chapter.

Chapter DOC 346 establishes minimum standards for juvenile detention facilities and juvenile portions of county jail consistent with the federal Juvenile Justice and Delinquency Act. The rule will:

- correct statutory references to ch. 938;

- define the term "juvenile" and clarify age and eligibility requirements for detention in a secure detention facility and juvenile portion of a county jail;

- update references to the current federal act and regulations;

- clarify the use of a juvenile portion of a county jail;

- review the ratio of staff to incarcerated individuals for staff responsible for supervising juveniles in a juvenile portion of a county jail;

- make programmatic distinctions between secure detention facilities and juvenile portions of a county jail;

- clarify the requirements for the observation of juveniles;

- clarify mandatory staff training subjects;

- require that facilities include a section on searches in the operational plan;

- clarify the process for the department's review and approval of county construction plans;

- require space for storage and classrooms for new or substantially remodeled facilities;

- establish a minimum space requirement for outdoor recreation, if outdoor recreation is provided; and

- reorganize and renumber chapter DOC 346.

The alternatives to the proposed policy would result in not updating and clarifying existing rule provisions.

Statutory authority

Sections 227.11(2), 301.36 and 301.37.

Staff time required

The Department estimates that it will take approximately 80 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Revenue**Subject**

Ss. Tax 11.19, 11.33, 11.48, 11.50 and 11.57, relating to printed material exemptions; occasional sales; landlords, hotels and motels; auctions; and utilities.

Description of policy issues

Objective of the proposed rule. The objectives of the proposed rule are to:

- Reflect a court decision relating to printed advertising materials.

- Reflect law changes relating to:

- a. Recreational use of time—share property.

- b. The occasional sale exemption for certain auction sales.

- c. The exemption for electricity used in farming.

- d. The exemption for public benefits fees.

- e. Certain transfers of transmission facilities.

- Create a subsection for definitions in s Tax 11.48.
- Restructure ss. Tax 11.48 and Tax 11.57 (2), for clarity and to comply with Legislative Council Rules Clearinghouse (“Clearinghouse”) standards.
- Clarify provisions relating to the furnishing of lodging for a continuous period of less than one month, or for one month or more.
- Clarify provisions relating to taxable auction receipts and exempt auction receipts.
- Provide information relating to sales of vehicles, boats, aircraft, mobile homes, trailers, etc.
- Remove a reference to obsolete resale certificates.
- Update the form number for exemption certificates.
- Reflect that s. Tax 11.57 applies to all utilities, not just public utilities.
- Remove redundant language, per Clearinghouse standards.
- Update language and punctuation, per Clearinghouse standards.

Policy analysis

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes and court decisions. If the rules are not changed, they will be incorrect in that they will not reflect current law, current forms or current Department policy. The rules also will not reflect current Clearinghouse standards and will remain unclear with regard to many provisions.

Statutory authority

Section 227.11 (2) (a), Stats.

Staff time required

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

Transportation

Subject

Objective of the rule. This rule making proposes to amend s. Trans 102.15, relating to Proof of Identification. The proposed changes will help ensure that driver licenses and identification cards go to people who are who they say they are.

Policy Analysis

Section Trans 102.15 specified what documents the Department will accept for identification purposes when issuing driver licenses or identification cards. The Department proposes removing identification documents that no longer exist and removing identification documents with poor security and integrity. The Department also proposes to add identity documents that are useful in verifying a person’s name, date of birth and identity.

Statutory authority

Section 343.14 (2) (f), Stats.

Staff time required

Approximately 50 hours.

Submittal of rules to legislative council clearinghouse

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

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

Rule Submittal Date

On June 17, 2002, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order relates to land surveyor temporary permits.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 24, 2002 at 10:00 a.m. in Room 124, 1400 East Washington Avenue, Madison, Wisconsin 53702.

Contact Person

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

Health and Family Services

Rule Submittal Date

On June 5, 2002, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: Sections 149.143 (2) (a) 2, 3, and 4., and (3) and 227.11 (2), Stats.

The proposed rule-making order relates to ch. HFS 119, operation of the health insurance risk-sharing plan (HIRSP).

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by the DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

Contact Person

Randy McElhose, 267-7127 or Bonnie Kendell, 267-4395.

Natural Resources

Rule Submittal Date

On May 30, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to ch. NR 10, migratory game bird season.

Agency Procedure for Promulgation

Public hearings are scheduled for August, 6, 7 and 8, 2002.

The Bureau of Wildlife Management is responsible for promulgation of the proposed rule.

Contact Person

Kurt Thiede.

Natural Resources

Rule Submittal Date

On June 14, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to chs. NR 10 and 45, small game and expanded spring turkey hunting in state parks.

Agency Procedure for Promulgation

Public hearings are scheduled for July 15, 16, 17 and 18, 2002.

The Bureau of Wildlife Management is responsible for promulgation of the proposed rule.

Contact Person

Kurt Thiede.

Natural Resources

Rule Submittal Date

On May 30, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to ch. NR 20, fishing on the inland and outlying waters of Wisconsin.

Agency Procedure for Promulgation

A public hearing is scheduled for July 15, 2002.

The Bureau of Fisheries Management and Habitat Protection is responsible for promulgation of the proposed rule.

Contact Person

Patrick Schmalz.

Natural Resources

Rule Submittal Date

On May 30, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to ch. NR 47, Wisconsin forest landowner grants.

Agency Procedure for Promulgation

Public hearings are scheduled for July 11 and 12, 2002.

The Bureau of Forestry is responsible for promulgation of the proposed rule.

Contact Person

Linda De Paul.

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 relates to ch. NR 109, aquatic plant management.

Agency Procedure for Promulgation

Public hearings are scheduled for July 22, 23, 24 and 25, 2002.

The Bureau of Fisheries Management and Habitat Protection is responsible for promulgation of the proposed rule.

Contact Person

Jeff Bode.

Natural Resources

Rule Submittal Date

On May 30, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to ch. NR 428, NO_x emissions limits.

Agency Procedure for Promulgation

A public hearing is scheduled for July 11, 2002.

The Bureau of Air Management is responsible for promulgation of the proposed rule.

Contact Person

Dennis Koepke.

Transportation

Rule Submittal Date

On June 11, 2002, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule-making order relates to ch. Trans 130, disabled parking placards.

Agency Procedure for Promulgation

A public hearing is required and scheduled for August 9, 2002.

The Division of Motor Vehicles, Bureau of Vehicle Services is responsible for promulgation of the proposed rule.

Contact Person

Julie Johnson, Paralegal, (608) 266-8810.

Transportation

Rule Submittal Date

On June 11, 2002, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule-making order relates to ch. Trans 320, calculation of fees for special events, security, traffic enforcement and escort services.

Agency Procedure for Promulgation

A public hearing is required and scheduled for August 9, 2002.

The Division of State Patrol, Bureau of Support Services is responsible for promulgation of the proposed rule.

Contact Person

Julie Johnson, Paralegal, (608) 266-8810.

Workforce Development

Rule Submittal Date

On June 12, 2002, the Department of Workforce Development submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rules affect s. DWD 129.01 (1), relating to the extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

Agency Procedure for Promulgation

Public hearings are required and scheduled for July 15, 16, and 17, 2002.

The Unemployment Insurance Division is responsible for promulgation of the proposed rule.

Contact Person

Elaine Pridgen

Telephone: (608) 267-9403

Email: pridgel@dwd.state.wi.us

Workforce Development

Rule Submittal Date

On June 12, 2002, the Department of Workforce Development submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 106.01 (9) and 227.11 (2), Stats.

The proposed rules affect s. DWD 295.07 (4), relating to the apprenticeship probationary period.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 17, 2002.

The Workforce Solutions Division is responsible for promulgation of the proposed rule.

Contact Person

Elaine Pridgen

Telephone: (608) 267-9403

Email: pridgel@dwd.state.wi.us

Rule-making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection [CR 02-078]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on its rule relating to chronic wasting disease in cervids. The department will hold four hearings at the times and places shown below. The department invites the public to attend the hearings and comment on the rule. Following the public hearings, the hearing record will remain open until August 2, 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 hearings.

Hearing impaired persons may request an interpreter for the hearing. Please make reservations for a hearing interpreter by **July 10, 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.

Hearings are scheduled:

Tuesday, July 16, 2002, commencing at 6:00 p.m.

UW Fond du Lac
University Center, Rm. 113
400 University Ave
Fond du Lac, WI 54935
Handicapped accessible

Thursday, July 18, 2002, commencing at 6:00 p.m.

Quality Inn
809 West Clairemont Avenue
Eau Claire, WI 54702 - 8037
Handicapped accessible

Monday, July 22, 2002, commencing at 6:00 p.m.

WI Dept. of Agriculture, Trade & Consumer Protection
Board Room
2811 Agriculture Drive
Madison, WI 53718
Handicapped accessible

Thursday July 25, 2002, commencing at 6:00 p.m.

UW Marathon County
Terrace Room NA 100
518 South 7th Avenue
Wausau, WI 54401

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

Statutory Authority: ss. 93.07 (1), 93.07 (10) and 95.20, Stats.

Statutes Interpreted: ss. 93.07 (10), 95.20, 95.22, and 95.31, Stats.

This rule regulates the import, testing, identification and movement of farm-raised deer (including deer and elk) to prevent the spread of chronic wasting disease. This rule also modifies current rules related to the registration of farm-raised deer herds in this state. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers this rule.

For the most part, this rule does not apply to wild deer or elk regulated by the Department of Natural Resources (DNR). However, this rule does regulate *imports* of wild deer and elk. This rule also requires a person to report to DATCP if farm-raised deer *or a wild deer or elk* tests positive for chronic wasting disease.

Background

Chronic wasting disease was recently discovered in the wild deer population in Wisconsin. Chronic wasting disease is a form of transmissible spongiform encephalopathy, a disease that is always fatal. It is known to affect several species of cervids, including elk, white-tailed deer, black-tailed deer, mule deer and red deer. Very little is known about the disease, but it appears to be spread by cervid-to-cervid contact. The disease may spread more readily where cervids are concentrated.

Chronic wasting disease has not been diagnosed in farm-raised deer in this state, but its presence cannot be ruled out. The disease has been diagnosed in some farm-raised herds in other states. This rule establishes a monitoring and testing program for farm-raised deer in this state. This rule also regulates imports and movement of farm-raised deer.

Registering Farm-Raised Deer Herds

DATCP currently regulates "farm-raised deer" herds in this state. Under the new captive wildlife law (2001 Wis. Act 56), captive white-tail deer will also be classified as "farm-raised deer" after January 1, 2003. This rule regulates the keeping of "farm-raised deer," including captive white-tail deer.

Under current rules, a person keeping a herd of farm-raised deer must register the herd with DATCP. A person who keeps farm-raised deer at 2 separate locations may register all of those farm-raised deer as a single herd, and may freely move farm-raised deer between the 2 locations. Under this rule, a person may no longer register herds kept at 2 locations as a single herd, but must register each location as a separate herd. This means that the person must comply with intra-state movement regulations (see below) when moving farm-raised deer between the 2 locations.

A person may register separate herds at the same location if there is "medically significant separation" of the herds. There must be adequate fencing and facilities to maintain the separation, and the herd owner must comply with intra-state movement regulations (see below) when moving farm-raised deer between the herds. A person might choose to register separate herds at the same location if, for example, the person maintains a breeding operation (from which live animals are shipped) and a separate hunting operation (from which no live animals are shipped) at that location.

Before DATCP registers 2 herds at the same location, DATCP must inspect the premises to determine whether the facilities and fencing are adequate to maintain "medically

significant separation” of the herds. The herd owner must pay, in addition to the normal registration fees, a \$150 inspection fee to cover the costs of the inspection.

Under current rules, DATCP must grant or deny registration within 30 days after DATCP receives a complete application. Under this rule, if DATCP must inspect to ensure that there is “medically significant separation” between herds kept at the same location, DATCP must grant or deny the registration within 60 days after receiving a complete application.

Duties of Herd Owners

A person keeping farm–raised deer must comply with this rule. The person must keep complete herd records, including records related to animals entering or leaving the herd. The person may not add a cervid to the herd unless the cervid is imported in compliance with this rule, or moved from another registered herd in compliance with this rule. The person may not accept into the herd, on a temporary or permanent basis, any cervid from a wild herd. DATCP may deny, suspend or revoke a registration certificate for cause, including violations of this rule.

Importing Deer and Elk to Wisconsin

Under current rules, no person may import a deer, elk or other cervid into Wisconsin without a permit from DATCP. The importer, or a veterinarian acting on behalf of the importer, may apply for an import permit. The applicant must identify the herd of origin and the herd of destination. Current import rules apply to wild cervids as well as farm–raised deer.

This rule clarifies that DATCP will not issue a written import permit until DATCP receives a certificate of veterinary inspection completed by a federally accredited veterinarian. The certificate must identify each cervid to be imported, and must certify one of the following:

- The cervid originates from a herd monitored for at least 5 years under a state–approved chronic wasting disease herd certification program that complies with federal uniform methods and rules.
- The cervid originates from a herd that meets all the following criteria:
 - Herd members have all been born in the herd or kept in the herd for at least one year.
 - Herd members have not been added from any outside source, or exposed to cervids from any outside source, in the past year.
 - There have been no clinical signs of chronic wasting disease in the herd for the past 5 years.
 - Animal health officials in the state of origin have access to herd records for the past 5 years, including records of deaths and causes of death.
 - If the cervid is imported after December 31, 2003, the animal originates from a herd that is enrolled in a state–approved chronic wasting disease program that complies with federal uniform methods and rules:
 - * Animals imported in 2004 must originate from herds enrolled for at least one year.
 - * Animals imported in 2005 must originate from herds enrolled for at least 2 years.
 - * Animals imported in 2006 must originate from herds enrolled for at least 3 years.
 - * Animals imported in 2007 must originate from herds enrolled for at least 4 years.
 - * Animals imported in 2008 and subsequent years must originate from herds enrolled for at least 5 years.

Moving Live Farm–Raised Deer from Herds in Wisconsin

Under current rules, no person may move a live farm–raised deer from a herd in this state without a certificate of veterinary inspection. A Wisconsin certified veterinarian must certify that the farm–raised deer has tested negative for tuberculosis (there are some exceptions). Under this rule:

- The veterinarian must also certify that the herd of origin has shown no clinical signs of chronic wasting disease in the last 12 months. The veterinarian must be the herd veterinarian for the herd of origin.
- The herd of origin must be enrolled in Wisconsin’s herd monitoring program (see below). The required length of enrollment will increase over time:
 - Beginning in 2004, the herd must have been enrolled for at least one year.
 - Beginning in 2005, the herd must have been enrolled for at least 2 years.
 - Beginning in 2006, the herd must have been enrolled for at least 3 years.
 - Beginning in 2007, the herd must have been enrolled for at least 4 years.
 - Beginning in 2008, the herd must have been enrolled for at least 5 years.

These requirements do not apply to any of the following:

- A farm–raised deer moved directly to slaughter if it is tested for chronic wasting disease.
- A farm–raised deer moved by or under the control of DNR.
- A farm–raised deer moved between institutions that are accredited by the American association of zoological parks and aquariums.

Mandatory Testing in Wisconsin

This rule requires chronic wasting disease testing of farm–raised deer. There is no test available for live farm–raised deer. Tests must be conducted on brain tissue collected from dead farm–raised deer. Tests are only effective on farm–raised deer at least 16 months old. This rule requires herd owners to have all the following tested for chronic wasting disease:

- All farm–raised deer at least 16 months old that are shipped to slaughter.
- All farm–raised deer at least 16 months old whose carcasses (or any part of whose carcasses) leave the herd premises.

A herd owner enrolled in Wisconsin’s herd monitoring program (see below) must also test farm–raised deer at least 16 months old that die on the herd premises, even if their carcasses do not leave the herd premises. No live farm–raised deer may be shipped from a herd unless that herd is enrolled in the monitoring program.

