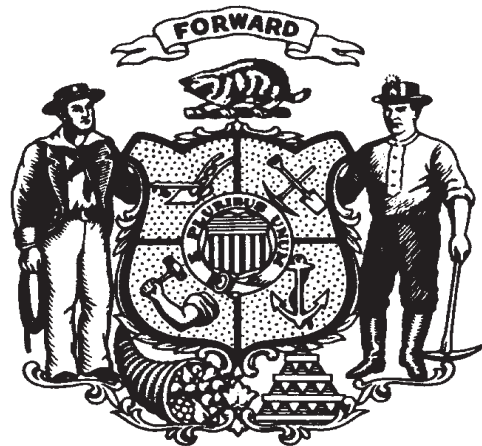


Wisconsin Administrative Register

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Emergency rules now in effect

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

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

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

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

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

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

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 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

Hearing Date: October 16, 2003

Employment Relations Commission

Rules adopted amending **ss. ERC 1.06 (1) to (3), 10.21 (1) to (5) and 20.21 (1) to (4)**, relating to increased filing fees.

Finding of emergency

The Employment Relations Commission finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

1. The Employment Relations Commission has a statutory responsibility in the private, municipal and state sectors for timely and peaceful resolution of collective bargaining disputes and for serving as an expeditious and impartial labor relations tribunal.

2. Effective July 26, 2003, 2003 Wisconsin Act 33 reduced the Employment Relations Commission's annual budget by \$400,000 in General Program Revenue (GPR) and eliminated 4.0 GPR supported positions. These reductions lowered the Employment Relations Commission's annual base GPR funding level and the number of GPR supported positions by more than 16%.

Act 33 also abolished the Personnel Commission and transferred certain of the Personnel Commission's dispute resolution responsibilities to the Employment Relations Commission.

3. 2003 Wisconsin Act 33 increased the Employment Relations Commission's Program Revenue (PR) funding and positions by \$237,800 and 2.0 PR positions respectively. The revenue to support these increases will be provided by increasing existing filing fees for certain dispute resolution services.

4. Unless the emergency rule making procedures of s. 227.24, Stats., are utilized by the Employment Relations Commission to provide the increased filing fee revenue needed to support the 2.0 PR positions, the Commission's ability to provide timely and expeditious dispute resolution services will be significantly harmed.

The emergency rules increase existing filing fees for Commission dispute resolution services in amounts necessary to fund 2.0 Program Revenue positions as authorized by 2003 Wisconsin Act 33.

Sections 111.09, 111.71, 111.94, 227.11 and 227.24., Stats., authorize promulgation of these emergency rules.

Publication Date: August 25, 2003
Effective Date: September 15, 2003
Expiration Date: January 22, 2004
Hearing Date: November 20, 2003

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

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

Finding of emergency

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

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

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

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

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

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

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

Insurance

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 were adopted revising **ch. NR 10**, relating to Chronic Wasting Disease (CWD) in Wisconsin.

Finding of emergency

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

citizens and businesses. These restrictions on deer baiting and feeding need to be implemented through the emergency rule procedure to help control and prevent the spread of CWD, bovine tuberculosis and other forms of transmissible diseases in Wisconsin's deer herd.

Publication Date: September 11, 2003
Effective Date: September 11, 2003
Expiration Date: February 8, 2004
Hearing Date: October 13, 2003

Revenue

Rule adopted revising **s. Tax 18.07**, relating to the 2004 assessment of agricultural land.

Finding of emergency

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

Pursuant to s. 70.32 (2r) (c), Stats., the assessment of agricultural land is assessed according to the income that could be generated from its rental for agricultural use. Wisconsin Chapter Tax 18 specifies the formula that is used to estimate the net rental income per acre. The formula estimates the net income per acre of land in corn production based on a 5–year average corn price per bushel, cost of corn production per bushel and corn yield per acre. The net income is divided by a capitalization rate that is based on a 5–year average interest rate for a medium–sized, 1–year adjustable rate mortgage and net tax rate for the property tax levy two years prior to the assessment year.

For reasons of data availability, there is a three–year lag in determining the 5–year average. Thus, the 2003 use value is based on the 5–year average corn price, cost and yield for the 1996–2000 period, and the capitalization rate is based on the 5–year average interest rate for the 1998–2002 period. The 2004 use value is to be based on the 5–year average corn price, cost and yield for the 1997–2001 period, and the capitalization rate is to be based on the 1999–2003 period.

The data for the 1997–2001 period yields negative net income per acre due to declining corn prices and increasing costs of corn production. As a result, reliance on data for the 1997–2001 period will result in negative use values.

The department is issuing this emergency rule in order to ensure positive and stable assessments of agricultural land for 2004.

Publication Date: October 3, 2003
Effective Date: October 3, 2003
Expiration Date: March 1, 2004
Hearing Date: December 16, 2003
 [See Notice This Register]

Workforce Development

(Workforce Solutions, Chs. DWD 11–59)

Rules adopted revising **ch. DWD 59**, relating to the child care local pass–through program.

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 allocated federal child care funds in a manner that assumes an increase in the match rate paid by local governments and tribes receiving grants under the child care local pass-through program. Budget documents prepared by the Legislative Fiscal Bureau specify that the budget option chosen requires that local governments and tribes contribute matching funds at a rate of 52% in 2003–2004, and slightly higher in 2004–2005. Chapter DWD 59 currently requires a minimum match rate of the state's federal medical assistance percentage rate, which is approximately 42%. The match rate for the pass-through program must be increased immediately so Wisconsin does not lose valuable federal child care dollars. These dollars help preserve the welfare of the state by ensuring that low-income families have access to quality affordable child care.

2003 Wisconsin Act 33 also reduced funding to the child care local pass-through program by 86%. Chapter DWD 59 requires a 2-step grant process wherein current grantees receive up to 75% of the funds under a noncompetitive process for 2 years following the receipt of the initial grant, and can apply, along with any eligible jurisdiction in the state, for the remaining 25% as initial grantees. The dramatically reduced funding for the pass-through program renders the current Chapter DWD 59 requirement to fund continuing grants while reserving funds for a new statewide request for proposals unwieldy, wasteful, and obsolescent. If the current process remains in place, it would not only waste state and local staff resources on extremely low-value administrative processes, it would waste public funds at a time when they are in short supply. This could further undermine state and local efforts to ensure a reasonable supply of reliable and quality child care for families who depend on this service in order to work. This emergency rule allows all available dollars to be used for continuing grants if there is insufficient funding to provide continuing grants of at least 50% of the eligible grantees' initial grant levels from the previous 2 grant cycles.

These changes are ordered as an emergency rule so they are effective before the new grant cycle begins on October 1, 2003. Delaying the next grant cycle until the permanent rule is effective is not a viable option because local governments need to know whether they will receive continued funding or will be forced to dismantle ongoing programs and lay-off staff when the current grant cycle ends on September 30. Also, federal law requires that the federal funds be matched and spent within the federal fiscal year of October 1 to September 30.

Publication Date: October 7, 2003
Effective Date: October 7, 2003
Expiration Date: March 5, 2004
Hearing Date: November 12, 2003

Workforce Development (Civil Rights, Chs. DWD 218–225)

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
Hearing Date: October 27, 2003

Scope statements

Elections Board

Subject

Sections EIBd 2.05–2.11. Scope of regulated activity: treatment and sufficiency of nomination papers and petitions governed by s. 8.40, Stats., relating to the procedure for circulating nomination papers and petitions and determining their sufficiency; the procedure for challenging nomination papers and petitions; the procedure for responding to challenges to nomination papers and petitions; and the procedure for filing officer review of challenges to nomination papers and petitions.

Policy analysis

Objective of the rule. To amend the Elections Board's existing rules; to amend the provisions that provide for the nomination paper and petition requirement of residency of the circulator and the standards for determining the sufficiency of nomination papers and petitions with respect to the residency of the circulator.

Description of policies – relevant existing policies, proposed new policies and policy alternatives considered:

Under the existing rules, nomination papers and petitions have to be circulated by residents of the jurisdiction or district in which the paper or petition is circulated.

Under the decision of Judge Barbara Crabb in *Frami et al. v. Ponto et al.*, United States District Court for the Western District of Wisconsin, Case No. 02–C–515–C, the Elections Board is enjoined from enforcing a residency requirement with respect to the circulators of nomination papers. At its May 21, 2003 meeting, the Elections Board adopted a policy extending Judge Crabb's ruling to the evaluation and certification of recall petitions, petitions whose certification will result in a referendum election, and any other petition subject to the provisions of s. 8.40, Stats. To implement Judge Crabb's decision and to extend it to petitions, the Board is required to amend its existing rules governing nomination papers and petitions and governing challenges to those documents.

Statutory authority

Sections 5.05 (1) (f) and 227.11 (2) (a), Stats.

Staff time required

8 hours of staff time.

Health and Family Services

Subject

The Department proposes to update a number of its administrative rule chapters to include the requirements of ch. HFS 12, relating to caregiver background checks, ch. HFS 13, relating to reporting and investigating caregiver misconduct, and s. 50.065, Stats., relating to criminal history and patient abuse record searches. The affected administrative rules chapters are the following:

HFS 34, relating to emergency mental health service programs;

HFS 40, relating to mental health day treatment services for children;

HFS 61, relating to community mental health and developmental disabilities;

HFS 63, relating to community support programs for chronically mentally ill persons;

HFS 75, relating to community substance abuse service standards;

HFS 82, relating to certified adult family homes;

HFS 83, relating to community based residential facilities;

HFS 88, relating to licensed adult family homes;

HFS 89, relating to residential care apartment complexes;

HFS 124, relating to hospitals;

HFS 127, relating to rural medical centers;

HFS 131, relating to hospices;

HFS 132, relating to nursing homes;

HFS 133, relating to home health agencies; and

HFS 134, relating to serving people with developmental disabilities.

Policy analysis

Section 50.065, Stats., requires that the Department obtain specified background information on any person who has or who seeks licensure, certification, registration, a certificate of approval issued or granted to operate an entity as defined by s. 50.065 (1) (c), Stats., and on any person who is a non-client resident or a prospective non-client resident of an entity. Section 50.065, Stats., also requires that specified entities check the background of caregivers as defined by s. 50.065 (1) (ag) 1 a. and c., Stats. Chapters HFS 12 and 13, give guidance to entities on contracting for background checks and on determining whether offenses are substantially related to client care, sanctions for violating s. 50.065, Stats., rehabilitation review, reporting and investigation of allegations of caregiver misconduct, and the caregiver misconduct registry.

