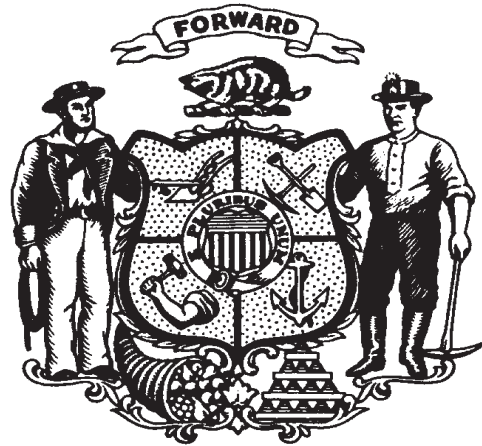


Wisconsin Administrative Register

No. 571



Publication Date: July 31, 2003

Effective Date: August 1, 2003



Revisor of Statutes Bureau
Suite 800, 131 West Wilson Street
Madison, Wisconsin 53703-3233

The 2001 – 02 Wisconsin Statutes and Annotations are now available in bound volumes or on the *WisLaw*[®] CD-ROM

Bound Volumes:

Prices for the 2001 – 02 Wisconsin Statutes and Annotations bound volumes are detailed below. Any sales tax due must be added to these prices:

Hard Cover <u>With Postage</u>	Hard Cover <u>Without Postage</u>	Soft Cover <u>With Postage</u>	Soft Cover <u>Without Postage</u>
\$151.00	\$144.00	\$126.00	\$120.00

Send orders to the Document Sales and Distribution Section at the address below or call (608) 266–3358. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% stadium tax. Prepayment is required for all orders. Payments by check, money order, or credit card should be made payable to WI Department of Administration. Credit card orders using either VISA or MasterCard may be placed by calling (800) 362–7253 or (608) 264–9419.

WisLaw[®] CD-ROM:

Up-to-date *WisLaw*[®] CD-ROMs are released quarterly by the Revisor of Statutes Bureau. *WisLaw*[®] contains:

- Wisconsin Statutes and Annotations with Index
- Table of Cross-References and Table of Sections Affected by Acts
- Wisconsin Administrative Code with Index, Administrative Register, and Emergency Rules
- Executive Orders
- Wisconsin Acts with Index
- Supreme Court Rules and Internal Operating Procedures
- Recent Opinions of the Attorney General with Index
- Wisconsin Constitution with Annotations and Index
- U.S. Constitution
- Wisconsin Town Law Forms
- Wisconsin Code of Military Justice

All of the above *WisLaw*[®] Infobases are substantially integrated with hypertext links. The statutes now feature thousands of links between administrative rules and their authorizing statutes. State agencies are using *WisLaw*[®] for their legal research. *WisLaw*[®] is distributed by the Document Sales and Distribution Section to state agencies that submit a complimentary annual subscription form.

WisLaw[®] is available only by annual subscription. *WisLaw*[®] End-user license and subscription order forms are available at Document Sales or at <http://www.legis.state.wi.us/rsb>. CDs will be delivered only upon receipt of a signed license and subscription form and full payment. An annual subscription plus a license for no more than one simultaneous user costs \$99. Licenses for no more than 4 simultaneous users or for no more than 10 simultaneous users cost \$149 or \$199, respectively. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

Orders by FAX will **not** be accepted; call (608) 266–3358 or TTY (608) 264–8499 or write to:

The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, WI 53707–7840

Table of contents

Emergency rules now in effect.**Pages 5 to 10**

Agriculture, Trade and Consumer Protection:

Rules relating to importing, selling, offering to sell, allowing public access to or disposal of prairie dogs or any mammal known to have been in contact with a prairie dog since April 1, 2003.

Chiropractic Examining Board:

Rules relating to passing and retaking the practical examination.

Commerce:

Financial Resources for Businesses & Communities, Chs. Comm 105–128

Rules relating to the use of rapid response funds in economically depressed areas of Wisconsin.

Employee Trust Funds:

Rules relating to the date as of which annual post-retirement annuity adjustments will occur.

Financial Institutions – Securities:

Rules relating to conforming Wisconsin's rules concerning broker-dealer books and records to federally-mandated standards.

Health and Family Services:

Medical Assistance, Chs. HFS 100—

Rules relating to the Medicaid Family Planning Demonstration Project.

Health, Chs. HFS 110—

Rules relating to licensing of EMTs and certification of first responders, incorporating responding to acts of terrorism as a training component.

Rules relating to critical access hospitals.

Rules relating to operation of the health insurance risk-sharing plan.

Higher Educational Aids Board:

Rules relating to the Talent Incentive Program Grant.

Insurance:

Rules relating to annual patients compensation fund and mediation fund fees and to establishing a rate of compensation for fund peer review council members and consultants.

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Rules relating to the control and management of chronic wasting disease.

Rules relating to captive wildlife.

Rules relating to the control and management of chronic wasting disease.

Scope statements.**Pages 11 to 14**

Dietitians Affiliated Credentialing Board:

Rules relating to requirements for grant of temporary certificates to applicants for certification of dietitians.

Health and Family Services:	Rules relating to Wisconsin Medicaid (MA) home care programs.
Natural Resources:	<p>Rules affecting chs. NR 10 and 27, relating to removing Gray Wolves from the "Wisconsin Threatened Species List" and adding them to the "Protected Wild Animals List".</p> <p>Rules affecting ch. NR 20 relating to sport fishing for yellow perch in Green Bay and its major tributaries and ch. NR 25 pertaining to commercial fishing for yellow perch in Green Bay.</p> <p>Rules affecting ch. NR 25, relating to marking of commercial trap nets.</p> <p>Rules affecting ch. NR 116, relating to the floodplain management program.</p>
Public Instruction:	Rules affecting ch. PI 8, relating to school district standards.
Public Service Commission	<p>Rules affecting ch. PSC 111, relating to time periods to be covered by data collected to prepare a strategic energy assessment (SEA).</p> <p>Rules affecting ch. PSC 134, relating to gas service rules.</p>

Submittal of rules to the legislative council clearinghouse.

Pages 15 to 16

Administration/Gaming Division:	Rule affecting chs. WGC 1 to 24 and Game 3, relating to greyhound racing and pari-mutuel wagering.
Natural Resources:	<p>Rule affecting ch. NR 30, relating to boundaries of established parts of intensive forest fire control areas in the Town on Irving, Jackson County.</p> <p>Rule affecting ch. NR 116, relating to the exclusion of costs to elevate a nonconforming building or a building with a nonconforming use from the 50% provisions.</p> <p>Rule affecting ch. NR 140, relating to groundwater quality standards for arsenic.</p> <p>Rule affecting chs. NR 404 and 484, relating to ambient air quality standards.</p> <p>Rule affecting ch. NR 809, relating to arsenic in public water systems.</p>

Rule-making notices.

Pages 17 to 22

Accounting Examining Board:	Hearing to consider revisions to chs. Accy 1, 4, 5, 7 and 8, relating to definitions, deleting antiquated provisions related to public accountants, and changes to the requirements for individual and firm certified public accountant licenses.
Administration/Gaming Division:	Hearing to consider revisions to ch. WGC 1-24 and Game 3, relating to greyhound racing and pari-mutuel wagering.
Medical Examining Board:	Hearing to consider revisions to ch. Med 1, relating to accepting examinations from the Medical Council of Canada.

Natural Resources:

Fish., Game, etc., Chs. NR 1—

Hearing to consider revision to ch. NR 30, relating to the boundaries of established parts of intensive forest fire control areas in the Town of Irving, Jackson County.

Environmental Protection—General, Chs. NR 100—

Hearing to consider revision to ch. NR 116, relating to the exclusion of costs to elevate a nonconforming building or a building with a nonconforming use.

Hearings to consider revision to s. NR 140.10 Table 1, relating to groundwater quality standards for arsenic.

Environmental Protection—Air Pollution Control, Chs. NR 400—

Hearing to consider revisions to chs. NR 404 and 484, relating to ambient air quality standards.

Environmental Protection—Water Supply, Chs. NR 800—

Hearing to consider revisions to ch. NR 809, relating to arsenic in public water systems.

Submittal of proposed rules to the legislature.

Page 23

Health and Family Services:

(CR 03–042) – Ch. HFS 124

Natural Resources:

(CR 01–181) – Chs. NR 400—

(CR 02–048) – Ch. NR 336

(CR 03–018) – Chs. NR 10, 12 and 19

(CR 03–027) – Chs. NR 162 and 165

(CR 03–030) – Chs. NR 16 and 19

(CR 03–031) – Ch. NR 17

(CR 03–034) – Ch. NR 46

Pharmacy Examining Board:

(CR 01–075) – Ch. Phar 7

Public Instruction:

(CR 03–006) – Ch. PI 7

Rule orders filed with the revisor of statutes bureau.

Page 24

Financial Institutions—Banking:

(CR 03–043) – Ch. DFI—Bkg 73

Transportation:

(CR 03–007) – Ch. Trans 2

Rules published with this register and final regulatory flexibility analyses.

Pages 25 to 26

Accounting Examining Board:

(CR 02–119) – Ch. Accy 9

Administration:

(CR 03–002) – Ch. Adm 19

Agriculture, Trade and Consumer Protection:

(CR 02–121) – Ch. ATCP 21

Health and Family Services:

(CR 03–001) – Ch. HFS 78

(CR 03–019) – Ch. HFS 163

Natural Resources:

(CR 03–015) – Chs. NR 10 and 15

Psychology Examining Board:

(CR 02–124) – Chs. Psy 1 to 5

Public Instruction:	(CR 02-151) – Ch. PI 23
Regulation and Licensing:	(CR 02-125) – Chs. RL 140 to 142
Revenue:	(CR 02-128) – Ch. Tax 11
Veterans Affairs:	(CR 03-024) – Ch. VA 2
Sections affected by rule revisions and corrections.	Pages 27 to 28

Emergency rules now in effect

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

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

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

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

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

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

Agriculture, Trade and Consumer Protection

Rules adopted creating **s. ATCP 11.72 (15), (16), (17) and (18)**, relating to importing, selling, offering to sell, allowing public access to or disposal of prairie dogs or any mammal known to have been in contact with a prairie dog since April 1, 2003.