Test Standards and Reports

This rule spells out standards for official chronic wasting disease testing in this state. Under this rule:

- Test samples must be collected by a DATCP–certified veterinarian, a DATCP employee, an employee of the animal and plant health inspection service of the United States department of agriculture (APHIS), or another person approved by DATCP. The person must complete training approved by DATCP.
- Test samples must be collected according to standard veterinary procedure, and tested at a laboratory approved by DATCP or APHIS.
- Veterinarians and others must report to DATCP if test results are positive for chronic wasting disease. This

reporting requirement applies to voluntary tests, as well as required tests. Persons receiving positive test results must report within one day, and confirm the report in writing within 10 days.

Quarantine and Condemnation

Under this rule, if a farm-raised deer tests positive for chronic wasting disease, DATCP must quarantine the herd. DATCP will conduct an epidemiological evaluation to determine the appropriate disposition of farm-raised deer in the herd. DATCP may condemn farm-raised deer exposed to the disease, and may direct the disposition of their carcasses. The herd owner may apply for statutory indemnity payments. If the owner of a farm-raised deer is eligible, indemnities will normally cover 2/3 of the appraised value of the condemned farm-raised deer, but not more than \$1500 for each animal.

Herd Monitoring Program

This rule establishes a herd monitoring program for chronic wasting disease. This program supplements the mandatory testing requirements described above. No live farm-raised deer may be shipped from a herd unless that herd is enrolled in the monitoring program (see above). A herd owner who wishes to enroll in the program must do all the following:

- Complete an application form.
 - Provide a report of a herd census completed not more than 30 days before the application date. The census report must include all the following:
 - The number, species and sex of farm-raised deer in the herd.
 - The number of farm-raised deer at least one year old.
 - The number of farm-raised deer less than one year old.
 - The official individual identification (ear tag number or other approved identification) of each farm-raised deer that is at least one year old.
 - Provide a statement from the herd veterinarian. The veterinarian must certify that he or she is the herd veterinarian, and that no farm-raised deer in the herd has shown any clinical signs of chronic wasting disease in the past 12 months.
- DATCP must grant or deny the application within 30 days. A herd is enrolled in the program when DATCP accepts the herd owner's application. The herd owner must do all the following to remain in the program:
- Identify each farm-raised deer in the herd, with official individual identification, before the farm-raised deer is one year old.
 - Test every farm-raised deer that dies or is shipped to slaughter, if that farm-raised deer is at least 16 months old. This testing requirement applies, regardless of whether the carcass leaves the herd premises.
 - Notify the herd veterinarian within 24 hours after the herd owner observes any signs or symptoms of chronic wasting disease.
 - Provide an annual statement from the herd veterinarian. The herd veterinarian must submit the annual statement to DATCP, within 30 days before or after the herd enrollment anniversary date. The veterinarian must certify that he or she is the herd veterinarian, and that no farm-raised deer in the herd has shown any clinical signs of chronic wasting disease since the last annual statement.

- File a report of an annual herd census. The herd owner must complete the annual census within 30 days before or after the enrollment anniversary date, and must file the report within 10 days after completing the census. The census report must include all the following:

- The number, species and sex of farm-raised deer in the herd.
 - The number of farm-raised deer at least one year old, and the number less than one year old.
 - The official individual identification of each farm-raised deer that is at least one year old.
 - The number, species and sex of farm-raised deer added to the herd since the last reported herd census. The report must indicate whether these new farm-raised deer were born into the herd or added from another source. If farm-raised deer were added from another source, the report must identify the source from which they were obtained.
 - The number of farm-raised deer that left the herd since the last reported herd census. The report must explain how each farm-raised deer left the herd, including all the following:
 - * Whether the farm-raised deer died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
 - * If the farm-raised deer was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
 - * If the farm-raised deer died on the premises, the animal's age and the disposition of its carcass. If the carcass left the premises, the report must identify the carcass destination or recipient. If the animal was at least 16 months old, the report must include a chronic wasting disease test report.
 - * If the farm-raised deer was shipped to slaughter, the animal's age and the name and address of the slaughter establishment. If the farm-raised deer was at least 16 months old, the report must include a chronic wasting disease test report.
 - Maintain all the following records for at least 5 years, and make those records available to DATCP for inspection and copying upon request:
 - A record of each farm-raised deer added to the herd from another source, including:
 - * The species, age and sex of the animal.
 - * The name and address of the person from whom the animal was obtained.
 - * The address of the herd from which the animal was obtained.
 - A record of each farm-raised deer leaving the herd, including all the following:
 - * Whether the animal died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
 - * If the animal was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
 - * If the animal died on the premises, the apparent cause of death, the animal's age, and the disposition of the animal's carcass. If the carcass left the premises, the record must identify the carcass destination or recipient.
 - * If the animal was shipped to slaughter, the animal's age and the name and address of the slaughter establishment.
- A copy of all records received from the herd veterinarian related to veterinary services provided to the herd.

Fiscal Estimate

This rule establishes a regulatory program to prevent and control chronic wasting disease in cervids (including deer and elk). This rule applies to captive, not wild, cervids. This rule establishes a mandatory herd monitoring program, testing requirements, annual reporting requirements, and

restrictions, regarding Chronic Wasting Disease (CWD), on movement into and within the state of Wisconsin for captive and commercial cervids. There will be significant increases in workload, significant costs for additional staff, and costs to educate and inform the citizens and cervid owners of Wisconsin in order to manage this disease appropriately and responsibly.

The Department is responsible for 985 registered deer farms, with an average herd size of 50 head per herd, that will need to begin testing for CWD in some capacity, and be actively monitored. All cervids, 16 months of age or older, whose carcass leaves the herd premises, for any reason, will require testing. Additionally, in order for these farms to move live animals from their establishments they will need to comply with the herd monitoring program as set out in the rule. This will require increased costs in record keeping, data maintenance, and surveillance and monitoring to assure that the farms and meat processing plants are in compliance with requirements. The additional number of inspections of facilities and record audits will be unmanageable with current staff. With the discovery of CWD in Wisconsin staff will be needed to do thorough investigations that will include interviews and detailed record inspections and follow-ups with all deer farms. Extensive epidemiological investigations will ensue in the event of a quarantine, and could lead to whole herds being euthanized. In order to ensure the health of the captive and commercial deer in Wisconsin more extensive monitoring for illegal movements and active, timely investigations of records and complaints will be necessary.

Public and industry outreach and education will need to be conducted to disseminate accurate and timely information about what is known regarding CWD, what can be done to prevent the spread and what measures the Department is taking. Training for herd owners and veterinarians (department employed and private) will also need to be provided.

To manage and contain the disease it is anticipated that 5 herds per year will need to be bought by the department as deemed necessary through epidemiological evaluation and risk analysis, separate from indemnification.

Revenue will be generated by additional registration of premises requirements. Two locations can no longer be under one registration. One premises can have two separate herds registered, however these locations must be inspected by the Department for a fee of \$150. Additional revenues are estimated at \$39,800. This is based on the following assumptions:

1. Of the existing non white tailed deer farms, approximately 17% have two locations that will need to be registered separately, that are currently under one registration, generating an estimated \$4,800 annually.

2. Of the existing white-tailed deer farms, it is estimated the 26% will go out of business, and the remaining farms will generate \$32,500 annually in registration fees.

3. For a multiple registration on one premises, inspections are estimated to generate \$2,500 annually

The fiscal estimate is \$2,406,000 annually.

Initial Regulatory Flexibility Analysis

Rule Description

This rule affects farm-raised deer keepers. It includes general registration requirements and provisions related specifically to chronic wasting disease. This rule does the following:

- Includes white-tail deer farmers in the registration requirements that already exist for farm-raised deer keepers.

This implements the new captive wildlife law (2001 Act 56) which will be effective January 1, 2003.

- Changes requirements for persons keeping 2 or more farm-raised deer herds.

- Increases record keeping requirements for farm-raised deer keepers.

- Prohibits farm-raised deer keepers from accepting into his or herd, on a permanent or temporary basis, any cervid from a wild herd.

- Imposes import restrictions specifically related to reducing the likelihood that chronic wasting disease will be imported to a farm-raised deer herd.

- Imposes restrictions on movement of farm-raised deer within Wisconsin. Requires participation in CWD herd monitoring program before any live cervid can be moved off farm-raised deer premises in Wisconsin.

- Requires CWD testing of every cervid over the age of 16 months that dies on a farm-raised deer farm if any part of the carcass is removed from the farm.

- Requires pre-movement tuberculosis testing of farm-raised white-tail deer in Wisconsin.

Small Businesses Affected by this Rule

Currently there are approximately 985 persons who are either registered as farm-raised deer keepers or licensed by DNR as game farms. After January 1, 2003, all of these people will be required to register with DATCP as farm-raised deer keepers. Most of these people qualify as a small business and will be affected by this rule.

Effects on Small Business

This rule will have a substantial impact on registered farm-raised deer keepers. It increases costs by requiring the farm-raised deer keeper to have CWD testing done on any cervid over 16 months of age that dies on the registered premises if any portion of the carcass leaves the registered premises. It also requires CWD testing of any cervid over 16 months of age that is shipped directly to slaughter. In addition, if any live cervid is moved from the registered premises, the farm-raised deer keeper is required to test every cervid over 16 months of age that dies on the premises, whether or not any part of the carcass leaves the premises. All costs of testing are the responsibility of the farm-raised deer keeper. It is not clear how much the testing will cost, but it is estimated it could cost as much as \$100 per test.

If the farm-raised deer keeper plans to move any live animal off the registered premises, the herd will have to be enrolled in the CWD herd monitoring program. The farm-raised deer keeper whose herd is enrolled in the CWD herd monitoring program under this rule will incur additional costs. Every cervid in the herd that dies after reaching 16 months of age must have a CWD test completed, regardless of whether any part of the carcass leaves the premises. In addition, every cervid in the herd must be identified with official individual identification before it reaches 1 year of age, or before it leaves the premises whichever occurs first. If the herd owner applies the identification herself or himself, it could be done for \$1.00 or less per animal. If a veterinarian is used to apply the identification, the costs could be substantially more. As part of the CWD herd monitoring program, the herd owner will have to maintain more detailed records and file an annual census with the department. Under this rule, the requirement that cervids moving off registered premises must originate from a herd that is enrolled in the CWD monitoring program is effective immediately. The requirement is gradually increased so that effective in 2008, the herd of origin must have been in the herd monitoring

program for 5 years prior to movement of animals from the herd.

Under current rules, a farm-raised deer may not be removed from the herd premises unless a certified veterinarian completes a certificate of veterinary inspection and the cervid has tested negative for tuberculosis. This rule extends the requirement for a certificate of veterinary inspection and negative tests for tuberculosis prior to movement to all farm-raised white-tail deer. These requirements represent an additional cost to the keeper of farm-raised white-tail deer. In addition to the costs to obtain a certificate of veterinary inspection and to complete the tuberculosis tests, many keepers of farm-raised white-tail deer will find that efficiency in completing the tuberculosis tests requires the keeper to purchase new animal handling equipment that will permit testing of the cervids without anesthetization. The rule does not require installation of animal handling equipment, only completion of the test. We estimate this type of animal handling equipment could cost about \$3000 – 5000.

Some limited number of farm-raised deer keepers will incur additional registration fees. Under current rules, a keeper of farm-raised deer is allowed to register more than one location as one operation and pay one registration fee. Under this rule, each separate location must be registered separately and separate registration fees are paid for each location. (The registration fee for each location is \$50 if no more than 15 deer are kept at the location or \$100 if more than 15 deer are kept at the location.)

Under this rule a farm-raised deer keeper may register more than one herd at a location if the fences and facilities are adequate to maintain a “medically significant separation” between the herds. One instance where this would be necessary is if the farm-raised deer keeper maintains a breeding herd that he wants to ship live animals out of, and a hunting herd at the same location. If the keeper ships live animals out of the breeding herd, he or she must either enroll all the animals in both herds in the herd monitoring program, including applying official individual identification to all the animals and maintaining an accurate census, or maintain and register two separate herds. If the keeper maintains two separate herds at one location, he or she will incur the additional registration fee and an inspection fee of \$150 per inspection for a DATCP employee to inspect the premises to assure that the fences and/or facilities are adequate to maintain a “medically significant separation.”

Under this rule, cervids may not be imported into Wisconsin unless they originated from a herd that has been under surveillance or monitored for CWD for a period of 5 years. A herd that is under surveillance for CWD is being watched by an accredited veterinarian to determine whether animals in the herd show clinical signs of CWD. A herd that is being monitored for CWD is being watched for clinical signs of CWD and animals that die are being tested for CWD. In addition, the herd owner identifies each animal, maintains in depth records of each animal and makes those records available to the animal health officials in the state of origin. This rule immediately requires that any cervid being imported originate from a herd that has been under surveillance for 5 years. The rule gradually phases in a change from 5 years of surveillance to 5 years as a monitored herd. This requirement reduces the number of potential sources for a farm-raised deer farmer to purchase animals for addition to the herd. Because the number of sources is reduced, the price of the cervids may increase. It is not possible to determine how much of a price increase might occur.

Steps to Assist Small Business

For purposes of controlling this disease threat, it is essential that cervids be identified with official individual identification and records maintained of their movements. Prior to this rule, official individual identification generally required a veterinarian to insert an official eartag in the ear of the animal. This could become very costly and caused extreme stress for some of the animals. This rule recognizes a new form of official individual identification called a “chronic wasting disease registration tag.” The herd owner will register with DATCP and receive a premises ID. The herd owner then is allowed to contact an approved manufacturer to obtain eartags that will include both the premises ID and an individual ID number that the owner will assign to each individual animal. The owner will be able to apply these tags to the cervids and will probably be able to do so at a cost of less than \$1.00 per animal.

The department would like to require that any cervid moving interstate or within Wisconsin originate from a herd that has been participating in a CWD monitoring program for at least 5 years. However, the department recognizes that imposing such a restriction at this time would be onerous. Therefore, the department is phasing in the restriction to allow people to get enrolled in the program and meet shipment requirements as the requirements increase. By 2008, the requirements for 5 years of participation in the herd monitoring program will be fully implemented.

Conclusion

This rule will have a significant impact on farm-raised deer keepers throughout Wisconsin. It may be costly for farm-raised deer keepers to comply with the requirements of the rule. However, the alternative may be the total failure of the industry. If Chronic Wasting Disease becomes established in the farm-raised deer industry in Wisconsin, we will see significant loss of animals due to the disease, a complete closing of markets for live animals from Wisconsin and we may see a significant reduction in the number of hunters willing to pay for a hunt in Wisconsin. In addition, we would likely see a significant call from politicians and the public for the elimination of legal deer farms in the state. The provisions of this rule are designed to minimize the risk that chronic wasting disease will be introduced to Wisconsin deer farms, and if it is discovered in a deer farm, they should help confine and potentially eliminate the disease from the farmed population. Ultimately, if the industry is to survive, these provisions need to be adopted.

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board [CR 02-090]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 443.06 (3), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to create s. A-E 6.07, relating to land surveyor temporary permits.

Hearing Date, Time and Location

Date: **July 24, 2002**

Time: 10:00 a.m.

Location: 1400 East Washington Avenue
Room 124
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 August 7, 2002 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats.

Statutes interpreted: s. 443.06 (3), Stats.

Section 443.06 (3), Stats., provides for the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to grant a temporary permit for the practice of land surveying to applicants who hold a valid land surveying license in another state. Current laws and rules do not specify an expiration date for the temporary permit. The proposed rule would clarify the expiration date of the temporary permit to be the date the applicant is notified that he or she passed or failed the state jurisdictional examination. If the applicant did not appear to be tested, the temporary permit would expire on the date of the next scheduled state jurisdictional examination.

The proposed rules would consist of three sections. The first section would identify the requirements for obtaining a temporary permit. The second section would describe the conditions under which the temporary permit would expire. And the third section would provide for the board to grant an extension of the temporary permit under certain conditions.

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), Wis. Stat.

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 Hearings

Corrections) [CR 02-038]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a), 302.02, 301.03 (2), Stats., the department of

corrections proposes the following rule relating to complaint procedures.