Many of the above listed administrative rule chapters currently include provisions on background checks or caregiver misconduct investigation and reporting that are either outdated or contain language that is incompatible with s. 50.065 Stats., or chs. HFS 12 and 13. Consequently, the Department proposes to ensure that the above listed administrative rule chapters at a minimum appropriately include or reference the requirements of s. 50.065, Stats., and chs. HFS 12 and 13.

Statutory authority

Sections 50.02 (2) and (3), 50.033 (2), 50.036 (1), 50.51 (2), 51.42 (7) (b), 51.421 (3) (a) and (c), 50.95, and 227.11(2) (a), Stats.

Staff time required

The Department anticipates that about 50 hours of staff time will be required to draft, review and revise, as necessary, the proposed rulemaking order.

Health and Family Services

Subject

The Department proposes to update a number of its administrative rule chapters to include the requirements of ch. HFS 12, relating to caregiver background checks, and s. 48.685, Stats., relating to criminal history and child abuse record searches. The affected administrative rules chapters are the following:

- HFS 38, relating to treatment foster care for children;
- HFS 45, relating to family day care centers for children;
- HFS 46, relating to group day care centers for children;
- HFS 52, relating to residential care centers for children and youth;
- HFS 54, relating to child-placing agencies;
- HFS 55, relating to day camps for children and day care programs established by school boards;
- HFS 56, relating to foster home care for children;
- HFS 57, relating to group foster care for children; and
- HFS 59, relating to shelter care facilities.

Policy analysis

Section 48.685, Stats., requires that the Department obtain specified background information on any person who has or who seeks licensure to operate an entity as defined by s. 48.685 (1) (b), Stats., and on any person who is a non-client resident or a prospective non-client resident of an entity. Section 48.685, Stats., also requires that specified entities check the background of caregivers as defined by s. 48.685 (1) (ag) 1., Stats. Chapter HFS 12, gives guidance to entities on contracting for background checks and on determining whether offenses are substantially related to client care, sanctions for violating s. 48.685, Stats., and rehabilitation review.

Many of the above listed administrative rule chapters currently include provisions on background checks that are either outdated or contain language that is incompatible with s. 48.685 Stats., or ch. HFS 12. Consequently, the Department proposes to ensure that the above listed administrative rule chapters at a minimum appropriately include or reference the requirements of s. 48.685, Stats., and ch. HFS 12.

Statutory authority

Sections 48.67 and 227.11 (2) (a), Stats.

Staff time required

The Department anticipates that about 50 hours of staff time will be required to draft, review and revise, as necessary, the proposed rulemaking order.

Health and Family Services

Subject

To amend chapters HFS 102 and 103, relating to BadgerCare, to comply with statutory changes made by 2003 Wisconsin Act 33, the most recent state biennial budget.

Policy analysis

BadgerCare is Wisconsin's program to provide health care coverage for uninsured families. The Department administers the program under ch. HFS 103. 2003 Wisconsin Act 33 revised the following aspects of BadgerCare:

- It increased the amount of premium payments for recipients whose family income equals or exceeds 150% of

the federal poverty line from 3% of family income to 5% of family income.

- It added a requirement that an applicant must have his or her employer verify the applicant's earnings, state whether the employer provides health care coverage for which the family is eligible, and state the amount the employer pays toward the cost of health care coverage.

- It established a \$1 co-payment on generic drugs and a \$3 co-payment on brand name drugs for BadgerCare fee-for-service recipients.

The Department is proposing to amend chs. HFS 102 and 103 to conform to these statutory changes.

Statutory authority

Section 49.665, Stats.

Staff time required

10 hours drafting and internal review, plus 24 hours in the promulgation process, for a total of approximately 34 hours.

Health and Family Services

Subject

To amend chapter HFS 109, relating to the SeniorCare, to comply with statutory changes made by 2003 Wisconsin Act 33, the most recent state biennial budget.

Policy analysis

SeniorCare is Wisconsin's Prescription Drug Assistance Program for Wisconsin residents who are 65 years of age or older and who meet eligibility requirements. The Department administers the program under ch. HFS 109. 2003 Wisconsin Act 33 revised the following cost sharing provisions of SeniorCare:

- It increased the annual enrollment fee from \$20 to \$30.

- It increased annual program deductibles for persons whose family income is more than 200% of the federal poverty level from \$500 to \$850.

The Department proposes to revise ch. HFS 109 to conform to these statutory changes.

Statutory authority

Section 49.688, Stats.

Staff time required

10 hours drafting and internal review, plus 24 hours in the promulgation process, for a total of approximately 34 hours.

Health and Family Services

Subject

To amend chapters HFS 152, 153 and 154, relating to the Wisconsin Chronic Disease Program, to comply with statutory changes made by 2003 Wisconsin Act 33, the most recent state biennial budget.

Staff time required

Using a legislative appropriation, the Wisconsin Chronic Disease Program reimburses health care providers for disease-related services provided to individuals with one of the following three illnesses: chronic renal disease; hemophilia; and cystic fibrosis. Because the benefit program requirements associated with each illness vary, the Department has established three individual chapters of administrative rules to administer the WCDP benefit

program: chapters HFS 152 (chronic renal disease), 153 (hemophilia) and 154 (cystic fibrosis.) In the most recent biennial budget, 2003 Wisconsin Act 33, the Wisconsin Legislature and the Governor made a number of changes to the statutes that authorize the WCDP. These statutory changes require the Department to modify the three chapters of administrative rule so that they are once again consistent with and responsive to the statutes under which the WCDP benefit program operates.

Act 33 made several changes to the benefit programs, all of which are designed to allow the Department to contain the programs' costs:

1. It expanded the requirement that program beneficiaries must apply for other benefits provided under other health care coverage programs they may be eligible for before receiving benefits under WCDP, and authorized the Department to specify in rules what those other health care coverage programs are.

2. It prohibited the Department from paying program benefits that are payable under any other health care coverage program.

3. It instituted a statutorily-required prescription drug co-payment requirement for all 3 programs. The co-payment amount is \$7.50 for each generic drug and \$15 for each brand name drug. These amounts are currently \$5 and \$10, respectively, in chs. HFS 152, 153 and 154.

4. It established the requirement that persons whose family income is at or above 200% of the poverty line must pay a portion of their family income towards their care before the Department pays any benefits. The proportion a person must pay increases with the increase in family income.

5. It authorizes the Department to adopt managed care methods of cost containment for each of the three programs.

6. Under the kidney disease benefit program, it requires health care providers to accept the Department's payment to them as payment in full, and prohibited providers from billing patients for charges above the amount paid by the Department.

7. Finally, it directed the Department to continuously monitor the rate at which benefits are paid under each of the benefit programs to ensure that expenditures the Department is obligated to pay do not outstrip the amount of funds the legislature has appropriated for the programs.

The Department will propose changes to chapters HFS 152, 153 and 154 to reflect these statutory changes.

Statutory authority

Sections 49.68 (2) (a) to (c) and (3), 49.683, 49.685 (8) (c) and 49.687 (1), (1m), (2) and (2m), Wisconsin Statutes.

Staff time required

10 hours drafting and internal review, plus 24 hours in the promulgation process, for a total of approximately 34 hours.

Natural Resources

Subject

Revisions to NR 16 Subchapter II – Permitting the use of natural bodies of water as fish farms.

Policy analysis

Issue A – DNR proposes to remove legally-constructed artificial wetland ponds from regulation under NR 16, to be

consistent with the statutory intent, and thus allow fish farming in manmade isolated wetland ponds without an NR 16 permit. Manmade ponds built in isolated wetlands generally do not require construction approval from DNR. However, under the current rule, these ponds cannot be used for fish farming unless they are freeze-out ponds. It was not the legislature's intention to prohibit fish farming in these manmade ponds when they created section 29.733, Stats.

Issue B – DNR proposes to eliminate the public notice requirements of NR 16.74 to increase process efficiency and allow DNR to issue permit approvals or denials based on the statutory and administrative rule standards. NR 16 includes a 30-day public notice requirement; on adoption the Natural Resources Board added the requirement that DNR notify all interest groups in NR 27.07. This notice is required even if a proposal does not meet the standards, resulting in an unnecessary delay and expense. And any notice will likely generate objections that must be resolved through a contested case hearing process, involving considerable staff time and resources. Since statutory standards and the NR16 permit process strictly limit fish farming in natural waters to those waters that have no public access and no harm to the public interest, DNR recommends that the public notice step be eliminated to make the process more efficient.

Issue C – DNR proposes to clarify how changes in the public status of waters being used for fish farms affects eligibility for NR16 permits. Under current law owners of waters are exempt from NR16 if they have a Chapter 30 or 31 permit or NR299 water quality certification that does not declare the water public. However, occasionally the public status of such waters can change after the permit is issued – for example when a stream that was formerly non-navigable becomes legally navigable due to changes in stream flow patterns. DNR recommends that exemptions for these situations be retained even if the public status of the waters changes.

Statutory authority

Section 29.733, Stats.

Staff time required

Department staff will need approximately 40 hours for this rule revision.

Natural Resources

Subject

NR 811 – Requirements for the operation and design of community water systems.

Policy analysis

The Bureau of Drinking Water and Groundwater will conduct a systematic review of the provisions of ch. NR 811 and propose changes to the existing requirements that are reflective of new water treatment techniques and various federal regulatory requirements that have emerged over the past decade. The current chapter was created effective May 1, 1992 and, except for the addition of subch. XIV which created requirements for the aquifer storage recovery in 2003, it has not been substantially modified since its creation.

Statutory authority

Sections 280.11, 181.12 (3) and 281.17 (8), Stats.

Staff time required

Approximately 120 hours will be needed.

Natural Resources

Subject

Revisions of NR 500 series relating to local government effective recycling programs and recycling facilities.

Policy analysis

The proposed rule will make technical modifications to the NR 500 series related to recycling programs and facilities to eliminate obsolete language and references in the code and improve program effectiveness and efficiency by clarifying code requirements pertaining to the operation of effective recycling programs and recycling facilities.

Statutory authority

Chapters 287 and 289, Stats.

Staff time required

Approximately 330 hours will be needed by the Department.

