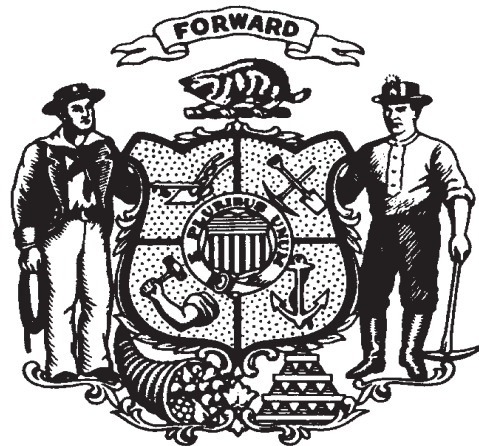


Wisconsin Administrative Register

No. 588



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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.

Commerce

(Financial Assistance for Businesses & Communities, Chs. Comm 105—)

Rules were adopted creating **ch. Comm 129**, relating to technology commercialization programs.

Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of a rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. In accordance with sections 560.205 (3) and 560.275 (7), Stats., the department has the responsibility to promulgate rules to administer an Early Stage Business Investment Program and a Technology Commercialization Grant and Loan Program.

2. Section 560.205 (1) and (2), Stats., makes available certain tax benefits for investors in early stage businesses for tax years beginning after December 31, 2004.

3. Section 560.275 (2), Stats., makes available grant and loan program funds appropriated as of July 1, 2004.

4. The department, being the agency with primary authority for economic development in the state, recognizes that there is a verified need to assist the development of high growth early stage technology businesses. Wisconsin has historically ranked low in the development of new start-ups and in the attraction of risk capital.

5. The department recognizes that promulgating this emergency rule will alleviate the need for investors to defer investments into qualified new businesses while they wait for the promulgation of the permanent rule. Such a circumstance would effectively halt new investment into early stage high tech companies in Wisconsin, a result that would be contrary to the intent of the legislation.

6. In addition, the department recognizes that without promulgating this emergency rule, the department would likely be unable to fully utilize the funds made available to benefit early stage businesses.

7. Finally, the department recognizes that without promulgating this emergency rule, Wisconsin's early stage businesses would be unable to compete fairly to attract much-needed risk capital and federal research dollars to Wisconsin.

Publication Date: December 2, 2004

Effective Date: December 2, 2004

Expiration Date: May 1, 2005

Hearing Date: January 12, 2005

[See Notice This Register]

Insurance

Rules were adopted creating **ch. Ins 14**, Wis. Adm. Code, relating to vehicle protection plans.

Finding of Emergency

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

The statute requiring these changes is effective on December 1, 2004. The length of the rulemaking process has not permitted OCI to finish promulgating the rule. This emergency implementation will allow vehicle protection businesses to start getting registered and selling their products. Many of these products are promoted as safety related such as glass etching, the "club," vehicle entry warning sirens and others. Consumer would then be able obtain the promoted safety benefits of these products as soon as the legislature permitted them.

Publication Date: December 10, 2004

Effective Date: December 10, 2004

Expiration Date: May 9, 2005

Natural Resources (2)

(Fish, Game, etc., Chs. NR 1—)

1. Rules adopted revising **chs. NR 10 and 19**, relating to the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.

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, its citizens and businesses. The state legislature has also delegated to the department rule – making authority in 2003 Wisconsin Act 240 to regulate feeding of wild animals for non-hunting purposes including recreational and supplemental feeding. 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: June 10, 2004
Effective Date: June 10, 2004
Expiration Date: November 7, 2004
Hearing Date: August 25 and 26, 2004
Extension Through: January 5, 2005

- Rules adopted creating **ss. NR 1.05, 1.06 and 1.07**, relating to Natural Resources Board policies on protection and management of public waters.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

- Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).
- Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.
- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of

neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

Natural Resources (11)

(Environmental Protection – Water Regulation, Chs. NR 300—)

- Rules adopted revising **ch. NR 300** and repealing **ch. NR 322**, relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public

trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004*
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004
Extension Through: January 13, 2005

*On June 24, 2004, the Joint Committee for Review of Administrative Rules suspended s. NR 310.17 (4) (a).

- Rules adopted revising **ch. NR 320**, relating to the regulation of bridges and culverts in or over navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards

for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

- Rules adopted revising **ch. NR 323**, relating to fish and wildlife habitat structures in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004
Extension Through: January 13, 2005

4. Rules adopted revising **ch. NR 325**, relating to boathouses and fixed houseboats in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004
Extension Through: January 13, 2005

5. Rules adopted revising **ch. NR 326**, relating to regulation of piers, wharves, boat shelters, boat hoists, boat lifts and swim rafts in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

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Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004*
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004

*On June 24, 2004, the Joint Committee for Review of Administrative Rules suspended this emergency rule.

6. Rules adopted revising **ch. NR 328**, relating to shore erosion control of inland lakes and impoundments.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water–based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

7. Rules adopted revising **ch. NR 329**, relating to miscellaneous structures in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water–based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

8. Rules adopted revising **ch. NR 340**, and creating **ch. NR 343**, relating to regulation of construction, dredging, and enlargement of an artificial water body.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation.

Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

9. Rules adopted revising **ch. NR 345**, relating to dredging in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but

permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

10. Rules adopted repealing **s. NR 340.02 (2), (8) and (19)** and to creating **ch. NR 341**, relating to regulation of grading on the bank of a navigable waterway.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

- Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams.

- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that Act 118 will speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for general permits and jurisdiction under the new law.

Publication Date: May 19, 2004
Effective Date: May 19, 2004
Expiration Date: October 16, 2004
Hearing Date: June 16, 2004
Extension Through: February 12, 2005

11. Rules adopted creating **ch. NR 310**, relating to procedures for exemptions, general permits and individual permits for activities in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

- Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

- Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water-based recreation and tourism industry.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

Public Instruction

Rules were adopted revising **ch. PI 35**, relating to financial reporting requirements under the Milwaukee Parental Choice Program.

Finding of emergency

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

Per 2003 Wisconsin Act 15, the provisions under the rule must take effect beginning in the 2004–05 school year. Because some of the reporting requirements must be made by August 1, the rule must be in place as soon as possible to give the private schools enough notice to meet such requirements.

Publication Date: June 30, 2004
Effective Date: June 30, 2004
Expiration Date: November 27, 2004
Hearing Date: September 13, 2004
Extension Through: January 25, 2005

Regulation and Licensing (2)

1. Rules were adopted repealing **ss. RL 31.035 (1m) and 31.036 (1m)**; and creating **ss. RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09**, relating to criminal background investigations of applicants.

Exemption from finding of emergency

SECTION 4, Nonstatutory provisions., of 2003 Wisconsin Act 151 states: “(1) The department of regulation and licensing may, using the procedure under section 227.34 of the statutes, promulgate the rules under section 440.03 (13) (b) of the statutes, as created by this act, for the period before permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

Analysis prepared by the Department of Regulation and Licensing

This emergency rule is promulgated pursuant to 2003 Wisconsin Act 151. Act 151 was created in response to federal Public Law 92–544, which required authorization by state statute to continue the FBI’s policy of honoring state requests for criminal background reports.

Act 151 modifies the authority of the Department of Regulation and Licensing to conduct criminal background checks of applicants and requires rule-making by the Department to conduct investigations whether an applicant for or holder of any credential issued by the Department has been charged with or convicted of a crime. The emergency rule preserves the ability of the Department to continue its practice of conducting criminal background investigations of applicants and credential holders.

Publication Date: July 3, 2004
Effective Date: July 3, 2004
Expiration Date: November 30, 2004
Hearing Date: October 1, 2004
Extension Through: January 28, 2005

2. Rules adopted creating **ch. RL 150 to 154**, relating to the licensure and regulation of athlete agents.

Exemption from finding of emergency

SECTION 4, Nonstatutory provisions of 2003 Wisconsin Act 150 states in part:

(2) The department of regulation and licensing may, using the procedure under section 227.24 of the statutes, promulgate the rules under section 440.9935 of the statutes, as created by this act, for the period before permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide findings of emergency for rules promulgated under this subsection.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: s. 227.11 (2), Stats., and ss. 440.99, 440.991, 440.915, 440.992, 440.9925, 440.993, 440.9935, 440.994, 440.9945, 440.995, 440.9955, 440.996, 440.9975, 440.998 and 440.999, Stats., as created by 2003 Wisconsin Act 150.

Statutes interpreted: Chapter 440, Subchapter XII.

This emergency rule is promulgated pursuant to 2003 Wisconsin Act 150. This Act grants the Department of Regulation and Licensing the authority to create rules relating to the licensure and regulation of athlete agents.

In this order adopting emergency rules the Department of Regulation and Licensing creates rules relating to the licensure of athlete agents. These rules are as a result of 2003 Wisconsin Act 150 which enacted the Uniform Athlete Agents Act. Chapters RL 150 to 154 establish requirements and standards for registration and the practice of registered athlete agents. The rules specify the registration requirements for temporary and permanent registration, renewal requirements, and prohibited conduct for athlete agents.

SECTION 1 creates Chapter RL 150 which sets forth the statutory authority and the definitions for the proposed rules.

SECTION 2 creates Chapter RL 151 which sets forth the application process and requirements for an initial certificate of registration, including the application process for a temporary certificate of registration.

SECTION 3 creates Chapter RL 152 which sets forth the application process and requirements for renewal of a certificate of registration.

SECTION 4 creates Chapter RL 153 which outlines the standards of practice which apply to a credential holder.

SECTION 5 creates Chapter RL 154 which defines unprofessional conduct.

Publication Date: October 5, 2004
Effective Date: October 5, 2004
Expiration Date: March 4, 2005
Hearing Date: November 12, 2004

Revenue (2)

1. Rules adopted creating s. Tax 2.99, relating to the dairy investment credit.

Finding of emergency

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

The emergency rule is to clarify the following terms as they apply to the dairy investment credit:

- “amount the claimant paid in the taxable year,”
- “dairy farm modernization or expansion,”
- “milk production,” and
- “used exclusively related to dairy animals.”

It is necessary to promulgate this rule order to remove the threat of inappropriate credit claims and the revenue loss to the state as a result of clarification of the above terms being absent in the statutes.

Publication Date: September 17, 2004
Effective Date: September 17, 2004
Expiration Date: February 14, 2005
Hearing Date: December 28, 2004

2. Rules adopted creating s. Tax 3.04, relating to the subtraction from income allowed for military pay received by members of a reserve component of the armed forces.

