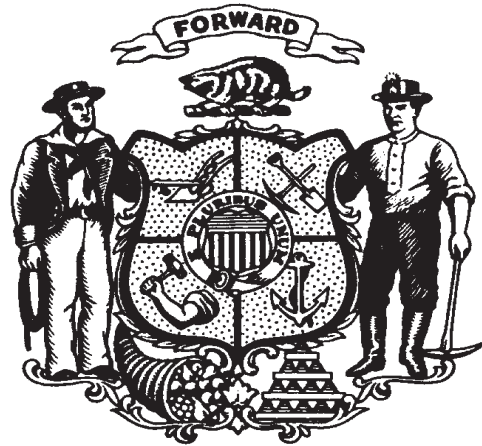


Wisconsin Administrative Register

No. 572



Publication Date: August 31, 2003
Effective Date: September 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 4 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.

Rules relating to importing, selling, offering to sell, allowing public access to or disposal of prairie dogs or any rodent from Africa.

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.

Financial Institutions – Securities:

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

Health and Family Services:

Management, Technology, Chs. HFS 1—

Rules relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF–MR).

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.

Rules revising **ch. HFS 144**, relating to immunization of students. **[First Appearance]**

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.

Rules relating to Small Employer Uniform Employee Application.

Natural Resources:

Fish, Game, etc., Chs. NR 1—

Rules relating to captive wildlife.

Personnel Commission:

See Workforce Development – Civil Rights

Workforce Development:	<u>Civil Rights, Chs. DWD 210—</u> Rules adopted repealing chs. PC 1, 2, 4, 5 & 7 and revising chs. DWD 218, 224, & 225 , relating to the transfer of personnel commission responsibilities to the equal rights division. [First Appearance]
Scope statements.	Page 11
Natural Resources:	Rules affecting ch. NR 406, relating to the development of the General Construction Permit Program. Rules affecting ch. NR 463, relating to the national emission standards for hazardous air pollutants (NESHAP) for facilities that are in the category of secondary aluminum production.
Public Instruction:	Charge for GED credential processing.
Submittal of rules to the legislative council clearinghouse.	Page 12
Agriculture, Trade and Consumer Protection:	Rule affecting ch. ATCP 30, relating to pesticide product restrictions.
Commerce:	Rule affecting ch. Comm 5, relating to licenses, certifications and registrations.
Natural Resources:	Rule affecting ch. NR 5, relating to waiver of the slow no wake speed restriction on Elkhorn Lake, Walworth County.
Public Instruction:	Rule affecting ch. PI 8, relating to audits of the school district standards.
Rule-making notices.	Pages 13 to 17
Agriculture, Trade and Consumer Protection:	Hearings to consider rules relating to the use of atrazine pesticides.
Commerce:	Hearing to consider revision of ch. Comm 5, relating to licenses, certifications and registrations.
Dentistry Examining Board:	Hearing to consider rules affecting ch. DE 3, relating to the practice of dental hygiene.
Health and Family Services:	Hearing to consider emergency rules affecting ch. HFS 144, relating to school immunizations.
Natural Resources:	Hearing to consider rules affecting ch. NR 5, relating to waiver of the slow-no-wake speed restriction on Elkhorn Lake, Walworth County.
Submittal of proposed rules to the legislature.	Page 18
Accounting Examining Board:	(CR 02-120) – Ch. Accy 1
Dentistry Examining Board:	(CR 02-139) – Ch. DE 2
Financial Institutions—Securities:	(CR 03-068) – Ch. DFI—Sec 4 (CR 03-069) – Chs. DFI—Sec 2 to 8
Health and Family Services:	(CR 03-033) – Various chapters
Workforce Development:	(CR 03-053) – Ch. DWD 274

Rule orders filed with the revisor of statutes bureau.**Page 19**

Accounting Examining Board:

(CR 02-149) – Ch. Accy 3

Barbering and Cosmetology Examining Board:

(CR 02-058) – Chs. BC 1 to 4

Health and Family Services:

(CR 02-155) – Chs. HFS 110 to 113

(CR 03-042) – Ch. HFS 124

Insurance:

(CR 03-038) – Ch. Ins 17

(CR 03-039) – Ch. Ins 17

Rules published with this register and final regulatory flexibility analyses.**Pages 20 to 21**

Agriculture, Trade and Consumer Protection:

(CR 02-141) – Chs. ATCP 90 to 92

Financial Institutions—Banking:

(CR 03-043) – Ch. DFI-Bkg 73

Higher Educational Aids Board:

(CR 02-148) – Ch. HEA 5

Natural Resources:

(CR 03-016) – Chs. NR 10, 12 and 45

Transportation:

(CR 03-007) – Ch. Trans 2

Sections affected by rule revisions and corrections.**Page 22****Executive Orders.****Page 23**

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 (2)

1. 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

2. Rules adopted revising **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 rodent from Africa.

Finding of emergency

1. As a result of the outbreak of an orthopox virus later identified as monkey pox in Wisconsin, the department adopted an emergency rule in early June, 2003.

2. Since the June, 2003 emergency rule was adopted, there has been additional information learned about the origins of the infected animals and the actual form of orthopox virus responsible for the symptoms. As a result of this new information, the department has been able to refine its identification of animals that should be subject to the prohibitions previously imposed.