Transportation

Subject

Objective of the rules. This proposal will amend ch. Trans 276, which establishes a network of highways on which long

combination vehicles may operate, by adding 5 highway segments to the network. The actual segments being proposed are:

STH 47 from STH 29 to USH 45

STH 55 from STH 64 at Langlade to STH 29

CTH "M" from STH 32 W. of Suring to STH 55

STH 49 from STH 29 to STH 66 in Rosholt

STH 83 from IH 94 to STH 59 at Genesee

Policy analysis

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received a request from Menominee Tribal Enterprises in Neopit, WI, to add these highway segments.

Statutory authority

Section 348.07 (4), Stats.

Staff time required

It is estimated that state employees will spend 40 hours on the rule-making process, including research, drafting and conducting a public hearing.

Submittal of rules to legislative council clearinghouse

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

Health and Family Services

Rule Submittal Date

On November 5, 2003, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Reason for Rules, Intended Effects, Requirements:

Section 146.83 (3m), Stats., as created by 2001 Wisconsin Act 109 and s. 908.03 (6m) (d), Stats., as amended by 2001 Wisconsin Act 109, requires the Department prescribe by rule fees for reproducing patient medical records that are the maximum amount a health care provider may charge. The fee limits are to be based on an approximation of actual costs. The statutes allow health care providers to also charge for postage or other delivery costs.

To develop these rules, the Department formed a 14-member advisory committee in early February, 2003. The committee consisted of equal representation of those who maintain medical records and those who request records. Over the following three months, the Department also created a website on which it posted pertinent documents for review by interested parties and encouraged persons to register to receive email notifications of new Department postings on the website.

The Department began its effort by distributing a four-page project plan to advisory committee members on February 18th. The plan stated the Department's intent "to develop a rule that complies and is consistent with what it believes to be applicable state and federal law, and is based on an approximation of actual medical record reproduction costs." Toward that end, the Department identified and shared what it considered to be the major factors and considerations. These were:

1. The recent federal Health Insurance Portability and Accountability Act (HIPAA) regulations and federal commentary related thereto, particularly the issues of:

a. Who, and the circumstances under which, a person will be considered someone's "personal representative" for the purposes of requesting a copy of that person's medical record; and

b. Whether the costs associated with record retrieval should be included in fee limits for subject persons or their personal representatives.

2. The Department's desire to approximate total medical record reproduction costs by attempting to identify the component tasks and estimated costs associated with medical record reproduction. Issues bearing on doing so include the following:

a. Whether and how the medical record medium affects the length of time to reproduce a record;

b. Whether the medical care provider setting (i.e., hospital, clinic, etc.) or subject patient group (e.g., children, elderly, etc.) affects the time and effort needed to reproduce records; and

c. The steps involved in reproducing medical records and whether those steps are different for different record mediums and record maintainer settings.

The Department invited all committee members, and those who were "virtual" participants via the Department's website postings, to submit documents to the Department on these major factors and considerations, asking that the documents be submitted, if possible, by March 7th. Specifically, the Department requested the following input:

1. Committee members' thoughts regarding whether the appropriateness and acceptability of the Department's intended approach. If it is not, how it is not, and how and why the commenter would propose it to be different.

2. Information on the following subjects:

–How HIPAA bears on the revision of ch. HFS 117.

–Whether the categories of paper, electronic, microfilm, microfiche and traditional x-ray comprise the universe of medical record mediums for the purposes of this project, and if not, what other mediums should be addressed.

–Whether the steps involved in the reproduction of medical records within a particular medical record maintainer setting or for a particular patient group are sufficiently different to suggest a significantly different reproduction cost.

–The sequence of steps and time associated with each of step typically required for medical record reproduction, by medical record medium, setting or patient group, as appropriate.

–Existing medical record fee limit policies.

After reviewing, analyzing and compiling information from about 20 documents, the Department circulated a preliminary report to committee members on March 31, 2003. The preliminary report included an initial draft of ch. HFS 117, as did the Department's subsequent iterations of the report. The Department asked that committee members and others submit comments on the Department's preliminary report by April 14th.

In response to comments it received on its preliminary report, the Department revised its preliminary report (known in its second iteration as the "interim" report) and created a table of comments and Department responses. The Department subsequently modified the comment and response table to reflect comments the Department received through April 30th. The Department circulated these documents to committee members prior to

convening the first and only meeting of the advisory committee on April 25th.

In the course of the advisory committee meeting, a variety of outstanding issues were discussed. However, with one exception, there was virtually no consensus on any of the issues between members representing medical record maintainers and members representing medical record requesters. The one exception was that members encouraged the Department to develop a single fee structure to the extent possible.

Following the April 25th advisory committee meeting, the Department chose its positions on the remaining outstanding issues, revised its interim report to become its "final" report, and created a "final" iteration of its comment and response table. This initial proposed rulemaking order is the result of these efforts.

The rules limit the fee a health care provider may charge to provide duplicate medical records. The fee limit varies depending on the person making the request. If an individual (or the individual's personal representative on behalf of the individual) is requesting his or her own records, the provider may charge no more than \$0.31 per page. Postage is extra. If anyone other than the individual is requesting the another's records, the provider may charge no more than \$15.00 per request plus \$0.31 per page. The \$15.00 amount may be deemed a retrieval fee that individuals need not pay for copies of their own records.

Agency Procedure for Promulgation

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

Contact

Larry Hartzke, 267-2943

Natural Resources

Rule Submittal Date

On October 24, 2003, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ss. NR 6.03 and 6.08, relating to snowmobile noise testing procedures.

Agency Procedure for Promulgation

The Bureau of Law Enforcement is primarily responsible for promulgation of this rule. Public hearings are scheduled for December 15 and 18, 2003.

Contact

Karl Brooks, Bureau of Law Enforcement
608-267-7455

Natural Resources

Rule Submittal Date

On October 24, 2003, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ss. NR 20.20 (73) and 25.06, relating to fishing for yellow perch in Green Bay.

Agency Procedure for Promulgation

The Bureau of Fisheries Management and Habitat Protection is primarily responsible for promulgation of this rule. A public hearing is scheduled for December 11, 2003.

Contact

Bill Horns, Bureau of Fisheries Management and Habitat Protection
608-266-8782

Natural Resources

Rule Submittal Date

On October 24, 2003, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. NR 25.09, relating to net marking requirements for commercial trap nets set in Lake Michigan and Green Bay.

Agency Procedure for Promulgation

The Bureau of Fisheries Management and Habitat Protection is primarily responsible for promulgation of this rule. A public hearing is scheduled for December 12, 2003.

Contact

Bill Horns, Bureau of Fisheries Management and Habitat Protection
608-266-8782

Natural Resources

Rule Submittal Date

On September 25, 2003, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ss. NR 116.03 and 116.15, relating to the definition of a deck and that construction of a deck is not a modification or addition to a nonconforming structure.

Agency Procedure for Promulgation

The Bureau of Watershed Management is primarily responsible for promulgation of this rule. A public hearing is scheduled for December 15, 2003.

Contact

Gary Heinrichs, Bureau of Watershed Management
608-266-3093

Public Instruction**Rule Submittal Date**

On November 11, 2003, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. PI 27.03 (2) (e), relating to commencement of a school term.

Agency Procedure for Promulgation

The Office of the State Superintendent is primarily responsible for promulgation of this rules. Public hearings will be scheduled.

Contact

If you have questions regarding this rule, you may contact Anthony Evers, Deputy State Superintendent, at (608) 266-1771 or Lori Slauson, Administrative Rules Coordinator, at (608) 267-9127.

Tourism**Rule Submittal Date**

On November 11, 2003, the Department of Tourism submitted a proposed rule to the Legislative Council Rules Clearinghouse creating s. Tour 1.03 (3w), Wis. Adm. Code, relating to the joint effort marketing program.

Analysis

Statutory Authority: s. 41.17 (4) (g), Stats.

Statutes interpreted: s. 44.17, Stats.

The Joint Effort Marketing program provides for grants to non-profit organizations engaged in tourism activities that are directed at increasing tourism spending in the local area. Grant funds may be used for the development of publicity, the production and media placement of advertising and direct mailings that are part of a project and overall advertising plan of the applicant organization intended to increase tourism in Wisconsin.

Funding may be used for advertising of an event, for advertising of a sales promotion and for destination marketing advertising that is not tied to an event or promotion, but which is directed at extending the tourism market for the applicant and which has been identified by the Department as a market for the state.

The proposal would allow the secretary of the department to waive the requirement that a project be directed at a local area for a project that will make a substantial impact upon the state's tourism economy.

Agency Procedure for Promulgation

A public hearing is required and scheduled for Monday, December 15, 2003 at 10:00 a.m. in conference room 2b, 201 W. Washington Avenue, Madison, Wisconsin.

Contact

For additional information or to obtain a copy of the proposed rule contact Abbie Hill, Joint Effort Marketing Program Coordinator, Tel: 608/261-6272; Email ahill@tourism.state.wi.us

Veterans Affairs**Rule Submittal Date**

On November 4, 2003, the Wisconsin Department of Veterans Affairs submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse creating chapter VA 17 of the Wisconsin Administrative Code. The proposed rule relates to the administration of the military funeral honors program.

Analysis

The creation of chapter VA 17 will enable the Wisconsin department of veterans affairs to address several issues relating to the administration of the military funeral honors program under s. 45.19, Stats. The proposal will scale the statutory stipend payment to the level of honors performed by a veterans organization. It will impose a training and certification requirement for stipend reimbursement, as well as require a veterans organization to apply for available federal funding in lieu of receipt of a stipend payment. It will further that burials in state veterans cemeteries will be accompanied by funeral honors, unless the family requests that honors not be provided. Finally, the proposed order identifies the requirements applicable to the provision of a special burial coin to family members.

Agency Procedure for Promulgation

A public hearing is scheduled for December 5, 2003. The Office of the Secretary is primarily responsible for preparing the rule.

Contact

John Rosinski
Chief Legal Counsel
Telephone (608) 266-7916

Rule-making notices

Notice of Hearing

Employment Relations Commission

NOTICE IS HEREBY GIVEN that pursuant to ss. 111.09, 111.71, 111.94 and 227.11, Stats., and interpreting 111.09, 111.71, and 111.94, Stats., the Wisconsin Employment Relations Commission will hold a public hearing in the Commission's Conference Room at 18 South Thornton Avenue in the City of Madison, Wisconsin on the **18th day of December, 2003**, at 11:00 a.m. regarding the Commission's proposed promulgation of the following permanent administrative rules increasing filing fees.