Finding of emergency

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

Section 71.05 (6) (b) 34, Stats., provides that a subtraction from income may be claimed for “any amount of basic, special, and incentive pay received from the federal government by a person who is a member of a reserve component of the U.S. armed forces, after being called into active federal service under the provisions of 10 USC 12302 (a) or 10 USC 12304, or into special state service authorized by the federal department of defense under 32 USC 502 (f), that is paid to the person for a period of time during which the person is on active duty.”

Included under 32 USC 502 (f) are persons who are serving on active duty or full-time duty in the active guard reserve (AGR) program. Discussion between the departments of revenue and military affairs and legislative personnel revealed that it was not intended that these persons benefit from the subtraction provided for in s. 71.05 (6) (b) 34, Stats.

It is necessary to promulgate this rule order to remove the threat of inappropriate subtractions from income and the revenue loss to the state as a result of information contained in the statutes that implies persons who are serving on active duty or full-time duty in the active guard reserve program are eligible to claim the subtraction from income for military pay received by members of a reserve component of the armed forces.

Publication Date: September 17, 2004
Effective Date: September 17, 2004
Expiration Date: February 14, 2005
Hearing Date: December 28, 2004

Transportation (2)

1. Rules adopted creating **ch. Trans 135**, relating to creation of a school bus oxidation catalyst grant program in certain counties.

Exemption from finding of emergency

The Legislature, by Section 2r of 2003 Wis. Act 220, provides an exemption from a finding of emergency for the adoption of the rule.

Analysis prepared by the Department of Transportation

Plain Language Analysis: 2003 Wis. Act 220 requires the Wisconsin Department of Transportation, in consultation with the Wisconsin Department of Natural Resources, to develop and administer a program to provide grants for the purchase and installation of oxidation catalysts on school buses customarily kept in the counties identified in s. 110.20 (5), Stats.: Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha. Act 220 amends s. 20.395 (5) (hq), Stats., to provide funds for the grant program under WisDOT's vehicle inspection/maintenance (I/M) program appropriation.

Publication Date: September 1, 2004

Effective Date: September 1, 2004

Expiration Date: See Section 2r 2003 Wis. Act 220

Hearing Date: September 14, 2004

2. Rules adopted revising **ch. Trans 112**, relating to medical standards for driver licensing and general standards to school bus endorsements.

Exemption from finding of emergency

The Legislature, by Section 30 of 2003 Wis. Act 280, provides an exemption from a finding of emergency for the adoption of the rule.

Analysis prepared by the Department of Transportation

Under current law, a person may not operate a school bus without a school bus endorsement issued by the Department of Transportation (DOT). DOT may issue a school bus endorsement to a person's valid motor vehicle operator's license if the person meets certain qualifications, including being free of conviction for certain crimes. A school bus endorsement is valid for the eight-year duration of the person's operator's license. Under certain circumstances, DOT must cancel the operator's license of a person to whom a school bus endorsement has been issued.

2003 Wisconsin Act 280 modified the existing criminal history requirements, and imposed additional requirements for the initial issuance or renewal of a school bus endorsement. That act prohibits DOT from issuing or renewing a school bus endorsement to an applicant if the applicant has been convicted of or adjudicated delinquent for any specified disqualifying crime or offense within a prior minimum specified time. These disqualifying crimes and offenses and minimum time periods for disqualification include those specified under current statutes, including various crimes against children. The act also authorizes DOT to specify by rule additional disqualifying crimes and offenses and the time period during which the disqualification applies.

Prior to Act 280, persons were not eligible for a school bus endorsement if he or she has been convicted of listed offenses (including a felony or an "offense against public morals")

within the past five years, if the circumstances of the offense are "substantially related" to the circumstances of operating a school bus, or was convicted of specified offenses (including OWI and operating with a suspended or revoked license) within the past two years, regardless of whether the circumstances of the offense are "substantially related" to the circumstances of operating a school bus. Thus, Act 280 lengthened the periods of disqualification for some offenses, and listed some offenses that arguably are not "substantially related" to the circumstances of operating a school bus.

This rule establishes three periods of disqualification from eligibility for a school bus driver endorsement for conviction of listed felonies and misdemeanors. A lifetime disqualification is imposed on any person convicted of violent crimes resulting in death or serious physical injury to another, of sex offenses involving children and other vulnerable persons, or of other crimes involving predation or victimization of children or other vulnerable persons. A five-year disqualification is imposed on any person convicted of other crimes against life and bodily security, of other crimes against children, of crimes involving use of a motor vehicle, including operating while intoxicated (OWI), of possession of illegal weapons or of similar offenses likely to result in serious injury to others. A two-year disqualification is imposed on any person convicted of negligent operation of a motor vehicle, of obstructing emergency and rescue personnel or of other crimes.

Many of the listed offenses comprise felonies and misdemeanors. Under the rule, if a person provides evidence to the Department that his or her conviction of a listed offense is a misdemeanor conviction, the disqualification period is shortened to the next shorter disqualification period. However, there is no reduced disqualification period for misdemeanor sexual assault convictions, and the minimum period of disqualification for any listed offense (whether felony or misdemeanor) is two years.

The rule requires the Department to conduct a criminal history record search of every applicant for initial issuance or renewal to determine whether the person is convicted of disqualifying offenses. Although a school bus endorsement is renewed every eight years, DOT must conduct a criminal history search four years after the person obtains a school bus endorsement and, if appropriate, cancel the endorsement.

The rule also requires any person applying for initial issuance or renewal of a school bus endorsement to certify whether he or she has been convicted of any disqualifying offense, and allows the department to disqualify the person for the appropriate period based on that certification.

The rule requires any person who has resided in another state within the previous two years to notify the department of those other states, and requires the department to make a good faith effort to obtain the criminal history records from those other states, including submitting the persons fingerprints to the Department of Justice for a nationwide criminal history search.

The rule allows DOT to require every applicant for initial issuance or renewal of a school bus endorsement to provide two sets of fingerprints, and to pay fees for the two criminal history records searches that will be completed at initial issuance or renewal, and four years after the person obtains the school bus endorsement.

This rule also makes minor changes to medical standards for school bus drivers not required under 2003 Wis. Act 280, including the following:

1. Allows physician to certify driver is following treatment plan for cerebrovascular function, without such certification of the patient.

2. Shortens from 12 to 6 months the period during which a school bus driver must be free of any cerebrovascular incident.

3. Eliminates the 12 month period during which school bus driver must be free of destructive behavior or suicidal tendencies, instead making eligible a driver who is free of such behaviors or tendencies at the time of application.

4. Provides that a license restriction imposed on a physician's recommendation may be lifted only by the physician that recommended the restriction or by the Department following its evaluation of the person's ability to drive.

5. Provides that a person who does not meet minimum waiting periods following certain medical disqualifications cannot request a medical review board assessment of those disqualifications, because those waiting periods cannot be waived.

Publication Date: November 4, 2004
Effective Date: November 4, 2004
Expiration Date: See 2003 Wis. Act 280
Hearing Date: November 15, 2004

Workforce Development (Labor Standards, Chs. DWD 270–279)

Rules adopted revising ss. **DWD 274.015 and 274.03** and creating s. **DWD 274.035**, relating to overtime pay for employees performing companionship services.

Finding of emergency

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

On January 21, 2004, pursuant to s. 227.26(2)(b), Stats., the Joint Committee for Review of Administrative Rules directed the Department of Workforce Development to promulgate an emergency rule regarding their overtime policy for nonmedical home care companion employees of an agency as part of ch. DWD 274.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 103.005, 103.02, and 227.11, Stats.

Statutes interpreted: Sections 103.01 and 103.02, Stats.

Section 103.02, Stats., provides that “no person may be employed or be permitted to work in any place of employment or at any employment for such period of time during any day, night or week, as is prejudicial to the person's life, health, safety or welfare.” Section 103.01 (3), Stats., defines “place of employment” as “any manufactory, mechanical or mercantile establishment, beauty parlor, laundry, restaurant, confectionary store, or telegraph or telecommunications office or exchange, or any express or transportation establishment or any hotel.”

Chapter DWD 274 governs hours of work and overtime. Section DWD 274.015, the applicability section of the chapter, incorporates the statutory definition of “place of employment” and limits coverage of the chapter to the places of employment delineated in s. 103.01 (3), Stats., and various

governmental bodies. Section DWD 274.015 also provides that the chapter does not apply to employees employed in domestic service in a household by a household.

Section 103.02, Stats., directs that the “department shall, by rule, classify such periods of time into periods to be paid for at the rate of at least one and one-half times the regular rates.” Under s. DWD 274.03, “each employer subject to this chapter shall pay to each employee time and one-half the regular rate of pay for all hours worked in excess of 40 hours per week.” Section DWD 274.04 lists 15 types of employees who are exempt from this general rule and s. DWD 274.08 provides that the section is inapplicable to public employees.

Nonmedical home care companion employees who are employed by a third-party, commercial agency are covered by the overtime provision in s. DWD 274.03. Section DWD 274.03 applies to all employees who are subject to the chapter and not exempt under ss. DWD 274.04 or 274.08. The chapter applies to companion employees of a commercial agency because under s. DWD 274.015 a commercial agency is considered a mercantile establishment. Section DWD 270.01 (5) defines a mercantile establishment as a commercial, for-profit business. The chapter does not apply to companion employees of a nonprofit agency or a private household. In addition, none of the exemptions to the overtime section in ss. DWD 274.04 or 274.08 apply to companion employees of a commercial agency.

The Joint Committee for the Review of Administrative Rules has directed DWD to promulgate an emergency rule regarding the overtime policy for nonmedical home care companion employees of an agency. This provision is created at s. DWD 274.035 to say that employees who are employed by a mercantile establishment to perform companionship services shall be subject to the overtime pay requirement in s. DWD 274.03. “Companionship services” is defined as those services which provide fellowship, care, and protection for a person who because of advanced age, physical infirmity, or mental infirmity cannot care for his or her own needs. Such services may include general household work and work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. The term “companionship services” does not include services relating to the care and protection of the aged or infirm person that require and are performed by trained personnel, such as registered or practical nurses.

This order also repeals and recreates the applicability of the chapter section and the overtime section to write these rules in a clearer format. There is no substantive change in these sections.

Publication Date: March 1, 2004
Effective Date: March 1, 2004*
Expiration Date: July 29, 2004

* On April 28, 2004, the Joint Committee for Review of Administrative Rules suspended s. DWD 274.035 created as an emergency rule.