Finding of emergency

(1) During May and June 2003, at least 12 people in Wisconsin have developed illnesses within one to two weeks after the people have had contact with prairie dogs. Symptoms of the human illness include fever, cough, rash and swollen lymph nodes. Several of these people have needed to be hospitalized.

(2) Preliminary laboratory results indicate that the cause of the human illness is an orthopox virus that could be transmitted by prairie dogs. Some of the pet prairie dogs have exhibited signs of illness. There have been reports of other mammals that have come in contact with prairie dogs also exhibiting signs of illness.

(3) It is necessary to reduce the opportunities for human interaction with prairie dogs or other mammals that have been in contact with prairie dogs in order to protect the health, safety and welfare of Wisconsin residents. Therefore, the Wisconsin Department of Agriculture, Trade and Consumer Protection is adopting this emergency rule to protect the health, safety and welfare of the public.

Publication Date: June 12, 2003
Effective Date: June 12, 2003
Expiration Date: November 9, 2003
Hearing Date: July 15, 2003

Chiropractic Examining Board

Rules adopted revising **ch. Chir 2**, relating to passing and retaking the practical examination.

Finding of emergency

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

On December 19, 2002, the Chiropractic Examining Board adopted the national practical examination conducted by the National Board of Chiropractic Examiners as the board's practical examination for determining clinical competence in Wisconsin. The board has determined that the national practical examination is a better measure of competence than was the state examination previously administered by the board and that the public health, safety and welfare warrant that the national practical examination be instituted immediately. The rule changes herein conform to the terminology used in the board's rule with the textual description of the national practical examination and resolve doubts about the examination grades issued to applicants who complete the national practical examination.

The national practical examination describes the examination parts in different terms than are used in s. Chir 3.02, although the national practical examination covers the practice areas described in the existing rule. The rule amendments to s. Chir 2.03 (2) (intro.) resolve this difference.

This order deletes the reference in the board's current rule to passing "each part" of the examination. The national practical examination has one part and an applicant receives one grade for the part. In utilizing the national examination, the board approves the grading and grading procedures of the National Board of Chiropractic Examiners. Grade review procedures in s. Chir 2.09 are superfluous and the rule is repealed. The rule requiring reexamination is modified to avoid confusion over examination parts. The board is proceeding with promulgating these rule changes through a proposed permanent rule-making order.

Publication Date: June 28, 2003
Effective Date: June 28, 2003
Expiration Date: November 25, 2003

Commerce

(Financial Resources for Bus. and Communities, Chs. Comm 105–128)

Rules were adopted revising **ch. Comm 108**, relating to the use of rapid response funds in economically depressed areas of Wisconsin to preserve economic development.

Finding of emergency

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

Analysis of Rules

Statutory Authority: ss. 560.02 (4) and 560.04, Stats.

Statute Interpreted: s. 560.04, Stats.

Pursuant to s. 560.04, Stats., the Department of Commerce (Commerce), as a part of its comprehensive duties involving community development and economic development, administers federal funds in the form of grants to eligible communities related to economic development. Under current rules, the maximum amount of funds that may be awarded to a community is \$1 million per calendar year and the maximum amount that a business may borrow from a local government under the economic development program is also \$1 million during any 5-year period. The timing and dollar limitations specified in the rules are barriers to providing a comprehensive and rapid response to changing economic conditions in a community.

Given the uncertainty inherent in today's marketplace, Commerce would like to maximize the use of federal community development block grant funds to positively impact local economies. Under the rules, as currently structured, Commerce's ability to respond rapidly to actual or potential plant closings or relocations in a specific geographical region is limited. The following emergency rule will allow Commerce to respond more rapidly to changing economic conditions.

This rule provides Commerce, working collaboratively with local communities, the ability to quickly respond to changing economic conditions due to potential plant closings, business relocations, layoffs, and other economic factors that could negatively affect the economic conditions in the community and state.

Publication Date: March 22, 2003
Effective Date: March 22, 2003
Expiration Date: August 19, 2003
Hearing Date: June 16, 2003

Employee Trust Funds

Rules adopted amending **s. ETF 20.25 (1) (a) and (2)** regarding the date as of which annual post-retirement annuity adjustments under ss. 40.27 (2) and 40.28 (2), Stats., will occur.

Finding of emergency

The Department of Employee Trust Funds, Employee Trust Fund Board, Teachers Retirement Board and Wisconsin Retirement Board find that an emergency exists and that an administrative rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

Without emergency rule-making it will not be possible to avoid short-term harm to individual WRS annuitants who will already bear the effects of the market downturn though a zero percent fixed annuity dividend and a double-digit negative variable change.

The first annuity dividends actually affected by the 2002 rule-making (CR #02-049) are the dividends otherwise payable on March 1, 2003. Projections indicate that the fixed division dividend will likely be 0%, largely because of the effect of three years of market declines. The annual change to variable division annuities, which is more volatile because it reflects only the past year's market performance, will be negative and in the range of -26% to -30%. This means that the portion of an annuitant's annuity payable from the fixed division will not increase during 2003, while, if the annuitant receives a portion of his or her annuity from the variable annuity division, that portion of the annuity will be markedly reduced. Annuitants are concerned about the short-term effect of cuts to their annuities being made effective a month earlier this year than was the case in previous years.

The change from April 1 to March 1 was initiated with the best of intentions, primarily to get the additional money from dividend increases into the hands of annuitants as quickly as possible. In retrospect, the timing is unfortunate. When drafting of the rule began in early 2002, the year-end market earnings were unknown and a third consecutive year of market losses could not be predicted. The continued deterioration of investment returns in the latter part of 2002 has magnified the adverse, short-term effect of this change in the timing of dividends; that is, the size of the negative variable adjustment is larger.

Publication Date: February 27, 2003
Effective Date: February 28, 2003
Expiration Date: July 28, 2003
Hearing Date: August 8, 2003

Financial Institutions – Securities

Rules adopted revising **ch. DFI-Sec 4**, relating to conforming Wisconsin's Securities Law rules concerning broker-dealer books and records to federally-mandated standards under the Securities Exchange Act.

Finding of emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that the attached rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

Congress in its passage of the National Securities Markets Improvement Act ("NSMIA") in 1996 prohibited state securities regulators from establishing or enforcing under their state securities laws or rules, record-keeping requirements for securities broker-dealers that are inconsistent with, or not required by, the U.S. Securities and Exchange Commission ("SEC").

Following passage of NSMIA, the SEC commenced a rule-making process that spanned a several-year period (including a 1998 reproposal of the entirety of the proposed rules for a new public comment period), culminating in adoption in late 2001 of an extensive series of broker-dealer books and records rules for effectiveness commencing May 2, 2003. The SEC's revised books and records rules cover a comprehensive series of areas, including: (1) customer account records; (2) order ticket information; (3) customer

complaints; (4) mandated reports and audits; (5) compliance manuals; (6) records maintenance, retention, production and access; and (7) records required to be maintained at a firm's home office and at "local" offices.

Because of the preemptive effects of federal law under NSMIA, all of the existing provisions of the Wisconsin administrative rules in Chapter SEC 4 under the Wisconsin Securities Law dealing with broker-dealer books and records covering the information categories (1) to (6) described above are superseded by the federal rules established by the SEC that became effective today, May 2, 2003. Additionally, certain existing Wisconsin Rule of Conduct provisions tied to the existing Wisconsin books and records rules need to be revised appropriately.

Consequently, it is necessary to immediately revise and amend Wisconsin's broker-dealer books and records rules to conform to the federal rules that now have become effective, and to remove inconsistent requirements contained in the existing Wisconsin books and record-keeping rules. A subcommittee of the North American Securities Administrators Association ("NASAA"), an organization comprised of the securities administrators of all 50 states, including Wisconsin, has reviewed the impact of the SEC's books and record-keeping rules on existing state securities law licensing rules, and recommended that states utilize the incorporation-by-reference-of-the-federal-rule treatment as set forth in this Order Adopting Emergency Rules.

Accordingly, the emergency rules do the following:

(1) Under Section 1, the entirety of the existing Wisconsin general books and records requirement for licensed broker-dealers as set forth in rules DFI-Sec 4.03 (1) to (4) (that particularizes the types of required books and records, and prescribes records retention periods), is repealed and recreated to incorporate by reference the new, superseding, federal rules adopted by the SEC contained in sections 17a-3 and 4 under the Securities Exchange Act. New sub. (1) requires a firm to retain the books and records cross-referenced in federal SEC rules 17a-3 and 4, and new sub. (2) incorporates by reference the records preservation and retention requirements in federal SEC rule 17a-4. New subsections (3) and (4) replace the current Wisconsin rules in DFI-Sec 4.03 (3) and (4) [that prescribe branch office records and retention requirements], with language which provides that the books and records required to be prepared and maintained at broker-dealer offices triggering the definition of "branch office" under current rule DFI-Sec 1.02 (7) (a), are the same records prescribed under the new federal provisions in new federal Rule 17a-3, and must be held for the retention periods specified in new federal Rule 17a-4.

(2) Section 2 repeals current Wisconsin rule DFI-Sec 4.03 (6) [which permitted broker-dealers to utilize alternative records to satisfy the principal office and branch office records required in existing rules DFI-Sec 4.03 (1) and (3)], because under NSMIA, states no longer have the authority to permit alternative forms of broker-dealer records different from the records prescribed by federal law.

(3) Section 3 is a renumbering of current rule DFI-Sec 4.03 (7) to reflect the repeal of DFI-Sec 4.03 (6) in Section 2 above.

(4) Under Section 4, the existing Wisconsin Rule of Conduct provision in DFI-Sec 4.05 (5) [requiring broker-dealers to provide customers with prescribed new account information and subsequent amendments to such information] is amended to both substitute a cross-reference to the new federal provision on that subject in SEC rule 17a-3(a)(17) under the Securities Exchange Act of 1934, and

to repeal language in the Wisconsin rule inconsistent with federal provisions.