The Commission invites the public to attend the hearing and to present verbal and/or written comments regarding the proposed rules. In addition to or instead of verbal testimony, written comments can also be sent directly to the Commission at werc@werc.state.wi.us or at Wisconsin Employment Relations Commission, P.O. Box 7870, Madison, Wisconsin 53707-7870. Written comment should be received by the Commission on or before December 18, 2003.

SECTION 1. ERC 1.06 (1)(2) and (3) are amended to read:

ERC 1.06 Fees. (1) COMPLAINTS. At the time a complaint is received alleging that an unfair labor practice has been committed under s. 111.06, Stats., the complaining party or parties shall pay the commission a filing fee of \$40. ~~\$80.~~ The complaint is not filed until the fee is paid.

(2) GRIEVANCE ARBITRATION. At the time a request is received asking that the commission or its staff act as a grievance arbitrator under s. 111.10, Stats., the parties to the dispute shall each pay the commission a filing fee of \$125. ~~\$250.~~

(3) MEDIATION. At the time a request is received asking the commission or its staff to act as a mediator under s. 111.11, Stats., the parties to the dispute shall each pay the commission a filing fee of \$125. ~~\$250.~~

SECTION 2. ERC 10.21 (1)(2)(3)(4) and (5) are amended to read:

ERC 10.21 Fees. (1) COMPLAINTS. At the time a complaint is received alleging that a prohibited practice has been committed under s. 111.70(3), Stats., the complaining party or parties shall pay the commission a filing fee of \$40. ~~\$80.~~ The complaint is not filed until the fee is paid.

(2) Grievance arbitration. At the time a request is received asking that the commission or its staff act as a grievance arbitrator under s. 111.70 (4) (c) 2., or (cm) 4., Stats., the parties to the dispute shall each pay the commission a filing fee of \$125. ~~\$250.~~

(3) Mediation. At the time a request is received asking the commission or its staff to act as a mediator under s. 111.70 (4) (c) 1. or (cm) 3., Stats., the parties to the dispute shall each pay the commission a filing fee or \$125. ~~\$250.~~

(4) Fact-finding. At the time a request is received asking the commission to initiate fact-finding under s. 111.70 (4) (c) 3., Stats., the parties to the dispute shall each pay the commission a filing fee of \$125, ~~\$250.~~ except that if the parties have previously paid a mediation filing fee for the same dispute under sub. (3), no fee shall be paid.

(5) Interest arbitration. At the time a request is received asking the commission to initiate interest arbitration under s.

111.70 (4)(cm)6., (4)(jm) or 111.77(3), Stats., the parties to the dispute shall each pay the commission a filing fee of \$125, ~~\$250.~~ except that if the parties have previously paid a mediation filing fee for the same dispute under sub. (3), no fee shall be paid.

SECTION 3. ERC 20.21 (1)(2)(3) and (4) are amended to read:

ERC 20.21 Fees. (1) COMPLAINTS. At the time a complaint is received alleging that an unfair labor practice has been committed under s. 111.84, Stats., the complaining party or parties shall pay the commission a filing fee of \$40. ~~\$80.~~ The complaint is not filed until the fee is paid.

(2) GRIEVANCE ARBITRATION. At the time a request is received asking that the commission or its staff act as a grievance arbitrator under s. 111.86, Stats., the parties to the dispute shall each pay the commission a filing fee of \$125. ~~\$250.~~

(3) MEDIATION. At the time a request is received asking the commission or its staff to act as a mediator under s. 111.87, Stats., the parties to the dispute shall each pay the commission a filing fee of \$125. ~~\$250.~~

(4) Fact-finding. At the time a request is received asking the commission to initiate fact-finding under s. 111.88, Stats., the parties to the dispute shall each pay the commission a filing fee of \$125, ~~\$250.~~ except that if the parties have previously paid a mediation filing fee for the same dispute under sub. (3), no fee shall be paid.

Analysis Prepared by the Wisconsin Employment Relations Commission

These proposed rules provide the increased filing fee revenue needed to support 2.0 Program Revenue positions authorized by 2003 Wisconsin Act 33.

Initial Regulatory Flexibility Analysis

Small businesses rarely use those Commission's services impacted by the increase in filing fees. The occasional impact on small business of the fee increase will be limited to payment of the employer share of the increased fees.

Fiscal Estimate

During the last four fiscal years, WERC has averaged \$225,000 in filing fee revenue.

WERC estimates that doubling the existing filing fee levels will produce some reduction in the requests for WERC fee-related services but produce an additional \$200,000 in fee revenues annually.

Because the vast majority of filing fee revenue is derived from services for which the union and employer each pay 50% of the fee and because the vast majority of the WERC's fee-related services are provided to public sector employers and the unions representing their employees, WERC anticipates that doubling the existing fees will increase the costs of public sector employers by \$100,000 annually.

Contact Persons

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Notice of Hearing
Health and Family Services
(Health, Chs. HFS 110—)
[CR 03-111]

Notice is hereby given that pursuant to ss. 227.16 (1), 227.17 and 227.18, Stats., the Department of Health and Family Services will hold a public hearing to consider the proposed amendment of sections HFS 117.01 to 117.04 and the repeal and recreation of section HFS 117.05, relating to fees for copies of health care records.

Hearing Information

The public hearing will be held:

Monday, December 15, 2003 at 9:00 a.m.

Room 751

1 West Wilson St.

Madison, WI

The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

Section 146.83 (3m), Stats., as created by 2001 Wisconsin Act 109 and s. 908.03 (6m) (d), Stats., as amended by 2001 Wisconsin Act 109, requires the Department prescribe by rule fees for reproducing patient health care records that are the maximum amount a health care provider may charge. The fee limits are to be based on an approximation of actual costs. The statutes allow health care providers to also charge for postage or other delivery costs.

To develop these rules, the Department formed a 14-member advisory committee in early February, 2003. The committee consisted of equal representation of those who maintain health care records and those who request records. Over the following three months, the Department also created a website on which it posted pertinent documents for review by interested parties and encouraged persons to register to receive email notifications of new Department postings on the website.

The Department began its effort by distributing a four-page project plan to advisory committee members on February 18th. The plan stated the Department's intent "to develop a rule that complies and is consistent with what it believes to be applicable state and federal law, and is based on an approximation of actual medical record reproduction costs." Toward that end, the Department identified and shared what it considered to be the major factors and considerations. These were:

1. The recent federal Health Insurance Portability and Accountability Act (HIPAA) regulations and federal commentary related thereto, particularly the issues of:

a. Who, and the circumstances under which, a person will be considered someone's "personal representative" for the

purposes of requesting a copy of that person's health care record; and

b. Whether the costs associated with record retrieval should be included in fee limits for subject persons or their personal representatives.

2. The Department's desire to approximate total health care record reproduction costs by attempting to identify the component tasks and estimated costs associated with health care record reproduction. Issues bearing on doing so include the following:

a. Whether and how the health care record medium affects the length of time to reproduce a record;

b. Whether the health care provider setting (i.e., hospital, clinic, etc.) or subject patient group (e.g., children, elderly, etc.) affects the time and effort needed to reproduce records; and

c. The steps involved in reproducing health care records and whether those steps are different for different record mediums and record maintainer settings.

The Department invited all committee members, and those who were "virtual" participants via the Department's website postings, to submit documents to the Department on these major factors and considerations, asking that the documents be submitted, if possible, by March 7th. Specifically, the Department requested the following input:

1. Committee members' thoughts regarding the appropriateness and acceptability of the Department's intended approach and, if it is not, how it is not, and how and why the commenter would propose it to be different.

2. Information on the following subjects:

– How HIPAA bears on the revision of ch. HFS 117.

– Whether the categories of paper, electronic, microfilm, microfiche and traditional x-ray comprise the universe of health care record mediums for the purposes of this project, and if not, what other mediums should be addressed.

– Whether the steps involved in the reproduction of health care records within a particular health care record maintainer setting or for a particular patient group are sufficiently different to suggest a significantly different reproduction cost.

– The sequence of steps and time associated with each step typically required for health care record reproduction, by health care record medium, setting or patient group, as appropriate.

– Existing health care record fee limit policies.

After reviewing, analyzing and compiling information from about 20 documents, the Department circulated a preliminary report to committee members on March 31, 2003. The preliminary report included an initial draft of ch. HFS 117, as did the Department's subsequent iterations of the report. The Department asked that committee members and others submit comments on the Department's preliminary report by April 14th.

In response to comments it received on its preliminary report, the Department revised its preliminary report (known in its second iteration as the "interim" report) and created a table of comments and Department responses. The Department subsequently modified the comment and response table to reflect comments the Department received through April 30th. The Department circulated these documents to committee members prior to convening the first and only meeting of the advisory committee on April 25th.

In the course of the advisory committee meeting, a variety of outstanding issues were discussed. However, with one exception, there was virtually no consensus on any of the issues between members representing health care record maintainers and members representing health care record

requesters. The one exception was that members encouraged the Department to develop a single fee structure to the extent possible.

Following the April 25th advisory committee meeting, the Department chose its positions on the remaining outstanding issues, revised its interim report to become its "final" report, and created a "final" iteration of its comment and response table. This initial proposed rulemaking order is the result of these efforts.

The rules limit the fee a health care provider may charge to provide duplicate health care records. The proposed fee limit varies depending on the person making the request and, in some cases, the resultant number of copies generated by the request. If an individual (or the individual's personal representative on behalf of the individual) is requesting his or her own records, the provider may charge no more than \$0.31 per page. Postage is extra. If a person is requesting another's records, the provider may charge no more than \$12.50 per request if the request generates less than five copies plus \$0.31 per page. The provider may charge no more than \$15.00 per request if the request generates five or more copies plus \$0.31 per page. The \$12.50 and \$15.00 amounts may be deemed a retrieval fee that individuals need not pay for copies of their own records.

For More Information

The Department posts information about each emergency rule and each proposed permanent rule it promulgates on its website at <http://adminrules.wisconsin.gov>. At this website, you can view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts new information about this rulemaking and, during the public comment period, you can submit comments on the rulemaking order and view comments that others have submitted about the rule.

If you do not have Internet access and would like to find out more about the hearing or to request a copy of the proposed rules, please contact:

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 circumstances that might make communication at a 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 given above at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Deadline for Comment Submission

Written comments for this rule that are submitted using the Department's website or which the Department receives by mail or email at the above address no later than 5:00pm, December 30, 2003, will be given the same consideration as testimony presented at the hearing.