3. After the department adopted the emergency rule (albeit before the rule was published) the CDC and FDA adopted their joint order that indicates the animals of concern are prairie dogs and African rodents.

4. The CDC and FDA joint order confirms the threat to humans from exposure to prairie dogs and African rodents.

5. This amended emergency rule provides consistency between the CDC and FDA joint order and Wisconsin's emergency rule.

6. The Wisconsin Department of Agriculture, Trade and Consumer Protection seeks to provide the greatest protection for Wisconsin citizens while creating the least acceptable disruption to their lives and businesses. Therefore, the Wisconsin Department of Agriculture, Trade and Consumer Protection adopts an amended emergency rule to protect the health, safety and welfare of the public.

Publication Date: July 24, 2003
Effective Date: July 24, 2003
Expiration Date: November 9, 2003
Hearing Date: September 3, 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
Extension Through: October 17, 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
(Management, Technology, Chs. HFS 1—)

Rules adopted revising **ch. HFS 15**, relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF–MR).

Exemption from finding of emergency

The legislature by section 9124 (3) (b) of 2003 Wisconsin Act 33 provides an exemption from a finding of emergency for the adoption of the rule.

Analysis prepared by the Department of Health and Family Services

2003 Wisconsin Act 33 modified section 50.14 of the Wisconsin Statutes, relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF–MR.)

Under section 50.14 of the Wisconsin Statutes, nursing facilities (nursing homes and ICF–MRs) are assessed a monthly fee for each occupied bed. Facilities owned or operated by the state, federal government, or located out of state are exempt from the assessment. Beds occupied by a resident whose nursing home costs are paid by Medicare are also exempt. The rate, specified in section 50.14 (2) of the statutes, was \$32 per month per occupied bed for nursing homes and \$100 per month per occupied bed for ICF–MRs.

2003 Wisconsin Act 33 made the following changes to section 50.14:

1. It broadened the scope of which types of long-term care facilities must pay a monetary assessment to the Department by:

- eliminating exemptions from being subject to the assessments of facilities owned or operated by the state or federal government, and beds occupied by residents whose care is reimbursed in whole or in part by medicare under 42 USC 1395 to 1395ccc; and

- eliminating the exclusion of unoccupied facility beds from facility bed count calculations.

2. It increased the per bed fee limit the Department may charge subject ICF–MRs, from \$100 per bed to \$435 per bed in fiscal year 2003–04 and \$445 per bed in fiscal year 2004–05.

3. It increased the per bed fee limit the Department may charge subject nursing homes, from \$32 per bed to \$75 per bed.

4. It establishes the requirement that amounts collected in excess of \$14.3 million in fiscal year 2003–04, \$13.8 million in fiscal year 2004–05, and, beginning July 1, 2005, amounts in excess of 45% of the amount collected be deposited in the Medical Assistance Trust Fund.

5. It specifies that facility beds that have been delicensed under section 49.45 (6m) (ap) 1. of the statutes, but not deducted from the nursing home’s licensed bed capacity under section 49.45 (6m) (ap) 4. a., are to be included in the number of beds subject to the assessment.

In response to these statutory changes, by this order, the Department is modifying chapter HFS 15 accordingly.

The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: July 28, 2003
Effective Date: July 28, 2003
Expiration Date: December 25, 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 (4)
(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: September 26, 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
Extension Through: September 30, 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

4. Rules were adopted revising **ch. HFS 144**, relating to immunization of students.

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 Department has a rulemaking order (CR03-033) containing a variety of relatively minor changes to over a dozen chapters of administrative rules administered by the Department. The Department had anticipated that CR03-033 would be in effect on or before September 1, 2003. One of the proposed changes in CR03-033 is a provision that changes school immunization standards. Clearinghouse Rule 03-033 has been delayed for reasons unrelated to the provisions in this order. Consequently, the identical provisions in CR03-033 will not be in effect on September 1, 2003. For reasons stated subsequently in this analysis, unless these changes to the minimum immunization requirements in chapter HFS 144, Immunization of Students, are in effect September 1, 2003, needless confusion and unintended effects will result.

In 2002, the Department's Wisconsin Immunization Program requested minor language changes to chapter HFS 144 as part of a planned "omnibus" rulemaking order containing a variety of proposed relatively minor changes. The HFS 144 proposed rule changes affect time sensitive vaccine requirements and were made so the Department's immunization requirements adhere to new vaccine

recommendations made by the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP.) For example, the current requirement for Measles–Mumps–Rubella vaccine (MMR) is two doses with the first dose received on or after the first birthday. New ACIP recommendations allow a 4–day grace period so children receiving doses four days before their first birthday would be compliant. The current requirements in chapter HFS 144 do not accept as valid a dose of MMR that was given even one day prior to the first birthday. Similar time sensitive changes impact the vaccine requirement for a dose of DTaP vaccine after the fourth birthday and a dose of Hib vaccine after the first birthday.