Workforce Development (Public Works Construction, Chs. DWD 290–294)

A rule was adopted amending s. **DWD 290.155 (1)**, relating to the adjustment of thresholds for application of prevailing wage rates.

Finding of emergency

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

Adjusting the thresholds for application of the prevailing wage rate requirements by emergency rule ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and applicability of the prevailing wage law is determined. The adjustment avoids imposing an additional administrative burden on local governments and state

agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process.

Publication Date: December 20, 2004

Effective Date: January 1, 2005

Expiration Date: May 30, 2005

Scope statements

Agriculture, Trade and Consumer Protection

Subject

Pesticide Product Restrictions; Atrazine Pesticides.

Objective of the rule. Regulate the use of atrazine pesticides to protect groundwater and assure compliance with Wisconsin's Groundwater Law. Update current rule to reflect groundwater-sampling results obtained during the past year. Renumber and reorganize the current rule, as necessary.

Policy analysis

DATCP must regulate the use of pesticides to assure compliance with groundwater standards under ch. 160, Stats. Groundwater standards are established by the Department of Natural Resources under ch. NR 140, Wis. Adm. Code. DNR has established a groundwater enforcement standard of 3 µg/liter for atrazine and its chlorinated metabolites.

DATCP must prohibit atrazine uses that result in groundwater contamination levels that exceed the DNR enforcement standard under s. 160.25, Stats. DATCP must prohibit atrazine use in the area where groundwater contamination has occurred unless DATCP determines to a reasonable certainty, based on the greater weight of credible evidence, that alternative measures will achieve compliance with the DNR enforcement standard.

Currently, under ch. ATP 30, Wis. Adm. Code, the use of atrazine is prohibited in 102 designated areas (approximately 1,200,000 acres), including large portions of the Lower Wisconsin River Valley, Dane County and Columbia County. The current rules also restrict atrazine use rates and handling practices, including the timing of applications on a statewide basis. The statewide restrictions are designed to minimize the potential for groundwater contamination, as required under s. 160.25, Stats.

Over the next year, DATCP may identify additional wells containing atrazine and its chlorinated metabolites at and above the current DNR enforcement standard. In order to comply with ch. 160, Stats., DATCP must take further action to prohibit or regulate atrazine use in the areas where these wells are located. DATCP proposes to amend ch. ATP 30, Wis. Adm. Code to add or remove prohibition areas or take other appropriate regulatory action in response to any new groundwater findings.

Policy alternative

No Change. If DATCP takes no action, current rules will remain in effect. However, DATCP would take no new regulatory action in response to new groundwater findings obtained this year. This would not adequately protect groundwater in the newly discovered contaminated areas, nor would it meet DATCP's statutory obligations. Conversely, DATCP would be unable to repeal the current restrictions on atrazine use where indicated by groundwater findings.

Comparison to federal regulations

The department cannot find a similar proposed or final federal regulations on this subject.

Statutory authority

DATCP proposes to revise ch. ATP 30, Wis. Adm. Code, under authority of ss. 93.07, 94.69, and 160.19 through 160.25, Stats.

Staff time required

DATCP estimates that it will use approximately 0.6 FTE staff to develop this rule. This includes investigation, drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Health and Family Services

Subject

The Department proposes to revise sections HFS 105.01 and 105.06, relating to certification of dental hygienists under the Medical Assistance program.

Policy analysis

Pursuant to the authority provided under s. 49.45 (10), Stats., to promulgate rules to administer the Medical Assistance program, the Department intends to revise ss. HFS 105.01 and 105.06 to allow dental hygienists to be individually certified as Medical Assistance providers so that they may serve Medical Assistance recipients in settings where no dentist is present to supervise their work.

These settings are:

1. Dental hygienists employed by a school board or a governing body of a private school.
2. Schools for the education of dentists or dental hygienists.
3. Local health departments.

The department may include additional education requirements that go beyond the licensing requirements of ss. 447.03 (2) and 447.04 (2), Stats.

Statutory authority

Sections 49.45 (10) and 227.11 (2), Stats.

Staff time required

The Department estimates that it will take approximately 30 hours of staff time to develop the proposed rules.

Entities affected

Business entities affected will include dentists, dental offices, Federally Qualified Health Centers (FQHCs) to the extent they have a dental operation, HealthCheck nursing agencies, and the Department's HMO partners in Southeastern Wisconsin (Milwaukee, Kenosha, Racine, and Waukesha Counties).

Comparison to federal regulations

42 CFR § 440 addresses Medical Assistance, including required and optional services provided under State Plans.

Regulation and Licensing

Subject

Objective of the rule. The objective of the rule is to create chapter RL — in response to 2003 Wisconsin Act 145. This Act directs each agency to develop rules to disclose in advance the discretion that the agency will follow in the enforcement of rules and guidelines against a small business.

Policy analysis

a) Existing policies. The Department currently does not have any specific rules relating to enforcement against small businesses as compared to other businesses.

b) New policies. This is a new policy initiative.

c) Policy alternatives. The alternative of not creating this code chapter would result in not complying with the directive in 2003 Wisconsin Act 145.

Statutory authority

Section 895.59 (2), Stats., as created by 2003 Wisconsin Act 145.

Staff time required

The Department estimates that it will take approximately 150 hours to develop this rule. This time includes drafting the rule and processing the rule through public hearings, legislative review and adoption. The Department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

Comparison to federal regulations

There are no existing or proposed federal regulations that address or impact the activities to be regulated by this rule.

Revenue

Subject

Notice is hereby given, pursuant to s. 227.135, Wis. Stats., that the Department of Revenue plans to promulgate rules related to the administration of the 2005 use value assessment for agricultural land.

Objective of the rule. To ensure positive and stable 2005 assessments for agricultural land.

Policy analysis

Pursuant to s. 70.32 (2r) (c), 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 2005 use value is to be based on the 5-year average corn price, cost and yield for the 1998–2002 period, and the capitalization rate is to be based on the 2000–2004 period.

The data for the 1998–2002 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 1998–2002 period will result in negative use values. The department has promulgated an emergency rule that would hold the 2005 use values at 2003 levels. The emergency rule will be published on December 29, 2004 and will further remain in effect for 150 days after publication when a permanent rule should be in place. The department intends to promulgate a permanent rule to the same effect.

Statutory authority

Section 227.11 (2), Stats.

Staff time required

The total anticipated time commitment to the development of the rule is 120 hours.

Entities affected by the rules

These rules will likely affect farming businesses with land that is actually used for productive agricultural purposes.

Comparison to federal regulations

There is no current or pending federal regulations that address the assessment of agricultural property.

Comparison to other state laws and regulations:

Comparison with rules in adjacent states: Assessment guidelines for agricultural property vary within the states adjacent to Wisconsin. The guidelines may be found in state statutes, administrative rules or a state's constitution. While all four of the adjacent states provide for preferential assessment of agricultural land, only Iowa and Illinois assess agricultural land based upon its agricultural productivity or use. Michigan and Minnesota assess agricultural land based upon market data.

Agricultural real estate in Iowa is assessed according to its productivity and net earning capacity as defined in Iowa Code. The data used to calculate productivity pertains to crops harvested during the five-year period ending with the calendar year in which assessments were last equalized.

In Illinois, farmland is assessed based upon its agricultural economic value. Agricultural economic value is based upon soil productivity, market conditions, production costs and interest rates.

Real property in Michigan is assessed at 50% of market value. The market is determined with data from the prior two years of sales. Qualified agricultural property is exempt from the 18-mil tax levied by the local school district.

Minnesota requires assessors to value property at its estimated market value. The state provides a program that allows qualifying farmers to pay real estate taxes based upon the agricultural value of their land. Under the law, referred to as "Green Acres", the assessor determines two values on agricultural property. (1) The "actual market value" based on sales of similar property taking into consideration all of the non-farm factors that influence its market value. (2) The "agricultural value" or "Green Acres value" based on sales of agricultural property in neighboring counties or areas not affected by development pressures. Taxes are calculated on both market values, but paid on the lower, agricultural value each year. The difference between tax calculated on agricultural market value and the actual market value is deferred until the property is sold or no longer qualifies for the "Green Acres Program".

Transportation

Subject

Objective of the rule. This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding one highway segment to the network. The actual segment being proposed is:

STH 48 from STH 35 in Luck to USH 63 in Cumberland.

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 make 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 Colonial Craft in Luck, WI, to add this highway segment.

Comparison to federal regulations

In the Surface Transportation Assistance Act of 1982 (STAA), the federal government acted under the Commerce clause of the United States Constitution to provide uniform standards on vehicle length applicable in all states. The length provisions of STAA apply to truck tractor–semitrailer combinations and to truck tractor–semitrailer–trailer combinations. (See Jan. 6, 1983, Public Law 97–424, § 411) The uniform standards provide that:

- No state shall impose a limit of less than 48 feet on a semitrailer operating in a truck tractor–semitrailer combination.
- No state shall impose a length limit of less than 28 feet on any semitrailer or trailer operating in a truck tractor–semitrailer–trailer combination.
- No state may limit the length of truck tractors.
- No state shall impose an overall length limitation on commercial vehicles operating in truck tractor–semitrailer or truck tractor–semitrailer–trailer combinations.
- No state shall prohibit operation of truck tractor–semitrailer–trailer combinations.

The State of Wisconsin complied with the federal requirements outlined above by enacting 1983 Wisconsin Act 78 which amended s. 348.07 (2), Stats., and 348.08 (1), Stats. This act created s. 348.07 (2) (f), (fm), (gm) and 348.08 (1) (e) to implement the federal length requirements. In 1986 the legislature created s. 348.07 (2) (gr), Stats., to add 53 foot semitrailers as part of a two vehicle combination to the types of vehicles that may operate along with STAA authorized vehicles. (See 1985 Wisconsin Act 165)

The vehicles authorized by the STAA may operate on the national system of interstate and defense highways and on those federal aid primary highways designated by regulation of the secretary of the United States Department of Transportation. In 1984 the USDOT adopted 23 CFR Part 658 which in Appendix A lists the highways in each state upon which STAA authorized vehicles may operate. Collectively these highways are known as the National Network. In 1983 Wisconsin Act 78, the legislature enacted s. 348.07 (4), Stats., which directs the Wisconsin Department of Transportation to adopt a rule designating the highways in Wisconsin on which STAA authorized vehicles may be operated consistent with federal regulations.