Publication Date: May 7, 2003
Effective Date: May 7, 2003
Expiration Date: October 4, 2003
Hearing Date: August 11, 2003

Health and Family Services (Medical Assistance, Chs. HFS 100—)

Rules adopted revising **chs. HFS 101 to 107**, relating to the Medicaid Family Planning Demonstration Project.

Finding of emergency

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

On June 25, 1999, the Department submitted a request for a waiver of federal law to the Centers for Medicare and Medicaid Services (CMS), the agency within the United States Department of Health and Human Services that controls states' use of Medicaid funds. On June 14, 2002, the Centers for Medicaid and Medicare granted the waiver, effective January 1, 2003. The waiver allows the state to expand Medicaid services by providing coverage of family planning services for females of child-bearing age who would not otherwise be eligible for Medicaid coverage. Under the waiver, a woman of child-bearing age whose income does not exceed 185% of the federal poverty line will be eligible for most of the family planning services currently available under Medicaid, as described in s. HFS 107.21. Through this expansion of coverage, the Department hopes to reduce the number of unwanted pregnancies in Wisconsin.

Department rules for the operation of the Family Planning Demonstration Project must be in effect before the program begins. The program statute, s. 49.45 (24r) of the statutes, became effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement the Family Planning Demonstration Project not later than July 1, 1998, or the effective date of the waiver, whichever date was later. After CMS granted the waiver, the Department determined that the Family Planning Demonstration Project could not be implemented prior to January 1, 2003, and CMS approved this starting date. Upon approval of the waiver, the Department began developing policies for the project and subsequently the rules, which are in this order. The Department is publishing the rules by emergency order so the rules take effect in February 2003, rather than at the later date required by promulgating permanent rules. In so doing, the Department can provide health care coverage already authorized by CMS as quickly as possible to women currently not receiving family planning services and unable to pay for them. The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: January 31, 2003
Effective Date: January 31, 2003*
Expiration Date: June 30, 2003
Hearing Dates: April 25 & 28, 2003

* The Joint Committee for Review of Administrative Rules suspended this emergency rule on April 30, 2003

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

1. Rules adopted amending **chs. HFS 110 to 113**, relating to licensing of EMT's and certification of first responders, incorporating responding to acts of terrorism as a training component.

Finding of emergency

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

2001 Wisconsin Act 109 amended s. 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs–Basic IV (found in ch. HFS 110), EMTs– Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.)

The required rule changes will remove any question of whether the department had the authority to require persons to receive training for acts of terrorism. Such training is needed to promote the public's health and safety and due to the statutory effective date of January 1, 2003, the department is promulgating these rule changes through an emergency order. The department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: December 31, 2002
Effective Date: December 31, 2002
Expiration Date: May 30, 2003
Hearing Date: February 17, 2003
Extension Through: July 28, 2003

2. Rules adopted revising **ch. HFS 124**, relating to critical access hospitals.

Finding of emergency

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

The federal Rural Hospital Flexibility Program promotes the continued viability of rural hospitals by allowing qualifying hospitals to receive cost-based reimbursement for their services if the hospital qualifies for and is approved to convert to what is known as a Critical Access Hospital (CAH). In Wisconsin, subchapter VI of ch. HFS 124 governs the Department's designation and regulation of CAHs. Designation as a CAH and receipt of cost-based reimbursement promotes the hospital's continued viability. To date, 25 hospitals in Wisconsin have transitioned to CAH

status, thereby ensuring continued acute care access for many rural residents.

The Department recently learned that the tenuous financial condition of St. Mary's Hospital in Superior jeopardizes its continued operation and places it in imminent danger of closing unless the hospital can be designated as a CAH and receive cost-based reimbursement. The closure of St. Mary's would reduce Douglas County residents' accessibility to acute care. Moreover, the loss of the facility would have a significant detrimental effect on the county because St. Mary's annual payroll is between \$7–8 million and it employs the equivalent of about 160 persons full-time.

Federal regulations permit a hospital in an urban area such as Superior to be reclassified as a critical access hospital if the hospital is located in an area designated as rural under state law or regulation. The Department has determined that the current provisions in ch. HFS 124 preclude St. Mary's from being reclassified as a rural hospital and designated as a necessary provider of health services to area residents. However, St. Mary's Hospital meets "necessary provider" status in the Wisconsin Rural Health Plan based on economic, demographic and health care delivery in its service area. Therefore, through this rulemaking order, the Department is modifying provisions in subchapter VI of ch. HFS 124 to permit St. Mary's Hospital to be classified as a rural hospital and begin the approval process for designation as a Critical Access Hospital.

Publication Date: March 21, 2003
Effective Date: March 21, 2003
Expiration Date: August 18, 2003
Hearing Date: June 20, 2003

3. Rules adopted revising **ch. HFS 119**, relating to operation of the health insurance risk-sharing plan.

Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency.

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. HIRSP offers different types of medical care coverage plans for residents. According to state law, HIRSP policyholder premium rates must fund sixty percent of plan costs. The remaining funding for HIRSP is to be provided by insurer assessments and adjustments to provider payment rates, in co-equal twenty percent amounts.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-nine percent of the 16,445 HIRSP policies in effect in March 2003, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rates for Plan 1 contained in this rulemaking order increase an average of 10.6% for policyholders not receiving a premium reduction. The average rate increase for policyholders receiving a premium reduction is 18.5%. Rate increases for individual policyholders within Plan 1 range from 5.4% to 20.9%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. Plan 1 rate increases reflect general and industry-wide premium increases and take into account the increase in costs associated with Plan 1 claims.

A second type of medical coverage provided by HIRSP is for persons eligible for Medicare. This type of coverage is

called Plan 2. Plan 2 has a \$500 deductible. Eleven percent of the 16,445 HIRSP policies in effect in March 2003, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 15.6% for policyholders not receiving a premium reduction. The average rate increase for policyholders receiving a premium reduction is 23.8%. Rate increases for individual policyholders within Plan 2 range from 9.9% to 26.5%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. Plan 2 rate increases reflect general and industry-wide cost increases and take into account the increase in costs associated with Plan 2 claims. Plan 2 premiums are also set in accordance with the authority and requirements set out in s. 149.14 (5m), Stats.

The Department through this order amends ch. HFS 119 in order to update HIRSP premium rates 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. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this order is also increasing total HIRSP insurer assessments and reducing 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 reconciled total costs for the HIRSP program for calendar year 2002. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2003. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$35,444,109. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$39,170,353. On April 9, 2003, the HIRSP Board of Governors approved the calendar year 2002 reconciliation process. On May 19, 2003 the Board approved the HIRSP budget for the plan year July 1, 2003 through June 30, 2004.

The department's authority to amend these rules is found in s. 149.143 (2) (a) 2., 3., 4., and (3), Stats., and s. 227.11 (2) Stats. The rule interprets ss. 149.142, 149.143, 149.146, and 149.165, Stats.

Publication Date: June 24, 2003
Effective Date: July 1, 2003
Expiration Date: November 28, 2003
Hearing Date: July 15, 2003

Higher Educational Aids Board

Rules adopted amending s. HEA 5.05 (2), relating to the eligibility of those on active duty military service.

Finding of emergency

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

The 1989 Wisconsin Act 31 created s. 39.435 which provides for Talent Incentive Program Grants to Wisconsin residents who meet criteria established by the statute and administrative code. The Wisconsin Higher Educational Aids Board (HEAB) administers this program under s. 39.435 and under ch. HEA 5. According to the administrative rules, a student must be continuously enrolled from semester to semester and year to year to continue to receive this grant after their initial year. Under current rules, exceptions to this requirement may only be made for medical reasons.

Recently, students who have returned from active duty military service and resumed enrollment at a college or university have begun to request exceptions to the continuous enrollment requirement. This situation is not addressed in the current administrative rules, because the break in these students' enrollment was not due to medical reasons.

Unless the Board changes its rules, participating students who have been called up to active duty military service will permanently lose their eligibility in this program. Because this grant targets the most financially-needy and educationally-disadvantaged students, the loss of eligibility will cause a hardship to those students who rely most heavily on financial assistance.

The emergency rule procedure is being used to ensure that students who have returned from active duty military service and resumed enrollment during the current academic year, 2002-2003, will not permanently lose their eligibility in this program.

Publication Date: April 4, 2003
Effective Date: April 4, 2003
Expiration Date: September 1, 2003
Hearing Date: April 25, 2003

Insurance

Rules adopted revising ch. Ins 17, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2003 and relating to establishing a rate of compensation for fund peer review council members and consultants.

Finding of emergency

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2003.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 03-039, will be filed with the secretary of state in time to take effect October 1, 2003. Because the fund fee provisions of this rule first apply on July 1, 2003, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 14, 2003.

Publication Date: June 11, 2003
Effective Date: July 1, 2003
Expiration Date: November 28, 2003

Natural Resources (3)
(Fish, Game, etc., Chs. NR 1–)

1. Rules adopted revising **chs. NR 10 and 45**, relating to the control and management of chronic wasting disease.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Publication Date: July 3, 2002
Effective Date: July 3, 2002
Expiration Date: November 30, 2002
Hearing Date: August 12, 2002
Extension Through: April 30, 2003 (part)
September 1, 2003 (part)

2. Rules adopted revising **chs. NR 16 and 19** and creating **ch. NR 14**, relating to captive wildlife.

Finding of emergency

2001 Wis. Act 56 was not enacted until April of 2002. It required standards for captive animals held under licenses issued under ch. 169, Stats., to be in place by January 1, 2003, the effective date of the change from licensing under ch. 29, Stats., to ch. 169, Stats. As the use of the permanent rule process would not allow these standards to be in place by January 1, 2003, the Department had no choice but to use the emergency rule procedures. Failure to have standards in place would result in the lack of humane care standards for wild

animals held in captivity and the lack of pen standards necessary to prevent the interactions between captive and wild animals.