These changes need to be in place before the start of the new 2003–04 school year. Although the changes are minor in nature, they have a significant effect on the law's enforcement at the day care and school level. Again, using MMR as an example, without the change, the school will count the child that received the MMR one day before the first birthday as non-compliant. Non-compliance can, pursuant to s. 252.04 (5), Stats., result in exclusion from school or, pursuant to s. 252.04 (6), Stats., the name of the non-complaint student being turned over to the local district attorney's office for possible court action against the parents. Therefore, the child will either need to be re-immunized or the parent will need to sign a waiver, pursuant to s. 252.04 (3), Stats. The re-immunization requirement puts the school at odds with the health care provider that is currently acting in accordance with the revised ACIP recommendations. The signing of a waiver is not a desirable option as the school reporting process to the Department counts that child as waiving all vaccine requirements and will yield misleading information as to the Immunization Law compliance level of Wisconsin day care and student populations. The Department's Immunization Program sends Immunization Law packets to the schools in mid–August. These packets include the information the schools need for enforcement of the law when school starts in September. It is imperative that the Department have the rule changes in place before the start of the school year and include the information in the school packets. Therefore, the Department is issuing this emergency order to allow school districts and health professionals to act in a timely manner.

Publication Date: August 15, 2003
Effective Date: August 15, 2003
Expiration Date: January 12, 2004
Hearing Date: September 12, 2003
 [See Notice This Register]

Insurance (2)

1. 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

2. Rules adopted creating **s. Ins 8.49**, relating to Small Employer Uniform Employee Application.

Finding of emergency

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

The rule and the uniform small employer application are required by statute to be available by August 1, 2003. Due to implementation of 45 CFR 164 of HIPAA privacy provisions for covered entities, including health plans, and the commissioner's efforts to obtain clarification regarding authorization for release of personally identifiable health information provisions from the Office of Civil Rights a Division of Centers Medicare & Medicaid Services charged with enforcement of the privacy portions of HIPAA, it is not possible to complete the permanent rule process in time to meet the statutory requirement.

The commissioner intends to file the permanent rule corresponding to this emergency rule, clearinghouse No. 03–055, with the secretary of state within the next 150 days. Because the uniform application form is required to be available by August 1, 2003, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule was held on July 11, 2003, in accordance with s. 227.17, Wis. Stat., and the commissioner has had benefit of reviewing public comments and the clearinghouse report prior to issuing this emergency rule.

Publication Date: August 1, 2003
Effective Date: August 1, 2003
Expiration Date: December 29, 2003

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

- 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: September 27, 2003

**Workforce Development
(Civil Rights, Chs. DWD 210—)**

Rules adopted repealing **chs. PC 1, 2, 4, 5 and 7** and revising **chs. DWD 218 and 225** and creating **ch. DWD 224**, relating to the transfer of personnel commission responsibilities to the equal rights division.

Finding of emergency

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

2003 Wisconsin Act 33 transfers the responsibility for processing certain employment-related complaints against state respondents from the Personnel Commission (PC) to the Equal Rights Division (ERD) effective upon publication of 2003 Wisconsin Act 33. The ERD needs rules governing the procedures for processing these complaints effective immediately to ensure that service is not seriously delayed by this administrative change. The PC expects to transfer approximately 200 pending cases to ERD immediately.

2003 Wisconsin Act 33 transfers responsibility from the PC to ERD for 9 different types of employment-related complaints against state respondents. The ERD has had responsibility for processing complaints against nonstate respondents for 8 of the 9 types of complaints. This order makes minor amendments to existing rules to include state respondents and creates a new rule chapter on whistleblower protection for state employees, which is the one issue that ERD has not previously handled because the law does not apply to nonstate respondents. The newly-created whistleblower rules are similar to the existing fair employment rules.

A nonstatutory provision of 2003 Wisconsin Act 33 transfers existing PC rules to ERD. This order repeals those rules. Adopting the PC rules would result in different procedures for cases against state respondents and nonstate respondents for no logical reason. The dual system would be difficult to administer and confusing to complainants, many of whom are pro se. Even if ERD adopted the PC rules, an emergency rule would be necessary to remove confusing irrelevant and obsolete information.

This order repeals the PC rules and revises ERD rules by emergency rule to ensure that a clear, logical, and fair process is in place for handling the newly-transferred responsibilities for protecting Wisconsin's workforce from discrimination and retaliation.

Publication Date: August 5, 2003
Effective Date: August 5, 2003
Expiration Date: January 2, 2004

Scope statements

Natural Resources

Subject

Development of the General Construction Permit Program. This will affect chapters NR 406, possibly chs. NR 407 and 410, Wis. Adm. Code.

Policy analysis

The development of a general construction permit program, under ch. NR 406, Wis. Adm. Code, will allow the air program to issue air pollution control construction permits to specific industries and processes commonly found in Wisconsin in a more timely and efficient manner. Language under s. NR 407.10, Wis. Adm. Code, for general operation permits may be revised to support coordination between general construction and general operation permits. Fees associated with the general construction permit program will be included under ch. NR 410, Wis. Adm. Code. Construction permits are currently regulated under ch. NR 406, Wis. Adm. Code. Existing policy on issuance of construction permits is not changed by this rule proposal. The rule would simplify the construction permit issuance process for certain presently regulated sources.

Statutory authority

Sections 285.11 (1) and 285.60 (2m), Wis. Stats.

Staff time required

374 hours.

Natural Resources

Subject

Creation of s. NR 463.11 through NR 463.20. This new subchapter will incorporate the national emission standards for hazardous air pollutants (NESHAP) for facilities that are in the category of secondary aluminum production.

Policy analysis

The existing MACT Streamlining policy is to incorporate into the state administrative code all MACTS that have 10 or more sources in Wisconsin. Initial estimates show there to more than 10 sources belonging to the category of secondary aluminum production.