Hearing Information:

Date & Time	Location
July 15, 2002 Monday 11:00 a.m. – 1:00 p.m.	Wood County Courthouse 400 Market Street Room 210B (Second Floor) Wisconsin Rapids, Wisconsin
July 16, 2002 Tuesday 11:00 a.m. – 1:00 p.m.	State Office Building 141 N.W. Barstow Street Room 137 A Waukesha, Wisconsin

The public hearing sites are accessible to people with disabilities.

Analysis Prepared by the Department of Corrections

The department's rule on inmate complaint procedures was last amended in 1998. Since that time the department has designed and added a new database and automated many of the record-keeping functions described in this rule. As prison administration continually evolves, so must our administrative code. For these reasons, the department proposes updating the rule.

Since implementing the department's Inmate Complaint Tracking System, physical processing of inmate complaints has changed. This rule helps to clarify the process and that, in turn, promotes efficiency as well as understanding. For example, this rule proposal eliminates various vague statements such as in s. DOC 310.06 (2) (b) which states that the Inmate Complaint Examiner may "reject a complaint in accordance with provisions of this chapter;" and inserts a more concrete statement of "return complaint forms that do not meet the filing requirements of this chapter." This language is more specific and provides inmates with the clear understanding that their complaints may be returned without being processed for failure to comply with filing requirements. The previous statement notified inmates that they might have their complaint returned but did not go as far to inform the inmate of a specific reason. Clarity in this rule may even lead to fewer inmate complaints, as they may understand the system better. The addition of specific requirements in s. DOC 310.09 (1) ensures that inmates know exactly what is required of them in filing complaints. It ensures easier processing of complaints through consistency and should logically result in fewer inmate complaints being returned for incomplete filing. This clarification will also assist the department in investigating inmate complaints in a timelier manner.

This proposed rule also eliminates redundancy by removing such items as s. DOC 310.08 (1), which states that "an inmate may use the complaint review system individually or with a group of inmates collectively." This statement is simply not necessary at this point in the rule as it is addressed in detail in ss. DOC 310.09 as well as 310.10.

This rule proposal eliminates unnecessary directives regarding internal processing such as in ss. DOC 310.08 (4) and (5), which state where complaints will be directed within the department. DOC 310.11 (1) is also amended to simplify existing language to merely specify that "ICE staff" collect complaints.

This rule proposes changes in the time limits throughout the complaint process. The time limit for making a recommendation to the appropriate reviewing authority and the time needed to render a decision have each expanded by five working days. This change reflects both the increased

time needed to effectively review and decide certain complaints, as well as the time needed to review the increasing number of complaints from a growing inmate population.

The current rule allows an inmate to appeal only a frivolous complaint to the appropriate reviewing authority, while this proposed rule allows inmates to appeal a rejected complaint to the appropriate reviewing authority. Non-frivolous complaints are currently reviewed directly by the Corrections Complaint Examiner, thereby skipping a logical step in the process. The proposed rule also makes the reviewing authority's decision final in all appeals, not just frivolous appeals as in the current rule.

In summary, this rule proposal more logically and succinctly explains the progression of the complaint from its origin with the inmate through the appeal process and final decision, when applicable, by the Office of the Secretary of the Department of Corrections.

Initial Regulatory Flexibility Analysis

These rules are not expected to have an effect on small businesses.

Fiscal Estimate

The department's rule on inmate complaint procedures was last amended in 1998. Since that time, the department has designed and added a new database and has also automated many of the recordkeeping functions described in this rule. For these reasons, the department proposed updating the rule.

The updated language helps clarify the process by adding specificity, eliminating redundancy, and providing inmates with a clear understanding of how the process works.

This rule proposes changes in the time limits throughout the complaint process. The time limit for making a recommendation to the appropriate reviewing authority and the time needed to render a decision have each expanded by five working days. This change reflects both the increased time needed to effectively review and to make a decision.

Ultimately, this rule proposal explains the complaint process in a more logical and concise manner. It is not anticipated that these changes will have any fiscal impact on the department.

Contact Person

For a copy of the proposed rule contact:

Julie Kane (608) 240-5015

Office of Legal Counsel

P.O. Box 7925

Madison, Wisconsin 53707-7925

If you are hearing or visually impaired, do not speak English, or have circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written Comments

Written comments on the proposed rules received at the above address no later than July 22, 2002, will be given the same consideration as testimony presented at the hearing.

Notice of Hearing

Health & Family Services (Health, Chs. HFS 110-)

[CR 02-083]

Notice is hereby given that, pursuant to s. 149.143 (2) (a) 2., 3., and 4. and (3), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of ss. HFS 119.07 (6) (b) (intro) and health care premium tables and 119.15, Wis. Adm. Code, relating to operation of the Health Insurance Risk-Sharing Plan (HIRSP), and the emergency administrative rules taking effect on the same subject on July 1, 2002.

Hearing Information

The date, time and location of the public hearing is:

July 15, 2002 Conference Room 372

Monday State Office Building

1:00 p.m. 1 West Wilson Street

MADISON, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-eight percent of the 13,645 HIRSP policies in effect in March 2002 were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The average premium rate increase for Plan 1 contained in these updated HIRSP rules is 25.4%. Rate increases for specific policyholders range from 19.2% to 27.8%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. According to state law, HIRSP premiums must fund 60% of plan costs and cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market.

A second type of medical coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Twelve percent of the 13,645 HIRSP policies in effect in March 2002 were of the Plan 2 type. The average premium rate increase for Plan 2 contained in these updated HIRSP rules is 30.8%. Rate increases for specific policyholders range from 23.3% to 33.5%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. These rate increases reflect general and industry-wide cost increases and adjust premiums in accordance with the authority and requirements set out in s. 149.14 (5m), Stats.

The department through these rules is amending two sections of the HIRSP program administrative rules:

1. The rules are updating HIRSP premium rates in ch. HFS 119 in accordance with the authority and requirements set out

in s. 149.143 (2) (a), Stats. The Department is required to set premium rates by rule. Rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP. The HIRSP premium rate tables in ch. HFS 119 are updated in accordance with these principles and requirements for the time-period beginning July 1, 2002.

2. The rules are also updating the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department of Health and Family Services approved a methodology that reconciles HIRSP program costs, policyholder premiums, insurance assessments and collected health care provider contributions. The adjustments to the insurer assessments and the provider payment rates, contained in the updated HIRSP administrative rules for the time-period beginning July 1, 2002, are the result of this reconciliation process for calendar year 2001. The HIRSP Board of Governors has reviewed and approved these adjustments to policyholder premiums, insurer assessments and provider payment rates.

Identical emergency rules will be published to take effect on July 1, 2002.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Randy McElhose
Division of Health Care Financing
P.O. Box 309, Room B274
Madison, WI 53701-0309
(608) 267-7127

or, if you are hearing impaired, (608) 266-1511 (TTY)

If you are hearing or visually impaired, do not speak English, or have other personal circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter, or a non-English, large-print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules received at the above address no later than July 23, 2002 will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

These rules update HIRSP policyholder premium rates effective July 1, 2002. They also update HIRSP insurer assessments and provider payment rates for the 12-month period beginning July 1, 2002. These updates are being performed to reflect changing HIRSP costs, and in accordance with a statute-specified methodology, in order to offset upcoming program costs. Annual fiscal updates to the HIRSP rules generally take effect in July each year. The fiscal updates contained in these rules were developed by an independent actuarial firm and reviewed and approved by the HIRSP Board of Governors. By law, the Board is a diverse body composed of consumers, insurers, health care providers, small business and other affected parties.

It is estimated that the proposed changes will increase HIRSP program revenues by \$37,424,388 in State Fiscal Year 2003, compared to State Fiscal Year 2002. This amount is comprised of an increase of \$6,385,533 in insurer assessments, an increased adjustment (levy) of \$4,768,154 to provider payment rates, and an increase of \$26,270,701 in

policyholder premiums. Enrollment in HIRSP is expected to increase 36% in State Fiscal Year 2003. These rule changes will not, by themselves, affect the expenditures or revenues of local government. There is no local government involvement in the administration of HIRSP.

These adjustments to the policyholder premiums, provider payment rates and insurer assessments are proposed to occur July 1, 2002 as the result of a routine, annual update of HIRSP rules. A similar, budget-based update of HIRSP rules previously occurred in 1998, 1999, 2000 and 2001. Policyholder premiums will be adjusted as new HIRSP policies are initiated or renewed.

Initial Regulatory Flexibility Analysis

The rule changes will affect HIRSP policyholders, the Department of Health and Family Services and the Department's fiscal agent. 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 the assessment of insurers to help finance 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 and, similarly, how the health care provider payment rate is to be calculated.

Notice of Hearings

Health and Family Services (Health, Chs. HFS 110-)

[CR 02-070]

Notice is hereby given that, pursuant to s. 149.143 (2) (a) 2., 3. and 4. and (3), Stats., the Department of Health and Family Services will hold public hearings to consider the proposed permanent and existing emergency amendment of s. HFS 152.065 (6), relating to reimbursement of chronic renal disease, to amend s. HFS 153.07 (4), relating to reimbursement for blood products and supplies used in the care of hemophilia and to amend s. HFS 154.07 (4), relating to reimbursement for treatment of adults with cystic fibrosis. In each of the three rule chapters, the amendment increases the amount recipients must pay for prescription drugs under these chronic disease programs.

Hearing Information

The public hearings will be held:

July 11, 2002 Room BO201
Thursday Business Building
1:00 p.m. Waukesha County Technical College
800 Main Street
PEWAUKEE, WI 53702

July 12, 2002 Room E105
Friday Education Building
10:00 a.m. Mid-State Technical College
500 - 32nd Street North
WISCONSIN RAPIDS, WI 54494

The hearing sites are accessible to people with disabilities. At each of the two sites, parking for people with disabilities is available in the parking lot next to the building. People with disabilities may enter each building, at each site, directly from the parking lot.

Analysis Prepared by the Department of Health and Family Services

The Wisconsin Chronic Disease Program (WCDP) is the payer of last resort for Wisconsin citizens with medical

problems relating to chronic renal disease, adult cystic fibrosis or hemophilia. The department administers the WCDP. The WCDP reimburses beneficiaries' dialysis and transplant services, home supplies, lab and x-ray services for chronic renal disease recipients.

The majority of WCDP's annual \$5 million budget is for reimbursement of recipients' drug costs. WCDP copayments are currently \$1 per prescription. These rules increase WCDP copayments to a total of \$5 for each generic drug prescription and \$10 for each brand name drug prescription. These new copayment amounts resemble those used by commercial health insurers. They were determined by the Department in consultation with its Chronic Renal Disease Program Advisory Committee.

The proposed rules potentially affect approximately 6,500 individuals with chronic renal disease, 200 individuals with hemophilia and 150 individuals with adult cystic fibrosis. Approximately 41% of persons enrolled in the program received state-funded benefits in state fiscal year 2000-01. The rest either incurred no expenses that were covered under WCDP, or their expenses did not exceed the required deductibles.

The Department issued emergency rules, identical to the proposed permanent rules, that took effect July 1, 2002. The Department intends the proposed permanent rules to replace the emergency rules. The public hearings will hear testimony with regard to both the proposed permanent rules and the existing emergency rules.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Randy McElhose

Division of Health Care Financing

P.O. Box 309, Room B274

Madison, WI 53701-0309 (608) 267-7127 or, if you are hearing impaired, (608) 266-1511 (TTY).

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Written comments on the proposed rules received at the above address no later than July 22, 2002 will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

The fiscal impact of these proposed rules was developed and reviewed by Department staff, the program's fiscal agent, and the Department's chronic renal disease advisory committee. WCDP copayments are currently \$1 per prescription. These rules increase WCDP copayments to a total of \$5 for each generic drug prescription and \$10 for each brand name drug prescription. The Department estimates that WCDP funding requirements resulting from a higher generic drug prescription copayment will be reduced by \$69,100 [(\$5-\$1) X 17,277 generic drug prescriptions]. The Department also estimates that WCDP funding requirements resulting from a higher brand name drug prescription copayment will be reduced by \$206,400 [(\$10-\$1) X 22,930 brand name drug prescriptions]. Therefore, the Department estimates the total annual state savings to be \$69,100 + \$206,400 = \$275,500.

Initial Regulatory Flexibility Analysis

The rule changes will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. The proposed WCDP rule changes affect the Department of Health and Family Services, the Department's fiscal agent and the program's enrollees.

Notice of Hearings

Natural Resources (Fish, Game, etc., Chs. NR 1—) [CR 02-089]

NOTICE IS HEREBY GIVEN that pursuant to ss. 27.01 (2), 29.014, 29.089 (3), 29.041 and 227.11, Stats., interpreting ss. 29.014, 29.089 (3) and 29.041, Stats., the Department of Natural Resources will hold public hearings relating to small game and expanded spring turkey hunting in state parks. Hunting for small game, including migratory and upland game birds, will be allowed at Governor Dodge, Mill Buff, Mirror Lake and Newport state parks. Spring turkey hunting during the first 3 periods only will be allowed with permits at Interstate, Newport and Willow River state parks. The proposed rule will sunset in 2005. The small game hunting will follow established Department rules except:

1. The proposed parks will be open to all small game species except those specifically exempted by the regional land leader.

2. The use of dogs for small game hunting will be permitted only for game birds.

3. Small game hunting will be permitted only between November 1 and December 15 (except where statewide or regional season ends earlier for a particular species). Bag limits applicable to the land surrounding the park would apply to the park as well.

4. Small game hunting will be permitted from one half-hour before sunrise until 12 noon.

5. Small game hunting will be by permit only.

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.

Hearing Information

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

Monday, July 15, 2002 at 7:00 p.m.

Council Chambers
Dodgeville City Hall
100 E. Fountain St.
Dodgeville

Tuesday, July 16, 2002 at 7:00 p.m.

Community Room
St. Croix Co. Courthouse
1101 Carmichael Rd.
Hudson

Wednesday, July 17, 2002 at 7:00 p.m.

Community Center
Kilbourn Public Library
620 Elm Street
Wis. Dells

Thursday, July 18, 2002 at 7:00 p.m.

Room A150
Door Co. Courthouse
421 Nebraska Street
Sturgeon Bay

NOTICE IS HEREBY FURTHER GIVEN that Department staff will be available to answer questions for an hour preceding the public hearing.

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 Kurt Thiede at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

\$62,160 increased costs.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Kurt Thiede, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than July 19, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-33-02] and fiscal estimate may be obtained from Mr. Kurt Thiede, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 or Ms. Alison Matthias, Bureau of Parks and Recreation, P.O. Box 7921, Madison, WI

Notice of Hearings

**Natural Resources
(Fish, Game, etc., Chs. NR 1—)**

[CR 02-075]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 29.197 and 227.11 (2) (a), Stats., interpreting ss. 29.014, 29.041 and 29.197, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to the 2002 migratory game bird season. The actual season lengths, dates and harvest allocations will change after the receipt of the federal framework regulations. The proposed significant regulations are:

Ducks – The state is divided into two zones each with 60-day season. The season begins at noon September 28 and continues for 60 days, closing November 26. The daily bag limit is 6 ducks including no more than: 4 mallards, of which only one may be a hen, one black duck, one pintail, 2 wood ducks, 2 redheads and 3 scaup. Shooting of canvasbacks is prohibited from September 28 to October 18 and November 10 to November 26. A canvasback season is created starting October 19 and continuing 20 days to November 9. The daily bag limit is one and this duck shall be counted as part of the 6 duck daily bag limit.

Canada geese – The state is apportioned into three goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season length are as follows: Collins Zone – 72 days; Exterior Zone – 70 days; Horicon Zone – 94 days; Mississippi River Subzone – 70 days.

Youth hunt – The Canada goose bag limit is established for the youth waterfowl hunt and two days will be offered.

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.

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

Monday, August 5, 2002 at 7:00 p.m.

DNR Northern Service Center
107 Sutliff
Rhineland

Tuesday, August 6, 2002 at 7:00 p.m.

Room 310, Green Bay City Hall
100 N. Jefferson
Green Bay

Wednesday, August 7, 2002 at 7:00 p.m.

Comfort Suites, Highway J and I-94
Pewaukee

Thursday, August 8, 2002 at 7:00 p.m.