Fiscal estimate

The Department estimates that the proposed rules will increase costs and affect GPR and FED funding sources. Costs incurred by counties and tribes may also be affected.

Section 146.83 (3m), Stats., as created by 2001 Wisconsin Act 109 and s. 908.03 (6m) (d), Stats., as amended by 2001 Wisconsin Act 109, requires the Department prescribe by rule fees for reproducing patient medical records that are the

maximum amount a health care provider may charge. The fee limits are to be based on an approximation of actual costs. The statutes allow health care providers to also charge for postage or other delivery costs.

Fee limits proposed in the rules are the Department's approximation of the total cost (retrieval, processing and copying) of reproducing medical records for persons other than the subject of the records when the records are requested by a person other than the subject of the record. That limit is either \$12.50 or \$15.00 per request plus \$0.31 per page. A second fee limit in the rules are the Department's approximation of the cost of copying records only (not including retrieval and processing costs) applicable to requests made by persons who are the subject of the requested records. That limit is \$0.31 per page. The rules also specify a limit on what a health care provider may charge for certifying a record.

The fee limits apply to all persons and entities who request duplicate health care records under 146.83 and 908.03 (6m) (c) 3., Stats., and to all health care providers who supply those records, unless superceded by fees established by other applicable law. Such covered persons and entities include W-2 agencies, county district attorneys and corporation counsels and also state agencies not governed by other fee limits or fee scales.

The Disability Determination Bureau within DHFS routinely requests large volumes of medical records to adjudicate disability claims for the Social Security disability, Supplemental Security Income (SSI) and Medicaid disability programs. Under those programs, the Bureau expects 180,000 record request to be made in 2004. The average request generates 26 pages. The Department's Disability Determination Bureau (DDB) currently receives from the Social Security Administration (SSA) a maximum reimbursement of \$20 per record request for SSI applications, regardless of the number of pages requested or supplied. Payments for SSI-related record requests are estimated to total \$3.1 million in 2004. If all health care providers were to maximize their fee income by charging the amount in the proposed rule the Bureau would require an additional \$465,000 in annual federal funding from SSA. Currently, the federal funding for DDB is through a federal block grant. It is uncertain whether the federal allocation would be increased for an increase in expenditures. If the block grant is not increased, DDB would have to fund increased costs using existing federal or state resources.

DDB expects record request costs for Medicaid (MA) disability programs to total \$190,000 in 2004. Increased costs for records requested under MA disability programs would be incurred by the MA program. The proposed change could increase MA costs by \$218,500 AF (\$109,300 GPR) annually.

The other state programs that might be expected to request medical records are Food Stamp Certification, Worker's Compensation, W-2 Transitions, and Vocational Rehabilitation. The Worker's Compensation program will not be affected under this rule change. It operates under its own fee limits established in s. 102.13 (2) (b), Stats. and is therefore exempt from this rule. The Vocational Rehabilitation program, administered by the Department of Workforce Development, uses medical records in vocational assessments. The proposed increase in allowable medical record fees could increase DWD Division of Vocational Rehabilitation costs by \$230,000 AF (\$49,000 GPR) annually.

The W-2 Transitions and Food Stamp Certification programs are state programs administered by local agencies, including county and tribal run agencies. Local agencies request medical records to identify utilization of medical services by W-2 applicants and establish exemptions from food stamp work requirements. Costs for record requests are

reimbursed with other administrative costs within set contract amounts provided to local agencies. Local agencies' W-2 costs are reimbursed through the W-2 contract, which is administered by DWD. County agency food stamp administrative costs are reimbursed through the Income Maintenance contract, administered by DHFS. The proposed increase in allowable medical record fees could increase costs for local agencies if contract amounts were not increased. Since medical record request costs are not reported under the W-2 and IM contracts as a separate cost items, increased costs to counties and tribes under this proposed change cannot be estimated.

Other possible increased costs to local units of government due the proposed change are unknown.

Initial Regulatory Flexibility Analysis

When an agency, such the Department, proposes a rule that may have an effect on small businesses (defined as entities that are independently owned and operated and not dominant in their field, and employ fewer than 25 full-time employees or have gross annual sales of less than \$2.5 million), section 227.114, Stats., requires that agency to consider several methods for reducing the effect of the proposed rule on those small businesses. The revision of ch. HFS 117 will affect many small businesses, principally law firms that request health care records on behalf of clients, and small health provider offices that maintain and supply their patients' health care records to those authorized to request those records. The fee limits specified in ch. HFS 117 also will effect a small number of businesses that reproduce medical records on behalf of health care providers and transmit those records to authorized record requesters.

Chapter HFS 117 does not require compliance with any reporting, bookkeeping or other procedures. Nor does the proposed rule impose new requirements for professional skills that are not currently required to comply with requests for copies of health care records. Given that the proposed rules do not require reporting, bookkeeping or other procedures and skills, the question of exempting particular small businesses from some or all of HFS 117's provisions is moot.

The Department also cannot estimate the effect of the proposed rule on the above small businesses other than to note that the fee limits the Department proposes to specify in HFS 117 are higher than those specified in the existing HFS 117 rules. The Department believes that exempting certain law firms and health care providers from the rule's applicability would be contrary to the legislature's intent that the rule, to the extent possible, specify a single fee limit for all parties. Similarly, the Department believes that specifying a lower fee limit for particular law firms (or a higher fee limit for particular health care providers) would also be contrary to legislative intent.

Notice of Hearings
Natural Resources
(Fish, Game, etc., Chs. NR 1—)
[CR 03–105]

NOTICE IS HEREBY GIVEN that pursuant to s. 227.11 (2) (a), Stats., interpreting s. 350.09 (7), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 6.03 and 6.08, Wis. Adm. Code, relating to snowmobile noise testing procedures. Current statutes require snowmobiles to meet certain noise levels. For snowmobiles that are manufactured and sold or offered for sale in Wisconsin, the noise limit has been set at 78 decibels since 1975. For snowmobiles that are operated by the

consumer in Wisconsin, noise emissions are limited to excessive or unusual levels.

The rule revisions are being proposed in order to provide a field-friendly test procedure (stationary test) for testing snowmobile noise emissions on consumer machines. The test procedures that are outlined in the proposed rule have been adopted by the Society of Automotive Engineers for law enforcement as a means to identify loud and obnoxious snowmobiles in the field. The proposed rule changes will also provide a definition for excessive or unusual noise that is referenced in statute and which is currently undefined.

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

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

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

Monday, December 15, 2003 at 11:00 a.m.

Room 100 (Terrace Room)
 UW Marathon Co. Center
 518 7th Avenue
 Wausau

Thursday, December 18, 2003 at 1:30 p.m.

Room 511, GEF #2
 101 South Webster St.
 Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Karl Brooks at (608) 267-7455 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Karl Brooks, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than December 30, 2003. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [LE-40-03] and fiscal estimate may be obtained from Mr. Brooks.

Notice of Hearing
Natural Resources
(Fish, Game, etc., Chs. NR 1—)
[CR 03–107]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014 (1), 29.041, 29.519 (1) (b) and 227.11 (2) (a), Stats., interpreting ss. 29.014 (1), 29.041 and 29.519 (1) (b), Stats., the Department of Natural Resources will hold public hearings on amendments to ss. NR 20.20 (73) (j) 1. a. and 3. a. and 25.06 (2) (b) 1., Wis. Adm. Code, relating to fishing for yellow perch in Green Bay. The proposed rule postpones by 3 years the date when the sport fishing daily bag limit for

yellow perch reverts from 10 fish to 25 fish and the annual total allowable commercial harvest of yellow perch from zone 1 reverts from 20,000 pounds to 200,000 pounds.

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

Initial Regulatory Flexibility Analysis

a. Types of small businesses affected: Yellow perch commercial fishers in Green Bay.

b. Description of reporting and bookkeeping procedures required: No new procedures.

c. Description of professional skills required: No new skills.

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

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

Thursday, December 11, 2003 at 1:30 p.m.

Council Chambers, Peshtigo Municipal Bldg.
331 French St.
Peshtigo

Bay Beach Wildlife Sanctuary

1660 E. Shore Drive

Green Bay

at 5:30 p.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Bill Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than December 21, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FH-36-03] and fiscal estimate may be obtained from Mr. Horns.

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

[CR 03-106]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.041, 29.014 (1), 29.519 (1) (b) and 227.11 (2) (a), Stats., interpreting ss. 29.041, 29.014 (1), 29.516 (2) (d) and 29.519 (1) (b), Stats., the Department of Natural Resources will hold a public hearing on the creation of s. NR 25.09(2)(b)2.f., Wis. Adm. Code, relating to trap net marking requirements. The proposed rule creates net marking requirements for

commercial trap nets set in Lake Michigan and Green Bay from April 1 to October 25.

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

Initial Regulatory Flexibility Analysis

a. Types of small businesses affected: Commercial trap net fishers in Lake Michigan and Green Bay.

b. Description of reporting and bookkeeping procedures required: No new procedures.

c. Description of professional skills required: No new skills.

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

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

Friday, December 12, 2003 at 11:00 a.m.

Room 027, GEF #2

101 South Webster Street

Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Bill Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than December 21, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FH-35-03] and fiscal estimate may be obtained from Mr. Horns.

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

[CR 03-091]

NOTICE IS HEREBY GIVEN that pursuant to ss. 87.30 (1) and 227.11 (2) (a), Stats., interpreting s. 87.30 (1), Stats., the Department of Natural Resources will hold a public hearing on the creation of s. NR 116.03 (6m) and the amendment of s. NR 116.15 (1) (a), Wis. Adm. Code, relating to decks on nonconforming structures in floodplains. The proposed rule will define a deck and provide that a deck may be added to a nonconforming building or a building with a nonconforming use in a floodplain.

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

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

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

Monday, December 15, 2003 at 1:00 p.m.

Video conference participation will be available at:

Room 021, GEF #2 Bldg, 101 South Webster St., Madison
Room B29, State Office Bldg, 3550 Mormon Coulee Road,
La Crosse

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Gary Heinrichs at (608) 266-3093 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Gary Heinrichs, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than December 29, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WT-39-03] and fiscal estimate may be obtained from Mr. Heinrichs.