Statutory authority

Sections 285.11 (1), 285.27 (2), and 227.11 (2) (a), Stats.

Staff time required

The staff time required will be 454 hours.

Public Instruction

Subject

Charge for GED Credential Processing.

Policy analysis

Section 115.29 (4), Stats., allows the state superintendent to establish the standards by which high school graduation equivalency is determined. The state superintendent issues a general educational development (GED) certificate and a high school equivalency diploma (HSED). To receive either the GED certificate or HSED, candidates must pass the GED test battery. The passing test scores are determined by the state superintendent and established in rule under ch. PI 5. Chapter PI 5 must be modified to reflect national GED test score changes made to the program and state fee charges allowed under the program. These modifications resulted from the following:

1) The 2002 Series GED Test content and the standard score scale used to determine passing scores changed from the 1988 series. Previously, the GED test scale ranged from a minimum of 20 to a maximum of 80 with a passing score set at 40 and an average of 45 on the five tests in the battery. The 2002 Series GED test scale ranges from a minimum of 200 to a maximum of 800. The American Council on Education requires a passing standard score be not less than 410 on each of the five tests, with an average of 450 on the five tests in the battery.

2) 2003 Wisconsin Act 33, the 2003–2005 biennial budget, allows the state superintendent to promulgate rules establishing fees for issuing a GED certificate or HSED. The rules may provide exemptions from the fees based on financial need. The fee will be charged to an individual applying for a GED certificate or HSED on or after January 1, 2004.

Statutory authority

Section 115.29 (4)

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.

Submittal of rules to legislative council clearinghouse

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

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On August 14, 2003, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. ATPC 30, relating to pesticide product restrictions.

Agency Procedure for Promulgation

The department will hold public hearings on this rule after the Rules Clearinghouse completes its review. The department's Agricultural Resource Management Division is primarily responsible for this rule.

Contact

If you have questions, you may contact Bruce Rheineck at 608-224-4502.

Commerce

Rule Submittal Date

On August 12, 2003, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. Comm 5, relating to licenses, certifications and registrations.

Agency Procedure for Promulgation

The Divisions of Safety and Buildings and Environmental and Regulatory Services are the agency units responsible. A public hearing will be held September 18, 2003, on these proposed rules.

Contact

If you have any questions, call James Quast, 266-9292.

Natural Resources

Rule Submittal Date

On August 12, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. NR 5, relating to slow-no-wake speed restriction on Elkhorn Lake, Walworth County.

Agency Procedure for Promulgation

The Bureau of Law Enforcement is primarily responsible for this rule. A public hearing will be held September 17, 2003, on these proposed rules.

Contact

If you have any questions, call John Lacenski, Bureau of Law Enforcement at 264-8970.

Public Instruction

Rule Submittal Date

On August 12, 2003, the Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. PI 8, relating to audits of the school district standards.

Agency Procedure for Promulgation

This rule modification duplicates statutory language under s. 121.03 (2), Stats., and is considered technical. Therefore, pursuant to s. 227.16 (2) (b), Stats., the department will not hold public hearings regarding these rules.

The Division for Academic Excellence is primarily responsible for promulgation of this rule.

Contact

If you have questions regarding this rule, you may contact Sue Grady, Director, Content and Learning, at (608) 266-2364.

Rule-making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection [CR 03 – 076]

Rule related to the use of atrazine pesticides. The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed amendment to ch. ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides. The hearings will be held at the times and places shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until October 3, 2003, for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4502. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by September 5, 2003, by writing to Bruce Rheineck, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4502. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

The hearings are scheduled on:

Tuesday, September 16, 2003,

Afternoon session: 3:00 p.m. until 5:00 p.m.

Evening session: 6:30 p.m. until 8:00 p.m.

Waushara County Court House

209 S. Ste Marie St.

Room 1: Demo Room

Wautoma, WI 54982

Handicapped accessible

Wednesday, September 17, 2003

Afternoon session: 3:00 p.m. until 5:00 p.m.

Evening session: 6:30 p.m. until 8:00 p.m.

Best Western

3900 Milton Avenue

Banquette Room 1

Janesville, WI 53546

Handicapped accessible

Thursday, September 18, 2003

Afternoon session: 3:00 p.m. until 5:00 p.m.

Evening session: 6:30 p.m. until 8:00 p.m.

Dept. of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive

First Floor Board Room

Madison, WI 53718

Handicapped accessible

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

Statutory authority: ss. 93.07 (1), 94.69 (1), 160.19 (2), and 160.21 (1), Stats.

Statutes interpreted: ss. 94.69, 160.19 (2) and 160.21 (1), Stats.

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards. This rule expands an existing prohibition area based on new groundwater test data, and extends the time period of atrazine application to April 1 – July 31.

Atrazine Prohibition Areas

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 102 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule enlarges one current prohibition area and expands the time of atrazine application to April 1 through July 31 from the current April 15 through July 31 application time period. This rule will increase the statewide acreage of atrazine prohibition areas by 3200 acres and expands the application time to provide two additional weeks of potential atrazine use. This rule includes maps describing the revised prohibition areas.

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

Fiscal Estimate

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 1 existing prohibition area (PA), and expanding the time period for atrazine application.