Auditorium, Administrative Center
400 4th Street North
La Crosse

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 Kurt Thiede at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The proposed changes will not result in any significant changes in spending or revenue. There are no government costs anticipated due to the provisions of this bill.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Kurt Thiede, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than August 8, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-23-02] and fiscal estimate may be obtained from Mr. Thiede.

Notice of Hearing

Natural Resources (Fish, Game, etc., Chs. NR 1—)

[CR 02–073]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014 (1), 29.041 and 227.11 (2), Stats., interpreting ss. 29.014 (1) and 29.041, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 20, Wis. Adm. Code, relating to fishing on the inland and outlying waters of Wisconsin. The proposed revisions will:

1. Eliminate unnecessary wording and redundancy regarding restrictions to fishing in trout streams.
2. Clarify the situations where the Department may modify daily bag limits, possession limits, or size restrictions from those established in ch. NR 20.
3. Eliminate the sunset on night bowfishing. After a 3–year trial period, no major law enforcement problems were encountered.
4. Clarify which ice shelters are exempt from needing to have the owner's name and address displayed, and removes the requirement that the name and address be permanently affixed to the ice shelter.
5. Modify the upstream boundary for the year round open fishing season for Busseyville (Koshkonong) creek after removal of a dam that used to serve as that boundary.
6. Add Chippewa river, Dunn county and Fox river, Green Lake county to the water bodies where motor trolling is allowed. These waters were inadvertently omitted from the regulations after a major rewrite of ch. NR 20. The fishing regulation pamphlet already reflects that trolling is allowed.
7. Correct the closing date for the muskellunge fishing season on Deer lake, Nokomis lake, Rice River flowage and Wisconsin river downstream from Merrill hydro–dam. The closing date was inadvertently written as March 1 instead of November 30 (the statewide season closing date) during a major rewrite of ch. NR 20.
8. Correct panfish regulations on the Chippewa flowage. The regulation beginning December 1 was inadvertently placed in the regulations for Christner lake, Moose lake and Nelson lake instead of the Chippewa flowage during a major rewrite of ch. NR 20.
9. Clarify that possession of fish in excess of the daily bag limit or of any size other than that authorized for that water is allowable, as long as the angler is not fishing, only on waters where bag limits or size restrictions have been modified in response to tribal harvest.

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.

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

Monday, July 15, 2002 at 1:00 p.m.

Room 611A, 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 Pat Schmalz at (608) 266–8170 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There is no fiscal effect.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Pat Schmalz, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than July 17, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FH–22–02] and fiscal estimate may be obtained from Mr. Schmalz.

Notice of Hearings

Natural Resources (Fish, Game, etc., Chs. NR 1—)

[CR 02–074]

NOTICE IS HEREBY GIVEN that pursuant to ss. 26.38, 28.01 and 28.07, Stats., interpreting ss. 26.38, 28.01 and 28.07, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 47, subch. VII, Wis. Adm. Code, relating to the Wisconsin forest landowner grant program. The proposed rule contains modifications to:

Scope of Program – Broadens the scope of the Wisconsin landowner grant program to allow other state and federal funds to be distributed through this program for encouraging private landowners to manage their lands in a manner that benefits the state's forest land and related resources and the people of the state.

Reimbursable Landowners Costs – Creates new language to strengthen the commitment of private landowners to their projects by clearly disallowing the use of funds other than their own as the part required under this program. It further requires that any changes in a practice must be approved by the department before implementing if reimbursement is requested.

Application Procedures and Grant Calculations – The amount of reimbursement a landowner can claim is adjusted from 65% to 50%, application deadlines are modified to reflect internal processing deadlines, an allowance is made to use funds to assist in emergency situations, and priorities are established for funding requests.

Authorization for Use of Other Funding Sources – There is a need to establish a method for allowing outside agencies or organizations to augment the Wisconsin forest landowner grant funds. Funds may come from a private organization for a specific forestry practice or from the federal government for more general private landowner assistance efforts. All funds distributed through this program would be consistent with the program goals, scope and purpose. This section was created to allow an avenue for distributing funds of a similar purpose through an existing structure.

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.

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

Thursday, July 11, 2002 at 10:00 a.m.

County Board Room
Jackson Co. Courthouse
307 Main St.
Black River Falls

Thursday, July 11, 2002 at 2:00 p.m.

Building 108
College of Prof. Studies
UW–Stevens Point
Stevens Point

Friday, July 12, 2002 at 10:00 a.m.

Room 511, 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 Linda DePaul at (608) 266-2388 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There is no state or local fiscal impact associated with this rule change. There is no request for increased funds in the proposal. There is no increased workload since the number of applications is expected to be the same. The funds will just be allocated differently so more people can receive the funds. We must process the applications regardless of whether they are funded the same year they are received and are required to respond in writing to each landowner that applies. So there is no increase in processing the paperwork with this request or in field staff time.

Contact Person

Written comments on the proposed rule may be submitted to Ms. Linda DePaul, Bureau of Forestry, P.O. Box 7921, Madison, WI 53707 no later than July 12, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FR-36-02] and fiscal estimate may be obtained from Ms. DePaul.

Notice of Hearings

**Natural Resources
(Environmental Protection–General)**

[CR 02–061]

NOTICE IS HEREBY GIVEN that pursuant to ss. the Department of Natural Resources will hold public hearings on

the creation of ch. NR 109, Wis. Adm. Code, relating to aquatic plant management. Under s. 23.24, Stats., the department is directed to designate by rule which aquatic plants are invasive species and to administer and establish by rule procedures and requirements for issuance of aquatic plant management permits. Proposed ch. NR 109 will regulate the introduction, manual removal, burning and the use of mechanical means or plant inhibitors to control aquatic plants and designate invasive aquatic plants. If a permit issued by the department under other authorities contains the appropriate conditions required under this chapter, a separate permit will not be required under ch. NR 109.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses.

Initial Regulatory Flexibility Analysis

- a. Types of small businesses affected: Aquatic nursery growers.
- b. Description of reporting and bookkeeping procedures required: No new procedures.
- c. Description of professional skills required: No new skills.

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 ss. 23.24, 227.11 (2) (a) and 227.24, Stats., interpreting ss. 23.24 and 30.175, Stats., the Department of Natural Resources will hold public hearing on Natural Resources Board Emergency Order No. FH-28-02(E) relating to aquatic plant management. This emergency order took effect on May 10, 2002. The emergency rule regulates the introduction, manual removal, burning and the use of mechanical means or plant inhibitors to control aquatic plants and designate invasive aquatic plants.

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

Monday, July 22, 2002 at 1:00 p.m.

Video conference participation will be available at:
DNR Regional Headquarters
810 W. Maple Street
Spooner

Tuesday, July 23, 2002 at 10:00 a.m.

Video conference participation will be available at:
DNR Service Center
107 Sutliff
Rhinelander

Wednesday, July 24, 2002 at 10:00 a.m.

Room 027, GEF #2
101 South Webster Street
Madison

Thursday, July 25, 2002 at 9:00 a.m.

Room 120, State Office Building
141 Northwest Barstow
Waukesha

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 Jeff Bode at (608) 266-0502 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The Department anticipates no net fiscal impact associated with this rule as anticipated increased revenues are expected to offset the cost of processing applications for aquatic plant management permits. The fee schedule is based upon the size and the complexity of the project. The application fee schedule is \$30 per acre with a maximum fee of \$300 for projects over 10 acres. Based on its estimate of the number of lake organizations operating aquatic plant harvesting programs, the Department assumes that it will issue 125 permits at an average of \$240 per permit, thus generating \$30,000 in revenue annually. Additionally, the Department estimated that a large-scale, or \$300 permit would require an average of 10 hours of DNR employee time at an average of \$30 per hour for salary, fringe and related costs. Thus the fee revenue generated is expected to offset the cost of administering the permit program.

Under the new law, the Department may require that an application contain an aquatic plant management plan, although the Department intends to phase in this requirement over several years such that applications for the first few years will not require a plan. Although there are costs to local governments related to preparing aquatic management plans, such costs are eligible for cost-sharing under the Department's lake management planning grant program, and such plans have utility beyond applying for aquatic plant management permits. (Preparing an aquatic plant management plan also enables a governmental unit of lake organization to become eligible for 50% cost-sharing on the purchase of capital equipment for aquatic plant management.)

Contact Person

Written comments on the proposed and emergency rules may be submitted to Mr. Frank Koshere, Water Resources Biologist, DNR Superior Service Center, 1401 Tower Avenue, Superior, WI 54880 no later than August 23, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-29-02], the emergency rule [FH-28-02(E)] and fiscal estimate may be obtained from Mr. Jeff Bode, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707.

Notice of Hearing

Natural Resources (Environmental Protection-WPDES)

[CR 02-059]

NOTICE IS HEREBY GIVEN that pursuant to ss. 283.31, 283.37 and 227.11 (2) (a), Stats., interpreting ss. 283.31 and 283.37, Stats., the Department of Natural Resources will hold a public hearing on the repeal and recreation of s. NR 200.03 (5), Wis. Adm. Code, relating to WPDES permit exemptions for private sewage systems with a design capacity of less than 12,000 gallons per day. Section NR 200.03 defines which private sewage systems, receiving domestic wastewater, would be excluded from Wisconsin pollutant discharge

elimination system (WPDES) permits. Under the proposed revision, it is clarified that two or more systems may be subject to a WPDES permit if they are commonly owned, located within 1,500 feet of another system, and each system has a design capacity of greater than 2,000 gallons per day.

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.

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

Thursday, July 11, 2002 at 10:00 a.m.

Room 511, 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 Tom Gilbert at (608) 267-7628 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The proposed code revision is not expected to have a fiscal impact on state or local governments.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Tom Gilbert, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than July 19, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WT-26-02] and fiscal estimate may be obtained from Mr. Gilbert.

Notice of Hearing

Natural Resources (Environmental Protection-Air Pollution Control)

[CR 02-076]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a) and 285.11 (1) and (6), Stats., interpreting s. 285.11 (6), Stats. the Department of Natural Resources will hold a public hearing on revisions to ch. NR 428 relating to the reduction of NOx emissions to attain the 1-hour ambient air quality standard for ozone in southeastern Wisconsin. The proposed rule modifies the emissions averaging provisions of ch. NR 428 which are an alternative compliance option for sources required to achieve emission reductions of nitrogen oxides (NOx).

Major utilities are required to reduce NOx emissions as part of Wisconsin's attainment demonstration for the 1-hour ambient air quality standard for ozone in southeastern Wisconsin. This proposed rule modifies the emissions averaging rule provisions to make them compatible with USEPA guidance on economic incentive programs.

The order also establishes a new categorical emission limit on NOx emissions from combined cycle combustion turbines fired on fuel derived from an integrated gasification process.

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 pursuant to s. 1.11Stats., and ch. NR 150 Wis. Adm. Code, that this is anticipated to be a Type III action. A Type III action is one that normally does not have the potential to cause significant environmental effects, normally does not significantly affect energy usage and normally does not involve unresolved conflicts in the use of available resources.

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

Thursday, July 11, 2002 at 1:00 p.m.

Room 141, DNR Southeast Regional Office
2300 North Dr. Martin Luther King Jr. Dr.
Milwaukee

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 Dennis Koepke at (608) 264-8868 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The rule revisions have no additional fiscal impact.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Dennis Koepke, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than July 12, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing.

A copy of proposed rule AM-35-02 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

Public Service Commission

The Public Service Commission of Wisconsin proposes an order to revise ch. PSC 165.

NOTICE IS HEREBY GIVEN that pursuant to s. 227.16 (2) (b), Stats., the Commission will hold public hearings on these proposed rule changes in the **Amnicon Falls Hearing Room**, at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on **July 30 and 31, 2002 at 9:00 am.**

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

Analysis prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02 (3), 196.219 (3) (L) and 227.11 (2), Stats.

Statute interpreted: s.s 196.03 (1), 196.06 (3), 196.12 (1), and 196.219, Stats. Chapter PSC 165 contains a number of consumer protection regulations for certain telecommunications providers. These include regulations in areas such as: applications for service, customer billing, information available to customers, deposits, deferred payment agreements, service restrictions, disconnection of service, customer complaints, dispute procedures and telephone directories.

In 1994 the legislature passed 1993 Wis. Act 496, which significantly changed the area of telecommunications regulation. The Act introduced much more competition and customer choice into the telecommunications field. As a result, new problems and areas of concern have arisen which prompted the Commission to reexamine its current administrative rules to see which are outmoded and should be removed and which areas require new rulemaking. The Commission examined the rule in two parts: technical standards and issues, and consumer protection issues. Although minor changes such as cite references and language clarification were made to the technical pieces, the rule changes focus on the consumer protection issues. Changes to the technical portions were explored in a separate Commission proceeding.

The Commission is proposing the following revisions to ch. PSC 165 to reflect the evolution of the telecommunications market and telecommunications technology. Because the current rule predates major changes in the telecommunications industry, it does not specifically address consumer protection issues such as "slamming" and "cramming," or the creation of consumer assistance programs. For this reason, several new sections were added to ch. PSC 165 to address these issues.

The proposed rule with revisions applies to providers such as incumbent local exchange carriers, competitive local exchange carriers, and resellers. It does not apply to wireless providers and only applies to interexchange carriers if they are providing local or intrastate toll service and, even then, only to that portion of their business.

The Commission has worked closely with representatives from the telecommunications industry, community groups and other state agencies in preparing these revisions and creating several new sections of the rule. These individuals have provided extensive advice and input concerning these proposed rules, and many of the changes result directly from that input.

The rule has been given a delayed effective date (two months from publication) to give companies time to make changes necessary as a result of the revised rules. The rule has been reorganized into subchapters and renumbered to make it more readable and "user-friendly." **A general description of new and changed sections follows.** Sections not listed are technical portions that were considered in a separate rulemaking.

Section PSC.165.0101 deals with the scope and purpose of the rules. This section has been reorganized for clarity and a reference to s. 196.219, Stats., was added to the list of statutes implemented by the rule.

Section PSC 165.0102 contains definitions of the terms used in the chapter. Minor changes were made to 7 definitions to reflect their usage in the revised rules, and 2 definitions were deleted. It was necessary to add twenty-four definitions because of rule revisions and the addition of several new sections to the rule.

Section PSC 165.0201 on preservation of records itemizes some of the records telecommunications providers must preserve and establishes the time periods they must be

retained. Some new categories of records were added and others were consolidated here from other parts of the existing rule. Retention time periods changed.

Section PSC 165.0202 on customer complaints requires telecommunications providers to investigate customer complaints. The proposed changes to this section establish the time period for customer complaint record retention and how telecommunications providers categorize customer complaints. One portion was moved unchanged and renumbered to s. PSC 165.0804.

A new s. PSC 165.0301 was created to define and standardize the application process for new telecommunications service. One provision allows a provider to restrict an applicant's toll service for ten days to investigate and establish the applicant's responsibility for a disputed outstanding bill.

Section PSC 165.0302 sets forth the various types of information providers must make available to customers and the method and frequency of providing that information. The expansion of this section reflects the complexity of telecommunications services today and the need for customers to be given accurate and consistent information on a regular basis.

Section PSC 165.0303 on dispute procedures explains the utility and Commission processes available to customers for handling service inquiries or problems. Language was added to address disputes involving third party billing agents and modern payment methods. The proposed changes also clarify the Commission review and appeal processes.

A new s. PSC 165.0304 is created to address the problem of "slamming" which is the unauthorized changing of a customer's telecommunications provider. This section incorporates the federal statutory requirements for making provider selection changes with only minor modifications to reflect Wisconsin drafting conventions.

A new s. PSC 165.0305 on provider selection freezes is created to provide customers with a way to retain the telecommunications provider selected by the customer until the customer provides the required authorization for a change to another telecommunications provider. The proposed draft rule mirrors the federal rule except for minor modifications to reflect Wisconsin drafting conventions.

Section PSC 165.0306 on directories sets forth information and publication requirements for provider directory listings. The changes to this section update obsolete language and include an electronic format option. Providers may fulfill the requirements of this section by having the required information concerning itself and its customers included in the applicable directory of another provider that is meeting the requirements under this section.