**Notice of Hearings
Department of Public Instruction
[CR 03-102]**

NOTICE IS HEREBY GIVEN That pursuant to ss. 115.28 (7), (7m), (15) and (17), 118.19 (11), 121.02 (1) (a), and 227.11 (2) (a), Stats., and interpreting ss. 115.28 (7), 118.19 and 118.192, Stats., the Department of Public Instruction will hold public hearings as follows to consider the amending of Chapter PI 5, relating to high school equivalency diplomas and certificates of general educational development.

The hearings will be held as follows:

December 11, 2003, 3:00 – 6:00 p.m.

Oshkosh

Fox Valley Technical College
150 N. Campbell Road
Room 133

December 15, 2003, 2:30 – 4:30 p.m.

Madison

GEF 3 Building
125 South Webster St.
Room 041

The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Robert Enghagen, HSED/GED Administrator, (608) 267-2275 or leave a

message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

The administrative rule and fiscal estimate are available at <http://www.dpi.state.wi.us/dpi/dfm/pb/gedfees.html> and <http://www.dpi.state.wi.us/dpi/dfm/pb/gedfiscal.html> respectively. A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to lori.slauson@dpi.state.wi.us or by writing to:

Lori Slauson, Administrative Rules & Federal Grants Coordinator

Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than December 17, 2003, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

Analysis Prepared by the Department of Public Instruction

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. The proposed rules modify Chapter PI 5 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:

- The 2002 Series GED Test content and the standard score scale used to determine passing scores changed dramatically 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 (reading, writing, mathematics, science and social studies) in the battery. The 2002 Series GED test scale ranges from a minimum of 200 to a maximum of 800. The proposed rule 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. The 410 minimum score represents a 6% increase in performance expectations on the mathematics test, a 2% increase in performance expectations on the reading test, and a 3% increase in performance expectations on the science test.

- 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. GED/HSED fees were not charged in the past but are now allowed and necessary because the Act eliminated general purpose revenue (GPR) used to support GED program administration. Administration funds are necessary to operate the GED program and include approving test accommodations; opening, monitoring and closing test centers; reviewing and approving alternative curriculum; reviewing and approving credential awards; and issuing GED/HSED credentials.

Fiscal Estimate**GED FEE:**

The rules allow a high school graduation equivalency declaration or a general educational development certificate (HSED/GED) credentialing fee to be charged to individuals. 2003 Wisconsin Act 33 authorized the department to charge fees for issuing a HSED/GED, creating a program revenue appropriation to fund the program. In FY04 (1/1/04–6/30/04), the department expects to incur GED administration costs of \$61,800. In FY05 (7/1/04–6/30/05), the department expects to incur GED administration costs of \$123,500.

Fees were not charged in the past but are now allowed and necessary to replace the loss of state GPR administration funds which were used, in part, to support program staff and fees charged by the GED Testing Service (GEDTS). Further, if fees are not charged, the department would have insufficient funds to provide for approving of test accommodations; opening, monitoring and closing test centers; reviewing and approving alternative curriculum; reviewing and approving of credential awards; and issuing HSED/GED credentials.

With some exceptions (approximately 60% of the credential recipients will be exempt or charged lower fees), the department proposes to charge \$25 to issue a credential to anyone applying for a HSED/GED on or after January 1, 2004. Exemptions from the fees are allowed for adults and juveniles in corrections and for persons 65 and older. A reduced fee of \$10 will be charged to low-income individuals.

In FY04 (1/1/04–6/30/04), the department anticipates generating a total income of \$71,152 (half the income expected in FY05). In FY 05 (7/1/04–6/30/05), the department anticipates generating a total income of \$142,305 using the following assumptions based on previous years' data:

4,150 applicants will be charged \$25 for a credential	4,150
X \$25 =	\$103,750
2,768 applicants will be eligible for a reduced fee of \$10	
2,768 X \$10 =	27,680
1,000 applicants will request a duplicate credential/transcript	
1,000 X \$10 =	10,000
35 applicants will request emergency credentials	
35 X \$25 =	<u>875</u>
	\$142,305
	=====

GED TEST SCORE:

The GED passing test score is set at the standard established by the GEDTS (410 minimum with an average of 450). If Wisconsin sets a higher score, the GED Testing Service requires the department to conduct a statewide norming study. If such a study is conducted, the anticipated minimum cost to the department is \$33,500 based on the following information:

In 1993, the department conducted a statewide norming study sampling 40 schools at a cost of \$12,715.

In 2004, the department must sample 80 schools (required by the GEDTS). It is assumed that because the number of participating schools has doubled the cost to conduct the study will double from the 1993 amount. In addition, if substitutes have to be hired for the 80 participating schools, another \$8,000 should be added (80 schools X \$100 per substitutes).

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Notice of Hearing**Revenue
[CR 03–104]**

NOTICE IS HEREBY GIVEN That pursuant to s. 227.11(2), Stats., and interpreting s. 70.32 (2r) (c), Stats., the Department of Revenue will hold a public hearing at 2135 Rimrock Road, Madison, WI, (Department of Revenue Building), Events Room, on the **16th day of December, 2003** at 9:00 a.m. to consider the amendment of rules related to 2004 agricultural use value. These changes were made in an emergency rule enacted on October 3, 2003 and are proposed as permanent rule changes as described below. The proposed rule changes relate only to the 2004 use values.

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be submitted to the contact persons shown below no later than December 23, 2003, and will be given the same consideration as testimony presented at the hearing.

Proposed order of the Department of Revenue

The Wisconsin Department of Revenue hereby proposes an order to create Tax 18.07 (1) (b) 4. and 5. and 18.07 (1) (c) 6.

Analysis Prepared by the Department of Revenue

Statutory Authority: s. 227.11 (2), Stats.

Statutes interpreted: s. 70.32 (2r) (c), Stats.

Pursuant to s. 70.32 (2r) (c), Stats., agricultural land is assessed according to the income that could be generated from its rental for agricultural use. Wisconsin Chapter Tax 18 specifies the formula that is used to estimate the net rental income per acre. The formula estimates the net income per acre of land in corn production based on a 5-year average corn price per bushel, cost of corn production per bushel and corn yield per acre. The net income is divided by a capitalization rate that is based on a 5-year average interest rate for a medium-sized, 1-year adjustable rate mortgage and net tax rate for the property tax levy two years prior to the assessment year.

For reasons of data availability, there is a 3-year lag in determining the 5-year average. Thus, the 2003 use value is based on the 5-year average corn price, cost and yield for the 1996–2000 period, and the capitalization rate is based on the 5-year average interest rate for the 1998–2002 period. The 2004 use value is to be based on the 5-year average corn price, cost and yield for the 1997–2001 period, and the capitalization rate is to be based on the 1999–2003 period.

The data for the 1997–2001 period yields negative net income per acre due to declining corn prices and increasing costs of corn production. As a result, reliance on data for the 1997–2001 period will result in negative use values.

Under the proposed rule order, the 2004 average net income per acre of agricultural land is to be based on the following:

- the 5-year average corn yield per acre from 1996 to 2000,
- the 5-year average market corn price per bushel from 1996 to 2000, and
- the 5-year average cost of corn production per bushel from 1996 to 2000.

The rule also specifies that the 2004 use values will be based on a capitalization rate that is the sum of the following:

- the 5-year average interest rate for a medium sized, 1-year adjustable rate mortgage for farm loans for the period from 1998 to 2002, and
- the net property tax rate for each municipality for 2001 taxes, payable 2002.

Section 1: Tax 18.07 (1) (b) 4. and 5. and (1) (c) 6. are created to read as follows:

18.07 (1) (b) 4. To avoid negative use values in 2004, the 2004 average gross income per acre for each category of agricultural land shall be calculated as described in subd. 2, except that each category's 5-year average yield per acre shall be based on yield data from 1996 to 2000, and the 5-year average market price per unit of output shall be based on market price data from 1996 to 2000.

5. To avoid negative use values in 2004, the 2004 average total cost of production per acre for each category of agricultural land shall be calculated as described in subd. 3, except that the 5-year average cost of production per acre shall be based on cost data from 1996 to 2000.

18.07 (1) (c) 6. To avoid negative use values in 2004, the 2004 capitalization rate for each municipality shall be calculated as described in subd. 5, except the statewide moving average rate, as described in subd. 4, shall be based on data from 1998 to 2002, and the net tax rate for each municipality shall be based on 2001 taxes, payable 2002.

Initial Regulatory Flexibility Analysis

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

Fiscal Estimate

Under the current rule, the 2004 use value of agricultural land would be based on the 5-year average corn price, cost and yield for the 1997–2001 period, and the capitalization rate is based on the 5-year average interest rate for the 1999–2003 period.

Using the data for these periods, it is estimated that agricultural land would be valued at –\$1.95 billion. It is unclear how property with negative values would be taxed. If it is assumed that a negative assessment equates to an exemption of the property, the current formula will result in an estimated property tax shift of \$34 million in 2004 from owners of agricultural land to owners of other taxable property [\$1.96 billion 2003 agricultural land value x .0175 estimated 2004/05 town tax rate per \$1,000 of value].

Under the proposed permanent rule, the 2004 use values are to be based on the same data used to calculate the 2003 use values. As a result, 2004 statewide agricultural land values will approximately equal the 2003 value of \$1.96 billion.

Under the proposed rule, local assessors will apply 2003 unit values to calculate 2004 values; as a result, there will be a savings in local assessment costs, since most parcel records will not require updating.

Under the proposed rule, there will be no loss of state forestry tax revenue. To the extent that the current rule would result in an exemption of agricultural land and therefore a loss of state forestry tax revenue, the proposed rule would result in an increase in \$392,000 in state forestry tax revenues (\$1.96 billion x .0002) relative to current law.

Contact Persons

Rebecca Boldt
Division of Research and Policy
Department of Revenue
2135 Rimrock Road
(608) 266–6785

Scott Shields
Office of Assessment Practices
Division of State and Local Finance
2135 Rimrock Road
(608) 266–2317

Notice of Hearing

Tourism [CR 03–113]

NOTICE IS HEREBY GIVEN that pursuant to s. 41.17 (4) (g), Stats., the Wisconsin Department of Tourism will hold a hearing at the time and place shown below to consider a proposed order to create s. Tour 1.03 (3w) relating to the joint effort marketing program.

Hearing Information

The hearing will be held at the Department of Tourism, Meeting Room 2B, 201 West Washington Avenue, Madison, Wisconsin, on **Monday December 15, 2003 at 10:00 a.m.**

Written Comments

Written comments on the proposed rules may be sent to the contact person by Monday December 29, 2003. Written comments will receive the same consideration as written or oral testimony presented at the hearing.

