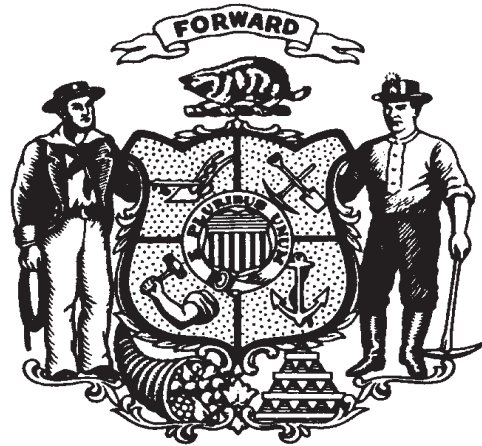


Wisconsin Administrative Register

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Emergency rules now in effect

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

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

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

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

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

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

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

Elections Board

Rules adopted creating **s. EIBd 1.395**, relating to the use of funds in a federal campaign committee that has been converted to a state campaign committee and relating to the use of those converted funds whose contribution to the federal committee would not have been in compliance with Wisconsin law if the contribution had been made directly to a state campaign committee.

Finding of Emergency

The Elections Board finds that an emergency exists in the recent change in federal law that permits the transfer of the funds in a federal candidate campaign committee's account to the candidate's state campaign committee account and finds that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

Since the Bi-Partisan Campaign Reform Act of 2002 (BICRA), transfers of funds from a federal campaign committee to a state campaign committee had not been authorized under federal law. In November, 2004, Congress amended the Federal Election Campaign Act, (H.R. 4818, s.532(3) and 532(4), to permit the transfer of a federal candidate's campaign committee's funds to the candidate's state campaign committee, if state law permitted, and subject to the state law's requirements and restrictions.

Because of Congress' action in November, 2004, money which had not been available to a state committee under BICRA, and which might not have qualified for use for political purposes in a state campaign because of its source or because of other noncompliance with state law, could now be transferred to a state committee, if state law permitted. Wisconsin law, under the Board's current rule, EIBd 1.39, Wis. Adm. Code, allows for conversion of federal campaign committees, and their funds, to a state campaign committee without regard to the source of those funds and without regard to contribution limitations.

Restricting the use of such money to that money which has been contributed to the candidate's federal committee, under

circumstances in which the contribution would have complied with Wisconsin law if it had been given directly to the Wisconsin campaign committee, is found to be in the public interest.

Publication Date: February 3, 2005
Effective Date: February 3, 2005*
Expiration Date: July 3, 2005

* On February 9, 2005, the Joint Committee for Review of Administrative Rules suspended this emergency rule.

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 (Fish, Game, etc., Chs. NR 1–)

Rules were adopted revising **s. NR 20.33 (5) (c)**, relating to the closure of sturgeon spearing on the Lake Winnebago system.

Finding of emergency

The Department of Natural Resources find that an emergency exists and a rule is necessary for the immediate preservation of the public health, safety or welfare. The facts constituting this emergency are:

During the 2004 sturgeon spearing on Lake Winnebago, spears harvested a record 1,303 sturgeon on opening day, exceeding the season harvest cap for adult female sturgeon. the spearing season lasted only two days and resulted in an overall harvest of 1,854 sturgeon. The total harvest included 822 males, 348 juvenile females, and 684 adult females, 509 of which came on opening day, exceeding the harvest cap of 425. Population reduction due to overharvest of lake sturgeon could take years to reverse given the life history of lake sturgeon.

Publication Date: February 2, 2005
Effective Date: February 2, 2005
Expiration Date: July 2, 2005
Hearing Date: February 23, 2005

Natural Resources

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

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.

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: 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.

Public Instruction

Rules adopted repealing **s. PI 24.02 (3)** and repealing and recreating **subchapter II of chapter PI 24**, relating to the payment of state aid under the student achievement guarantee in education (SAGE) 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:

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 next deadline for pupil reporting requirements occurs in January 2005, the rule must take effect as soon as possible to give eligible schools enough notice to meet such requirements.