Administration and enforcement of the proposed rule changes will involve new costs for DATCP. Specialist and field investigator staff time will be needed for inspections and enforcement in the expanded PA and in educating and enforcing the new application time period (0.25 FTE, costing approximately \$10,000). Enforcement activities will be conducted in conjunction with current compliance inspections, but at increased levels to ensure compliance with the additional PA. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants in the state require education to comply with the new regulations.

Soil sampling conducted in the expanded PA to determine compliance with the rules will require an estimated \$750 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to create and distribute the informational materials will be \$5,000.

Total Annual Costs: \$15,750

DATCP anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short-term increased interest by individuals requesting samples.

The rule does not mandate that local government resources be expended on sample collection, rule administration or enforcement. The rule is not expected to have any fiscal impact on local units of government. County agricultural agents will likely receive requests for information on provisions of the rule and on weed control strategies because of reduced reliance on atrazine. This responsibility will probably be incorporated into current extension programs with no net fiscal impact.

Initial Regulatory Flexibility Analysis

Businesses Affected: The changes to ch. ATCP 30 Appendix A, Wis. Adm. Code, will affect small businesses in Wisconsin. The greatest small business impact of the changes will be on users of atrazine — farmers who grow corn. The proposed prohibition area contains approximately 3,200 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 800 acres of corn will be affected. Between 2 and 4 producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

Reporting, Recordkeeping and Other Procedures Required for Compliance: The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation must be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current rule.

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

Atrazine cannot be used in certain areas of Wisconsin where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10, Wis. Adm. Code.

Professional Skills Required to Comply: The proposed changes affect how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in Wisconsin, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will, in some cases, require assistance. In the past, this type of assistance has been provided by University of Wisconsin Extension personnel and farm chemical dealers. In recent years, many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. DATCP anticipates these three information sources will continue to be used as the primary source of

information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

Draft Environmental Impact Statement

DATCP has prepared a draft environmental impact statement (EIS) for the proposed 2004 amendment to rules on the use of pesticides containing atrazine. Copies are available from DATCP on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI, 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until October 3, 2003.

Notice of Hearing

Commerce (Licenses, Certifications, etc., Ch. Comm 5) [CR 03 – 075]

NOTICE IS HEREBY GIVEN that pursuant to chs. 101, 145 and 167, Stats., the Department of Commerce will hold a public hearing on proposed rules relating to licenses, certifications and registrations.

Hearing Date, Time and Location

The public hearing will be held as follows:

Thursday, September 18, 2003 at 10:30 a.m.
Room 3B, Thompson Commerce Center
201 West Washington Avenue
Madison, WI

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until October 3, 2003, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689
E-mail: racker@commerce.state.wi.us.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Analysis Prepared by the Department of Commerce

Statutory authority: Chapters 101, 145 and 167, Stats.

Statutes interpreted: Chapters 101, 145 and 167, Stats.

Chapter Comm 5 of the Wisconsin Administrative Code contains the Department's rules for the issuance and renewal of numerous credentials which businesses and individuals are either mandated or permitted to obtain. These credentials are licenses, certifications and registrations that relate to activities associated with the construction and inspection of buildings and structures or specific components and elements that serve buildings and structures.

The proposed rules consist of various revisions in ch. Comm 5 in order to address current administrative and enforcement issues, and to propose new approaches relating to the application, issuance and renewal of credentials. The following is a summary of the major changes being proposed.

1. New rules are added to incorporate the latest American Welding Society standards by which to conduct welding procedure certifications.

2. A new rule is added to clarify that certain businesses having multiple locations covered by one federal identification number need not obtain a separate credential for each location.

3. The criminal background check procedure for blasters is revised and the fee adjusted to reflect the Department's cost for the new procedure.

4. Except for terms that are statutorily specified, all credential terms are changed to 4 years. The credential fees and any required continuing education hours are adjusted accordingly.

5. A flexible re-instatement criteria is established for those individuals who let their credentials lapse more than one term.

6. New responsibility rules are added to inform dwelling contractors, electrical contractors, master electricians, fire sprinkler contractors, HVAC contractors, HVAC qualifiers and master plumbers that construction and/or installation may not commence until required Uniform Dwelling Code (UDC) building permits or sanitary permits are issued.

7. New rules are added to allow persons to obtain certification as a commercial building inspector without examination if they hold certain certifications issued by the International Code Council or are a registered architect or engineer.

8. New rules are added to allow persons to obtain certification as a commercial electrical inspector without examination if they hold certain certifications issued by the International Code Council.

9. New rules are added requiring certification of inspectors or supervisors responsible for inspection of plumbing installations within cities of the first, second and third class. The rules allow master and journeyman plumbers to be certified as commercial plumbing inspectors without examination.

10. New rules are added to allow persons certified as commercial building inspectors, commercial electrical inspectors or commercial plumbing inspectors to conduct respective inspections of one- and 2-family dwellings.

11. New rules are added to allow persons to obtain certification as a UDC-electrical inspector without examination if they hold a certification as a journeyman electrician.

12. New rules are added to allow persons to obtain certification as a UDC-HVAC inspector without examination if they hold a HVAC qualifier certification.

13. New rules are added to allow persons to obtain certification as a POWTS inspector without examination if they hold a license as a master plumber, journeyman plumber, master plumber-restricted service, or journeyman plumber-restricted service.