A new s. PSC 165.0307 is created to provide rules for the development of telecommunications assistance programs (TelCAP). The purpose of these programs is to increase or stabilize subscription levels for essential telephone service, or to address avoidance of disconnection of service to low-income households or other customers with payment problems. Ameritech is currently operating one such telecommunications plan under a pilot program approved by the Commission.

A new s. PSC 165.0308 is created to expressly prohibit oppressive and deceptive practices. Similar language was incorporated into the revised service rules for electrical utilities, which became effective on August 1, 2000. This section is not intended to limit or usurp the Department of Agriculture, Trade and Consumer Protection's authority or powers under ch. 100 and related administrative rules.

Section PSC 165.0401 on customer billing sets forth the minimum standards for information to be included on customer bills. The proposed changes incorporate federal "Truth-in-Billing" language with the goal of making telecommunications bills easier for consumers to read and understand. A provision was added allowing providers to assess a late payment charge on residential and business bills. Ameritech is currently allowed to impose late payment charges as part of an ongoing TelCAP program approved by the Commission. This section also includes proposed language to compensate consumers for out-of-service situations, missed appointments and installation delays.

Section PSC 165.0402 on deposits for residential service explains the conditions under which a provider may request a deposit from a new or existing customer. New language defines the formula for calculating the deposit amount and requires a provider to explain why a deposit is required, and how the deposit amount was determined. A provision was added allowing a provider to accept advance payments or impose service restrictions in lieu of accepting a deposit from a residential customer.

A new s. PSC 165.0403 is created to detail the conditions under which a provider may request a deposit from a business customer. Business deposits had been part of a general section on deposits. The proposed language allows a provider to request a deposit on an existing account, defines the formula for calculating the deposit amount and requires a provider to explain why a deposit is required, and how the deposit amount was determined. A provision was added allowing a provider to accept advance payments or impose service restrictions in lieu of accepting a deposit from a business customer.

Section PSC 165.0404 on deferred payment agreements outlines the details of payment plans provided to customers when they are unable to pay the amount owing in full. A provision allowing service restrictions during a deferred payment agreement has been incorporated into this section. Ameritech is currently allowed to impose such service restrictions as part of an ongoing TelCAP program approved by the Commission.

A new s. PSC 165.0501 on refusal of service is created to clarify the circumstances under which a provider can and cannot refuse initial service. Much of the language was previously included in "Disconnection and refusal of service" but was given its own section to specifically address situations involving the application process. Proposed language reflects current residency and identification issues. A provision was added allowing a provider to impose a toll restriction while investigating and establishing an applicant's responsibility for an outstanding bill from the provider.

A new s. PSC 165.0502 on restriction of service is created to define the conditions under which a telecommunications provider can restrict a customer's service and the limitations on those restrictions. This section addresses both voluntary and involuntary service restrictions and codifies several provisions that are currently part of an ongoing TelCAP program approved by the Commission. Providers may now impose mandatory toll restriction and limit access to services such as third number and collect-call billing, pay-per-call and advanced calling features during a deferred payment agreement, in lieu of a deposit, and when an applicant for new service has an unpaid balance with the provider.

Section PSC 165.0503 on disconnection of service includes modifications that update and clarify current rule language. A major change to this section involves the addition of a provision prohibiting the disconnection of local service for non-payment of ECC or toll charges. Other changes include increasing the period of time allowed for bill

payment and the receipt of disconnection notices, and the expansion of the provision on medical or protective service emergencies. The medical or protective service emergency provision is currently part of an ongoing TelCAP program approved by the Commission.

Section PSC 165.0606 on business office answering time standards defines acceptable performance levels for customer calls made in order to obtain information or transact business such as establishing service, changing service, making bill inquiries, or establishing payment arrangements. Language was included requiring providers to calculate and record average connection and answer speed data, but only if the provider uses a computerized call center to respond to customer calls.

Initial Regulatory Flexibility Analysis

These rules apply to all telecommunications providers other than wireless carriers and, to the extent they provide local service or intrastate toll, interexchange carriers. This includes incumbent local exchange companies (ILECs), competitive local exchange companies (CLECs), cooperatives, and alternative telecommunications utilities such as resellers. Many of these companies are small businesses under s. 227.114, Stats. For example, 76 ILECs are small telecommunications utilities. Under s. 196.216, Stats., small telecommunications utilities are considered small businesses. The Commission created a workgroup of industry representatives and members of the public in order to gather input as these rules were drafted. In an effort to recognize and, to the extent practicable, minimize the potential impact of the rules on small businesses, the Commission specifically named industry members who represented small telecommunications businesses to the workgroup. Each subcommittee also had a small business representative. Any methods for reducing the impact on small business that the Commission feels are feasible have been incorporated into the rule.

Fiscal Effect

This rule change has no fiscal impact. A completed Fiscal Estimate form is included as Attachment C.

Written Comments

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until Friday August 23, 2002 at noon (Thursday August 22, 2002 at noon if filed by fax). All written comments must include a reference on the filing to docket 1-AC-184. **File by one mode only.**

If filing by mail, courier, or hand delivery: Address as shown in the box on page 1. Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original**.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet **MUST** state **"Official Filing,"** the docket number (1-AC-184), and the number of pages (limited to 20 pages for fax comments).

Contact Person

Questions regarding this matter should be directed to Jane Zemlicka, docket coordinator at (608) 267-9814. Hearing or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to get this document in a different format should contact

Jane Zemlicka, as indicated in the previous paragraph, as soon as possible.

Notice of Proposed Rule

Revenue [CR 02-053]

NOTICE IS HEREBY GIVEN that pursuant to ss. 77.61 (9) and 227.11 (2), Stats., and interpreting s. 70.11 (21), 76.025 (1) and 77.54 (26), 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 **July 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 by the Department of Revenue

Statutory authority: ss. 77.61 (9) and 227.11 (2), Stats.

Statutes interpreted: ss. 70.11 (21), 76.025 (1) and 77.54 (26), Stats.

Section Tax 6.40 guides administration of the property tax exemption for waste treatment facilities owned by public utilities. Section Tax 11.11 guides administration of the sales and use tax exemption for waste treatment facilities. Section Tax 12.40 guides administration of the property tax exemption for industrial waste treatment facilities taxed under ch. 70, Stats.

Prior to 2001 Wis. Act 16, the property tax exemption for industrial waste treatment facilities under s. 70.11 (21), Stats., required an approval process whereby application was made to the Department of Revenue. Under 2001 Wis. Act 16, owners of industrial waste treatment property that is taxed under ch. 70, Stats., are no longer required to apply to the Department of Revenue for the property tax exemption; the application process will continue to be required for public utility property taxed under ch. 76, Stats.

Tangible personal property becoming a component part of an industrial waste treatment facility is exempt from sales and use taxation if the waste treatment property is exempt from the property tax. While this provision is unchanged by 2001 Wis. Act 16, the sales and use tax exemption is no longer tied to a Department of Revenue approval process for property taxed under ch. 70, Stats.

The proposed order clarifies the different requirements for obtaining sales and use tax exemption for waste treatment facilities in s. Tax 11.11 and repeals the approval procedures required for the property tax exemption in s. Tax 12.40. The proposed order also: updates format and style in ss. Tax 6.40, 11.11 and 12.40, per Legislative Council Rules Clearinghouse ("Clearinghouse") standards; updates a department address in ss. Tax 6.40 and Tax 12.40 and moves it from the text of the rule to a note in s. Tax 6.40, per Clearinghouse standards; and alphabetizes definitions and moves a "non-exempt" provision from a definition to a separate paragraph in ss. Tax 6.40 and 12.40, per Clearinghouse standards.

SECTION 1. Tax 6.40 (title) and (2)(b) are amended to read:

Tax 6.40 (title) **Waste treatment facilities (= industrial/utility).**

(2) (b) The completed form "Application for Exemption of Waste Treatment Facility-Utility" should be sent to the Bureau of Utility and Special Taxes, ~~Division of State/Local~~

Finance, Wisconsin Department of Revenue, P.O. Box 8933, Madison, WI 53708.

Note to Revisor: Insert the following note at the end of Tax 6.40 (2) (b):

Note: The address for mailing the application form is Wisconsin Department of Revenue, Bureau of Utility and Special Taxes, Division of State and Local Finance, PO Box 8971, Madison WI 53708-8971.

SECTION 2. Tax 6.40 (3) (a) 1. and 3. are renumbered Tax 6.40 (3) (a) 3. and 1. and as renumbered are amended to read:

Tax 6.40 (3) (a) 1. “Facility;” means tangible personal property that is built, constructed or installed as a unit so as to be readily identifiable as directly performing a waste treatment function.

3. “Waste;” means that which is left over as superfluous, discarded or fugitive material. In addition, “*industrial waste wastes*” is defined by reference to s. 281.01(5), Stats., as including liquid or other wastes resulting from any process of industry, manufacture, trade, business or the development of any natural resource. “*Air contaminant*” is defined by reference to s. 285.01(1), Stats., as dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof but shall not include uncombined water vapor.

SECTION 3. Tax 6.40 (3) (a) 2. and 4., (b) and (c) are amended to read:

Tax 6.40 (3) (a) 2. “Treatment;” means removing, altering or storing waste.

4. “Waste treatment facility;” means tangible personal property that is built, constructed or installed as a unit so as to be readily identifiable as directly removing, altering or storing leftover, superfluous, discarded or fugitive material. ~~Monitoring equipment which is not a component or integral part of a waste treatment facility is not exempt.~~

(b) The exemption for industrial waste treatment facilities does not extend to “unnecessary siltation” resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion” as provided in s. 281.01 (7), Stats.

(c) The exemption ~~also~~ for industrial waste treatment facilities does not apply to conversion of an industrial furnace from one type of fuel to another type of fuel ~~. The exemption does not apply~~ or to the increased height of a smoke stack to diffuse emissions over a wide area or increments to property held for the production of income but which may be indirectly related to pollution abatement. However, the installation of a scrubber or electrostatic precipitator in a smoke stack could qualify for exemption.

SECTION 4. Tax 6.40 (3) (d) is created to read:

Tax 6.40 (3) (d) The exemption for industrial waste treatment facilities does not apply to monitoring equipment that is not a component or integral part of a waste treatment facility.

Note to Revisor: Replace the note at the end of Tax 6.40 with the following:

Note: Section Tax 6.40 interprets s. 76.025 (1), Stats.

SECTION 5. Tax 11.11 (title) and (2) (title) are amended to read:

Tax 11.11 (title) ~~Industrial or Utility, industrial and governmental waste treatment facilities.~~

(2) (title) ~~INDUSTRIAL UTILITY WASTE TREATMENT EXEMPTION.~~

SECTION 6. Tax 11.11 (2) (a) is renumbered Tax 11.11(2) and amended to read:

Tax. 11.11 (2) If ~~an industrial or a~~ utility waste treatment facility that is taxed under ch. 76, Stats., qualifies for property tax exemption under s. 70.11(21)(a) 76.025(1), Stats., as approved by the department, it qualifies for the sales and use tax exemption under s. 77.54 (26), Stats.

Note to Revisor: Insert the following note at the end of Tax 11.11(2):

Note: Refer to s. Tax 6.40 for information on how to request approvals for property tax exemption for utility waste treatment facilities. For more information regarding exemptions for waste treatment facilities owned by a utility, including railroads, airlines and pipelines, approved by the department, write to Wisconsin Department of Revenue, Bureau of Utility and Special Taxes, PO Box 8971, Madison WI 53708-8971; telephone (608) 266-8162; send an e-mail to utility@dor.state.wi.us; or access the department’s internet web site at www.dor.state.wi.us/contact/slfburst.

SECTION 7. Tax 11.11 (2) (b) is repealed.

SECTION 8. Tax 11.11 (2m) is created to read:

Tax 11.11 (2m) INDUSTRIAL WASTE TREATMENT EXEMPTION. (a) An industrial waste treatment facility is any property taxed under ch. 70, Stats., that is built, constructed or installed as a unit used for the treatment of liquid or other wastes resulting from any process of industry, manufacture, trade, business or the development of any natural resource.

(b) Tangible personal property becoming a component part of an industrial waste treatment facility is exempt from the sales and use tax under s. 77.54 (26), Stats., if the facility qualifies for property tax exemption under s. 70.11 (21) (a), Stats.

Note: Refer to s. Tax 12.40 for information related to the property tax exemption for industrial waste treatment facilities. For more information regarding the property tax exemption for industrial waste treatment facilities of manufacturers write or call the district office of the Wisconsin Department of Revenue, Bureau of Manufacturing and Telco Assessments. To locate the district office, write or call Wisconsin Department of Revenue, Bureau of Manufacturing and Telco Assessment, PO Box 8971, Madison WI 53708-8971; telephone (608) 266-1147. The web site is www.dor.state.wi.us/contact/slfbmta. To ascertain whether a non-manufacturing property would be exempt under s. 70.11(21), Stats., owners may refer to the Wisconsin Property Assessment Manual or contact the local property tax assessor.

Note to Revisor: Insert the following note at the end of Tax 11.11 (3):

Note: For more information regarding the exemption for municipal treatment facilities, write or call Wisconsin Department of Revenue, Bureau of Customer Service, Mail Stop 5-77, PO Box 8902, Madison WI 53708-8902, telephone (608) 266-2772. The web site is www.dor.state.wi.us/contact/pcs.html#cust.

SECTION 9. Tax 11.11 (4) is renumbered Tax 11.11 (4) (a) and amended to read:

Tax 11.11 (4) (a) The repair, service, alteration, cleaning, painting and maintenance of a utility waste treatment facility described in sub. (2), an industrial waste treatment facility described in sub. (2) ~~(2m)~~ and a municipal waste treatment facility described in sub. (3) as well as the repair parts and replacement for those types of facilities ~~and chemicals, supplies and utilities used or consumed in operating those types of facilities~~ are exempt from the sales and use tax.

SECTION 10. Tax 11.11 (4) (b) is created to read:

Tax 11.11 (4) (b) Chemicals and supplies, including fuel and electricity, used or consumed in operating a utility waste treatment facility described in sub. (2), an industrial waste treatment facility described in sub. (2m) and a municipal waste treatment facility described in sub. (3) are exempt from the sales and use tax.

SECTION 11. Tax 11.11 (5) (a) is amended to read:

Tax 11.11 (5) (a) *Exempt purchases.* The sales and use tax exemption extends to and includes the purchases of tangible personal property by a contractor–installer who incorporates the property into an approved industrial utility waste treatment facility or who incorporates the property into an industrial waste treatment facility or a municipal waste treatment facility. The contractor–installer shall certify the intended exempt use of the item to each supplier in order to relieve the supplier of the duty of collecting and reporting the tax on the sales. Certification of exempt use shall be made on a Wisconsin sales and use tax exemption certificate, form S–211.

SECTION 12. Tax 11.11 (5) (c) is repealed and recreated to read:

Tax 11.11 (5) (c) *Determining exemptions.* 1. 'Utility property taxed under ch. 76, Stats.' A contractor or subcontractor may be liable for sales and use tax on a purchase of tangible personal property that becomes a component part of a utility waste treatment facility that has not been approved by the department for a property tax exemption under s. 76.025(1), Stats.

Note: Contractors may direct questions concerning the property to the department as provided in sub. (2).

2. 'Industrial property taxed under ch. 70, Stats.' Approvals are not required for industrial waste treatment facilities. A contractor or subcontractor may be liable for sales and use tax on a purchase of tangible personal property that becomes a component part of a facility that is determined to not qualify for a waste treatment facility property tax exemption under s. 70.11 (21), Stats.

Note: Contractors may direct questions concerning the taxability of the waste treatment facility to the department as provided in sub. (2m).

3. 'Municipal waste treatment facilities.' Approvals are not required for municipal waste treatment facilities. A contractor or subcontractor may be liable for sales and use tax on a purchase of tangible personal property that becomes a component part of a facility that is determined not to be a municipal waste treatment facility as provided in sub. (3).

Note: Contractors may direct questions concerning municipal waste treatment facilities to the department as provided in sub. (3).