The Department of Transportation first adopted ch. Trans 276 of the Wisconsin Administrative Code in December of 1984. The rule is consistent with 23 CFR Part 658 in that the

Wisconsin rule designates all of the highways in Wisconsin that are listed in 23 CFR Part 658 as part of the National Network for STAA authorized vehicles. The federal regulation does not prohibit states from allowing operation of STAA authorized vehicles on additional state highways. The rule making authority granted to the Wisconsin Department of Transportation in s. 348.07 (4), Stats., allows the DOT to add routes in Wisconsin consistent with public safety. The rule making process also provides a mechanism to review requests from businesses and shipping firms for access to the designated highway system for points of origin and delivery beyond 5 miles from a designated route. A process to review and respond to requests for reasonable access is required by 23 CFR Part 658.

Entities affected by the rule

The rule will affect the requesters of the routes to be designated and other operators of commercial motor vehicles.

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.

Workforce Development

Subject

The adjustment of thresholds for application of prevailing wage rates.

Policy Analysis

When a state agency or local governmental unit contracts for the erection, construction, remodeling, repairing, or demolition of a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Sections 66.0903 (5) and 103.49 (3g), Stats., set initial estimated project cost thresholds for application of prevailing wage rates and require that DWD adjust the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. Pursuant to s. DWD 290.15, the threshold adjustment is based on changes in the construction cost index published in the *Engineering News–Record*, a construction trade publication.

This rule will adjust the thresholds for application of the prevailing wage rate based on a 7.755% increase in the construction cost index since the thresholds were last adjusted. The current thresholds are \$38,000 for a single–trade project and \$186,000 for a multi–trade project. The new thresholds will be \$41,000 for a single–trade project and \$200,000 for a multi–trade project.

Entities affected by the rule

State agencies, local governmental units, employers in the construction industry who contract for public works projects, and employees of these employers.

Comparison to federal law

The threshold for application of the federal prevailing wage law is a contract greater than \$2,000. This threshold is in statute and is rarely adjusted.

Statutory authority

Sections 66.0903 (5), 103.49 (3g), and 227.11, Stats.

Staff time required

35 hours.

Submittal of rules to legislative council clearinghouse

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

Commerce

Rule Submittal Date

On December 3, 2004, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Subject Matter

The proposed rule-making order affects ch. Comm 5, relating to manufactured home dealer and salesperson licenses.

Agency Procedure for Promulgation

A public hearing is required and will be held on

Contact Information

Larry Swaziek
Program Manager
608-267-7701
Email: lswaziek@commerce.state.wi.us

Commerce

Rule Submittal Date

On December 3, 2004, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Subject Matter

The proposed rule-making order affects chs. Comm 26 and 2, relating to manufactured home parks.

Agency Procedure for Promulgation

A public hearing is required and will be held on

Contact Information

Larry Swaziek
Program Manager
608-267-7701
Email: lswaziek@commerce.state.wi.us

Natural Resources

Rule Submittal Date

On December 10, 2004, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Subject Matter

The proposed rule-making order affects ch. NR 46, relating to administration of the managed forest law.

Agency Procedure for Promulgation

A public hearing is required and will be held on January 11, 2005.

Contact Information

Carol Nielsen
Bureau of Forestry
608-266-8019

Natural Resources

Rule Submittal Date

On December 10, 2004, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Subject Matter

The proposed rule-making order affects ch. NR 47, relating to gypsy moth suppression program.

Agency Procedure for Promulgation

A public hearing is required and will be held on January 25, 2005.

Contact Information

Andrea Diss
Bureau of Forestry
608-264-9247

Rule-making notices

Notice of Hearing

Commerce

(Licenses, Certifications, Ch. Comm 5)

(Manufactured Homes, etc., Chs. Comm 95 to 98)

[CR 04-134]

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.951 and 101.952, Stats., the Department of Commerce will hold a public hearing on proposed rules under sections Comm 5.323 and 5.325 and chs. Comm 96 to 98, relating to manufactured home dealer and salesperson licenses.

The public hearing will be held as follows:

Date and Time

Tuesday, **January 18, 2005** at 10:00 a.m.

Location

Room 3B, Thompson Commerce Center
201 West Washington Avenue
Madison

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **February 1, 2005**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at racker@commerce.state.wi.us.

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

Analysis of Proposed Rules

Statutory Authority: Sections 101.951 and 101.952, Stats.

Statutes Interpreted: Sections 101.951 and 101.952, Stats.

General Summary

Section 101.951, Stats., requires the Department of Commerce to issue licenses to and regulate manufactured home dealers through the promulgation of administrative rules. Chapters Comm 96, 97 and 98 currently contain the required rules for the licensure and regulation of manufactured home dealers. Section 101.952, Stats., requires the department to issue licenses to and regulate manufactured home salespersons through the promulgation of administrative rules. Chapter Comm 98 currently contains the required rules for the licensure and regulation of manufactured home salespersons.

The proposed rules repeal chapters Comm 96, 97 and 98 and create new sections in chapter Comm 5 for the licensure and regulation of manufactured home dealers and

salespersons. The licensure fees currently specified in chapter Comm 98 are also being moved, without change, to chapter Comm 5.

Detailed Summary

In moving the administrative rules from chapters Comm 96, 97 and 98 into chapter Comm 5, some changes are being proposed. Several changes deal with the use of new department forms. An existing Note in section Comm 5.01 indicates how department forms may be obtained. The following listing is a summary of the major changes contained in the proposed rules.

1. Deleting the requirement that the branch and subplot must be in the same municipality as the main sales office. [Comm 5.003 (6m) and (48e)]

2. Increasing the term of the license from 2 years to 4 years for both the dealer license and the salesperson license. [Comm 5.06 Table 5.06]

3. Deleting the dealer license application requirements for asset reporting, liability reporting and net worth reporting, and requiring the use of a department form for submittal of financial information. [Comm 5.323 (2) (d) 2.]

4. The minimum net worth or surety bond requirements for the dealer license are revised and separated into broker and non-broker categories, and significantly increased for the non-broker. [Comm 5.323 (3) (a)]

5. Deleting the list of items to be included on a purchase contract and requiring the use of a department form for the purchase contract. [Comm 5.323 (6) (b)]

6. Requiring the use of a department form when a manufactured home dealer lists or offers to sell a used manufactured home on consignment. [Comm 5.323 (7) (a)1.]

7. Adding a rule requiring the dealer to have written verification of a dealership arrangement or an established relationship with a manufacturer to sell and advertise the manufacturer's new manufactured homes. [Comm 5.323 (9) (f) 1.]

8. Adding a rule requiring a manufactured home salesperson to obtain a salesperson license for each manufactured home dealer employing the manufactured home salesperson. [Comm 5.325 (1) (b)]

Federal Comparison

An Internet-based search of the *Code of Federal Regulations* (CFR) did not find any existing federal regulations relating to the licensure of manufactured home dealers and salespersons. Title 24 CFR Part 3282 Subpart F contains requirements for dealer responsibilities, but does not address licensing of dealers.

An Internet-based search of the 2003 and 2004 issues of the *Federal Register* did not find any proposed regulations relating to the licensure of manufactured home dealers and salespersons.

State Comparison

An Internet-based search of adjacent states' rules found the following regulations that include requirements relating to the licensure of manufactured home dealers and salespersons.

- Illinois has no state regulations applying to manufactured home dealer and salesperson licenses.

- Iowa has state regulations that require anyone engaged in the business of selling mobile homes or manufactured homes

to obtain a mobile home retailer's license, administered by the Department of Transportation. The regulations are very basic. A \$50,000 surety bond is required, and a license must be obtained for each county in which the dealer maintains a place of business.

- Michigan has extensive regulations applying to the licensure of manufactured home dealers, administered by the Department of Labor and Economic Growth. The regulations are very detailed and comprehensive, covering areas such as criminal record check, surety bond, sales location, advertising, recordkeeping, purchase agreements, prohibited business practices, and broker responsibilities.

- Minnesota has state regulations applying to the licensure of manufactured home dealers, administered by the Department of Administration. The regulations are very general, covering areas such as application, place of business, manufacturer's sale agreement, recordkeeping, salespersons, and dealer responsibilities.

Advisory Council

The proposed rules have been developed with the assistance of the Manufactured Home Dealers and Salespersons Advisory Council. The members of that citizen advisory council are as follows:

Name	Representing
Russ Gilson	WI Housing Alliance (Real estate agent)
Bart Huntington	WI Housing Alliance (Dealer/community owner)
Tom Palecek	WI Housing Alliance (Manufacturer)
Allen Schwoerer	WI Housing Alliance (Installer)
Mark Thiede	WI Housing Alliance (Dealer)
Gary Wegner	WI Housing Alliance (Salesperson)
Lynn Wehner	WI Housing Alliance (Lender/mortgage broker)
Steve Wetts	WI Housing Alliance (Salesperson)
Kathleen Zurawski	USDA Rural Development (Public)

Initial Regulatory Flexibility Analysis

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

The proposed rules will affect any businesses that sell manufactured homes.

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

The proposed rules are an update and consolidation of existing rules. There are no new reporting, bookkeeping or other procedures required for compliance with the rules.

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

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

4. Rules have a significant economic impact on small businesses.

Yes, rules submitted to Small Business Regulatory Review Board

Environmental Analysis

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

exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing the manufactured home dealer and salesperson licenses rules. The proposed rules do not contain any changes in the Division's license fees charged for administering and enforcing the licensure program. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

The proposed rules will not have a significant fiscal effect on the private sector. The increased costs that may be incurred by the private sector are the result of proposed increases in the net worth or surety bond amounts for non-brokers. The proposed amounts for brokers however, have been reduced.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at rward@commerce.state.wi.us, or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at cdunn@commerce.state.wi.us.

Notice of Hearing

Commerce

(Fees, Ch. Comm 2)

(Manufactured Homes, Chs. Comm 95 to 98)

[CR 04-135]

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.935 and 101.937, Stats., the Department of Commerce will hold a public hearing on proposed rules under chapters Comm 26, 95 and 2, relating to manufactured home parks.

The public hearing will be held as follows:

Date and Time

Tuesday, **January 18, 2005** at 1:00 p.m.

Location

Room 3B, Thompson Commerce Center
201 West Washington Avenue
Madison

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **February 1, 2005**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at racker@commerce.state.wi.us.

This hearing is held in accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as

interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Analysis of Proposed Rules

Statutory Authority: Sections 101.935 and 101.937, Stats.

Statutes Interpreted: Sections 101.935 and 101.937, Stats.