14. The continuing education requirements for rental weatherization inspectors are eliminated.

15. New rules are added to specify the process for applying for a plumber's license for a person who holds a license from or has practical experience in another state.

16. The requirement to complete a special course in order to install a multipurpose piping system for persons who obtained their master plumber's license prior to January 1, 2002 is eliminated.

17. The requirements for the specific educational course work as a qualification to write the journeyman plumber-restricted exams are eliminated.

Environmental Assessment

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Initial Regulatory Flexibility Analysis

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

The proposed rules will affect any businesses that obtain licenses, certifications or registrations from the Division of Safety and Buildings or the Division of Environmental and Regulatory Services.

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

There are no reporting, bookkeeping and other procedures required for compliance with the rules that are not currently required.

3. Types of professional skills necessary for compliance with the rules.

There are no types of professional skills necessary for compliance with the proposed rules.

Fiscal Estimate

The proposed rules contain a respective adjustment to the credential fees in response to the proposed change in the credential terms. Therefore, over a given time period, the revenues collected will be unchanged. The proposed rules also contain a new \$200 filing fee for renewal of a credential more than one term after expiration of the credential. The Department anticipates very few submittals of this type, and the fee will cover any additional workload costs related to processing the submittal. Therefore, the proposed rules will not have any fiscal effect on the Department.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division web site at:

www.commerce.state.wi.us/SB/SB-HomePage.html. Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, E-mail: rward@commerce.state.wi.us, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Notice of Hearing Dentistry Examining Board

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in Wis. Stat. ss. 15.08 (5) (b), 227.11 (2) and 447.02 (1) (d) and interpreting Wis. Stat. s. 447.06 (2), the Dentistry Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal and recreate s. DE 3.02, relating to the practice of dental hygiene.

Hearing Date, Time and Location

Date: **November 5, 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 November 30, 2003, to be included in the record of rule-making proceedings.

Proposed Order

An order of the Dentistry Examining Board to repeal and recreate DE 3.02, relating to the practice of dental hygiene.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 447.02 (1) (d), Stats.

Statutes interpreted: s. 447.06 (2), Stats.

In this proposed rule-making order the Dentistry Examining Board repeals and recreates rules relating to the practice of dental hygiene for consistency with the changes that occurred in 1990 when s. 447.06 (2) (c), Stats., was enacted. Section DE 3.02 outlines what services dental hygienists may perform when the dentist is and is not present in the office.

Section DE 3.02 (1) begins by defining the settings wherein a dental hygienist may practice. A dental hygienist may either be an employee or an independent contractor, but in either case, must work under the authority of a dentist. Section DE 3.02 (3) sets forth the circumstances under which a dental hygienist may perform remediable procedures when the dentist is not present in the facility in which those procedures are performed. In particular, there must first be a written or oral prescription from the dentist. Next, the dentist must have examined the patient within twelve months of the prescription date and the actually dental procedure must be completed by the hygienist within that same timeframe. The prescription must also indicate that the procedures must be done with the informed consent of the patient. Finally, if the procedures are performed in a dental office, the patient has been the dentist's patient of record for not less than 6 months.

TEXT OF RULE

SECTION 1. DE 3.02 is repealed and recreated to read:

DE 3.02 Practice of dental hygiene defined. (1) A dental hygienist may practice dental hygiene or perform remediable procedures only as an employee or as an independent contractor and only as follows:

- (a) In a dental office.
- (b) For a school board or a governing body of a private school.
- (c) For a school for the education of dentists or dental hygienists.
- (d) For a facility, as defined in s. 50.01 (1m), Stats., a hospital as defined in s. 50.33 (2), Stats., a state or federal prison, county jail or other federal, state, county or municipal correctional or detention facility, or a facility established to provide care for terminally ill patients.
- (e) For a local health department, as defined in s. 250.01 (4), Stats.
- (f) For a charitable institution open to the general public or to members of a religious sect or order.
- (g) For a nonprofit home health care agency.

(h) For a nonprofit dental care program serving primarily indigent, economically disadvantaged or migrant worker populations.

(2) A dental hygienist may practice dental hygiene or perform remediable procedures under sub. (1) (a), (d), (f), (g) or (h) only as authorized by a dentist who is licensed to practice dentistry under this chapter and who is present in the facility in which those practices or procedures are performed, except as provided in sub. (3).

(3) A dental hygienist may practice dental hygiene or perform remediable procedures under sub. (1) (a), (d), (f), (g) or (h), if a dentist who is licensed to practice dentistry under this chapter is not present in the facility in which those practices or procedures are performed only if all of the following conditions are met:

(a) The dental hygiene practices or remediable procedures are performed under a written or oral prescription.

(b) The dentist who made the written or oral prescription has examined the patient at least once during the 12-month period immediately preceding all of the following:

1. The date on which the written or oral prescription was made.

2. The date on which the dental hygiene practices or remediable procedures are performed.

(c) The written or oral prescription specifies the practices and procedures that the dental hygienist may perform with the informed consent of the patient or, if applicable, the patient's parent or legal guardian.

(d) If the practices or procedures are performed in a dental office, the patient has been the dentist's patient of record for not less than 6 months.