Note to Revisor: Remove the first two notes at the end of Tax 11.11, and replace the last note with the following:

Note: The interpretations in s. Tax 11.11 are effective July 31, 1975 when ss. 70.11 (21) and 77.54 (26), Stats., were revised, except: (a) The exemptions for chemicals and supplies used or consumed in operating a waste treatment facility became effective September 1, 1979, pursuant to Chapter 39, Laws of 1979; and (b) The approval process for property and sales tax exemptions for industrial waste treatment facilities, except utilities, were eliminated effective January 1, 2002, pursuant to 2001 Wis. Act 16.

SECTION 13. Tax 12.40 (title) is amended to read:

Tax 12.40 (title) **Waste treatment facilities** (= **industrial**).

SECTION 14. Tax 12.40 (2) is repealed.

SECTION 15. Tax 12.40 (3) (a) 1. and 3. are renumbered Tax 12.40 (3) (a) 3. and 1. and as renumbered are amended to read:

Tax 12.40 (3) (a) 1. "Facility;" means tangible property that is built, constructed or installed as a unit so as to be readily identifiable as directly performing a waste treatment function.

3. "Waste;" means that which is left over as superfluous, discarded or fugitive material. In addition, "industrial waste wastes" is defined by reference to s. 281.01 (5), Stats., as including liquid or other wastes resulting from any process of industry, manufacture, trade, business or the development of any natural resource. "Air contaminant" is defined by reference to s. 285.01 (1), Stats., as dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof but shall not include uncombined water vapor.

SECTION 16. Tax 12.40 (3) (a) 2. and 4., (b) and (c) are amended to read:

Tax 12.40 (3) (a) 2. "Treatment;" means removing, altering or storing waste.

4. "Waste treatment facility;" means tangible personal property that is built, constructed or installed as a unit so as to be readily identifiable as directly removing, altering or storing leftover, superfluous, discarded or fugitive material. ~~Monitoring equipment which is not a component or integral part of a waste treatment facility is not exempt.~~

(b) The exemption for industrial waste treatment facilities does not extend to "unnecessary siltation" resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion" (as provided in s. 281.01(7), Stats.)-

(c) The exemption ~~also for industrial waste treatment facilities~~ does not apply to conversion of an industrial furnace from one type of fuel to another type of fuel ~~The exemption does not apply~~ or to the increased height of a smoke stack to diffuse emissions over a wide area or increments to property held for the production of income but which may be indirectly related to pollution abatement. However, the installation of a scrubber or electrostatic precipitator in a smoke stack could qualify for exemption.

SECTION 17. Tax 12.40 (3) (d) is created to read:

Tax 12.40 (3) (d) The exemption for industrial waste treatment facilities does not apply to monitoring equipment that is not a component or integral part of a waste treatment facility.

Note to Revisor: Replace the note at the end of Tax 12.40 with the following:

Note: Section Tax 12.40 interprets s. 70.11 (21), Stats.

Fiscal Estimate

Tax 6.40 guides administration of the property tax exemption for waste treatment facilities owned by public utilities. Tax 11.11 guides administration of the sales and use tax exemption for waste treatment facilities. Tax 12.40 guides administration of the property tax exemption for industrial waste treatment facilities taxed under ch. 70, Wis. Stats.

Prior to 2001 Wisconsin Act 16, the property tax exemption for industrial waste treatment facilities under sec. 70.11 (21), Wis. Stats., required an approval process whereby application was made to the Department of Revenue. Under 2001 Wisconsin Act 16, owners of industrial waste treatment property that is taxed under ch. 70, Wis. Stats., will no longer be required to apply to the Department of Revenue for the property tax exemption; the application process will continue

to be required for public utility property taxed under ch. 76, Stats.

Tangible personal property becoming a component part of an industrial waste treatment facility is exempt from sales and use taxation if the waste treatment property is exempt from the property tax. While this provision is unchanged by 2001 Wis. Act 16, the sales and use tax exemption will no longer be tied to a Department of Revenue approval process for property taxed under ch. 70, Stats.

As a result of the Act 16, the Department of Revenue will realize minor savings associated with the formal granting of property tax exemptions for industrial waste treatment facilities. However, it is anticipated that the Department will continue to receive the same number of inquiries regarding the qualifications for property tax exemption. In addition, the elimination of the approval process for property tax exemptions will increase the department's administrative costs associated with the determination of sales and use tax exemptions of affected property. These costs include taxpayer assistance and confirmation with local assessors of the property tax status of the property.

There will be a minor increase in local government costs associated with the determination by the local assessor of property tax exemptions for non-manufacturing waste treatment facilities.

The proposed amendments to ss. Tax 11.11 and 12.40 are required to bring the rules into conformity with current law as affected by 2001 Wis. Act 16. The proposed rule also updates ss. Tax 6.40 and Tax 12.40 to conform to a change of address and the renumbering of statutes pursuant to 1995 Act 227 and 1997 Act 35. The proposed amendments have no fiscal effect independent of the fiscal effect of the statutory changes upon which they are based.

Initial Regulatory Flexibility Analysis

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

Contact Person

Please contact Rebecca Boldt at (608) 266-6785 or rboldt@dor.state.wi.us if you have any questions regarding this proposed rule order.

Notice of Hearing

Transportation

[CR 02-085]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1), 227.11 (2) (a) and 343.51, Stats., and interpreting s. 343.51, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **9th day of August, 2002, at 10:00 a.m.**, to consider the amendment of ch. Trans 130, Wis. Adm. Code, relating to disabled parking placards.

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

The public record on this proposed rule making will be held open until close of business August 16, 2002, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16 (1), 227.11 (2) (a) and 343.51, Stats.

STATUTE INTERPRETED: s. 343.51, Stats.

General Summary of Proposed Rule

The Division of Motor Vehicles accommodates persons who have a disability that limits or impairs the ability to walk. Disabled persons may receive a portable disabled parking identification placard, which allows parking in a specially reserved parking space. Disabled persons pay a fee of \$6 per placard, which is good for 4 years. A number of class action lawsuits have been filed against states (including Wisconsin) that charge a fee for disabled parking identification placards. These lawsuits allege that the practice of charging a fee for disabled parking identification placards violates the Americans with Disabilities Act (ADA). A settlement ended the Wisconsin lawsuit. Judge Nichol signed an order accepting the settlement, ordering DOT to cease collecting any fee for permanent placards after June 30, 2003, and dismissing the case. Jason, et al. v. Wisconsin DOT, Case No. 97-CV-3137, Dane County Circuit Court, April 15, 2002. The Department proposes to discontinue charging any fee for a permanent placard in compliance with the court order. The Department will continue to charge \$6 for temporary placards.

Fiscal Effect

The Transportation Fund will experience an annual revenue loss of approximately \$0.5 million.

Initial Regulatory Flexibility Analysis

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

Copies of Proposed Rule.

Copies of the rule may be obtained upon request, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 266-7857. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearing

Transportation

[CR 02-086]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.51 (1) and (2), and 348.26 (2), Stats., and interpreting s. 85.51 (1) and (2), Stats., the Department of Transportation will hold a public hearing in **Room 551** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **16th day of July, 2002, at 9:00 a.m.** to consider the amendment of ch. Trans 320, Wis. Adm. Code, relating to calculation of fees for special events, security, traffic enforcement and escort services.

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

The public record on this proposed rule making will be held open until close of business July 26, 2002, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement

testimony offered at the hearing. Any such comments should be submitted to Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.51 (1) and (2), and 348.26 (2), Stats.

STATUTE INTERPRETED: s. 85.51 (1) and (2), Stats.

General Summary of Proposed Rule

The revision of ch. Trans 320 will enable the Division of State Patrol to implement changes that were included in 2001 Wis. Act 16 section 2339, related to the assessment of charges for security and traffic law enforcement services. Previously, the authority of the state patrol to assess charges for services provided at public events for which an admission fee is charged was limited to those public events that were sponsored by a private agency. 2001 Wis. Act 16 expanded this authority to assess charges for security and traffic enforcement services to include public events that are sponsored by public agencies, assuming that an admission fee is charged.

In addition, 2001 Wis. Act 16 section 2340 provides the Division of State Patrol with the authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway.

Fiscal Effect

Fees related to the provision of security and traffic law enforcement services at public events, and at roadside work sites, will be deposited in the appropriation account under s. 20.395 (5) (dg). Funds deposited in this program revenue appropriation will be used to pay salary, fringe benefit, and non-salary expenses incurred during the provision of the service. It is estimated that total revenues and expenditures will increase by \$87,600 per year when this rule making becomes effective.

Initial Regulatory Flexibility Analysis

The revision of those provisions of ch. Trans 320 that are related to the assessment of charges for security and law enforcement services provided at public events for which an admission fee is required will not have an effect upon small businesses. Since a small business is considered to be a private agency, fees may be imposed under the existing provisions of ch. Trans 320.

The expansion of ch. Trans 320 to provide the state patrol with authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway may have an impact upon small businesses. The primary impact would be the assessment of charges for services provided by the state patrol. During the past two years, the state patrol has received one request from a private agency for utility facility project services. This request was submitted by TouchAmerica, Inc., which does not meet the definition of a small business.

Compliance with this rule making will not require small businesses to prepare any reports, and will not generate additional costs, except for the actual fee for services provided.

Copies of Proposed Rule

Copies of the proposed rule may be obtained upon request, without cost, by writing to Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608) 267-7305. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearings

Workforce Development (Unemployment Insurance, Chs. DWD 100-150 [CR 02-088])

NOTICE IS HEREBY GIVEN that pursuant to ss. 108.08 (1), 2001 Wis. Act 35, s. 72 (2) (b), and 227.11, Stats., the Department of Workforce Development proposes to hold three public hearings to consider the amendment of s. DWD 129.01 (1), relating to the extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

Hearing Information

Monday, July 15, 2002

10:00 a.m. – 11:00 a.m.

Job Center – Room 12

1819 Aberg

Madison WI

Tuesday, July 16, 2002

11:00 a.m. – 12:00 p.m.

State Office Building–Room 45

819 North 6th Street

Milwaukee, WI

Wednesday, July 17, 2002

11:00 a.m. – 12:00 p.m.

Portage County Public Library–Pinery Room

1001 Main Street

Stevens Point, WI 54481

Interested persons are invited to appear at the hearings and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing. If you have special needs or circumstances that may make communication or accessibility difficult at the hearings, please call (608) 267-1405 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

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

Statutes interpreted: Section 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 proposed 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. This change would eliminate approximately 67% of untimely filing issues, which 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. Systems 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.

Initial Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Fiscal Impact

The rule will have an immediate cost of approximately \$3000 for an automation change. The extension of the time period for filing a claim is expected to eliminate approximately 67% of untimely filing issues. This translates into savings of 5 to 6 full-time employees who would have otherwise been needed to determine these issues.

Contact Information

For substantive questions concerning the proposed rule, contact Tom Smith, Research Attorney, UI Bureau of Legal Affairs, 266-9641.

Written Comments

Written comments on the proposed rules received at the following address no later than July 19, 2002, will be given the same consideration as testimony presented at the hearing.

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403

Notice of Hearing

Workforce Development (Apprenticeship, Chs. DWD 295-296 [CR 02-087])

NOTICE IS HEREBY GIVEN that pursuant to ss. 106.01 (9) and 227.11, Stats., the Department of Workforce Development proposes to hold a public hearing to consider rules relating to the apprenticeship probationary period.

Hearing Information

July 17, 2002 GEF 1 Building, Room H203
Wednesday 201 E. Washington Avenue
1:30 p.m. MADISON

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

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 106.01 (9) and 227.11, Stats.
Statute interpreted: Section 106.01, Stats.

The proposed rule provides that the apprenticeship probationary period shall be up to 25% of the indenture hours of the apprenticeship and may not exceed 12 calendar months. The current rule provides that the apprenticeship probationary period may not exceed 6 months.

The department, in consultation with the Wisconsin Apprenticeship Advisory Council, is proposing this change for the following reasons:

- When the current rule was promulgated, most apprenticeship programs were 3 years or less years in length. Now 5 years is more the norm.
- There has been significant growth in the number of apprentices and local committees are having a difficult time reviewing all the apprentices in time to meet the six month deadline.
- Six months does not give apprentices sufficient time to correct their deficiencies, and some potentially good apprentices are not being given a chance to improve.
- In the past most apprentices were indentured in early summer, just before school begins. It is now customary to bring apprentices in year round. In some cases, committees are unable to assess an apprentice's ability in their related instruction. For example, if apprentices are hired in February, they may not start school until August, so in that example the probationary period is over before the apprentice has begun school.

The Wisconsin Apprenticeship Advisory Council has surveyed all the state trade committees and there is overwhelming support for this change in all sectors of the apprenticeship program.

Initial Regulatory Flexibility Analysis

The proposed rule change will allow small employers a longer period of time to try out an apprentice and retain the option to cancel the apprenticeship "without cause" or as a "no fault." Employer groups supporting the proposed rule change include Plumbing & Mechanical Contractors of Milwaukee, Sheet Metal & Air Conditioning Contractors of Wisconsin, Associated Builders & Contractors, and the National Electrical Contractors, Wisconsin Chapter. The rule change is also supported by the Milwaukee & Southeast WI District Council of Carpenters, WI State AFL-CIO, including the United Association of Plumbers & Steamfitters, Iron Workers Local 383, Roofers Local 65, Sheet Metal Local 18, and the

International Brotherhood of Electrical Workers. Also supporting the change is the WI Apprenticeship Advisory Council and WI Technical College Apprenticeship Coordinators Council.

Fiscal Effect

The proposed rule change has no fiscal effect.

Contact Information

The proposed rules are available on the DWD web site at <http://www.dwd.state.wi.us/dwd/hearings.htm>.

A paper copy may be obtained at no charge by contacting:
Elaine Pridgen

Office of Legal Counsel
Dept. of Workforce Development
201 E. Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
pridgel@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than July 19, 2002, will be given the same consideration as testimony presented at the hearing.

Submittal of proposed rules to the legislature

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

Controlled Substances Board

(CR 02-025)

Ch. CSB 2, relating to classifying dichloralphenazone as a schedule IV controlled substance under federal law.

Financial Institutions

(CR 02-068)

Ch. DFI-CCS 10, relating to certain fees regarding partnerships, corporations, limited liability companies and cooperatives.

Insurance

(CR 02-035)

Ch. Ins 17, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to the Wisconsin health care insurance plan's primary limits.

Regulation and Licensing

(CR 02-030)

Ch. RL 128, relating to auctioneer education requirements prior to first renewal, courses and examinations, approval of educational programs, courses and instructors.

Social Workers, Marriage and Family Therapists and Professional Counselors

(CR 01-152)

Ch. SFC 1, relating to a rules committee.

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.

**Natural Resources
(CR 01-129)**

An order affecting chs. NR 700, 714, 720, 722, 726 and 749, relating to the implementation of a geographic information system registry of closed remediation sites for properties with residual soil contamination.

Effective 8-1-02

**Natural Resources
(CR 01-145)**

An order affecting ch. NR 25, relating to commercial fishing open seasons in Lake Michigan for chubs.

Effective 8-1-02

**Pharmacy Examining Board
(CR 01-134)**

An order affecting chs. Phar 2 and 17, relating to pharmacy internship program.

Effective 8-1-02

**Public Defender
(CR 02-031)**

An order affecting ch. PD 6, relating to the repayment of cost of legal representation.

Effective 8-1-02

**Revenue
(CR 01-143)**

An order affecting chs. Tax 2 and 11, relating to returns of persons other than corporations that relate to income, and sales and use tax returns.

Effective 8-1-02

**Transportation
(CR 02-028)**

An order affecting ch. Trans 139, relating to motor vehicle trade practices.

Effective 8-1-02

**Workforce Development
(CR 02-010)**

An order affecting ch. DWD 59, relating to grants supporting community child care initiatives.

Effective 8-1-02

Rules published with this register and final regulatory flexibility analyses

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

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

Summary of Final Regulatory Flexibility Analysis

This proposed rule modifies current rules under ch. ATCP 81, Wis. Adm. Code, related to cheese grading, packaging and labeling.