General Summary

Section 101.935, Stats., requires the Department of Commerce to issue permits to and regulate manufactured home parks through the promulgation of administrative rules. The rules must also establish the park permit fee. Chapter Comm 95 currently contains the required rules for the regulation of manufactured home parks, including the park permit fees. Section 101.937, Stats., requires the department to establish rules for providing water or sewer service by a manufactured home park operator or manufactured home park contractor to a manufactured home park occupant. Chapter PSC 186 currently contains the required rules relating to the provision of water or sewer service to manufactured home park occupants. The authority for administering chapter PSC 186 was transferred from the Public Service Commission to the department in 2001.

The proposed rules repeal both chapters Comm 95 and PSC 186 and create a new chapter Comm 26 consisting of the regulation of manufactured home parks, including the provision of water or sewer service to the parks. The park permit fee requirements currently in chapter Comm 95 are being moved, without change, to chapter Comm 2 – Fee Schedule.

Detailed Summary

In moving the administrative rules from chapters Comm 95 and PSC 186 into chapter Comm 26, some changes are being proposed. The following listing is a summary of the major changes contained in the proposed rules.

1. Two sets of plans are required to be submitted for plan approval of a new or expanded manufactured home park. [Comm 26.07]
2. Street width requirements for new manufactured home parks are proposed to be wider where off-street parking is not provided. [Comm 26.12 (3)]
3. Fire hydrants are required in new manufactured home parks depending on the availability of adequate water supply. [Comm 26.13 (2)]
4. The rules regarding the establishment of general service charges for water and sewer service are revised and separated depending on whether the service is metered or not metered. [Comm 26.30 (1)]
5. The maximum allowed deposit for water and sewer service is increased from \$40 to \$60, and the requirement to pay interest on the deposit is deleted. [Comm 26.33 (1)]

Federal Comparison

An Internet-based search of the *Code of Federal Regulations* (CFR) found the following existing federal regulations relating to manufactured home parks/communities.

- Title 44 CFR Part 60 – Criteria for Land Management and Use. This regulation in the federal Department of Homeland Security requires local municipalities to have flood plain management regulations relating to proposed construction or other development in the municipality, including the placement of manufactured homes.
- Several other federal regulations, such as Title 24 CFR part 201, Title 24 CFR Part 883 and Title 38 CFR Part 36,

relate to loans and housing assistance for manufactured homes and home lots.

These federal regulations apply to different subjects and do not address the same activities as compared to the proposed rules.

An Internet-based search of the 2003 and 2004 issues of the *Federal Register* did not find any proposed regulations relating to manufactured home parks/communities.

State Comparison

An Internet-based search of adjacent states' rules found the following regulations that include requirements relating to manufactured home parks/communities.

- Illinois has state regulations applying to the licensure of manufactured home communities, administered by the Department of Public Health. The regulations are comprehensive, covering areas such as streets, parking, water, sewer, fire safety, waste disposal, and inspections.
- Iowa has no state regulations applying to manufactured home parks/communities. Iowa's manufactured home regulations govern the construction and installation of the homes as well as the licensure of home installers.
- Michigan has extensive regulations applying to the licensure of manufactured home communities, administered by the Department of Consumer and Industry Services. The regulations are very detailed and comprehensive, covering areas such as plan approval, inspections, streets, utilities, fire safety, home installation, recreational areas, and business practices.
- Minnesota has state regulations applying to the licensure of manufactured home parks and recreational camping areas, administered by the Department of Health. The regulations are very general, covering areas such as home spacing, water supply, sewage disposal, garbage and refuse, fire protection, and inspection.

The Illinois, Michigan and Minnesota regulations generally cover the same topics as the proposed rules.

Advisory Council

The proposed rules have been developed with the assistance of the Manufactured Homes and Home Parks Advisory Council. The members of that citizen advisory council are as follows:

Name	Representing
Phil Blazkowski	WI Counties Association (Municipal inspector)
Brian Brown	WI Housing Alliance (Sewer/water service provider)
Gregg Cleveland	WI Fire Chiefs Association (Fire chief)
Joseph Dentice, Jr.	WI Housing Alliance (Community operator)
Mark Flood	WI Housing Alliance (Community owner)
John Geise	WI Housing Alliance (Manufacturer)
Pete Halverson	WI Housing Alliance (Dealer/Salesperson)
Ron Middleton	WI Housing Alliance (Community owner)
Al Rhinerson	WI Housing Alliance (Installer)
Tom Schrader	WI Housing and Economic Development Authority (Public)
Kristen Zehner	WI Manufactured Home Owners Association (Home owner)

Initial Regulatory Flexibility Analysis

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

The proposed rules will affect any businesses that own or operate a manufactured home park.

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

The proposed rules are an update and consolidation of existing rules. Other than the requirement for submittal of 2 sets of plans, instead of one, for approval of a new or expanded manufactured home park, there are no new reporting, bookkeeping or other procedures required for compliance with the rules.

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

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

4. Rules have a significant economic impact on small businesses.

Yes, rules submitted to Small Business Regulatory Review Board

Environmental Analysis

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

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing the manufactured home parks rules. The proposed rules do not contain any changes in the Division's park permit fees charged for administering and enforcing the park program. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

The proposed rules will not have a significant fiscal effect on the private sector. The anticipated costs that may be incurred by the private sector are the result of new street width and fire hydrant requirements for new manufactured home parks. These requirements are conditioned upon the availability of off-street parking and adequate water supply.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at rward@commerce.state.wi.us, or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at cdunn@commerce.state.wi.us.

Notice of Hearing

Commerce

(Financial Assistance, etc., Chs. Comm 105)

[CR 04-108]

NOTICE IS HEREBY GIVEN that pursuant to ss. 560.205 (3) (d) and 560.275 (7) (b), Stats., as created by 2003

Wisconsin Act 255, the Department of Commerce will hold a public hearing on the emergency rule and proposed permanent rule under chapter Comm 129, relating to technology commercialization programs.

The public hearing will be held as follows:

Date and Time

Wednesday, **January 12, 2005** at 10:00 a.m.

Location

Room 3B, Thompson Commerce Center
201 West Washington Avenue
Madison

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **January 26, 2005**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at racker@commerce.state.wi.us.

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

Analysis of Proposed Rules

Statutory Authority: ss. 560.205 (3) (d) and 560.275 (7) (b), Stats., as created by 2003 Wisconsin Act 255

Statutes Interpreted: ss. 560.205 (3) (d) and 560.275 (7) (b), Stats., as created by 2003 Wisconsin Act 255

General Summary

Under sections 560.205 and 560.275, Stats., of 2003 Wisconsin Act 255, the Department of Commerce has been directed to promulgate rules to administer an early stage business investment program and a technology commercialization grant and loan program. The rules under section 560.205 (3) (d), Stats., relate to angel investment tax credits and early stage seed investment tax credits. The rules under section 560.275 (7) (b), Stats., relate to the technology commercialization grant and loan program.

The proposed rules consist of the creation of chapter Comm 129 to contain the requirements to administer both programs. The following listing highlights the major items contained in the chapter.

- Creates the process for administration of the Early Stage Business Investment Program.
- Establishes a process for eligibility and for certifying qualified new business ventures and fund managers.
- Defines investment eligibility requirements, including "bona fide angel investment".
- Describes reporting requirements for Commerce and for investors under the program.
- Creates the process for administration of the Technology Commercialization Grant and Loan Program.
- Defines eligible businesses.
- Defines professional services and eligible project costs.
- Establishes a process for reporting, monitoring and auditing the program.

Federal Comparison

There are no existing or proposed federal regulations that address or impact the activities to be regulated by this rule.

State Comparison

An Internet search found no similar rules in the states of Illinois, Iowa, Michigan and Minnesota.

Initial Regulatory Flexibility Analysis

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

Technology businesses with less than 100 employees may apply for these programs.

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

The rules require semi-annual or annual reporting on the status of the technology-related project.

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

The rules require accounting skills necessary for financial management of the project, such as budget management tracking of the funds spent.

4. Rules have a significant economic impact on small businesses.

Yes, rules submitted to Small Business Regulatory Review Board

Environmental Analysis

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

Fiscal Estimate

The rule will have no fiscal effect on the department or local government. It establishes application processes for the venture capital and technology commercialization programs that are based on the statutory requirements of 2003 Wisconsin Act 255.

The fiscal effect on the private sector is indeterminable. Entities that apply for certification as a fund manager under the venture capital tax credit program, or for grants or loans under the technology commercialization program will face costs in developing their applications, but those costs are at the discretion of the applicant. No private sector entities will face mandated costs.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at rward@commerce.state.wi.us, or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at cdunn@commerce.state.wi.us.

Notice of Hearings

Natural Resources

(Fish, Game, etc., Chs. NR 1—)

[CR 04-136]

NOTICE IS HEREBY GIVEN that pursuant to ss. 77.82 (3) (g) and (7) (c) 3. and 227.11 (2) (a), Stats., interpreting subch. III of ch. 77, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 46, Wis. Adm. Code, relating to the administration of the Managed Forest Law. The proposed rules are being proposed to reflect the changes in subch. VI of ch. 77, Stats., in 2003 Wisconsin Act 228 and to implement one additional change recommended by the Governor's Council on Forestry. The proposed changes include:

- Managed Forest Law application changes including new application deadline (July 1 18 months prior to the effective date of land being entered under the law), establishment of a second deadline beginning November 15, 2005 (May 15 7½ months prior to the effective date of land being entered under the law), requirement that title documents be recorded and that existing certified survey maps be included with the application, and revises orders eligible for additions to new orders (entered 2005 or later) only.

- Development of a plan writer certification program for non-department foresters who will prepare management plans for managed forest law entries. Establishes requirement that plans be prepared by a certified plan writer or the department itself.

- Modification of open/closed acreage rules to allow up to 160 acres closed per ownership per municipality for new entries and to allow owners to change the open and closed designation of their lands up to two times during the order period.

- Fee changes including an increased transfer fee and application fee.

- Yield tax exemption for new entries during the first five years of the order period, excluding Forest Crop Law conversions to Managed Forest Law and Managed Forest Law land renewed at the end of the original order period.

- Definition of completed plan created and city is added to the definition of municipality.

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

a. Types of small businesses affected: Small private forest landowners and forest industries who have enrolled or wish to enroll in the Managed Forest Law and consulting foresters who want to prepare plans for Managed Forest Law entries.

b. Description of reporting and bookkeeping procedures required: None

c. Description of professional skills required: Foresters must have a forestry degree in an accredited forest management curriculum from a university or college with a 4-year curriculum or accredited graduate degree in the management of forest resources.