Publication Date: December 20, 2002
Effective Date: January 1, 2003
Expiration Date: May 31, 2003
Hearing Date: January 16, 2003
Extension Through: July 29, 2003

3. Rules adopted revising **ss. NR 10.07 (2), 12.06 and 19.60**, relating to the control and management of chronic wasting disease.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses. This rule is needed to reduce the deer herd in the CWD eradication zone further than accomplished through the hunting seasons to help prevent the spread of CWD.

Initial Applicability. This emergency rule repeals and recreates portions of the original CWD emergency rule order (WM-32-02 (E)) which was adopted by the Natural Resources Board in June 2002. The effective period of this emergency rule will coincide with the effective period of the original CWD emergency rule order which has been extended by the Legislative Joint Committee on the Review of Administrative Rules until April 1, 2003, pursuant to 2001 Wisconsin Act 108.

Publication Date: January 11, 2003
Effective Date: January 11, 2003
Expiration Date: April 1, 2003
Hearing Date: February 11, 2003
Extension Through: April 30, 2003 (part)
September 1, 2003 (part)

Scope statements

Dietitians Affiliated Credentialing Board

Subject

Requirements for grant of temporary certificates to applicants for certification of dietitians.

Objective of the Rule. To allow applicants to obtain a temporary certificate and take the examination as soon as possible, without a 120 day wait.

Policy analysis

The current rules set forth the requirements for grant of temporary certificates to applicants for certification as dietitians. Those provisions specify that an application for examination must be submitted at least 120 days prior to the date of the next scheduled examination. The rules also set forth the examination provisions for applicants seeking a certificate as a dietitian. Because the American Dietetic Association's pre-licensing procedures are now computer assisted, an applicant may schedule the examination at his or her convenience. There is therefore no reason to require a 120 day wait.

Statutory authority

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

Staff time required

50 hours.

Health and Family Services

Subject

The Department proposes to amend chs. HFS 105 and 107 to allow the Wisconsin Medicaid (MA) home care programs to operate more flexibly and efficiently. The proposed amendments would increase the conformance of administrative rules with current accepted service technologies and delivery systems, state statutes, and federal regulations.

Policy analysis

Chapter HFS 105 establishes the certification requirements of providers reimbursed by MA. Ch. HFS 107 sets forth the requirements that providers must follow to be reimbursed by MA for services delivered. The specific provider types affected by these proposed rules include home health agencies, personal care agencies, nurses in independent practice, physical and occupational therapy assistants.

The Department has identified provisions in chs. HFS 105 and 107 that do not conform to current state statutes, federal regulations, or current medical service provision standards and practices. In addition, both the Home Care Advisory Committee and the Home Care Consumer Advisory Committee have recommended that the Department initiate a thorough review and amendment of some administrative rules relating to home care. Generally, the proposed amendments would create opportunities for greater operating efficiencies for both home care service providers and the Department.

Potential revisions affecting all fee-for-service home care providers include provisions relating to the qualifications and duties of the provider, infection control measures, recipient rights, reviews for plans of care, documentation, requirements for staffing cases according to level of case

complexity, medication administration restrictions for children and those adults unable to self-direct, and limitations on covered services.

Potential revisions affecting specific providers include the following:

- Home health agencies – Ventilator-type dependency for covered respiratory care services, certification requirements of nurses who provide respiratory care services, conditions of reimbursement for immunizations, and the requirements of care coordinators.

- Personal care agencies – Correcting the number of hours of personal care reimbursed without prior authorization from 250 hours to 50 hours, recipient discharge, and restrictions on some skilled nursing tasks that can be performed by personal care workers.

- Nurses in independent practice – Ventilator-type dependency for covered respiratory care services, certification requirements of nurses who provide respiratory care services, requirements of nurses in independent practice to provide intermittent skilled nursing when home health agencies are not available, requirements of care coordinators on private duty and respiratory care services cases, and supervision of licensed practical nurses.

- Occupational and physical therapy assistants – Supervision requirements.

- Other – The Department seeks to add provider certification standards for a community-based benefit for children whose health care needs are medically complex.

These proposed changes to HFS 105 and 107 are in addition to much narrower changes the Department announced in a separate Statement of Scope published in the July 15, 2003 Wisconsin Administrative Register. In that Statement of Scope, the Department announced its intent to amend sections HFS 107.113 and 107.12 to permit greater flexibility to providers and consumers in scheduling private duty nursing (PDN) and respiratory care services (RCS) benefits covered by MA.

Statutory authority

Section 49.45 (10), Stats.

Staff time required

Department staff estimate it will take Division of Health Care Financing staff about 500 hours over the course of one to two years to develop and promulgate the proposed rules.

Natural Resources

Subject

Remove Gray Wolves from the "Wisconsin Threatened Species List" s. NR 27.03 (3) (a) (1) and add them to the "Protected Wild Animals List" s. NR 10.02 (1).

Policy analysis

The 1999 Wisconsin Wolf Management plan indicates that Gray Wolves (*Canis lupus*) should be removed from the State Threatened Species list when the state population exceeds 250 wolves, outside Indian reservations, for one year based upon the late winter count. The winter count of gray wolves outside of Indian Reservations in 2002-03 was 329 (total statewide count was 335-357). The winter count of wolves outside

Indian reservations in 2001–02 was 309 (total count 323). Thus the Wisconsin wolf population has achieved the delisting goal set forth in the 1999 plan.

The wolf population was down to 15 animals in 1985, and has increased each year since then, except 1993 during a major mange outbreak. Average annual increase has been about 20% since 1985. Although this rate will not last indefinitely, the population continues to grow. Although State delisting will initially have minimum affect on wolf management, it will set the stage for a more flexible management system when Federal delisting is completed. State delisting will also symbolize the recovery of the gray wolf population in the state, and the need to no longer treat wolves as endangered or threatened, but as a protected Wisconsin non–game mammal. After federal delisting has been completed, authority for management of gray wolves will be returned to the State of Wisconsin. The department will manage wolves as prescribed in the 1999 Wolf Management Plan. One of these management practices will include giving authority to landowners to kill wolves in the act of attacking domestic animals on private land, with the requirement that the local conservation warden is contacted within 24 hours. Other practices that will be considered following federal and state delisting would include: issuing permits to landowners with chronic wolf problems to kill a limited number of wolves on their land, allowing USDA–Wildlife Services to conduct proactive controls, allowing other law enforcement officers to dispatch nuisance wolves, and consider the possibility of a public harvest if the wolf population outside Indian reservations exceeds 350.

The Department of Natural Resources, Bureau of Endangered Resources, would like to hold public hearings to obtain public comments on the delisting of Gray Wolves in Wisconsin. We propose to hold hearings in Madison, Eau Claire, Superior, Rhinelander, Stevens Point, Green Bay and Milwaukee.

Following these public hearings, comments will be examined and the Endangered Resources Program will return to the NRB to make recommendations on wolf delisting.

Statutory authority

Sections 29.604 and 29.039, Stats.

Staff time required

Approximately 45 hours will be needed by the Department.

Natural Resources

Subject

Chapter NR 20 pertaining to sport fishing for yellow perch in Green Bay and its major tributaries and ch. NR 25 pertaining to commercial fishing for yellow perch in Green Bay.

Policy analysis

In October of 2001 the Natural Resources Board adopted FH–12–01, reducing the sport fishing daily bag limit for yellow perch from Green Bay and reducing the total allowable commercial harvest of yellow perch from Green Bay. Under that rule, on July 1, 2004, both the sport bag limit and the commercial harvest limit will revert to previous levels.

The harvest reductions implemented under FH–12–01 were needed to protect the remaining Green Bay yellow perch population, which had declined over 90% between 1988 and 2000. Although the yellow perch population has stabilized at a low level, it has not recovered to the point that the previous harvest levels are appropriate.

Because the yellow perch population of Green Bay is not fully restored, the Department will propose new sport bag and commercial harvest limits, to take effect on July 1, 2004. The new limits will depend on assessments conducted during the summer of 2003.

The proposed rule does not represent a change in sport or commercial fishing management policy. This action is proposed pursuant to NRB policy: NR 1.04 (4) The fishery resources of the Great Lakes, though renewable, experience dynamic changes and are limited. The resources will be managed in accordance with sound management principles to attain optimum sustainable utilization. Management measures may include but are not limited to seasons, bag and quota limits, limitations on the type and amount of fishing gear, limitation as to participation in the fisheries and allocation of allowable harvest among various users and the establishment of restricted areas.

Statutory authority

Sections 29.014, 29.014 (1), 29.519 (1), and 227.11 (2) (a), Stats.

Staff time required

Approximately 15 hours will be needed by the Department, not including the collection and analysis of biological data.

Natural Resources

Subject

Chapter NR 25 pertaining to marking of commercial trap nets.

Policy analysis

In May of 2003 the Natural Resources Board approved the expansion of commercial trap netting in Lake Michigan. At that time a section of the rule pertaining to the marking of trap nets was not adopted, because of last–minute concerns raised by some commercial fishers, but the NRB asked the Department to return with a net marking rule that was generally acceptable to sport and commercial fishers. This rule will require that all trap nets be marked conspicuously and in a common manner.

Statutory authority

Sections 29.014, 29.014 (1), 29.519 (1), and 227.11 (2) (a), Stats.

Staff time required

Approximately 18 hours will be needed by Department staff.

Natural Resources

Subject

Chapter NR 116 pertaining to the floodplain management program.

Policy analysis

At the request of the Joint Committee for the Review of Administrative Rules, the department is proposing to amend Ch. NR 116, Wis. Admin. Code, to define the term “deck” and to provide that a deck may be added to a nonconforming building or a building with a nonconforming use.

While Ch. NR 116 has always permitted the addition of decks to nonconforming structures, the term deck is not currently defined, but has been treated as a structure under Ch. NR 116. If the deck is added to an existing structure, it is treated as a structural addition to a structure. This rule revision would define deck for the first time and would

specifically address how decks are regulated under Ch. NR 116.