Under current DATCP rules, the majority of eyes or holes in Swiss (emmental) cheese must be 9/16 to 13/16 inch in diameter in order for the cheese to be labeled or sold as Wisconsin grade A or Wisconsin state brand. There are no eye size specifications in the current standards for Wisconsin grade B Swiss (emmental) cheese.

The proposed rule brings the Wisconsin grade standards for Swiss (emmental) cheese into conformance with recent changes in the federal grade standards adopted by the United States Department of Agriculture. The proposed rule allows smaller eyes by expanding the lower end of the eye size range and requires that the majority of eyes be 3/8 to 13/16 inch in diameter for Wisconsin grade A (Wisconsin state brand). It also requires the eyes to be relatively uniform in size and uniformly distributed. The proposed rule also establishes the same eye size range of 3/8 to 13/16 inch in diameter for Wisconsin grade B.

The proposed rule defines current and new terms to help clarify the grade standard characteristics with respect to eye and texture characteristics of Swiss cheese. The proposed rule also modifies grading procedures for Swiss cheese to allow for better examination and evaluation of texture, color, and eye characteristics. For the determination of texture, color, and eye characteristics, the cheese must be divided approximately in half to expose two cut surfaces for examination. Upon request of the owner of the cheese (or the owner's authorized representative), cheese samples for grading purposes may be obtained with the use of a trier in lieu of dividing the cheese in half.

A "small business," as defined in s. 227.114 (1) (a), Stats., means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs fewer than twenty-five full time employees or which has gross annual sales of less than \$2,500,000. There may be a small number of Swiss cheese manufacturers that are likely to meet this definition of a "small business." In addition, this rule may affect some packagers and cut/wrap operations that distribute cheese, as well as some small retail outlets.

This rule update in the Wisconsin grade standard for Swiss (emmental) cheese is necessary to keep pace with changes in manufacturing and packaging technology and meet a variety of customer and consumer preferences.

Packagers and cut/wrap operations prefer smaller eyes that facilitate cutting operations with high-speed slicing equipment. Smaller eyes also enable the cutter to better control package weight and minimize trim. Delicatessen operators prefer a larger eye size due to customer preference at the retail level. It is believed that cheese manufacturers currently producing Swiss cheese with an eye size range of 9/16 to 13/16 inch in diameter will maintain or grow their market niche.

The proposed rule will not impose any direct costs on small businesses. These rule changes do not require any additional reporting or record keeping. No additional knowledge or professional skills are needed to meet the requirements of these proposed amendments.

Summary of Comments of Legislative Standing Committees

On February 15, 2002, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Labor and Agriculture and the Assembly Committee on Agriculture.

- The Assembly committee took no action on this rule during the review period.
- The Senate committee took no action on this rule during the review period.

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

An order affecting ch. ATCP 30, relating to pesticide product restrictions.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

The amendments to ATCP 30 Appendix A will affect small businesses in Wisconsin. Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10 Wis. Adm. Code. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition area contains approximately 12,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 3,000 acres of corn will be affected. Between 10 and 30 producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate

referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Summary of Comments of Legislative Standing Committees

On January 31, 2002, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform and to the Assembly Committee on Agriculture.

- The Senate committee took no action on this rule during the review period.
- The Assembly committee took no action on this rule during their review period.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board (CR 01-092)

An order affecting ch. A-E 6, relating to the number of required semester credits in land surveying for an applicant applying with a bachelor's degree in civil engineering. Effective 7-1-03

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.

Commerce (CR 01-062)

An order affecting ch. Comm 32, relating to public employee safety and health. Effective 7-1-02 & 1-1-03

Summary of Final Regulatory Flexibility Analysis

The proposed rules will not affect any small businesses as defined in section 227.114 (1) (a), Stats. The proposed rules apply to public sector employers and employees.

Summary of Comments of Legislative Standing Committees

No comments were received.

Commerce (CR 01-109)

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

Summary of Final Regulatory Flexibility Analysis

The state Commercial Building Code includes the adoption of the 2000 edition of the *International Building Code*® (IBC), the *International Energy Conservation Code*™ (IECC), the *International Mechanical Code*® (IMC), and the *International Fuel Gas Code*® (IFGC). All newly constructed or altered public buildings and places of employment will be affected by these rules. Similar

accessibility rules have been in effect in the state since December 1994 and the federal accessibility laws have been in effect for over 10 years, so the impact of these rules should be minimal.

Summary of Comments of Legislative Standing Committees

No comments were received.

Commerce (CR 01-110)

An order affecting ch. Comm 70, relating to historic buildings.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

The Division has adopted the state Commercial Building Code, chapters Comm 61 to 65, under Clearinghouse Rule number 00-179. These changes include the adoption of the 2000 edition of the *International Building Code*® (IBC), the *International Energy Conservation Code*™ (IECC), *International Mechanical Code*® (IMC), and the *International Fuel Gas Code*® (IFGC). The primary reason for changing Comm 70 is to modify the building evaluation method for qualified historic buildings by updating the cross-references to the revised Wisconsin Commercial Building Code, chapters Comm 61 to 65, which will take effect July 1, 2002. The impact of these rules on small businesses is minimal, if any.

Summary of Comments of Legislative Standing Committees

No comments were received.

Commerce (CR 01-111)

An order affecting ch. Comm 18, relating to elevators and ch. Comm 62, relating to buildings and structures.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rules are to update the cross-references to the new Commercial Building Code, which adopts by reference the *International Building Code*® (IBC), and to eliminate duplicative rules that are now covered in the IBC. The list of applicable requirements that are to be applied to stage and orchestra pits will be maintained. There are no special reporting or operational requirements and there no anticipated additional costs to elevator and mechanical lift manufacturers.

Summary of Comments of Legislative Standing Committees

No comments were received.

Commerce (CR 01-135)

An order affecting ch. Comm 64, relating to heating, air conditioning and ventilation.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

The performance requirements for equipment and installations in these occupancies are currently reflected in present practice. The rule allows alternate methods based upon sound engineering practices.

Summary of Comments of Legislative Standing Committees

No comments were received.

**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

Summary of Final Regulatory Flexibility Analysis

Sections 101.02 (1) and (15), 101.14 (1) and (4), and 101.973 (1), Stats., authorize the Department to promulgate rules prescribing minimum construction and operation standards and fire prevention standards for public buildings and places of employment, including multifamily dwellings. The rules in Clearinghouse Rule No. 01-139 are minimum requirements to meet the directive of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Commerce
(CR 01-142)**

An order affecting ch. Comm 110, relating to brownfields grant program.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

The rule somewhat increases the flexibility for all businesses and owners associated with brownfields properties by (1) expanding the listing of applicants who are eligible to receive redevelopment grants, to include trustees and nonprofit organizations; and (2) revising the criteria for disallowing funding, to no longer exclude projects that include temporary or other inconsequential displacement of workers.

The rule also updates and clarifies several aspects of the application procedure that have evolved since the chapter was initially created as an emergency rule in 1997, which may enable some small businesses to more easily apply for the grants.

The rule also eliminates a current requirement to submit semi-annual financial reports, because these reports are no longer considered necessary.

The rule will not impose additional costs or require additional investments by small businesses.

No issues unique to small business were raised during the public hearing or legislative review periods.

Summary of Comments of Legislative Standing Committees

No comments were received.

**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

Summary of Final Regulatory Flexibility Analysis

As required by 2001 Wisconsin Act 16, the proposed rules add dentists and dental hygienists to the health care loan

assistance program administered by the Department. In order to allow some flexibility in enforcement of the minimum number of Medicaid and Badger Care patients a dentist must service, the rules include a waiver provision. This provision may be applied on a case-by-case and year-to-year basis upon a Department review that shows the dentist made a significant effort to meet the minimum number of patients.

Summary of Comments of Legislative Standing Committees

On April 5, 2002, the Assembly Committee requested a meeting with the Department. In response to the meeting request, the Department submitted a germane modification to the proposed rules.

**Financial Institutions – Savings Institutions
(CR 02-006)**

An order creating s. DFI-SL 16.06, relating to acquiring and holding stock in bank-owned banks.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.19 (3m), a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Financial Institutions – Savings Institutions
(CR 02-022)**

An order creating s. DFI-SB 16.03 (8), relating to acquiring and holding stock in bank-owned banks.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.19 (3m), a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

No comments were received.

**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

Summary of Final Regulatory Flexibility Analysis

Permit requirements for riparian waterfront property owners altering their shoreline are already established under s. 30.12, Stats., and no further reporting requirements are imposed on small business. Therefore, pursuant to s. 227.114 (8) (b), Stats., these rules will not directly affect small business and no analysis is required.

Summary of Comments of Legislative Standing Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. On February 13, 2002, the Assembly Committee on Natural Resources held a public hearing. On March 28, 2002, the Senate Committee on Environmental Resources held a public hearing. No comments or recommendations were received as a result of the hearings.

**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

Summary of Final Regulatory Flexibility Analysis

The revisions to subch. II of ch. NR 16 impose no new or additional compliance or reporting requirements for small businesses and thus, under s. 227.19 (3), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. On April 10, 2002, the Assembly Committee on Natural Resources held a public hearing. No comments or recommendations were received as a result of the hearings.

**Public Service Commission
(CR 00-187)**

An order affecting chs. PSC 1 to 3, relating to practice and procedure.
Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

This rule revision does not directly affect small businesses, as defined in s. 227.114 (1) (a), Stats. Because the revisions are intended to establish consistent procedures for practice before the Commission, special provisions are included for small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**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

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments were received.

**Transportation
(CR 02-003)**

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

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments were received.

**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

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not affect small business as defined in s. 227.14, Stats.

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 **June 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

Agriculture, Trade and Consumer Protection

Ch. ATCP 81

- S. ATCP 81.01 (10m)
- S. ATCP 81.23 (5), (5m)
- S. ATCP 81.70 (3), Table 15
- S. ATCP 81.71 (3)

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

Ch. A-E 6

- S. A-E 6.04 (2) (b)

Commerce:

Ch. Comm 2

- S. Comm 2.31 (1) (a), (b), (g), (h) and (i), (3) and (5)
- S. Comm 2.51 (2)
- S. Comm 2.52 (3) (a)

Ch. Comm 3

- S. Comm 3.03 (5) (f)

Ch. Comm 5

- S. Comm 5.34 (1) and (3) (a)
- S. Comm 5.35 (5) (a)
- S. Comm 5.50 (2)
- S. Comm 5.56 (1)
- S. Comm 5.61 (1)

Ch. Comm 9

- S. Comm 9.24 (1)
- S. Comm 9.28 (1) (a)

Ch. Comm 14

- S. Comm 14.03 (9) (c) and (d), (10) (d)
- S. Comm 14.04
- S. Comm 14.08
- S. Comm 14.31
- S. Comm 14.48 (2) (d)

Ch. Comm 16

- S. Comm 16.17 (1) (b)
- S. Comm 16.25 (1) (c)
- S. Comm 16.41
- S. Comm 16.45 (4) (a)
- S. Comm 16.65 (2) (a) and (4) (a)

Ch. Comm 18

- S. Comm 18.09 (1) (a) and (e) and (2) (b)
- S. Comm 18.14
- S. Comm 18.17 (1)
- S. Comm 18.18 (1) (b) to (h) and (2) (b)
- S. Comm 18.20 (2)
- S. Comm 18.21 (2) (a)
- S. Comm 18.23
- S. Comm 18.295
- S. Comm 18.34
- S. Comm 18.35

- S. Comm 18.36
- S. Comm 18.361 to 18.415
- S. Comm 18.43
- S. Comm 18.49 (1)
- S. Comm 18.63 (1)
- S. Comm 18.68
- S. Comm 18.69 (1) (b) and (d), (2), (3) and (5) (f)
- S. Comm 18.74
- S. Comm 18.75 (2) (b)
- S. Comm 18.755
- S. Comm 18.88

Ch. Comm 30

- S. Comm 30.145

Ch. Comm 32

- S. Comm 32.10
- S. Comm 32.16 (intro.), (9), (19), (21)
- S. Comm 32.205
- S. Comm 32.24 (5) (c)
- S. Comm 32.27
- S. Comm 32.345
- S. Comm 32.50 (table)

Ch. Comm 34

- S. Comm 34.23 (2) (a)
- S. Comm 34.28
- S. Comm 34.36
- S. Comm 34.39
- S. Comm 34.40

Ch. Comm 41

- S. Comm 41.49 (5) (b)

Ch. Comm 45

- S. Comm 45.18 (4) (b)
- S. Comm 45.19 (8) and (9)

Ch. Comm 61

- S. Comm 61.03 (6) (c), (7) (c), (13) (a)
- S. Comm 61.05 (5)
- S. Comm 61.115
- S. Comm 61.30 (2) (c) and Table 3
- S. Comm 61.31 (3)
- S. Comm 61.50 (1) (b)
- S. Comm 61.51 (2) (e) and (3)

Ch. Comm 62

- S. Comm 62.0100 (1) and (2)
- S. Comm 62.0115
- S. Comm 62.0202 (1) and (2) (c)
- S. Comm 62.0904 (2) (b)
- S. Comm 62.1003
- S. Comm 62.1101 to 62.1110
- S. Comm 62.1609
- S. Comm 62.2701
- S. Comm 62.2900 (2)
- S. Comm 62.2901
- S. Comm 62.2902 (2)

S. Comm 62.3002
 S. Comm 62.3004 (2)
 S. Comm 62.3006
 S. Comm 62.3100
 S. Comm 62.3300
 S. Comm 62.3307
 S. Comm 62.3406
 S. Comm 62.3408 (2) to (7)
 S. Comm 62.3500

Ch. Comm 63

S. Comm 63.0503 (2) (c) to (f)
 S. Comm 63.0602 (2) and (3)
 S. Comm 63.0802 (3) to (5)
 S. Comm 63.0803 (2) (f)
 S. Comm 63.0901
 S. Comm 63.1011 (3)
 S. Comm 63.1029 (4)

Ch. Comm 64

S. Comm 64.0202 (2) (b) and (c)
 S. Comm 64.0300
 S. Comm 64.0301 (2) (a) and (b)
 S. Comm 64.0309 (1)
 S. Comm 64.0401 (4) (a) and (b)
 S. Comm 64.0403 (3) to (9)
 S. Comm 64.0404
 S. Comm 64.0507
 S. Comm 64.0604 and 64.0605
 S. Comm 64.0900
 S. Comm 64.1500

Ch. Comm 65

S. Comm 65.0301
 S. Comm 65.0304 (3)
 S. Comm 65.0305 (1) and (2)
 S. Comm 65.0503 (1) (b)
 S. Comm 65.0700

Ch. Comm 70

S. Comm 70.02 (2) (e) and (i)
 S. Comm 70.03 (2)
 S. Comm 70.04 to 70.06
 S. Comm 70.07 (1), (3), (5) (b) and (c)
 S. Comm 70.08
 S. Comm 70.17 (2), (5), (9) to (11), (14), (18)
 S. Comm 70.20 to 70.23
 S. Comm 70.26 (3) (d)
 S. Comm 70.27 to 70.28
 S. Comm 70.29 (1), (3) and (4)
 S. Comm 70.30 (3) (a)
 S. Comm 70.37 (1) (d) and (2) (a)
 S. Comm 70.38 (1) (a) and (b)
 S. Comm 70.39 (1) (a) and (2) (a)
 S. Comm 70.40 (3)
 S. Comm 70.42
 S. Comm 70.48 (1) (b) and (2) (a)
 S. Comm 70.59 (1) (a)

Ch. Comm 71

S. Comm 71.21 (2), (5), (6) (intro.), (7) (b)
 S. Comm 71.24 (1) (d)
 S. Comm 71.26
 S. Comm 71.30 (2)

Ch. Comm 81

S. Comm 81.01 (209)

Ch. Comm 82

S. Comm 82.10 (3)

Ch. Comm 84

S. Comm 84.20 (5) (o)

Ch. Comm 90

S. Comm 90.16 (1)
 S. Comm 90.17 (2)

Ch. Comm 91

S. Comm 91.12 (1) (b)

Ch. Comm 110

S. Comm 110.02, (2), (6) to (11)
 S. Comm 110.03
 S. Comm 110.04 (intro.), (2) to (4)
 S. Comm 110.07
 S. Comm 110.08

Ch. Comm 122

S. Comm 122.01 (intro.) and (3)
 S. Comm 122.02 to 122.035
 S. Comm 122.04 (intro.), (1) to (5), (7) and (9)
 S. Comm 122.05 (1) (a)
 S. Comm 122.06 (1) (intro.), (g), (2) (intro.) and (h)
 S. Comm 122.07 to 122.09