Publication Date: December 20, 2004
Effective Date: December 20, 2004
Expiration Date: May 19, 2005

Regulation and Licensing

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
Extension Through: May 2, 2005

Revenue

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

Finding of emergency

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

Pursuant to s. 70.32 (2r) (c), the assessment of agricultural land is assessed according to the income that could be generated from its rental for agricultural use. Wisconsin Chapter Tax 18 specifies the formula that is used to estimate the net rental income per acre. The formula estimates the net income per acre of land in corn production based on a 5-year average corn price per bushel, cost of corn production per bushel and corn yield per acre. The net income is divided by a capitalization rate that is based on a 50 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 is issuing this emergency rule in order to ensure positive and stable assessments of agricultural land for 2005.

Publication Date: December 29, 2004
Effective Date: December 29, 2004
Expiration Date: May 28, 2005

Transportation (3)

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

3. Rules adopted creating ss. **Trans 254.12 (6) and 255.12 (17)**, relating to the issuance of single and multiple trip oversize and overweight permits.

Finding of emergency

The Department of Transportation finds that an emergency exists and that the rule is necessary for the immediate preservation of the public safety and welfare. Although the Department will pursue promulgation of this rule through normal procedure, the Department finds an emergency exists for the following reasons: (1) current administrative rules have size limitations that prevent the use of the Milwaukee Expressway for vehicles or load or dimensions greater than 11 feet in width, 13½ feet in height, or 100 feet in length on the Milwaukee Freeway; (2) structural beams and girders that exceed the above transport limits are currently being manufactured for the initial stages of construction of the Marquette Interchange Reconstruction project; and (3) these steel and concrete bridge components must be delivered to the construction site beginning in February 2005 to keep the project on time and on–budget. Routing these oversized loads on the Milwaukee surface street system may not be possible due to the load lengths and the turning radiuses required. If the street geometry does allow the movement, these street systems may not be designed to carry the weight of such loads. Doing so will result in unsafe and possible permanent damage to the surface street system. Without this rule amendment, the other alternative is to reduce the size of these structural members (beams and girders) to meet these existing size limitations which will significantly increase the total projects costs and the time required to complete the project because of the necessary redesign.

Publication Date: February 1, 2005
Effective Date: February 1, 2005
Expiration Date: July 1, 2005
Hearing Date: March 1, 2005

Veterans Affairs

Rules adopted creating ss. **VA 13.02 (2) (e), 13.04 (3), and 13.06**, relating to the veterans assistance program.

Finding of emergency

The Wisconsin Department of Veterans Affairs finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the finding of emergency is:

The department operates two community–based residential care facilities and a residential care apartment complex facility in Union Grove. As a condition of admission and continued residency at the facilities a veteran must be able to pay the full cost of his or her care from income and other resources.

Care rates at the facilities were raised across–the–board in October 2004. Several current residents do not now have sufficient income or other resources to fully pay their cost of care. Furthermore, several recent applicants with limited income and resources have been denied admission because they fall just short of meeting their care costs. Both groups of veterans do not have adequate housing available for their needs, other than residency at the Union Grove facilities.

In light of these circumstances, the department determines that the health and safety of the current and prospective residents is threatened unless adequate funding is made available. Enactment of the emergency will permit the department to provide the subsidy necessary to address these concerns.

Publication Date: January 3, 2005
Effective Date: January 3, 2005
Expiration Date: June 1, 2005
Hearing Date: February 16, 2005

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
Hearing Date: February 14, 2005

Scope statements

Health and Family Services

Subject

The Department proposes to amend ch. HFS 132, rules relating to nursing homes.

Policy analysis

The Department proposes to update ch. HFS 132 to reflect current standards of care and practice; enhance the Department's authority relating to the initial licensing of nursing homes; and remove provisions that duplicate applicable federal requirements. The proposed changes do not compromise the care and safety to nursing home residents.