The Department's Small Business Regulatory Coordinator may be contacted at SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments

received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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

Tuesday, **January 11, 2005** at 10:00 a.m.

Video conference participation will be available at:

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

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

Room 21, State Office Building
101 S. Webster St.
Madison

Room 218, Distance Education & Instruction Technology
UW–Marathon County
518 South 7th Avenue
Wausau

Room C103, UW–Waukesha
1500 University Drive
Waukesha

Fiscal Estimate

The fiscal impacts associated with the changes proposed to Subchapter III Chapter NR46 are all as a result of changes made in 2003 Wisconsin Act 228 (AB323) to Chapter 77 Wis. Stats. The fiscal estimates originally prepared for Act 228 (AB323) have been modified for this estimate due to revisions to the bill and a partial veto which occurred after the initial fiscal estimate was prepared. Only those changes that appear in NR 46 are reflected in the fiscal estimate worksheet. This fiscal estimate worksheet shows a decrease in revenue of \$124,000 to local units of government, however they will see an increase in revenue of \$994,000 due to other changes made in 2003 Wis. Act 228 which are not a result of the rule changes.

PROVISIONS THAT HAVE A FISCAL IMPACT to the State and/or the local units of government. (The cost and revenue figures are calculated using 2003 data unless otherwise stated. All state revenues are currently deposited in the Forestry Account of the Conservation Fund.)

The increase in the MFL application fee from \$100 to \$300 will generate an additional \$540,000 per year. It is estimated that the average number of applications in subsequent years will be around 3,000/year of which 10% will qualify for the \$20 application fee (additions to existing entries or have a qualifying management plan). 2,700 applications x \$200 increase/application = \$540,000. 2003 Wis Act 228 directs \$280 of each application fee or an estimated \$756,000 annually to be used by the DNR for contracting with private consultant foresters to prepare MFL management plans.

The development and implementation of a certified plan writer (CPW) program: The majority of the cost involved is in staff time. Approximately 1200 hrs is anticipated during the first year for development of the program and initial entry training, delivery of 6 – 2 day initial entry training sessions, and administration. Annually an estimated 340 hours of staff time will be needed for development and delivery of future training, and administration. Registration fees will cover the cost for materials at training sessions.

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 Ms. Carol Nielsen at (608) 266–8019 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Ms. Carol Nielsen, Forest Tax Unit, Bureau of Forest Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until January 14, 2005. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Nielsen.

Notice of Hearings

Natural Resources

(Fish, Game, etc., Chs. NR 1—)

[CR 04–137]

NOTICE IS HEREBY GIVEN that pursuant to ss. 26.30 (6m) and 227.11 (2) (a), Stats., interpreting ss. 26.30, 28.01 and 28.07, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 47, Wis. Adm. Code, relating to the gypsy moth suppression program. Revisions are made necessary by the passage of s. 26.30 (6m), Stats., which reduced the minimum spray block size to 20 compact and contiguous acres and which removed the requirement that residents or proposed spray blocks be notified by mail. Additional changes are proposed that the Department expects to reduce or otherwise ease the workload of the program participants from counties and communities. Many of these changes were suggested by participants over the first years of this program. These changes include:

- Specifying that county coordinators may delegate tasks.
- Allowing notification of the public to the availability of the suppression program by means other than a public meeting.
- Reducing the number of sprayed blocks that county coordinators must survey for defoliation to just those identified as having some defoliation during aerial surveys conducted by the DNR.
- Delaying the due date for applications from December 1 to the first Friday in December.
- Any block revisions will be made with the help of the DNR regional suppression coordinator, removing the requirement to send maps back and forth.
- Requiring a single administrative expense report for the entire year replacing the previous requirement of a report every 6 months.

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. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

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

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

Tuesday, **January 25, 2005** at 10.00 a.m., **Video conference participation** will be available at:

S1034, Instructional Serv. Bldg.
UW-Green Bay
2420 Nicolet Dr.
Green Bay

Room 227, Pyle Center,
W Extension
702 Langdon Street
Madison

Room L130, UW-Marquette
750 West Bay Shore
Marquette

Room N029, Northview Bldg.
UW-Waukesha
1500 University Drive
Waukesha

Fiscal Estimate

Many of these changes were suggested by participants over the first years of this program. In addition to reducing the workload, these changes may lead to reduction in costs for the program participants though by how much is not predictable.

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 Dr. Andrea Diss at (608) 264-9247 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Dr. Andrea Diss, Bureau of Forest Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until February 18, 2005. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A

personal copy of the proposed rule and fiscal estimate may be obtained from Dr. Diss.

Notice of Hearing Public Instruction [CR 04-129]

NOTICE IS HEREBY GIVEN That pursuant to ss. 118.43 (6m) and 227.11 (2) (a), Stats., and interpreting s. 118.43 (6), Stats., the Department of Public Instruction will hold a public hearing as follows to consider emergency and proposed permanent rules, relating to the payment of state aid under the student achievement guarantee in education (SAGE) program. The hearing will be held as follows:

Date, Time and Location

January 14, 2005 Madison
3:00 – 5:00 p.m. GEF 3 Building
125 South Webster Street
Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please contact Janice Zmrazek, SAGE Program Coordinator, janice.zmrazek@dpi.state.wi.us, (608) 266-2489, or leave a message with the Teletypewriter (TTY), (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 note are available on the internet at:

<http://www.dpi.state.wi.us/dpi/dfm/pb/sagerule.html> and <http://www.dpi.state.wi.us/dpi/dfm/pb/sagefn.html>, respectively. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.state.wi.us or by writing to:

Lori Slauson, Administrative Rules and 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 mailing or email address no later than January 19, 2005, will be given the same consideration as testimony presented at the hearing.

Analysis by the Department of Public Instruction

Statute interpreted: s. 118.43 (6), Stats.

Statutory authority: ss. 118.43 (6m), Stats and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 118.43 (6m), Stats., requires the department to promulgate rules to implement and administer the payment of state aid under s. 118.43 (6), Stats.

Because the department is interpreting the provisions of this statute and administers/enforces the program governed by it, s. 227.11 (2) (a), Stats., gives the department general rule-making authority.

Court decisions directly relevant: None.

Related statute or rule: None.

Plain language analysis:

The department is required to promulgate rules to implement and administer the payment of state aid under the

student achievement guarantee in education (SAGE) program. By statute, the department must pay an amount not to exceed \$2,000 multiplied by the number of low-income pupils enrolled in grades kindergarten to 3.

The proposed rules establish 3 calculation periods for the department and provide eligible schools with 3 reporting periods in October, January, and March. The proposed rules establish deadlines in each reporting period for eligible schools to report low-income pupils for aid under the SAGE program. If funds are insufficient in any calculation period to award \$2,000 per low-income pupil, the payment will be prorated. If adequate funds remain after any calculation period, the department will notify eligible schools that they may report any additional low-income pupils who were enrolled on the third Friday in September but for whom low-income status was not submitted or eligibility was not determined on or before the reporting dates in October, January or March.

Summary of, and comparison with, existing or proposed federal regulations: Title II-A under the No Child Left Behind Act allows federal money to be used for class size reduction initiatives but does not specify what those initiatives must be. The Act provides non-regulatory guidance only.

Comparison with rules in adjacent states: Illinois, Iowa, Michigan, and Minnesota do not have administrative rules relating to state-funded class size reduction programs.

Summary of factual data and analytical methodologies: The proposed rules codify current practice.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: Not applicable.

Anticipated costs incurred by private sector: None.

Fiscal Estimate

The department is required to promulgate rules to implement and administer the payment of state aid under the student achievement guarantee in education (SAGE) program. The rules, as required by statute, specify that the department may award no more than \$2000 per low-income pupil enrolled in grades kindergarten to 3 to eligible schools. The rules establish 3 calculation periods for the department and 3 reporting periods for eligible schools in October, January, and March. If funds are insufficient in any calculation period, the rules allow the department to prorate the \$2000 per low-income student. If adequate funds are available in any calculation period, the rules allow eligible schools to report to the department and receive funds for additional pupils who were enrolled on the third Friday in September but for whom documentation of low-income status was not submitted or determined until a later date.

There is a possibility in the future that some low-income pupils in eligible schools would not receive funding under the proposed rules if the eligible school does not claim the pupil in the October reporting/calculation period and all appropriated funds are allocated in that initial calculation of state aid. Under past practice, all low-income pupils reported by eligible schools would have received a prorated amount.

The rules will have no fiscal effect on the department or small businesses.

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.

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.

Veterinary Examining Board (CR 04-018)

An order affecting chs. VE 2 and 5, relating to admission time for national examinations and post graduate training permits.

Effective 2-1-05.

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **December 31, 2004**, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Agriculture, Trade and Consumer Protection (CR 04-039)

An order affecting ch. ATCP 34, relating to the "Clean Sweep" Program. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

This rule consolidates the agricultural "clean sweep" program under s. 93.55, Stats., and the urban "clean sweep" program under s. 93.57, Stats. Under these programs, the Department of Agriculture, Trade and Consumer Protection provides grants to counties and municipalities to conduct "clean sweep" projects to collect and safely dispose of chemical wastes. Participation is voluntary. This rule establishes standards and procedures for the consolidated "clean sweep" program.

Small Businesses Affected By this Rule

This rule will have a positive impact on farmers, many of whom are "small businesses. This rule will also have a positive impact on businesses that qualify as "very small quantity generators" of waste pesticides. "Very small quantity generators" are defined, under the federal Resource and Conservation Recovery Act (RCRA) as entities that generate no more than 220 pounds of hazardous wastes per month and who accumulate no more than 2,205 pounds per year. This may include businesses such as lawn care companies, structural and aerial pesticide applicators, golf courses, agricultural chemical dealers, hardware stores, discount stores, marinas, schools, parks, cemeteries, and construction companies. Many of these businesses are "small businesses."

Effects on Small Business

The "clean sweep" program helps participants, including small businesses, dispose of waste chemicals at little or no cost. Individuals may dispose of household hazardous wastes, typically at no charge. Farmers may deliver up to 200 lbs. of farm chemical waste without charge (local governments may impose a charge for larger amounts). Businesses that deliver pesticide wastes must pay a portion of the collection and disposal costs (participation is voluntary, and available to businesses that qualify as "very small quantity generators" of pesticides).