This revision will primarily impact the owners of property in floodplain areas and local zoning officials who regulate these areas.

Statutory authority

Section 87.30, Stats.

Staff time required

Approximately 80 hours will be needed by the Department.

Public Instruction

Subject

Repealing the annual on-site audit requirement of the school district standards under s. 121.02, Stats.

Policy analysis

1995 Wisconsin Act 27 eliminated the requirement that the department annually conduct an on-site audit of at least 10% of all school districts to ensure compliance with the 20 school district standards under s. 121.02, Stats. The department's rules relating to school district standards under ch. PI 8, Wis. Admin. Code will be modified to clarify that the department:

- Shall conduct an inquiry into compliance with the standards upon receipt of a complaint and
- May, on its own initiative, conduct an audit of a school district.

The rule modification will align ch. PI 8 with the statutes under s. 121.02 (2), Stats.,

Statutory authority

Sections 227.11 (2) (a) and 121.02 (5),

Staff time required

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

Public Service Commission

Subject

The proposed rule will revise Ch. PSC 111, relating to time periods to be covered by data collected to prepare a Strategic Energy Assessment (SEA).

Policy analysis

Section 196.491, Stats., directs the Commission to prepare an SEA every two years. The statute directed the Commission to promulgate rules that establish procedures for reporting information necessary to prepare an SEA. Section 196.491 (2) (ag), Stats. Those rules have been promulgated as Ch. PSC 111, Wis. Adm. Code.

Each SEA is intended to evaluate the adequacy and reliability of the state's current and future electrical supply. Section 196.491 (2) (a) (intro.), Stats. Although the statute directs the Commission to specifically identify utility electric generating facility and high-voltage transmission line construction plans within a three year period (s. 196.491 (2) (a) 3. and 3m., Stats.), it is apparent that a three year planning horizon for SEA purposes does not adequately provide the Commission sufficient data to assess future electric reliability, given the long lead times needed to plan a project,

obtain necessary approvals and actually construct generating or transmission facilities.

Current Chapter PSC 111 describes the types of data the Commission collects to prepare each SEA and the time periods the data should cover. This proposed rulemaking docket would revise the time period to be covered by SEA data. Generally, the revisions will extend the period covered by an SEA from three to seven years. Extending the time period identified in Chapter PSC 111 will permit the Commission to better assess electric reliability on a going forward basis and better meet its statutory responsibilities.

Statutory authority

Sections 196.02 (3), 196.491 (2) (ag) and 227.11 (2), Stats.

Staff time required

The Commission estimates less than 100 hours of staff time will be required to develop these rules. No additional resources are likely to be needed in order to complete this project.

Public Service Commission

Subject

The proposed rule will revise Ch. PSC 134, relating to gas service rules.

Policy analysis

The Commission has promulgated service rules which each utility is required to follow for all industries the Commission regulates. The service rules relating to the natural gas public utilities has not been updated since 1989. Since that date, the service rules for electric and water have been updated and revised. The Commission proposes to review and update all natural gas service rules in this docket. The update will reestablish consistency between utilities, where appropriate and reflect changes in the industry in the last decade.

Chapter PSC 134, Standards for Gas Service, was last comprehensively reviewed and revised in 1989 when the customer service rules for both natural gas and electric service were reviewed and revised. The Commission has since completed a review and revision of the electric customer service rules, Chapter PSC 113, in July 2000 and the water service rules, Chapter PSC 185, in November 2001. Because of this more recent revision, the natural gas and electric rules are no longer consistent for items such as time frames for disconnect notices, disconnections, deposits, etc. A systematic review of the rules would allow for the identification of where the rules should be the same and where differences may be not only desirable, but necessary.

The recent revision of the electric service rules also introduced several new items, such as whistle-blower protection for utility staff, and telephone answering time standards which would be considered for inclusion in revised natural gas service rules. There is also a need to review the rules in light of the Commission's revisions of Chapter PSC 2, that went into effect mid-2002. Chapter PSC 2 relates to practice and procedure before the Commission. The two chapters should be compared for consistency in definitions for things such as informal complaints and time frames for Commission action. There may be other areas that need to be reviewed and reflected in the rules, such as electronic records.

The natural gas industry has changed substantially since the last rules review and revision, especially in response to changes at the federal level. For example, customers now have the ability to purchase gas from providers other than the local utility. For the largest natural gas customers this is now

the general practice. There is a need to revise the rules to reflect these changed relationships and changed industry structures, such as the use of agents to pool gas purchases.

There have also been developments and changes in the utility industry since the revised electric rules were adopted in 2000. For example, customers are now receiving and paying bills electronically rather than through the mail and some utilities have made arrangements for the use of credit cards to pay utility bills. Several of the utilities have or are implementing the use of automated meter reading systems.

The rules should be reviewed to see if revisions or additions need to be made to reflect these developments.

Statutory authority

Sections 196.02 (3) and 227.11 (2), Stats.

Staff time required

The Commission estimates that approximately 400 hours of staff time will be required to develop these rules. No additional resources are likely to be needed in order to complete this project.

Submittal of rules to legislative council clearinghouse

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

Administration/Gaming Division

Rule Submittal Date

On July 11, 2003, the Department of Administration submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting chs. WGC 1 to 24 and Game 3, relating to greyhound racing and pari-mutuel wagering.

Analysis

Statutory Authority: 16.004 (1), 227.11 (2) (a), 562.02 (1), 562.04 (2), 562.05 (2), 562.057 (5), 562.065 (1), and 562.09 Stats.

Statutes Interpreted: ss. 562.02 (1), 562.04, 562.05 (6) (e) 2., 562.057 (4m) (b), 562.065, 562.06 (2), 562.105, and 562.11, Stats.

The Department proposes to revise its administrative code relating to greyhound racing and pari-mutuel wagering. The revision process was conducted in order to ensure the Department exercises its regulatory oversight functions in an effective and efficient manner. The proposed amendments reflect contemporary regulatory and industry standards. In many cases, the amendments raise regulatory standards and safeguards by conforming the administrative code to current practices in place at Wisconsin racetracks.

In addition, the amendments afford Wisconsin racetracks and licensees greater flexibility while preserving and strengthening key regulatory safeguards that protect the health, welfare and safety of greyhounds and the public, and the integrity of pari-mutuel wagering and greyhound racing.

Agency Procedure for Promulgation

The Department will hold a public hearing on the amended rules on August 12, 2003 at 1:00 pm. The hearing will be located at Western Racine County Services Center, Eppers Room, 209 N. Main St., Burlington, WI. The Division of Gaming is primarily responsible for promulgation of these rules.

Contact

If you have any questions regarding the rule amendments, please contact:

Christopher Patton

Department of Administration – Division of Gaming
Telephone (608) 270-2532

Natural Resources

Rule Submittal Date

On July 3, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. NR 30, relating to boundaries of established parts of intensive

forest fire control areas in the Town of Irving, Jackson County.

Agency Procedure for Promulgation

The Department will hold a public hearing on August 12, 2003.

Contact

Richard Bucklew
Bureau of Forest Protection
(715) 358-9217

Natural Resources

Rule Submittal Date

On July 3, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. NR 116, relating to the exclusion of costs to elevate a nonconforming building or a building with a nonconforming use from the 50% provisions.

Agency Procedure for Promulgation

The Department will hold a public hearing on August 18, 2003.

Contact

Gary Heinrichs
Bureau of Watershed Management
(608) 266-3093

Natural Resources

Rule Submittal Date

On July 3, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. NR 140, relating to groundwater quality standards for arsenic.

Agency Procedure for Promulgation

The Department will hold public hearings on August 12 and 13, 2003.

Contact

Bill Phelps
Bureau of Drinking Water and Groundwater
(608) 267-7619

Natural Resources

Rule Submittal Date

On July 3, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting chs. NR 404 and 484, relating to ambient air quality standards.

Agency Procedure for Promulgation

The Department will hold a public hearing on September 16, 2003.

Contact

Dennis Koepke
Bureau of Air Management
(608) 266-7718

Council Rules Clearinghouse affecting ch. NR 809,
relating to arsenic in public water systems.

Agency Procedure for Promulgation

The Department will hold a public hearing on August
13, 2003.

Natural Resources

Rule Submittal Date

On July 3, 2003, the Department of Natural Resources
submitted a proposed rule to the Wisconsin Legislative

Contact

Carol Bentzler
Bureau of Drinking Water and Groundwater
(608) 267-2451

Rule-making notices

Notice of Hearing

Accounting Examining Board

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Accounting Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Wis. Stats., and interpreting ch. 442, Wis. Stats., the Accounting Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal Accy 1.103, 1.202 (2), 1.203 (2), 1.302 (1), 1.405 (1) (c), 4.04, 4.05, 4.07, 4.09 (2) (d), 4.10, 5.01 and 5.04 to 5.07; to amend Subchapter I (title), 1.102, 1.201 (1), (1) (a) to (d), (e) and (e) I.a., 1.202 (1), 1.203 (1), 1.204, 1.205 (title), (intro.), (1) to (3), 1.301 (1), (2) (d), (4) (intro.) and (4) (a), 1.302 (2) to (6), 1.401 (1), (2) (intro.), (2) (a) (intro.), (2) (am) (intro.), (2) (am) 1., (2) (am) 1., (2) (an), (2) (ao), (2) (b) (intro.), (2) (bm) and (2) (c), 1.402, 1.404 (1), (2) (a), (2) (a) 2., (2) (a) 3., (2) (b) 2., (2) (b) 3., (2) (c) and (d), 1.405 (1) (a), (2), (3) (intro.) and (3) (a), 1.406, 4.01, 4.02 (title) and 4.02, 4.03 (title) and 4.03, 4.035 (title) and (1) (intro.), 4.06, 4.09 (1), 5.02, 5.03 (title), (1) and (2), 5.08 (1) and (4), 5.09, 5.11, 5.12, 7.035 (intro.), 7.05 (1) (a) 3. and 8.04 (3); to repeal and recreate Accy 1.001 and 1.002; and to create Accy 1.003, 4.037, 5.03 (2) (a) to (c) relating to definitions, deleting antiquated provisions related to public accountants, and changes to the requirements for individual and firm certified public accountant licenses.