Ch. Comm 128

S. Comm 128.02
 S. Comm 128.025
 S. Comm 128.03 (1), (2) (intro.), (a), (f) and (h)
 S. Comm 128.04 (1) (a) and (b)
 S. Comm 128.05 (1) (g) and (2) (h)
 S. Comm 128.06 (2) and (3)

Financial Institutions – Savings Banks:**Ch. DFI–SB 16**

S. DFI–SB 16.03 (8)

Financial Institutions – Savings and Loan**Ch. DFI–SL 16**

S. DFI–SL 16.06

Natural Resources:**Ch. NR 16**

S. NR 16.71 (1m) and (3)
 S. NR 16.73 (1)
 S. NR 16.74 (5) and (6m)
 S. NR 16.75

Ch. NR 328 (entire chapter)**Public Service Commission:****Ch. PSC 1**

S. PSC 1.04

Ch. PSC 2 (entire chapter)**Ch. PSC 3**

S. PSC 3.02 (1) (b) and (e)
 S. PSC 3.04 (1)

Transportation:**Ch. Trans 260**

S. Trans 260.09 (3) to (9)
 S. Trans 260.15 (3) (am)

Ch. Trans 261

S. Trans 261.09 (3) to (9)

Ch. Trans 325

S. Trans 325.02 (intro.) and (8)

Ch. Trans 326

S. Trans 326.01 (intro.) and (8)

Workforce Development:**Ch. DWD 290**

S. DWD 290.15

S. DWD 290.155 (1)

Ch. DWD 293 (entire chapter)**Editorial corrections**

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

Commerce:**Ch. Comm 3**

S. Comm 3.03 (2) (c)

Ch. Comm 32

S. Comm 32.01 (4)

Ch. Comm 34

S. Comm 34.02 (1)

S. Comm 34.10 (1)

Ch. Comm 45

S. Comm 45.19 (5)

S. Comm 45.20 (3) (a), (b), (5) (b), (6) (a), (b), (7) (a),
(f), (11) (a)**Ch. Comm 61**

S. Comm 61.115

S. Comm 61.40 (2)

Ch. Comm 64

S. Comm 64.0604 (2) and (3)

Ch. Comm 70

S. Comm 70.22 (17) (b)

Ch. Comm 71

S. Comm 71.21 (6) (a)

S. Comm 71.22 (3) (a) and (b)

S. Comm 71.25 (1) (c), (3) (c), (4) (intro.), (7) (a)

Ch. Comm 81

S. Comm 81.01 (152) & (154)

Ch. Comm 84

S. Comm 84.13

S. Comm 84.20 (5) (q)

Ch. Comm 90

S. Comm 90.03 (18w)

S. Comm 90.19 (2) (a)

Sections affected by revisor's corrections not published

Revisor's corrections under s. 13.93 (2m) (b), Stats., identified in this Wis. Adm. Register.

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

Location of invalid cross-reference	Invalid cross-reference	Correction
Adm 15.04 (8) (a)	ch. Comm 57	chs. Comm 61 to 65
ATCP 71.03 (9) (a)	s. Comm 54.12	chs. Comm 61 to 65
ATCP 80.08 (11) (a)	ss. Comm 52.50 to 52.64 and 54.12	chs. Comm 61 to 65
DOC 346.05	s. ILHR 50.12	ch. Comm 61
DOC 348.04	chs. Comm 50 to 64	chs. Comm 61 to 65
DOC 348.04	under ch. Comm 69	delete the reference
DOC 348.04	under s. Comm 50.12	delete the reference
DOC 349.05 (3)	chs. Comm 50 to 64	chs. Comm 61 to 65
DOC 349.05 (4)	s. Comm 50.12	chs. Comm 61 to 65
DOC 350.04 (3)	chs. Comm 50 to 64	chs. Comm 61 to 65
DOC 350.04 (4)	s. Comm 50.12	chs. Comm 61 to 65
DOC 398.04 (5) (f) 4.	938.354	938.534
DFI-Sec 1.02 (1) (intro.)	551.02 (1)	551.02 (1r)
DFI-Sec 4.03 (1) (p)	551.02 (1)	551.02 (1r)
HFS 38.08 (1) (h)	HSS 56.04 (4m)	HFS 56.05 (1) (f)
HFS 38.11 (3)	s. Comm 52.04 (3) (d)	ch. Comm 62
HFS 38.11 (4) (b)	s. Comm 52.04 (8)	ch. Comm 62
HFS 40.15 (1)	chs. Comm 50 to 64	chs. Comm 61 to 65
HFS 52.42 (5) (b) 5. e. and (7) (d) 6.	s. Comm 51.15 (3)	chs. Comm 61 to 65
HFS 52.43 (1)	ch. Comm 56	chs. Comm 61 to 65
HFS 52.51 (1) (a) 1.	chs. Comm 50 to 64	chs. Comm 61 to 65
HFS 52.51 (2)	s. Comm 51.03 (1) and (2) s. Comm 57.016 (1st instance); s. Comm 57.016 (2nd instance)	chs. Comm 61 to 65 chs. Comm 61 to 65 Delete the reference
HFS 52.52 (3) (b)	s. Comm 57.13	chs. Comm 61 to 65
HFS 52.55 (10) (c)	ss. Comm 51.22 and 57.18	chs. Comm 61 to 65
HFS 52.55 (12)	s. Comm 57.145	chs. Comm 61 to 65
HFS 52.56 (5) (a)	s. Comm 57.03	chs. Comm 61 to 65

Location of invalid cross-reference	Invalid cross-reference	Correction
HFS 52.56 (5) (a)	“with s. Comm 57.05 for” “with s. Comm 57.09 for” “with s. Comm 57.10 for”	Delete the wording
HFS 52.56 (7)	s. Comm 57.11	chs. Comm 61 to 65
HFS 52.56 (9)	s. Comm 51.14	chs. Comm 61 to 65
HFS 52 Appendix B – Table	s. Comm 57.871	ch. Comm 62
HFS 55.43 (1) (d)	chs. Comm 50 to 64	chs. Comm 61 to 65
HFS 55.43 (3) (e) 4.	s. Comm 52.63	ch. Comm 9 and s. Comm 62.2900
HFS 59.01 (5)	chs. Comm 50 to 64	chs. Comm 61 to 65
HFS 82.10 (3)	51.61 (1m) (cm) 1.	51.61 (1) (cm) 1.
HFS 83.04 (15)	s. Comm 51.03 (1), (2), (3) and (8)	chs. Comm 61 to 65
HFS 83.04 (32)	s. Comm 51.01 (10) s. Comm 51.01 (67)	chs. Comm 61 to 65 chs. Comm 61 to 65
HFS 83.04 (63)	s. Comm 51.01	chs. Comm 61 to 65
HFS 83.41 (1) (d) (intro.)	s. Comm 51.01 (10) s. Comm 51.01 (67)	chs. Comm 61 to 65 chs. Comm 61 to 65
HFS 83.41 (1) (d) 3.	s. Comm 51.043	chs. Comm 61 to 65
HFS 83.44 (1) (c)	s. Comm 51.01 (76a) s. Comm 51.01 (122)	chs. Comm 61 to 65 chs. Comm 61 to 65
HFS 83.45 Table and Footnote	s. Comm 52.04 s. Comm 52.04	ch. Comm 62 chs. Comm 61 to 65
HFS 83.51 (3) (b)	s. Comm 51.01 (10)	ch. Comm 61 to 65
HFS 83.52 (2) (d)	s. Comm 51.03 (8)	ch. Comm 61 to 65
HFS 83.53 (1) (a) 1.	s. Comm 51.01 (10)	ch. Comm 61 to 65
HFS 83.53 (1) (b)	s. Comm 51.19 (1)	ch. Comm 61 to 65
HFS 83.56 (1)	chs. Comm 50 to 64	chs. Comm 61 to 65
HFS 94.19 (1)	51.61 (1m) (cm) 1.	51.61 (1) (cm) 1.
HFS 103.03 (1) (b) 1.	49.47 (4) (a) 2.	49.47 (4) (ag) 2.
HFS 103.08 (4)	49.47 (4) (a) 2.	49.47 (4) (ag) 2.
HFS 122.08 (3) (k)	sub. (1) (d)	s. 227.50 (1) (d), Stats.
HFS 124.30 (1)	chs. Comm 50 to 64 and 69 (twice)	chs. Comm 61 to 65
HFS 124.30 (1)	s. Comm 50.12 (5)	s. Comm 61.31 (3)
HFS 131.53 (4) (a) and (b)	chs. Comm 50 to 64	ch. Comm 61 to 65
HFS 132.812 (1)	chs. Comm 50 to 64 and 69 (twice)	chs. Comm 61 to 65
HFS 132.812 (1)	s. Comm 50.12 (5)	s. Comm 61.31 (3)
HFS 134.812 (1)	chs. Comm 50 to 64 and 69 (twice)	chs. Comm 61 to 65
HFS 134.812 (1)	s. Comm 50.12 (5)	s. Comm 61.31 (3)

Location of invalid cross-reference	Invalid cross-reference	Correction
HFS 190.04	chs. Comm 50 to 64	chs. Comm 61 to 65
HFS 190.06 (1)	ch. comm 57 or 58	chs. Comm 61 to 65
HFS 190.06 (2)	ch. comm 57 or 58	chs. Comm 14 and 61 to 65
NR 1.91 (8)	chs. Comm 50 to 64	chs. Comm 61 to 65
NR 13.04 (1) (a) 50.	29.741 (1)	29.741
NR 13.30 (1) (u)	29.40 (2)	29.347
NR 13.30 (1) (v)	29.405 (1) (b)	29.324 (1) (b)
NR 110.26 (5) (d) 4.	ch. Comm 50	chs. Comm 61 to 65
NR 120.18 (3) (intro.)	20.370 (6) (aa) and (aq)	20.370 (6) (aa)
NR 216.42 (3)	chs. Comm 50 to 64	chs. Comm 61 to 65
NR 216.42 (3)	chs. Comm 50 to 64	s. Comm 61.115
NR 216.46 (10)	ch. Comm 50	s. Comm 61.115
NR 600.10 (2) (b) 1.	631.08 (4) (b)	631.08 (4)
NR 680.06 (3) (e)	NR 633.14	Delete the reference
NR 680.22 (17)	NR 660.19 (14)	NR 660.24 (14)
NR 680.22 (18)	Shown below is a corrected version of what appeared in the April Register: NR 660.17, 660.19 (15) and 685.06	NR 660.17, 660.24 (15) and 685.06
NR 680.24 (7) (a)	NR 660.124 (4) This is a correction to the erroneous insertion in the April Register.	NR 660.24 (4)
PSC 98.04 (2) and (6)	PSC 2.30 (1)	Delete the reference
PSC 98.04 (4)	PSC 2.30 (2)	Delete the reference
PSC 98.04 (5)	PSC 2.73	PSC 2.10
PSC 98.04 (6)	PSC 2.32	PSC 2.22
PSC 98.04 (8)	PSC 2.32 (2)	Delete the reference
PSC 114.317	s. Comm 51.03	chs. Comm 61 to 65
PSC 133.06	PSC 2.71	PSC 2.11
PSC 135.163 (2)	chs. Comm 50 to 64	chs. Comm 61 to 65
PSC 165.10 (4)	PSC 2.71	PSC 2.11
Trans 200.06 (9) (b)	sub. (8) (b) 2.	sub. (8) (b)
Trans 200.08 (1) (h)	sub. (6) (f)	Delete the reference
Trans 201.07 (3) (g)	201.18 (3), Stats.	Trans 201.18 (3)
DWD 80.05 (1)	101.47, 56.21 or 40.65	40.65, 106.25, or 303.21
DWD 301.07 (4)	s. ILHR 51.15 (6)	chs. Comm 61 to 65

Location of invalid cross-reference	Invalid cross-reference	Correction
DWD 301.07 (6) (e), (11) (a) 1., (13) (c), (14) (h), (15) (a) and (21) (f)	chs. ILHR 50-64	chs. Comm 61 to 65
DWD 301.07 (17) (d) 19.	s. ILHR 59.49	chs. Comm 61 to 65

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 47. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff on Memorial Day.

Public notice

Financial Institutions, Division of Securities

Order excluding Canadian broker–dealers from the definition of broker–dealer in certain limited contexts, creating a transactional securities registration exemption for certain transactions and creating an advertising filing exemption.

WHEREAS, the Division of Securities, Department of Financial Institutions, is charged with the administration of ch. 551, Stats., The Wisconsin Uniform Securities Law (the “Law”) and s. DFI–Sec 1.01, et. seq. of the Rules of the Division of Securities promulgated under the Law;

WHEREAS, s. 551.63 (1) of the Law provides that “the Division may make, amend and rescind any... orders that are necessary to carry out this chapter...;” s. 551.02 (3) (h) of the Law provides authority to the Division to exclude from the definition of broker–dealer, “persons... whom the Division by rule or order designates;” s. 551.23 (18) of the Law provides authority to the Division to exempt from the securities registration requirement, “... any transaction as to which the Division by rule or order finds that registration is not necessary or appropriate for the protection of investors;” and s. 551.53 (1) (b) of the Law provides authority to the Division to exempt from filing “...advertising ... as the Division ... provides by rule or order.”

WHEREAS, the Administrator has determined that it is in the public interest and appropriate for investor protection that certain Canadian broker–dealers and their sales agents be allowed—in the limited contexts as set forth herein—to: (a) transact securities business and effectuate securities transactions without licensure in this state, with certain persons in Wisconsin described with more particularity below, who are either: (i) persons from Canada who are temporarily present in Wisconsin, or are (ii) holders of, or contributors to, self–directed, tax–advantaged Canadian retirement plans; and to: (b) provide a securities registration exemption as well as an advertising filing exemption for the securities transactions effected for such persons in Wisconsin.

NOW, THEREFORE, IT IS ORDERED that:

(1) Pursuant to s. 551.02 (3) (h) of the Law, a broker–dealer defined in s. 551.02 (3) (Intro.) does not include:

(a) A broker–dealer located in Canada that has no office or other physical presence in this state, and that satisfies all of the following conditions:

1. The broker–dealer effects or attempts to effect transactions in securities only with persons specified in s. 551.23 (8) (a) to (f), Stats., or with or for any of the following:

a. A person who is in this state temporarily and who, while a resident of Canada and before entering this state, established a bona fide business–client relationship with the broker–dealer; and

b. A person who is present in this state, whose transactions are in a self–directed, tax–advantaged retirement plan in Canada of which the person is the holder or contributor.

2. The broker–dealer is registered with or a member of a self–regulatory organization in Canada, a stock exchange in Canada, or the bureau des services financiers;

3. The broker–dealer maintains in good standing its provincial or territorial registration in Canada and its registration with or membership in a self–regulatory organization, a stock exchange, or the bureau des services financiers;

4. The broker–dealer discloses to each customer in this state that the broker–dealer and its agents are not licensed under the Wisconsin Uniform Securities Law.

(2) Pursuant to s. 551.23 (18) of the Law, an exemption from securities registration in this state is provided for any offer or sale of a security effected by a Canadian broker–dealer excluded from the definition of “broker–dealer” pursuant to paragraph (1) of this Order in transactions with the persons specified in subpar. (1) (a) 1. above.

(3) Pursuant to s. 551.53 (1) (b) of the Law, an exemption from the securities advertising filing requirement thereunder is provided for advertising relating to the securities involved in transactions with the persons specified in subpar. (1) (a) 1. above, effected by a Canadian broker–dealer excluded from the definition of “broker–dealer” pursuant to paragraph (1) of this Order.

Copies of the Order are available free of charge by writing to:

Division of Securities
Department of Financial Institutions
P.O. Box 1768
Madison, WI 53701

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