Analysis Prepared by the Department of Tourism

Section 41.17, Stats., creates a joint effort marketing program and s. 41.17 (4) (g), Stats., authorizes the Department to adopt rules required to administer the program. The Joint Effort Marketing program provides for grants to non-profit organizations engaged in tourism activities that are directed at increasing tourism spending in a local area. Grant funds may be used for the development of publicity, the production and media placement of advertising and direct mailings that are part of a project and overall advertising plan of the applicant organization intended to increase tourism in Wisconsin.

Funding may be used for advertising of an event, for advertising of a sales promotion and for destination marketing advertising that is not tied to an event or promotion, but which is directed at extending the tourism market for the applicant and which has been identified by the Department as a market for the state.

The proposal would allow the secretary of the department to waive the requirement that a project be directed at a local area for a project that will make a substantial impact upon the state's tourism economy.

Initial Regulatory Flexibility Analysis

NOTICE IS HEREBY GIVEN that pursuant to 227.14 Stats., the proposed rule will have minimal impact on small businesses. The initial regulatory flexibility analysis as required by 227.17 (3)(f), Stats., is as follows:

- (1) Type of small business affected by the rule: None
- (2) The proposed reporting, bookkeeping and other procedures required for compliance with the rule: None
- (3) The types of professional skills necessary for compliance with the rule: None.

Fiscal Estimate

The proposed rule has no fiscal effect.

Contact Person

For additional information about or copies of the proposed rules contact:

Abbie Hill, Joint Effort Marketing Program Coordinator
Telephone: 608/266–6747
Wisconsin Department of Tourism
P.O. Box 7976
Madison, WI 53707–7976
Email: ahill@tourism.state.wi.us

Notice of Hearing
Transportation
[CR 03-114]

NOTICE IS HEREBY GIVEN that pursuant to s. 348.25 (8) (e), Stats., and interpreting s. 348.25 (8) (e), Stats., the Department of Transportation will hold a public hearing in Room 421 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **15th day of December, 2003, at 1:00 PM**, to consider the amendment of ch. Trans 250, Wisconsin Administrative Code, relating to oversize and overweight permits for vehicles and loads.

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

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Susan Kavulich, Division of Motor Vehicles, Motor Carrier Services Section, Room 151, P. O. Box 7981, Madison, Wisconsin 53707-7981, telephone (608) 261-6305.

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

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: s. 348.25 (8) (e), Stats.

Statutes Interpreted: s. 348.25 (8) (e), Stats.

General Summary of Proposed Rule. This rule making will amend ch. Trans 250 to effectuate s. 2604 of 2003 Wis. Act 33 that allows DOT to establish by administrative rule the

additional fee to be charged for using the Department telephone call-in procedure or the Internet procedure to apply for oversize or overweight permits.

Fiscal Effect

The Department estimates that there will be no direct fiscal impact from this rule making upon the state and anticipates no effect on the fiscal liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education school district or sewerage district.

The proposed rule implements s. 348.25 (8) (e), Stats., as amended by 2003 Wis. Act 33. The rule has no fiscal effect independent of the statute. The statute requires that the fee established by the Department by rule shall approximate the cost to the Department for providing the telephone call-in or Internet service to persons so requesting. Therefore, revenue which the Department receives under this rule will approximately equal the Department's costs, resulting in no fiscal impact.

Initial Regulatory Flexibility Analysis

The Department anticipates that this rule making will have no direct adverse effect on small businesses. This rule making establishes no additional compliance, bookkeeping, or reporting requirements for small businesses which choose to apply for oversize/overweight permits through the telephone call-in or Internet service procedure.

Copies of Rule

Copies of the rule may be obtained upon request, without cost, by writing to Susan Kavulich, Division of Motor Vehicles, Motor Carrier Services Section, P. O. Box 7981, Room 151, Madison, WI 53707-7981, or by calling (608) 261-6305. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

Submittal of proposed rules to the legislature

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

Insurance
(CR 03-083)

Ch. Ins 25, relating to an exception to privacy notice requirements and limits on disclosure of nonpublic personal financial information for brand name licenses.

Natural Resources
(CR 03-037)

Rules relating to national emission standards for hazardous air pollutants for facilities that apply surface coatings to large appliances.

Natural Resources
(CR 03-050)

Rules relating to regulation of discharges of ammonia to surface waters of the state and relating to other minor corrections to errors in chs. NR 105 and 106.

Natural Resources
(CR 03-063)

Rules relating to groundwater quality standards for arsenic.

Natural Resources
(CR 03-067)

Rules relating to arsenic in public water systems.

Regulation and Licensing
(CR 03-084)

Rules relating to ch. RL 87, Appendix I, which contains the 2003 edition of the USPAP and recreate it to incorporate by reference the 2004 edition of USPAP.

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.

Dentistry Examining Board (CR 02-139)

An order affecting ch. DE 2, relating to faculty licenses.
Effective 1-1-04.

Natural Resources (CR 03-049)

An order affecting ch. NR 428, relating to the control of emissions of nitrogen oxides.
Effective 1-1-04.

Transportation (CR 03-069)

An order affecting ch. Trans 327, relating to motor carrier safety requirements.
Effective 1-4-04.

Transportation (CR 03-060)

An order affecting chs. Trans 325 and 326, relating to motor carrier safety regulations.
Effective 1-4-04.

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the November 30, 2003, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

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

Accounting Examining Board (CR 02-120)

An order affecting ch. Accy 1, relating to independence standards of the accounting profession. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Dentistry Examining Board (CR 02-138)

An order affecting ch. DE 6, relating to dental specialties. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions—Securities (CR 03-068)

An order affecting ch. DFI—Sec 4, relating to securities broker-dealer books and record-keeping requirements. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016 (1) to (5), Stats., that the rules will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions—Securities (CR 03-069)

An order affecting chs. DFI—Sec 2 and 8, relating to securities registration exemptions and administrative procedure—contested case rules. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016 (1) to (5), Stats., that the rules will

not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Gaming Division (CR 03-070)

An order affecting the Wisconsin Gaming Commission codes, relating to greyhound racing and pari-mutuel wagering. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

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

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

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

Summary of Comments by Legislative Review Committees

No comments were received.

Natural Resources (CR 03-014)

An order affecting ch. NR 20, relating to fishing on the inland and outlying waters of Wisconsin. Part effective 12-1-03. Part effective 3/1/04. Part effective 4/1/04.

Summary of Final Regulatory Flexibility Analysis

These rules will not directly affect small business pursuant to s. 227.114 (8) (b), Stats., therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On July 9, 2003, the Assembly Committee on Natural Resources held a public hearing. No requests for modifications were received as a result of these hearings.

Natural Resources (CR 03-018)

An order affecting chs. NR 10, relating to agricultural damage, hunting and trapping regulation changes. Part effective 11-1-03. Part effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On August 6, 2003, the Assembly Committee on Natural Resources held a public hearing on the proposed rule. No modifications were requested as a result of the hearing.

Natural Resources (CR 03-027)

An order affecting chs. NR 162 and 165, relating to clean water fund program financial assistance. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

The code revision does not directly impact small businesses. The Clean Water Fund program provides funding to municipalities, not to businesses. These municipalities receiving federal funds through the Clean Water Fund program are required to solicit small businesses in rural areas when bidding projects, but this is not a change in the requirements.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On August 6, 2003, the Assembly Committee on Natural Resources held a public hearing on the proposed rule. No modifications were requested as a result of the hearing.

Natural Resources (CR 03-051)

An order affecting ch. NR 10, relating to the 2003 migratory game bird season. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

The revisions to ch. NR 10 relate to modifications to the 2003 migratory game bird regulations. The rules are applicable to individual sport persons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. The rule does not have a significant economic impact on

a substantial number of small businesses. The fall hunting season has been a normal part of the state's economy for many years; the 2003 season does not depart from normal standards.

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. There were no comments.

Nursing (CR 03-009)

An order affecting ch. N 4, relating to the practice of nurse-wives. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Pharmacy Examining Board (CR 01-175)

An order affecting ch. Phar 7, relating to the requirements for a central fill system. Effective 12-1-03

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Tax Appeals Commission (CR 03-040)

An order affecting ch. TA 1, relating to petitions for review. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

A "small business," as defined under s. 227.114 (1), which files an appeal with the tax appeals commission will be affected by this rule. However, the statute prescribing appeal procedures (s. 73.01) does not authorize treating a small business differently from any other person filing an appeal. The impact on a small business will be negligible.

Summary of Comments by Legislative Review Committees

No comments were received.

Workforce Development (CR 03-053)

An order affecting ch. DWD 274, relating to hours of work and overtime. Effective 12-1-03.

Summary of Final Regulatory Flexibility Analysis

The rule changes affect small businesses in agriculture but the changes will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **November 2003**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Accounting Examining Board

Ch. Acy 1

S. Acy 1.101

Dentistry Examining Board

Ch. DE 6

S. DE 6.02 (4) (c)

Financial Institutions – Securities

Ch. DFI–Sec 2

S. DFI–Sec 2.02 (4) (intro.) to (g)

Ch. DFI–Sec 4

S. DFI–Sec 4.03 (1) to (4), (6) and (7)

S. DFI–Sec 4.05 (5)

Ch. DFI–Sec 8

S. DFI–Sec 8.03

S. DFI–Sec 8.06

S. DFI–Sec 8.07

Gaming

Ch. Game 1 (Entire chapter)

Ch. Game 3

S. Game 3.03 (2)

S. Game 3.05 (1) (intro.)

S. Game 3.06 (3)

Ch. Game 4

S. Game 4.02 (1) and (2)

S. Game 4.04

S. Game 4.05 (2) (a) to (c) and (3)

S. Game 4.06 (1), (2) and (6)

S. Game 4.07 (3), (4), (9), (11), (12)

S. Game 4.08 (2) and (3)

S. Game 4.10

SS. Game 4.12 to 4.14

Ch. Game 5

S. Game 5.03 (1) and (2)

S. Game 5.04 (1)

S. Game 5.05 (intro.) and (4)

S. Game 5.08 (1) and (11)

S. Game 5.09 (1) and (2) (a)

S. Game 5.10

S. Game 5.16 (1) (intro.) and (2)

S. Game 5.21

S. Game 5.22 (2)

Ch. Game 7

S. Game 7.02 (3), (5) and (6)

S. Game 7.03 (2) (a), (g), (h), (i)

S. Game 7.05 (1) (c), (h), (j), (2) (a), (b), (4)

S. Game 7.06 (1) (e), (2) (a), (c), (d), (g), (h), (i), (3) (d), (e), (j), (4) (b), (e)

S. Game 7.07 (5)

S. Game 7.08 (1) (b), (2) (a), (b), (g), (3), (4) (b)

S. Game 7.09 (1) (a), (2) (h), (3) (b), (5) (a), (e) to (g)

S. Game 7.10 (1) (a), (b), (i), (2) (a), (c), (e), (h) to (L), (4) (g), (5) (b) to (d), (f), (6) (c), (d), (7) (a), (d), (8) (a), (b), (9), (10)