Hearing Date, Time and Location

Date: **August 15, 2003**
 Time: 9:30 A.M.
 Location: 1400 East Washington Avenue
 Room 179A
 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 22, 2003 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes Authorizing promulgation: Sec. 15.08 (5) (b) and 227.11 (2), Wis. Stats.

Statutes interpreted: Ch. 442, Wis. Stats.

This proposed rule-making order of the Accounting Examining Board (Board) makes terminology and other changes to the rules to clarify the rules and conform the rules to the changes made in Wis. Stat. ch. 442 by 2001 Wisconsin Act 16.

As reflected in the current Wis. Stat. ch. 442, 2001 Wisconsin Act 16 deleted antiquated provisions related to public accountants and made changes to the requirements for individual and firm certified public accountant (CPA) licenses. Among other changes, 2001 Wisconsin Act 16

required an applicant for a CPA certificate to have one year of public accounting experience or its equivalent instead of two years as previously required. The act permitted limited ownership firms by persons who are not licensed as CPAs.

In general, the proposed rules:

- Remove the term “public accountant” from the rules. Public accountants are no longer licensed following enactment of Sections 3606pb through 3606vz of 2001 Wisconsin Act 16,
- Use the term “certified public accountant” in place of “accountant.”
- Modify restrictions on firm names to reflect the law change permitting part ownership of firms by unlicensed individuals in Section 3606tn of 2001 Wisconsin Act 16.
- Revise the applicant experience requirement to reflect the statutory change to “. . . at least one year of public accounting experience or its equivalent, the sufficiency of the experience or the equivalency to be judged by the examining board. Wis. Stat. s. 442.04 (5).

Sections Accy 1.001 and 1.002 on applicability of the rules is repealed and recreated in order to clearly and affirmatively describe the responsibilities of a CPA. A CPA shall follow the administrative rules of the examining board. A certified public accountant may also be held responsible for compliance with the rules of the examining board by an associate in a firm who is under his or her supervision or who is a member of the firm. Persons with ownership interest in a CPA-related business must also follow the rules of the Board in the operation of the CPA-related business. A person who operates a business and is licensed as a CPA and who holds out as a CPA shall follow the rules of the Board in the operation of any business.

Proposed Wis. Admin. Code s. Accy 1.003 defines the terms “attest service,” “attest engagement,” “attest engagement team,” “audit,” “client,” “close relative,” “commission,” “council,” “covered member,” “CPA-related business,” “financial statement,” “firm,” “holding out,” “immediate family,” “individual in a position to influence the attest engagement,” “joint closely held investment,” “key position,” “loan,” “manager,” “member,” or “member of a firm,” “office,” “partner,” “practice as a certified public accountant,” “professional services” and “significant influence.”

Standards identified in Wis. Admin. Code s. 1.202 (2) and 1.203 (2) are repealed because these interpretations are included in existing standards, viz. Wis. Admin. Code s. 1.205.

Modifications are made throughout the Board’s rules to correct capitalization of proper nouns.

Fiscal Estimate

This rule modification updates the terms in the Rules of the Accounting Examining Board. The Department of Regulation and Licensing will revise and reprint books of the Administrative Code. Revising code books costs \$500.00 for staff time and materials to revise the printed code and post on the Department’s web site.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to

determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

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

Notice of Hearing Administration/Gaming Division (CR 03-070)

Notice is hereby given that pursuant to ss. 16.004 (1), 227.11 (2) (a), 562.02 (1), 562.04 (2), 562.05 (2), 562.057 (5), 562.065 (1), and 562.09 Stats., and interpreting ss. 562.02 (1), 562.04, 562.05 (6) (e) 2., 562.057 (4m) (b), 562.065, 562.06 (2), 562.105, and 562.11, Stats., the Department of Administration will hold a public hearing to consider amendments to ch. WGC 1-24 and Game 3 of the Wisconsin Administrative Code, relating to greyhound racing and pari-mutuel wagering.

Hearing Information

Date: August 12, 2003
Time: 1:00 p.m.
Location: Western Racine County Services Center
Eppers Room
209 N. Main St.
Burlington, WI

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are also urged to submit facts, opinions and arguments in writing as well. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearing, should be directed to: Christopher Patton, Department of Administration-Division of Gaming, PO Box 8979, Madison, WI 53708-8979. Written comments must be received by August 19, 2003, to be included in the record of rule-making proceedings.

Analysis Prepared By Department of Administration

The Department proposes to revise its administrative code relating to greyhound racing and pari-mutuel wagering. The revision process was conducted in order to ensure the Department exercises its regulatory oversight functions in an effective and efficient manner. The proposed amendments reflect contemporary regulatory and industry standards. In many cases, the amendments raise regulatory standards and safeguards by conforming the administrative code to current practices in place at Wisconsin racetracks. The amendments afford Wisconsin racetracks and licensees greater flexibility while preserving and strengthening key regulatory safeguards that protect the health, welfare and safety of greyhounds and the public, and the integrity of pari-mutuel wagering and greyhound racing.

The amendments fall into three basic categories; enforcement and appeals, safety and integrity, and general racing and wagering. The rules provide specific procedures for the conduct of enforcement proceedings and the rights of licensees during these proceedings. Furthermore, the rules outline the enforcement authority of the Division of Gaming when conducting inspections of facilities and records, restricting the movement of greyhounds, and excluding persons from licensed facilities.

The revisions also advance the state's desire to protect the health, welfare and safety of racing animals and ensure the integrity of pari-mutuel wagering and racing. The proposed rules delineate additional prohibitions on licensee activities to safeguard against fraud and tampering with racing and wagering activities. In addition, safeguards are established to ensure the health and safety of racing greyhounds, racetrack employees and the public.

Finally general racing and wagering rules are revised to enable pari-mutuel facilities to offer wagering options and rules similar to other racetracks throughout the United States. Occupational licensing structure and fees are streamlined to reduce the impact fees have on racetrack operators to recruit and hire qualified applicants. A "Wisconsin Owned" program is established to encourage Wisconsin resident greyhound owners to race their greyhounds at Wisconsin racetracks.

Fiscal Estimate

The proposed rule amendments are expected to have a state fiscal effect resulting in a decrease in existing state revenues of approximately \$25,000 per year due to changes in the occupational licensing fee schedule. The proposed rule amendments are expected to have no fiscal effect on local governments. The primary state fiscal effect is attributable to proposed modifications to the occupational license fee schedule.

Initial Regulatory Flexibility Analysis

To provide clarification, the Department has always viewed kennel operators as small businesses. Kennel operators supply the greyhounds that race at the racetracks. The Department believes that there will be an insignificant economic impact on small businesses. Additionally, any impact on small businesses should be cost savings as the primary economic impact results from proposed license fee reductions.

When determining the proposed amendments to the administrative code, the Department reviewed the criteria established in s. 227.114, Stats., in an effort to reduce the effect of the proposed order on small businesses. The Department notified all small business owners licensed by the Division of Gaming in writing, to seek their input prior to drafting proposed amendments to the administrative. Additionally, the Department provided written notice and the opportunity for all licensed small business owners to receive a copy of the draft amendments and offer informal comment on the proposed amendments during a written comment period and two public informational meetings.

Besides the insignificant economic impact, the operational impact of the proposed order is expected to be minimal. The Department does not foresee the businesses inheriting any additional bookkeeping, clerical, professional or administrative requirements to maintain compliance with Department's administrative code.

A copy of the full text of the rule amendments and fiscal estimate may be obtained free of charge on the internet at www.doa.state.wi.us/gaming, by contacting the Division of Gaming at (608) 270-2555, or by visiting the Division of Gaming office at the address listed below.

Contact Person

If you have any questions regarding the rule amendments, please contact:

Christopher Patton
Department of Administration - Division of Gaming
2005 W. Beltline Hwy., Suite 201
PO Box 8979
Madison, WI 53708-8979
Telephone (608) 270-2532

Notice of Hearing Medical Examining Board

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Medical Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats., and interpreting s. 448.05 (6), Stats., the Medical Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend Med 1.06 (3) (f) 1., 2. and 3., and to create Med 1.06 (3) (f) 4., relating to accepting examinations from the Medical Council of Canada.

Hearing Date, Time and Location

Date: **August 20, 2003**
Time: 8:30 A.M.
Location: 1400 East Washington Avenue
Room 179A
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 20, 2003 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), 227.11 (2) and 448.40 (1), Stats.

Statutes interpreted: 448.05 (6), Stats.

Section 1 amends rules to reflect the capitalization of proper names.

Currently, s. Med 1.06 (3) (f) 3. provides that applicants who have passed all 3 components of the examination of the Medical Council of Canada taken on or after January 1, 1978, will be accepted in lieu of requiring further written or computer-based examinations. Section 2 creates s. Med 1.06 (3) (f) 4., which provides that applicants who have passed all 3 components of the examination of the Medical Council of Canada before January 1, 1978, will be accepted in lieu of requiring further written or computer-based examinations. The proposed rule change will provide another avenue for licensure by endorsement.

Fiscal Estimate

This proposed rule adds an additional category of licensed Canadian physicians that can be licensed in Wisconsin by endorsement. This category will apply to fewer than 12 physicians.

The Department of Regulation and Licensing will revise and reprint books of the Administrative Codes. Revising code books costs \$500.00 for staff time and materials to revise the printed code and post on the Department's web site.