(4) Those practices a dental hygienist may perform while a dentist is present in the dental facility include the following:

(a) Performing complete prophylaxis which may include the following:

1. Removing calcareous deposits, accretions and stains from the surface of teeth.

2. Performing deep periodontal scaling, including root planing.

3. Polishing natural and restored tooth surfaces.

(b) Placing temporary restorations in teeth in emergency situations.

(c) Placing in an oral cavity:

1. Rubber dams.

2. Periodontal surgical dressings.

(d) Removing from an oral cavity:

1. Rubber dams.

2. Periodontal surgical dressings.

3. Sutures.

(e) Removing excess cement from teeth, inlays, crowns, bridges and fixed orthodontic appliances.

(5) Those practices a dental hygienist may perform whether or not a dentist is present in the dental facility include the following:

(6) A dental hygienist shall report clinical findings made in the practice of dental hygiene to the supervising dentist.

Fiscal Estimate

There is no fiscal impact anticipated from this proposed rule.

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.

Notice of Hearing Health and Family Services

Notice is hereby given that, pursuant to s. 227.24 (4), Stats., the Department of Health and Family Services will hold a public hearing to consider its issuance of emergency rules to amend s. HFS 144.03 (2) (b), (c) and (e) and footnotes 1. and 4. to Table 144.03–A., relating to school immunizations.

Hearing Information

Date, Time & Location

Friday, September 12, 2003, 8:00 a.m. to 9:00 a.m.

Room B250G

State Office Building

1 W. Wilson St.

Madison, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available on site.

Analysis Prepared by the Department of Health and Family Services

This proposed rulemaking order contains changes to school vaccine requirements and were made so the Department's immunization requirements adhere to new vaccine recommendations made by the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP.) These changes are part of a proposed permanent rulemaking order that is nearing the completion of its promulgation.

Fiscal Estimate

The Department's proposed changes will not have a fiscal effect.

Initial Regulatory Flexibility Analysis

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

Contact Person

The initial proposed rules upon which the Department is soliciting comments and which will be the subject of this hearing are posted at the Department's administrative rules website at:

<http://apps3.dhfs.state.wi.us/admrules/public/Home>.

To find out more about the hearing, or to comment on the proposed rule, please write or phone:

Larry Hartzke

Office of Legal Counsel

P.O. Box 7850

Madison, WI 53707–7850

608–267–2943

hartzlr@dhfs.state.wi.us

If you are hearing or visually impaired, do not speak English, or have other personal circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter, or a non-English, large print or taped version of the hearing document, contact the person

at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rule received at the above address no later than Wednesday, September 17, 2003, will be given the same consideration as testimony presented at the hearing.

Notice of Hearing Natural Resources (Fish, Game, etc., Chs. 1—)

[CR 03 – 074]

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.635 and 227.11 (2) (a), Stats., interpreting s. 30.635, Stats., the Department of Natural Resources will hold a public hearing on the creation of s. NR 5.21 (4), Wis. Adm. Code, relating to waiver of the slow no wake speed restriction on Elkhorn Lake, Walworth County. Section 30.635, Stats., provides that on lakes 50 acres or less having public access, motorboats may not be operated in excess of slow–no–wake speed. The City of Elkhorn has petitioned the Department to waive that restriction. The proposed rule would allow the use of motorboats on Elkhorn Lake for waterskiing and high speed boating.

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:

Wednesday, September 17, 2003 at 11:00 a.m.

Council Chambers, Elkhorn City Hall

9 South Broad Street, Elkhorn

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 John Lacenski at (608) 264–8970 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There will be no fiscal impact on the department.

Written comments on the proposed rule may be submitted to Mr. John Lacenski, Bureau of Law Enforcement, 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 [LE–34–03] and fiscal estimate may be obtained from Mr. Lacenski.

Submittal of proposed rules to the legislature

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

**Accounting Examining Board
(CR 02–120)**

Ch. Accy 1, relating to independence standards of the accounting profession.

**Dentistry Examining Board
(CR 02–139)**

Ch. DE 2, relating to faculty licenses.

**Financial Institutions—Securities
(CR 03–068)**

Ch. DFI–Sec 4, relating to securities broker–dealer books and record–keeping requirements.

**Financial Institutions—Securities
(CR 03–069)**

Chs. DFI–Sec 2 to 8, relating to securities registration exemptions and administrative procedure–contested case rules.

**Health and Family Services
(CR 03–033)**

Various chapters administered by the Department of Health and Family Services.

**Workforce Development
(CR 03–053)**

Ch. DWD 274, relating to hours of work and overtime.

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.

Accounting Examining Board (CR 02-149)

An order affecting ch. Accy 3, relating to a new computer-based examination.
Effective 11-1-03.

Barbering and Cosmetology Examining Board (CR 02-058)

An order affecting chs. BC 1 to 4, relating to cutting, disinfectants, disinfection, massaging, delegated medical procedures, body piercing, tattooing, tanning booths, managers, relocation of establishments, sterilization and forfeitures.
Effective 11-1-03.

Health and Family Services (CR 02-155)

An order affecting chs. HFS 110 to 113, relating to the licensing of emergency medical technicians and the certification of first responders to incorporate responding to acts of terrorism as a training component required for initial or renewed licensure or certification.
Effective 11-1-03.

Health and Family Services (CR 03-042)

An order affecting ch. HFS 124, relating to critical access hospitals.
Effective 10-1-03.