The safe removal of chemical waste from farm and business locations will reduce health and environmental hazards and related financial liability for small businesses. This rule will impose no additional costs on small business, will add no new reporting or record keeping requirements, and will have no adverse impacts on small business.

Conclusion

This rule will have no adverse impact on small businesses, and will have a significant positive impact on many small businesses.

Summary of Comments by Legislative Review Committees

On August 30, 2004, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform and to the Assembly Committee on Agriculture. Neither the Assembly Committee on Agriculture nor the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform took any action on the rule during the review period.

Commerce (CR 04-016)

An order affecting chs. Comm 61 to 65, relating to construction of public buildings and places of employment. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

Sections 101.02 (1) and (15) and 101.973 (1) of the Wisconsin Statutes authorize the Department to promulgate rules prescribing minimum construction and operation standards for public buildings and places of employment, including multifamily dwellings. The rules in Clearinghouse Rule No. 04-016 are minimum requirements to meet the directive of the Statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives which are the basis for the rules.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce (CR 04-043)

An order affecting chs. Comm 62 and 70, relating to historic and existing buildings. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

Section 101.121, Stats., directs the Department to promulgate alternative construction standards for the restoration of or alterations to qualified historic buildings. When an owner of a qualified historic building does alteration or renovation work, the requirements under Comm 70 will provide alternatives to strict compliance with various requirements under the Wisconsin Commercial Building Code, chapters Comm 61 to 65 without affecting the overall

life safety of a qualified historic building.

The proposed rules of Clearinghouse Rule #04-043 provide alternatives to meet the directives of the Statutes and any exceptions from compliance for small businesses would be contrary to the Statutory objective, which is the basis of the rules.

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce (CR 04-070)

An order affecting ch. Comm 14, relating to administrative expenses and substantial compliance in the fire dues program. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

Under sections 101.14, 101.141, 101.573, and 101.575 of the Wisconsin statutes, the Department protects public health, safety, and welfare by promulgating rules for and administering fire inspection and prevention programs. Those programs include a Fire Dues program which is funded by fees from insurance companies, and which provides annual funding to cities, villages, and towns for performing fire inspection and prevention services. Under sections 101.573 (5) and 101.575 (4) (a) 1. and 2. of the statutes, as established in 2003 Wisconsin Act 219, the Department is required to promulgate rules that define "administrative expenses" for the purposes of fire prevention and Fire Dues administration, and that define "substantial compliance" for determining whether a municipality is eligible for funding from the Fire Dues program. The proposed rules of Clearinghouse Rule Number 04-070 are minimum requirements to meet the directive of the statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives that are the basis for the rules.

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions – Banking (CR 04-089)

An order creating ch. DFI-Bkg 46, relating to responsible high cost mortgage lending. Effective 2-1-05.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions—Securities (CR 04-074)

An order affecting chs. DFI-Sec 1 and 5, relating to Wisconsin securities law licensing requirements for investment advisers having custody of customer funds or securities. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

No final regulatory flexibility analysis is included on the basis that because the proposed rules are revisions/amendments to existing Wisconsin Securities Law regulatory requirements applicable solely to Wisconsin-licensed investment advisers having custody of

customer assets—which requirements those licensees should already be in compliance with—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.

Health and Family Services (CR 03-052)

An order affecting chs. HFS 45 and 46, relating to family and group child care centers and affecting small businesses. Effective 3-1-05.

Summary of Final Regulatory Flexibility Analysis

The revision of HFS 45 will affect family child care centers licensed to care for up to 8 children. The revisions to HFS 46 will affect group child care centers licensed to care for 9 or more children. As of June 2003 there were 3,111 licensed family child care centers and 2,399 licensed group child care centers. All of the programs affected by the proposed changes were notified by mail of the dates, times and locations of scheduled public hearings as well as instructions on how to obtain a copy of the proposed revisions and the procedure to make oral or written comments regarding the revisions.

The rule revisions will bring HFS 45 into alignment with HFS 46 and reflect current best practices in early childhood education and care. The rules allow individual programs to request an exception to any given provision provided an alternative plan for protecting the health, safety and welfare of children in care is also included with the request. These exception requests are evaluated and approved on an individual basis. The rules also expand the list of items that must be reported to the Department within a specified time frame. The reports required in the rule revision are a means by which the Department obtains information about situations occurring at a child care center or that affect children enrolled at a center which have the potential to affect the health, safety or welfare of the children enrolled in the program. These new reporting requirements are being proposed for the purpose of protecting the children in care. Therefore, the Department has not proposed specific exemptions from these reporting requirements.

Summary of Comments by Legislative Review Committees

The Senate Committee on Health, Children, Families, Aging and Long-Term Care (Senate Committee) held a public hearing on August 26, 2004 to discuss constituent concerns about the proposed rules. On September 3, 2004, September 17, 2004, and October 1, 2004, the Department submitted germane modifications to the Senate Committee and the Assembly Committee on Children and Families (Assembly Committee) to address those concerns. The Senate Committee and the Assembly Committee accepted the germane modifications without comment.

Health and Family Services (CR 04-040)

An order affecting chs. HFS 10, 13, 52, 55, 57, 59, 83, 124, 131, 134, 136, 181 and 252, relating to family care; reporting and investigation of caregiver misconduct; residential care centers for children and youth, child-placing agencies, day camps for children and day care programs established by school boards; group foster care; shelter care for children; community-based residential care facilities;

patient rights and resolution of grievances; hospitals; hospices; embalming standards; reporting blood test results; and electronic benefits transfer. Part Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

Some of the rules contained in the order affect small businesses; however, the proposed revisions to these rules are minor or technical and have little to no substantive effect on those regulated by these rules.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 04-055)

An order creating ch. HFS 118, relating to Wisconsin's statewide trauma care system. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

This chapter will primarily affect Wisconsin hospitals, rural medical centers and ambulance service providers. Based on fiscal year 2002 data, three hospitals had annual revenues under \$5 million. There are currently 456 ambulance service providers in Wisconsin. The Department does not have annual revenue data for ambulance service providers. However, the Department presumes that most, if not all, ambulance service providers have annual revenues under \$5 million.

Under these proposed HFS 118 rules, the Department would require all ambulance service providers to affiliate and participate with a Regional Trauma Advisory Council (RTAC). The purpose of such affiliation is to participate in their region's trauma care system. The proposed rules require ambulance service providers to state their RTAC affiliation choice in the ambulance service provider's operational plan. Under chapter HFS 110, ambulance service providers already must submit operational plans to the Department. The Department collects operational plans to ensure the appropriate operation of ambulance services. There will be no additional cost to fulfill this obligation.

Summary of Comments by Legislative Review Committees

No comments were received.

Insurance (CR 04-071)

An order affecting chs. Ins 2 and 50, relating to prescribing mortality tables and actuarial opinions, analysis and reports. Effective 1-1-05 and 12-31-05.

Summary of Final Regulatory Flexibility Analysis

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Insurance (CR 04-079)

An order affecting ch. Ins 18, relating to annual adjustment to the minimum necessary cost or payment to

access independent review under a health benefit plan. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Natural Resources (CR 04-024)

An order affecting chs. NR 20, 21, 22, 23 and 26, relating to fishing on the inland, outlying and boundary waters of Wisconsin. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

These rules will not directly affect small business; 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. There were no comments.

Natural Resources (CR 04-059)

An order affecting ch. NR 10, relating to the 2004 migratory game bird seasons. Effective 1-1-05.

Summary of Final Regulatory Flexibility Analysis

The revisions pertain to rules relating to migratory game bird hunting and are applicable to individual sportspersons. Therefore, under s. 227.19 (3m), Stats., 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. There were no comments.

Transportation (CR 04-004)

An order affecting ch. Trans 152, relating to Wisconsin interstate fuel tax and international registration program. Effective 1-1-05.

Summary of Final 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.

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 **December 2004**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Agriculture, Trade and Consumer Protection

Ch. ATCP 34 (Entire chapter)

Commerce

Ch. Comm 14

- S. Comm 14.02 (10)
- S. Comm 14.48 (1) (a), (2) (a), (3) (c) and (4) (a)
- S. Comm 14.50

Ch. Comm 61

- S. Comm 61.02 (5)
- S. Comm 61.03 (3), (5), (6) (intro.), (7) (intro.), (8) (intro.), (9) (intro, (10), (12), (13) (a)
- S. Comm 61.04 (1), (3) to (6)
- S. Comm 61.115 (1) and (2)
- S. Comm 61.30 (1) (b), (4) and Table 61.30-3
- S. Comm 61.31 (2) (b)
- Ss. Comm 61.39 to 61.71

Ch. Comm 62

- S. Comm 62.0100
- S. Comm 62.0115
- S. Comm 62.0202 (1), (2) (b), (3)
- Ss. Comm 62.0302 to 62.0310
- S. Comm 62.0400 (4)
- SS. Comm 62.0404 to 62.0412
- S. Comm 62.0415
- SS. Comm 62.0500 to 62.0603
- S. Comm 62.0706
- S. Comm 62.0711
- S. Comm 62.0715
- S. Comm 62.0903 (1m), (2) to (13)
- S. Comm 62.0904
- S. Comm 62.0905
- S. Comm 62.0907
- S. Comm 62.0910
- SS. Comm 62.1003 to 62.1005
- S. Comm 62.1007
- S. Comm 62.1009
- S. Comm 62.1103 (2) (d) to (L)
- S. Comm 62.1104 (3) (b), (c), (4) (b)
- S. Comm 62.1106 (1), (3m), (5)
- S. Comm 62.1107 (5) (c) and (e)
- S. Comm 62.1108 (2m)
- S. Comm 62.1109 (8) (d), (12) (b)
- S. Comm 62.1403 (1) and (2) (b)
- S. Comm 62.1405
- S. Comm 62.1407 (4)