There may also be a slight, indeterminate, cost to revise credentialing checklist procedures.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing Natural Resources (Fish, Game, etc., Chs. NR 1—) (CR 03-065)

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.33 (9) and 227.11 (2) (a), Stats., interpreting s. 23.33 (9), Stats., the Department of Natural Resources will hold a public hearing on the amendment of s. NR 30.01 (1) (h), Wis. Adm. Code, relating to the boundaries of established parts of intensive forest fire control areas in the Town of Irving, Jackson County. The Town of Irving, Jackson County, has petitioned the Department to have part of its lands removed from the Department's organized forest fire protection area. Approval of this request would result in the relegation of responsibility to local authority. If this petition is approved, the Town of Irving would become responsible for providing forest fire prevention, detection and suppression in that part of its lands removed from the organized forest fire protection area. The responsibility for these costs would belong to the Town of Irving.

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:

Tuesday, August 12, 2003 at 10:30 a.m.

Irving Town Hall, N3291 Nichols Road
Black River Falls

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 James Miller at (608) 266-0624 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The Township of Irving has a contract with the Black River Falls Fire Department to provide protection of the structures in the township. This is paid for on a yearly basis so any forest fire suppression would not, at this time, result in an added cost to the township.

There are no Emergency Fire Wardens (EFW) appointed by the DNR in the impacted area. It is estimated it would take one hour of local telephone calls by a Senior Forester (average cost of \$28 per hour with benefits) to notify the EFWs they would no longer have to write burning permits for the impacted area. From 193 - 1997 to was an average of 32.4

burning permits written per year in the impacted area. Again, this was not a major cost factor to the DNR.

Copies of Rule and Contact Person

Written comment on the proposed rule may be submitted to James R. Miller, Bureau of Forest Protection, P.O. Box 7921, Madison, WI 53707 no later than August 26, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FR-29-03] and fiscal estimate may be obtained from Mr. Randy Schott, Dept. of Natural Resources, 910 Highway 54 East, Black River Falls, WI 54615.

Notice of Hearing
Natural Resources
(Environmental Protection-General, Chs. NR
100—)
(CR 03-064)

NOTICE IS HEREBY GIVEN that pursuant to s. 87.30 (1) and 227.11 (2) (a), Stats., interpreting s. 87.30 (1), Stats., the Department of Natural Resources will hold a public hearing on the amendment of s. NR 116.15 (1) (c), Wis. Adm. Code, relating to the exclusion of costs to elevate a nonconforming building or a building with a nonconforming use from the 50% provisions of this paragraph. The Joint Committee for Review of Administrative Rules has directed the department to promulgate rules that would exclude the costs of floodproofing buildings in floodplain areas from the 50% value limitation currently placed on modifications, additions or repairs to legal nonconforming structures.

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, August 18, 2003 at 1:00 p.m.

Room 027, GEF #2

101 South Webster St., 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 Gary Heinrichs at (608) 266-3093 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The proposal would allow unlimited expenditures to floodproof a building in flood-prone areas. If enacted, this proposal would have no state fiscal effect since local units of government, not the state, regulate the development of floodplain areas. The costs or revenues to local units of government are negligible because very few buildings are located in areas where flood depths are significant enough to justify the costs of floodproofing; therefore, little permit

activity is expected to be generated due to this proposed rule change.

Copies of Rule and Contact Person

Written comments on the proposed rule may be submitted to Mr. Gary Heinrichs, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than August 29, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WT-31-03] and fiscal estimate may be obtained from Mr. Heinrichs.

Notice of Hearings
Natural Resources
(Environmental Protection-General, Chs. NR
100-)
(CR 03-063)

NOTICE IS HEREBY GIVEN that pursuant to ss. 281.12 (1), 281.15, 281.19 (1) and 299.11, Stats., and ch. 160, Stats., interpreting ss. 281.12 (1), 281.15, 281.19 (1) and 299.11, Stats., and ch. 160, Stats., the Department of Natural Resources will hold public hearings on the amendment of s. NR 140.10 Table 1, Wis. Adm. Code, relating to groundwater quality standards for arsenic. The enforcement standards will be lowered from 50 to 10 micrograms per liter and the preventive action limit will be lowered from 5 to one micrograms per liter.

In accordance with ch. 160, Stats., enforcement standard groundwater quality standards are established based on recommendations received from the Department of Health and Family Services (DHFS). In January, 2001, the U.S. EPA established a new federal drinking water maximum contaminant level (MCL) for arsenic of 10 micrograms per liter. In accordance with s. 160.74 (4), Stats., the DHFS has recommended adoption of the federal MCL as the NR 140 enforcement standard. Because arsenic is a known carcinogen, an NR 140 preventive action limit of one microgram per liter (10% of the recommended 10 micrograms per liter) has been proposed.

NOTICE IS HEREBY FURTHER GIVEN the pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The compliance and reporting requirements in ch. NR 140 are not changed by the proposed amendments. If a groundwater quality standard is exceeded, the owner or operator of a facility, practice or activity, including any small business, must report the violation to the appropriate regulatory agency. The revised NR 140 groundwater quality standards proposed for arsenic would be used as design and compliance standards, and as clean up goals in the event of a spill or unpermitted discharge.

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:

Tuesday, August 12, 2003 at 1:30 p.m.

Conf. Room A & B, James P. Coughlin Center
625 E. County Road Y
Oshkosh

Wednesday, August 13, 2003 at 10:00 a.m. and 2:00 p.m.

Video conference participation at:

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

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

Room 021, State Office Building
101 S. Webster St.
Madison

Room 153, State Office Building
141 NW Barstow St.
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 William Phelps at (608) 267-7619 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

Although additional monitoring costs may be imposed upon the state or local government entities that are within the regulated community, the extent of such monitoring and any costs associated with it—while too speculative to quantify at this time—are not expected to be significant. The Department believes it is unlikely that there will be additional costs to state and local governments resulting from adopting these groundwater standards.

Copies of Rule and Contact Person

Written comments on the proposed rule may be submitted to Mr. William Phelps, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 no later than September 5, 2003. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [DG-32-03] and fiscal estimate may be obtained from Mr. Phelps.

Notice of Hearing**Natural Resources****(Environmental Protection—Air Pollution Control,
Chs. NR 400—)****(CR 03-066)**

NOTICE IS HEREBY GIVEN that pursuant to ss. 285.11 (1) and (6) and 285.21 (1), Stats., interpreting s. 285.21 (1), Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 404 and 484, Wis. Adm. Code, relating to ambient air quality standards. U.S. EPA is required to periodically review the National Ambient Air Quality Standards for Criteria Pollutants. In 1997 U.S. EPA, based on review of the standards for ozone and for particulates, proposed new ambient air quality standards for ozone (the 8-hour ozone standard) and for particulates (the new PM 2.5 standard). U.S. EPA is expected to make a final determination by April, 2004 regarding which areas are not attaining the 8-hour ozone standard. For areas that are nonattainment, U.S. EPA will require states to make revisions to their state implementation plan. Wisconsin incorporates the national

ambient air quality standards into ch. NR 404, Wis. Adm. Code. The proposed rule seeks to revise ch. NR 404 to make sure it is consistent with the national standards.

U.S. EPA has also revised the precision of the sulfur oxides standard and the nitrogen dioxide standard. The proposed rule also includes those changes.

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:

Tuesday, September 16, 2003 at 1:00 p.m.

Room 611A, GEF #2

101 S. Webster St.

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 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 are administrative changes that have no additional fiscal impact.

Copies of Rule and 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 September 30, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [AM-26-03] and 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 Hearing**Natural Resources****(Environmental Protection—Water Supply, Chs.
NR 800—)****(CR 03-067)**

NOTICE IS HEREBY GIVEN that pursuant to ss. 280.11 and 281.17 (8), Stats., interpreting ss. 280.11 and 281.17 (8), Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 809, Wis. Adm. Code, relating to arsenic in public water systems. On January 22, 2001, the U.S. EPA adopted a new drinking water standard for arsenic of 0.01 mg/l (10 micrograms per liter), replacing the old standard of 0.050 mg/l (50 micrograms per liter). The date by which public water systems must comply with the new standard is January 23, 2006. Section 281.17 (8), Stats., and our primacy agreement with U.S. EPA require the Department to adopt rules at least as stringent as federal regulations. The

proposed amendments are necessary to assure that the Department's administrative rules are consistent with federal regulations.

This regulation will apply to non-transient, non-community water systems, which are not presently subject to standards for arsenic, and to community water systems. There are about 80 water systems that could potentially have to take actions to reduce arsenic.

In addition, this rule revision includes clarifications for monitoring and demonstration of compliance for new systems or sources of drinking water. The rule also clarifies compliance for state-determined monitoring after exceedances for inorganic, volatile organic and synthetic organic contaminants. Finally, the proposed rule recognizes the state-specified time period and sampling frequency for new public water systems and systems using a new source of water to demonstrate compliance with drinking water regulations. The requirements for new systems and new source monitoring will be effective for inorganic, volatile organic and synthetic organic contaminants.

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. Typically, the Department has little flexibility with drinking water regulations since our rules can be no less stringent than the federal regulation.

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:

Wednesday, August 13, 2003 at 10:00 a.m. and 2:00 p.m.

Video conference participation at:

Room 139, State Office Building
718 W. Clairemont Ave.
Eau Claire
Room 618, State Office Building
200 N. Jefferson St.
Green Bay

Room 021, State Office Building
101 S. Webster St.
Madison

Room 153, State Office Building
141 NW Barstow St.
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 Carol Bentzler at (608) 267-2451 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

Public water systems are expected to incur increased costs to comply with the new standard. The USEPA has calculated mean annual costs per household for those households that are served by systems that may need to treat for arsenic. Due to economies of scale, costs per household are higher for smaller systems, and lower for larger systems.

Based on cost information provided by USEPA in the Federal Rule annual cost of the rule would be approximately \$3,436,604, \$262,346 for OCs and NNs and \$3,174,258 for MCs.

Public water systems also are expected to incur additional monitoring costs to comply with the new standard. If all the systems that have demonstrated a potential to exceed the new standard went on quarterly monitoring additional annual monitoring costs would be \$8,800. (73 systems x 4 quarters x \$30/sample) However, some systems are already treating for arsenic and others will be treating by time the new standard is enforceable so the additional monitoring cost is expected to be somewhat less.