Insurance (CR 03-038)

An order affecting ch. Ins 17, relating to requiring insurers and self-insurers provide notice to the fund of the filing of out-of-state medical malpractice actions against Wisconsin health care providers.
Effective 11-1-03.

Insurance (CR 03-039)

An order affecting ch. Ins 17, relating to annual patients compensation fund fees beginning July 1, 2003 and establishing a rate of compensation for fund peer review council members and consultants.
Effective 11-1-03.

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the August 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.

Agriculture, Trade and Consumer Protection

(CR 02-141)

An order affecting chs. ATCP 90 to 92, relating to weights and measures. Effective 9-1-03.

Summary of Final Regulatory Flexibility Analysis

This rule will affect vehicle scale operators and weights and measures service companies, many of which are small businesses. This rule will:

- Increase current license fees for vehicle scales.
- Increase current license fees for weights and measures service companies.
- Require weights and measures technicians to take an exam and be certified at least once every 5 years. This rule will charge a \$25 fee to cover the cost of administering the exam.
- Require weights and measures service companies to comply with uniform national standards.
- Require service companies to keep records.

This rule will have a significant impact on small businesses, but the rule is needed to ensure accurate weights and measures in this state, and consistency and accuracy of testing performed by weights and measures inspectors and service companies.

Summary of Comments by Legislative Review Committees

On May 6, 2003, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Financial Institutions and Insurance on May 8, 2003, and the Assembly Committee on Small Business on May 15, 2003. The committees took no action on this rule during the review period.

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.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Higher Educational Aids Board

(CR 02-148)

An order affecting ch. HEA 5, relating to the Talent Incentive Program Grant. Effective 9-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed rules concern a student financial aid program and have no affect upon small business in Wisconsin

Summary of Comments by Legislative Review Committees

No comments were received.

Natural Resources

(CR 03-016)

An order affecting chs. NR 10, 12 and 45, relating to the control and management of chronic wasting disease. Effective 9-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed revisions pertain to the rules relating to the control and eventual eradication of chronic wasting disease (CWD) from the state's deer herd and impose no compliance or reporting requirements for small businesses, nor are there any design or operational standards contained within the proposed rule.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On May 14, 2003, the committees held a joint hearing. Following executive sessions on May 28, 2003, the committees requested modifications. At their June 25, 2003 meeting, the Natural Resources Board adopted the modification requested by the Senate Committee on Environment and Natural Resources that the authorization to permit the shooting of deer from an aircraft be deleted. The Natural Resources Board did not adopt the requested modification of the Assembly that the area north of the Wisconsin River in Richland and Sauk Counties be removed from the eradication zone. The Department does not believe that the Wisconsin River is a CWD barrier as evidenced by the CWD-positive deer found there. Wisconsin's success in eradicating this disease depends just as much on eradicating the disease in newly discovered areas as in the core disease area. The Natural Resources Board's actions were sent to the legislative review committees. On July 9, 2003, the Assembly Committee on Natural Resources held an executive session on the proposed rule. No further action was taken.

Transportation

(CR 03-007)

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

Summary of Final Regulatory Flexibility Analysis

The proposed rule has no significant impact 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 **August 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

Agriculture, Trade and Consumer Protection

Ch. ATCP 90

S. ATCP 90.01 (4)

Ch. ATCP 91

S. ATCP 91.01 (1)

Ch. ATCP 92

S. ATCP 92.01 (1), (1e), (1m), (1s), (2g), (2r), (5), (8), and (11) to (13)

S. ATCP 92.02 (1) and (2)

Ss. ATCP 92.03 to 92.43

Financial Institutions—Banking

Ch. DFI—Bkg 73

S. DFI—Bkg 73.03 (8)

Higher Educational Aids Board

Ch. HEA 5

S. HEA 5.04 (1) (a) and (b), (2) (d) and (f)

S. HEA 5.05 (2)

Natural Resources

Ch. NR 10

S. NR 10.001 (1m), (1n), (1t), (6d), (6h), (6m), (6p),

(6t), (11), (19e), (23m), (23s), and (23v)

S. NR 10.01 (3) (e), (em), (es), (et), (ev) and (ez)

S. NR 10.07 (1) (a) and (3)

S. NR 10.09 (1) (a), (c), and (2) (intro.)

S. NR 10.104 (11) to (13)

S. NR 10.105 (3) and (4)

S. NR 10.106 (2) (f)

S. NR 10.27 (1) and (10)

S. NR 10.28 (3)

SS. NR 10.41 and 10.42

Ch. NR 12

S. NR 12.06

S. NR 12.10 (3) (c)

Ch. NR 45

NR 45.09 (9)

Transportation

Ch. Trans 2

S. Trans 2.015 (1) and (2m) (intro.)

S. Trans 2.04 (2) to (4)

SS. Trans 2.045 and 2.05

S. Trans 2.055 (7) and (9)

S. Trans 2.06 (1) (b), (2) (a) to (d) and (3)

S. Trans 2.10 (1) (b)

Editorial corrections

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

Agriculture, Trade and Consumer Protection

Ch. ATCP 92

S. ATCP 92.41

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 19. Relating to a proclamation that the flag of the United States and the flag of the state of Wisconsin be flown at half-staff as a mark of respect for Sergeant 1st Class Dan Henry Gabrielson of the United States Army Reserve who lost his life during Operation Iraqi Freedom.

**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!