- S. Comm 62.1505
 - S. Comm 62.1507
 - SS. Comm 62.1603 to 62.1607
 - S. Comm 62.1608 (3) and (4)
 - S. Comm 62.1611
 - S. Comm 62.1614
 - SS. Comm 62.1616 to 62.1621
 - S. Comm 62.1805
 - S. Comm 62.1807 (3) (e), (6)
 - S. Comm 62.1901
 - S. Comm 62.1903
 - S. Comm 62.1910
 - S. Comm 62.2209
 - S. Comm 62.2303
 - S. Comm 62.2306
 - S. Comm 62.2308
 - Ss. Comm 62.2406 to 62.2408
 - S. Comm 62.2900 (2), (4) (b)
 - S. Comm 62.2902 (1) (a), (c), (4) to (9)
 - S. Comm 62.3001 (4)
 - S. Comm 62.3004 (2) (intro.)
 - S. Comm 62.3006 (3) and (4)
 - S. Comm 62.3408 (5)
 - S. Comm 62.3500
 - S. Comm 62.3600 (1)
- ##### Ch. Comm 63
- S. Comm 63.0003 (3) (c)
 - S. Comm 63.0202 (2)
 - S. Comm 63.0402
 - S. Comm 63.0502 (3)
 - S. Comm 63.0503 (2) (a) and (b)
 - S. Comm 63.0605
 - S. Comm 63.0803
 - S. Comm 63.0806
 - S. Comm 63.1015 (5) (a) and (6) (a)
 - S. Comm 63.1019 (3) (a), Tables 63.1019-1 to 3 and Figures 63.1019-1 and 2
 - S. Comm 63.1026 (2) (b)
 - S. Comm 63.1029 Table
 - S. Comm 63.1050 (6)
- ##### Ch. Comm 64
- SS. Comm 64.0100 to 64.0301
 - S. Comm 64.0403 Table
 - SS. Comm 64.0507 to 64.0607
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- ##### Ch. Comm 65
- S. Comm 65.0101
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S. Comm 65.0301
 S. Comm 65.0305 (1)
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Financial Institutions – Banking

Ch. DFI–Bkg 45 (Entire chapter)

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Ch. DFI–Sec 1

S. DFI–Sec 1.02 (17) to (21)

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S. DFI–Sec 5.02 (2)

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S. HFS 46.02 (1) (intro) and (d)

S. HFS 46.03 (1), (3), (3m), (4m), (6), (7), (8m), (10m), (11g), (11r), (13), (14g), (14r), (17), (18), (18m), (19), (22g), (22r), (26m), (29m), (33), (34) and (35)

S. HFS 46.04 (2) (c), (f), (g), (i) and (m), (3) (a) and (f) to (L), (5) (a), (6) (a) and (c), (7), (8) (a) and (b)

S. HFS 46.05 (1) (a) to (e), (g) and (j), Tables A, B and C, (2) (a) and (c), (3) (g), (4) (e), (f) and (k)

S. HFS 46.06 (1) (a), (2) (h), (i), (k) and (L), (3) (b) and (c), (4) (j), (6) (b), (8) (g), (9) (b), (c), (f) and (g), (10) (a), Table 46.06 (title), (10) (b), (11) (b) and (c), (12)

S. HFS 46.07 (1) (a) (2) (b), (e) and (f), (3) (d), Table 46.07, (5) (a), (6) (d) to (f), (j), (k) and (L), (7)

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S. HFS 55.43 (1) (d) and (2) (a)

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S. HFS 59.05 (15)

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S. Ins 2.80 (2) (e), (4) (b)

S. Ins 2.81

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S. Ins 18.10 (2) (d)

S. Ins 18.105

S. Ins 18.11 (2) (a)

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Ch. Ins 50

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S. Ins 50.73 (intro.), (1), (6), (7), (8)

S. Ins 50.75 (1), (3), (5) (a), (c) and (d)

S. Ins 50.76

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S. Ins 50.78 (1) (intro.), (e), (2) (b), (bg), (c), (d), (e), (eg), (f), (5), (6)

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Natural Resources

Ch. NR 10

S. NR 10.01 (1) (b), (g), (u), (v)

Ch. NR 20

S. NR 20.03 (8), (31), (39m), (41)

S. NR 20.05 (8), (15)

S. NR 20.07 (1)

S. NR 20.09 (3)

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S. NR 20.12 (4)

S. NR 20.18

S. NR 20.20 (intro.), (1) (cm), (3) (e), (9) (a), (11) (b), (12) (b), (13) (b), (g), (17) (f), (18) (a), (dm), (22) (b), (25) (b), (27) (g), (29) (cm), (33) (am), (g), (36), (42) (e), (47) (a), (49) (e), (50) (cm), (53) (b), (55) (e), (56) (b), (61) (d), (62) (c), (64) (g), (65) (a), (67) (ag), (as), (72) (cm), (73) (a)

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Ch. Trans 152

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 S. Trans 152.14 (7) and (8)
 S. Trans 152.15
 S. Trans 152.17

Editorial corrections

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

Agriculture, Trade & Consumer Protection

Ch. ATCP 10

S. ATCP 10.615 (effective date)

Commerce

Ch. Comm 62

S. Comm 62.1110 (3) (d)

Health and Family Services

Ch. HFS 38

S. HFS 38.01 (1) and (3)
 S. HFS 38.03 (17) and (28)
 S. HFS 38.04 (4)
 S. HFS 38.05 (1)
 S. HFS 38.08 (1) (h)
 S. HFS 38.09 (2)
 S. HFS 38.10 (1) (c) and (2) (i)
 S. HFS 38.11 (1), (2) (a), (3) and (4)

Ch. HFS 40

S. HFS 40.01 (2)

Ch. HFS 42

S. HFS 42.01
 S. HFS 42.03 (1)

Ch. HFS 49 (Entire chapter)

Ch. HFS 52

S. HFS 52.52 (3) (b)

Ch. HFS 55

S. HFS 55.04 (12)

Ch. HFS 63

S. HFS 63.06 (6) (a)
 S. HFS 63.15 (4)

Ch. HFS 65

S. HFS 65.02 (9)

Ch. HFS 66

S. HFS 66.03 (1) (intro.)

Ch. HFS 68

S. HFS 68.02 (2) (b)
 S. HFS 68.03 (1) and (2)

Ch. HFS 77

S. HFS 77.10

Ch. HFS 82

S. HFS 82.02 (2) (a)
 S. HFS 82.05 (3) (f)
 S. HFS 82.10 (3)

Ch. HFS 90

S. HFS 90.08 (3) (b)
 S. HFS 90.11 (6) (a)

Ch. HFS 98

S. HFS 98.01 (intro.)
 S. HFS 98.03 (16), (21) and (24)
 S. HFS 98.26 (3)

Insurance

Ch. Ins 18

S. Ins 18.03 (2) (c) and (5) (d)

Errata

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

Health and Family Services

Ch. HFS 119

S. HFS 119.15

Ch. HFS 124

S. HFS 124.28

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/](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
NR 1.92 (1) (a)	80.41 (twice)	66.1006 (twice)
PSC 130.08	80.32 (4)	66.1005 (2)
Trans 204.01	86.266	82.52
Trans 207.03 (2)	81.38	82.08
Trans 207.03 (2)	81.38 (4)	82.08 (5)
Trans 214.01	86.26 and 86.265	82.50 and 82.51

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 73. 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 Special Agent John “Jay” Balchunas of the Wisconsin Department of Justice – Division of Criminal Investigation.

Executive Order 74. 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 Corporal Robert P. Warns II of the United States Marine Corps Reserve who lost his life during Operation Iraqi Freedom.

Executive Order 75. 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 Staff Sergeant Todd Cornell of the United States Army Reserve who lost his life during Operation Iraqi Freedom.

Executive Order 76. 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 Lance Corporal Shane K. O’Donnell of the United States Marine Corps Reserve who lost his life during Operation Iraqi Freedom.

Executive Order 77. 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 Corporal Brian P. Prening of the United States Marine Corps Reserve who lost his life during Operation Iraqi Freedom.

Executive Order 78. 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 Isaiah Robert Hunt of the United States Army who lost his life during Operation Iraqi Freedom.

Executive Order 79. 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 Lance Corporal Ryan Cantafio of the United States Marine Corps Reserve who lost his life during Operation Iraqi Freedom.

Executive Order 80. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Sergeant Benjamin Edinger of the United States Marine Corps who lost his life during Operation Iraqi Freedom.

Public notices

Health and Family Services (Medical Assistance Services in the Schools)

The State of Wisconsin reimburses providers for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Family Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Wisconsin Department of Health and Family Services is proposing to modify provisions of the State plan relating to billing Medicaid for services provided to eligible recipients in the schools.

Proposed Changes

The Department has submitted a Medicaid state plan amendment for approval by the federal Centers for Medicare and Medicaid Services (CMS) to allow providers to bill for all Medicaid coverable services provided in the schools to students who are eligible for Medicaid. Under this change, an individualized education program, or IEP, is no longer a prerequisite to bill Medicaid for services provided in the schools. The reimbursement methodology will be identical to the reimbursement methodology currently used by Medicaid for IEP services. Under the plan amendment providers will be able to bill Medicaid for all services for which Medicaid reimbursement is available under federal law that are provided to Medicaid-eligible recipients in the schools.

The projected fiscal effect of these changes for state fiscal year (SFY) 2004 is \$1,242,715, composed of \$725,000 federal share, or FED, and \$517,715 in general purpose revenues, or GPR. For SFY 2005 the projected fiscal impact is \$4,970,860 all funds, composed of \$2,900,000 FED and \$2,070,860 in GPR.

The changes will apply to services provided in the schools on or after July 1, 2004.

Copies of the Proposed Changes

A copy of the proposed changes may be obtained free of charge by calling or writing as follows:

Regular Mail:

Marge Hannon Pifer
Bureau of Fee-for-Service Health Care Benefits
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701-0309

Phone:

Marge Hannon Pifer
(608) 266-1940

FAX:

(608) 266-1096
Attention: Marge Hannon Pifer

E-Mail:

pifermh@dhfs.state.wi.us

A copy of the proposed changes are available for review at the main office of any county department of social services or human services.

Written Comments

Written comments are welcome. Written comments on the proposed changes may be sent by FAX, e-mail, or regular mail to the Department. The FAX number is (608) 266-1096. The e-mail address is pifermh@dhfs.state.wi.us. Regular mail can be sent to the above address. All written comments will be reviewed and considered.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

Natural Resources

Notice of Availability of a Legislative Report Relating to Wisconsin's Designation of Ten Counties as Nonattainment for the Eight-Hour Ozone Standard.

All interested persons are advised that the Department of Natural Resources (DNR) is proposing to issue a document designating 10 counties (Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha) as nonattainment for the eight-hour ozone standard. The Department has submitted a report on the proposed designations to the legislative standing committees for environmental matters as required under s. 285.23(6), Stats. If you would like copies of the information supplied to the Wisconsin legislative committees, please call Marney Hoefler, DNR, at 608-267-0577 or send a request via email to Margaret.Hoefler@dnr.state.wi.us.

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