Based on salary information provided by the Association of State Drinking Water Administrators, workload for 1 FTE to work on the Arsenic Rule would be approximately \$65,000.

Copies of Rule and Contact Person

Written comments on the proposed rule may be submitted to Ms. Carol Bentzler, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 no later than August 20, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [DG-30-03] and fiscal estimate may be obtained from Ms. Bentzler.

Submittal of proposed rules to the legislature

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

**Health and Family Services
(CR 03–042)**

Ch. HFS 124, relating to critical access hospitals.

**Natural Resources
(CR 01–181)**

Chs. NR 400—, relating to the control of mercury emissions to address atmospheric deposition of mercury.

**Natural Resources
(CR 02–048)**

Ch. NR 336, relating to the small and abandoned dam removal grant program.

**Natural Resources
(CR 03–018)**

Chs. NR 10, 12 and 19, relating to hunting and trapping regulation changes.

**Natural Resources
(CR 03–027)**

Chs. NR 162 and 165, relating to clean water fund program financial assistance.

**Natural Resources
(CR 03–030)**

Chs. NR 16 and 19, relating to captive wildlife.

**Natural Resources
(CR 03–031)**

Ch. NR 17, relating to dog training, dog trials and dog clubs.

**Natural Resources
(CR 03–034)**

Ch. NR 46, relating to administration of the forest crop law and the managed forest law.

**Pharmacy Examining Board
(CR 01–075)**

Ch. Phar 7, relating to the requirements for a central fill system.

**Public Instruction
(CR 03–006)**

Ch. PI 7, relating to pupil transportation.

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.

Financial Institutions—Banking (CR 03-043)

An order affecting ch. DFI-Bkg 73, relating to adjustment service companies conducting business by mail.
Effective 9-1-03.

Transportation (CR 03-007)

An order affecting ch. Trans 2, relating to the elderly and disabled transportation capital assistance program.
Effective 9-1-03.

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the July 31, 2003, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

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

Accounting Examining Board (CR 02-119)

An order creating ch. Accy 9, relating to peer reviews. Effective 8-1-03.

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 by Legislative Review Committees

No comments were received.

Administration (CR 03-002)

An order affecting ch. Adm 19, relating to small cities community block grants for housing. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Agriculture, Trade and Consumer Protection (CR 02-121)

An order affecting ch. ATPC 21, relating to plant inspection and certification service fees and hemlock woolly adelgid import controls. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

Rule Description

This rule repeals and recreates Wisconsin's current Inspection and Certification rules.

This rule creates a fee of \$50.00 per certificate, which will include mileage, meals, lodging and staff time for inspection and travel. The current fee for certification is \$15.00 for a certificate, plus mileage (.325 cents/mile), meals, lodging and staff time (\$20.00/hour, with a \$20.00 minimum) for inspection and travel.

This rule also creates import controls for hemlock woolly adelgid, a serious pest of hemlock trees in the eastern US. This insect has been intercepted on nursery stock in other states and can possibly be spread by logs, mulch or bark chips of hemlock trees.

Small Businesses Affected by this Rule

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.

Small nurseries and sole proprietors shipping interstate or internationally are the small businesses that will be affected by this rule.

Effects on Small Business

This rule may have some impact on nurseries in Wisconsin that purchase hemlock nursery stock from states infested with hemlock woolly adelgid, because costs incurred by nurseries in other states to meet our requirements may be passed along to the receiving nurseries in Wisconsin. There would be no extra skills required since nurseries deal with similar certificates for other plant pests.

The fee increase for certificates (\$15 to \$50) may decrease the number of certificates issued by a small amount. Some businesses, mostly larger enterprises, request certificates as a sort of insurance policy; the country to which they are exporting doesn't require a certificate but having one expedites the importation of the commodity. Many of the companies will pass the increased cost onto their customers.

Small businesses may see more efficient turnaround time in receiving their certificates since no calculations will need to be made by the department concerning mileage, meals, hours and lodging. Small nursery businesses receiving plant health certificates may reconsider their current practice of requesting the certificate if they don't ship nursery stock interstate because of the increase in the fee.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 03-001)

An order affecting ch. HFS 78, relating to the telecommunications assistance program for deaf, deafblind and severely hard of hearing persons' purchase of telecommunications equipment. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

**Health and Family Services
(CR 03-019)**

An order affecting ch. HFS 163, relating to the abatement of lead-contaminated soil and the standards defining lead-based paint hazards. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

These rules apply when certified lead investigation professionals determine whether a pre-1978 property contains lead-based paint hazards. This determination may affect the owners of pre-1978 housing when remediation of lead-based paint hazards is ordered or when provisions under s. 254.171, Stats. apply. Under s. 254.171, Stats., a property owner must obtain a lead-free certificate or lead-safe certificate for the affected dwelling unit when the property owner receives written notice that a child under 6 years of age residing at the property has an elevated blood lead level.

Remediation of lead-contaminated bare soil or additional cleaning of the interiors of dwellings may be required to comply with the standards in these rules. Because remediation of bare soil can be accomplished by covering the soil with vegetation or landscaping material, the fiscal impact to property owners is expected to be minimal.

The rules were reviewed by the Lead Technical Advisory Committee, which approved them as submitted. Because the amendments are required to comply with regulations of the U.S. Environmental Protection Agency, alternatives were not considered.

Summary of Comments by Legislative Review Committees

No comments were received.

**Natural Resources
(CR 03-015)**

An order affecting chs. NR 10 and 15, relating to hunting and trapping regulations. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

The rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. Neither committee requested any modifications to the proposed rule.

**Psychology Examining Board
(CR 02-124)**

An order affecting chs. Psy 1 to 5, relating to examinations, supervised experience, qualifications and responsibilities of supervisors, licensure by comity, reciprocity, holders of the certificate of professional qualification and senior psychologists, continuing education, renewal and professional conduct. Effective 8-1-03.

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 by Legislative Review Committees

No comments were received.

**Public Instruction
(CR 02-151)**

An order creating ch. PI 23, relating to ESEA intradistrict safe school transfer options. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will have no effect on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

**Regulation and Licensing
(CR 02-125)**

An order affecting chs. RL 140 to 142, relating to changes made as a result of 2001 Wis. Act 80, specifically music, art and dance therapists who practice psychotherapy. Effective 8-1-03.

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 by Legislative Review Committees

No comments were received.

**Revenue
(CR 02-128)**

An order affecting ch. Tax 11, relating to sales and use tax definitions, direct pay, exemption certificates and aircraft. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

**Veterans Affairs
(CR 03-024)**

An order affecting ch. VA 2, relating to the expenditure limitation for dentures under the health care aid grant program. Effective 8-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will have no effect on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **July 2003**, 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

Accounting Examining Board:

Ch. Accy 9 (Entire chapter)

Administration:

Ch. Adm 19

S. Adm 19.02 (6) and (7)
S. Adm 19.04
S. Adm 19.05
S. Adm 19.08 (2)
S. Adm 19.09

Agriculture, Trade and Consumer Protection:

Ch. ATCP 21

S. ATCP 21.01 (8g) and (8r)
S. ATCP 21.05 (1m), (3) (a) to (c)
S. ATCP 21.16

Health and Family Services:

Ch. HFS 78 (Entire chapter)

Ch. HFS 163

S. HFS 163.14 (1) (g), (5) (c) and (9) (g)
S. HFS 163.15 (2) and (3)
S. HFS 163.42 (1) (b) to (j), (2) (a) and (e)

Natural Resources:

Ch. NR 10

S. NR 10.01 (3) (e) and (ez)
S. NR 10.09 (1) (a), (c), (2) (intro.) and (3) (b)
S. NR 10.145 (2) (a) to (c)
S. NR 10.27 (7) and (8)

Ch. NR 15

S. NR 15.022 (intro.)
S. NR 15.024 (intro.)

Psychology Examining Board:

Ch. Psy 1

S. Psy 1.02 (3)

Ch. Psy 2

S. Psy 2.01 (12)

S. Psy 2.07 (1) (intro.)

S. Psy 2.09 (3) (a) to (c)

S. Psy 2.12

Ch. Psy 3

S. Psy 3.01 (4)

S. Psy 3.07 (1)

S. Psy 3.09 (1) (intro.)

Ch. Psy 4

S. Psy 4.02 (1) (c), (2) (intro.), (c), (e), (3), (4) and (6)

S. Psy 4.03 (2)

Ch. Psy 5

S. Psy 5.01 (11), (12) (g), (24), (31) and (33)

Public Instruction:

Ch. PI 23 (Entire chapter)

Regulation and Licensing:

Ch. RL 140 (Entire chapter)

Ch. RL 141

S. RL 141.01 (3)

S. RL 141.02 (1) (c) & (3)

SS. RL 141.04 to 141.07

Ch. RL 142

S. RL 142.01

S. RL 142.03 (1)

S. RL 142.05 (26)

SS. RL 142.06 and 142.07

Revenue:

Ch. Tax 11

S. Tax 11.001 (intro.) (1), (2) (intro.), (a), (c), (d) and (e), (3) (a) (intro.) and (b)

S. Tax 11.13 (1) (a), (3) (b), (5) (a) and (b)

S. Tax 11.14 (6) (a), (13) (a) (intro.), (b)

S. Tax 11.84 (1) (b), (c), (2) (c), (4) (a) and (c)

Veterans Affairs:

Ch. VA 2

S. VA 2.01 (2) (b)

Editorial corrections

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

Health and Family Services:

Ch. HFS 163

S. HFS 163.14 (8) (e)

Public Instruction:

Ch. PI 3

S. PI 3.02 (1) and (2)

S. PI 3.023 (intro.)

S. PI 3.03 (6) (c)

S. PI 3.05 (7) (b)

S. PI 3.36

S. PI 3.365

Ch. PI 34

S. PI 34.34 (14) and (15)

**The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, Wisconsin 53707-7840**

First Class

U.S. POSTAGE PAID

Madison, Wisconsin

Permit Number 1369

First Class Mail

*Wisconsin
Administrative
Register*

Dated Material. Please Do Not Delay!