Ch. Game 8

S. Game 8.03 (1) (a), (b)

S. Game 8.06 (2)

S. Game 8.07

S. Game 8.12 (1) (b) to (d) and (4)

Ch. Game 9

S. Game 9.04 (4)

S. Game 9.10 (2) to (12)

S. Game 9.12 (4)

S. Game 9.13 (1), (3), (4), (8), (9)

S. WGC 9.15

Ch. Game 10

S. Game 10.03

S. Game 10.04 (1) (c)

S. Game 10.05 (3)

S. Game 10.06 (7) (L), (8), (9)

S. Game 10.07 (7) (a), (13), (15), (18), (23), (24)

S. Game 10.08 (2), (4) (a), (b), (5), (9)

S. Game 10.09 (2) (b)

Ch. Game 11 (Entire chapter)

Ch. Game 13

S. Game 13.02 (4) and (5)

S. Game 13.04 (3)

S. Game 13.05

S. Game 13.08 (10)

S. Game 13.09 (1)

S. Game 13.11 (1) (intro.), (d)

S. Game 13.13 (2) to (5)

S. Game 13.14 (3)

S. Game 13.15 (3), (4) (d), (6) to (12)

S. Game 13.19

S. Game 13.20 (5)

S. Game 13.23 (8), (13), (16) to (26)

S. Game 13.24

Ch. Game 14

S. Game 14.02 (3)

S. Game 14.03

S. Game 14.07

S. Game 14.09 (3)

S. Game 14.11 (5)

S. Game 14.12 (1), (3) to (5)

S. Game 14.15 (1), (4)
 S. Game 14.20 (4)
 S. Game 14.21 (1), (2), (6), (7)
 S. Game 14.22 (5), (8)
 S. Game 14.23 (1) (h), (2)
 S. Game 14.24

Ch. Game 15

S. Game 15.02 (1) (d), (2) (a)
 S. Game 15.04 (2)
 S. Game 15.05 (2) to (4), (6), (8) to (12)
 S. Game 15.06
 S. Game 15.07
 S. Game 15.08

Ch. Game 16

S. Game 16.02 (4)
 SS. Game 16.03 to 16.10

Chs. WGC 17 and 18 (Entire chapters)**Ch. Game 19**

S. Game 19.04 (1) (i) and (j)

Ch. Game 20

S. Game 20.04 (5)
 S. Game 20.10 (2)

Ch. Game 23 (Entire chapter)**Ch. Game 24**

S. Game 24.16 (14)
 S. Game 24.18 (3)

Natural Resources**Ch. NR 10**

S. NR 10.001 (1c), (5c), (5g), (17), (25e), (29)
 S. NR 10.01 (1) (b), (d), (dm), (g), (u) and (v), (3) (e),
 (es) and (i), (4) (a) and (e)
 S. NR 10.02 (1)
 S. NR 10.06 (5), (8) (a)
 S. NR 10.07 (1) (b)
 S. NR 10.09 (1) (a), (e)
 S. NR 10.10 (1) (b)
 SS. NR 10.11 and 10.111
 S. NR 10.12 (5) (a)
 S. NR 10.13 (1) (b)
 S. NR 10.37

Ch. NR 20

S. NR 20.05 (14)

S. NR 20.10 (1m), (1r)
 S. NR 20.20 (2) (bm), (6) (bm), (7) (b), (9) (am), (13)
 (d), (17) (bm), (18) (bm), (26) (am), (44) (g), (47)
 (bm), (dm), (51) (bg), (bm), (55) (bg), (bm), (57)
 (c), (e), (f), (59) (e), (60), (61) (ag), (am), (c), (64)
 (h), (70) (b), (dm), (73) (e), (me)

Ch. NR 22

S. NR 22.04 (2)

Ch. NR 23

S. NR 23.05 (5) (c)

Ch. NR 26

S. NR 26.32

Ch. NR 162 (Entire chapter)**Ch. NR 165** (Entire chapter)**Nursing****Ch. N 4**

S. N 4.01 (2)
 S. N 4.02 (2m), (3) to (5) and (6) to (8)
 S. N 4.03 (intro.) to (2)
 S. N 4.04 (1) (intro.) to (c) and (4)
 S. N 4.05 (5) (b)
 S. N 4.06
 S. N 4.07 (1) and (2)
 S. N 4.10

Pharmacy Examining Board**Ch. Phar 7**

S. Phar 7.12

Tax Appeals Commission**Ch. TA 1**

S. TA 1.15 (2m)

Workforce Development**Ch. DWD 274**

S. DWD 274.01 (3) and (4)
 S. DWD 274.015
 S. DWD 274.04 (9)

Editorial corrections

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

Gaming (Entire Code)**Errata**

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

Natural Resources**Ch. NR 28**

SS. NR 28.03 and 28.04

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
Adm 5.04 (1) (e)	16.70 (1)	16.70 (3)
Adm 14.03	16.351	560.9807
Adm 15.01 (1)	16.352 (4)	560.9808 (4)
Adm 15.02 (1)	16.352	560.9808
Adm 15.03 (1)	16.352	560.9808
Adm 15.04 (10)	16.352	560.9808
Adm 15.05 (1) (a) 1.	16.352 (2) (b) 1. and 2. 16.352 (3) (am) 3. and 4.	560.9808 (2) (b) 1. and 2. 560.9808 (3) (am) 3. and 4.
Adm 15.05 (1) (a) 2.	16.352 (twice)	560.9808 (twice)
Adm 15.05 (1) (b) (intro.)	16.352 (2) (b) 3.	560.9808 (2) (b) 3.
Adm 15.05 (2)	16.352 (3)	560.9808 (3)
Adm 16.01	16.339	560.9806
Adm 16.03 (1)	16.339	560.9806
Adm 17.01	16.336	560.9805
Adm 17.02 (intro.)	16.336	560.9805
Adm 17.04 (intro.)	16.336 (2) 16.31	560.9805 (2) 560.9802
Adm 18.01	16.30, 16.33, and 16.334	560.9801, 560.9803, and 560.9804
Adm 18.03 (1)	16.30 (3)	560.9801 (3)
Adm 18.04 (7)	16.33 (2) 16.31	560.9803 (2) 560.9802
Adm 18.05 (2)	16.33 (1) (b), (c) and (2) (a)	560.9803 (1) (b), (c) and (2) (a)
Adm 19.01	16.358 (2) 16.358	560.9809 (2) 560.9809
Adm 19.04	16.31	560.9802
Adm 45.03 (5)	16.385 (1) (c)	16.27 (1) (c)
Adm 45.04 (1)	16.385 and 16.39	16.26 and 16.27
Adm 50.03 (2)	16.70 (1)	16.70 (3)
Comm 114.02 (6)	560.83 or 560.835	560.83
DOC 371.03 (3)	938.34 (4n) and 938.532 (3)	938.34 (4n)

Location of invalid cross-reference	Invalid cross-reference	Correction
DOC 393.03 (3)	938.34 (4n) and 938.532 (3)	938.34 (4n)
DOC 396.03 (3)	938.34 (4n) and 938.532 (3)	938.34 (4n)
ETF 10.72	40.02 (17) (b) or 40.25 (6) (a)	40.285 (2) (d)
ETF 20.14 (intro.)	40.02 (17) and 40.25 (6) and (7)	40.02 (17)
ETF 20.14 (3)	40.02 (17) and 40.25 (6)	40.02 (17)
ETF 20.16 (1) and (2)	40.02 (17) (b)	40.285 (2) (d)
ETF 20.19 (2) (e)	40.02 (17) (b)	40.285 (2) (d)
ETF 20.19 (2) (f)	40.02 (17) (e)	40.285 (2) (c)
ETF 20.19 (2) (h)	40.02 (17) (i)	40.285 (2) (e)
ETF 20.19 (2) (i)	40.02 (17) (k)	40.285 (2) (f)
HA 3.02 (10)	16.385	16.27
HFS 5.01	49.33 (4) and (7)	49.78 (4) and (7)
HFS 10.13 (17)	46.286 (1) or (1m)	46.286 (1)
HFS 10.13 (27)	46.286 (1) (a) and (1m)	46.286 (1) (a)
HFS 10.33 (2) (a)	46.286 (1) and (1m)	46.286 (1)
NR 187.01	299.41	93.57
NR 543.02	287.25, 560.12, 560.65 or 560.835	287.25, 560.12, or 560.65
NR 543.04 (3) (b)	560.12, 560.65 or 560.835	560.12 or 560.65
PSC 160.02 (8) (e)	16.385	16.27
PSC 160.05 (2)	20.275 (1) (s), (t), (tm) and (tu)	20.505 (4) (s), (t), (tm) and (tu)
PSC 160.05 (4)	20.275 (1) (s)	20.505 (4) (s)
PSC 161.01 (1)	44.73 (1)	16.997 (1)
PSC 161.02 (5)	44.70 (1m)	16.99 (1m)
PSC 161.02 (7)	44.70 (3g)	16.99 (3g)
PSC 161.04 (1)	44.73 (2) (e)	16.997 (2) (e)
PSC 161.05 (3)	44.73 (6)	16.997 (6)
PSC 161.08 (2)	44.73 (6)	16.997 (6)
VA 2.04 (3) (a)	45.25 (1)	45.25 (1m)
DWD 23.01 (1)	49.33 (3)	49.78 (3)
DWD 23.02 (9)	49.33 (1) (b)	49.78 (1) (b)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 27. 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 the late Deputy Bruce Williams of the Green Lake County Sheriff's Department.

Executive Order 28. 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 Private First Class Rachel Bosveld of the United States Army who lost her life during Operation Iraqi Freedom.

Executive Order 29. 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 Deputy Richard A. Meyer of the Winnebago County Sheriff's Department.

**The State of Wisconsin
Department of Administration
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