Section 50.02 (2) (a), Stats., gives the Department the authority to establish and enforce regulations and standards for the care, treatment, health, safety, rights, welfare and comfort of residents in nursing homes. It also authorizes the Department to promulgate and enforce administrative rules that provide the conditions of licensure for nursing homes.

Effective November 1, 2004, revisions were made to ch. HFS 132 to reflect changes that have occurred in service delivery (e.g. pain management and quality assurance) and technology (e.g. electronic records and physical environment), to remove overly prescriptive rules and to make the rules more reflective of and compatible with the comparable federal regulations.

Through this rulemaking initiative, the Department is continuing the rule revision process by further updating the rule to recognize changes in service delivery and technology and by eliminating or modifying state regulations that are already addressed in ch. 50, Stats.; chs. Comm 61 to 65, also known as the Wisconsin Commercial Building Code; and 42 CFR 483, the federal regulatory requirements for nursing homes. The Department's intent is to streamline ch. HFS 132, while ensuring a nursing home's responsibility to provide quality care and meet the needs of its residents. In addition, eliminating rules that duplicate federal regulations would reduce the number of citations issued for the same violation.

The Department is also proposing to enhance its authority relating to approving licenses under s. HFS 132.14. These changes are intended to ensure that new operators applying for a Wisconsin nursing home license are qualified professionals and have demonstrated fiscal responsibility in the operation of health care facilities.

Statutory authority

Sections 50.02 (2) (a), (bm), (bn), (d), (3) (c) and (d), and 227.11 (2), Stats.

Staff time required

The Department estimates that it will take approximately 640 hours of staff time to to promulgate the proposed changes to ch. HFS 132.

Entities affected by rule

The entities affected by the proposed rules are all licensed nursing homes in Wisconsin.

Comparison with federal requirements

Federal conditions of participation for nursing homes are in the Code of Federal Regulations, 42 CFR 483. The federal regulations and existing ch. HFS 132 address largely similar

regulatory areas. Generally, ch. HFS 132 provides more specificity than the comparable federal regulations for nursing homes.

Health and Family Services

Subject

The Department proposes to amend ch. HFS 149, rules relating to the selection and monitoring of vendors for the special supplemental food program for women, infants and children (WIC).

Policy analysis

Under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), the federal government provides supplemental foods and nutrition education through payment of cash grants to states that administer the program through local agencies at no cost to eligible persons. The WIC program serves as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems. In Wisconsin, the WIC program has 112,000 certified participants, comprised of low-income pregnant and breastfeeding women, infants and children under 5 years of age. Seventy local WIC projects (located in city and county public health departments, private non-profit organizations, and one hospital) administer WIC in designated project service areas. These services include health screening, nutrition assessment and counseling, referrals to other health and social services, and vouchers to purchase nutritious foods at authorized grocery stores and pharmacies (vendors).

The Wisconsin WIC program is responsible for the authorization of some 1,000 vendors to provide food to WIC participants. Applications are screened for basic store and management information, business integrity, and the selection of WIC authorized foods at competitive prices, as determined by prices charged by all stores in a project service area.

Currently applicants for WIC vendor authorization are required under s. HFS 149.03 (2) (c) to charge a price that is no more than 115% of the average price charged for a standardized combination of foods by other applicants in the project service area in which the grocery store or pharmacy is located. The average price is determined by the Department and based on reported prices of large and small stores statewide for the standardized combination of foods during the previous 6-month period. The Department believes that this method of computing average price may impede the ability of smaller stores to obtain or maintain WIC vendor authorization, due to the smaller stores' inability to offer prices that are competitive with that of larger stores.

The Department proposes to amend s. HFS 149.03 (2) (c) to remove the requirement that store prices be competitive with all other stores within a project service area to require that prices be competitive with stores within its vendor peer group of similar stores located throughout the state. This change would result in the Department being able to compute average price based on reported prices of the vendor peer

group and, therefore, a more equitable process for small store applicants. Prices of these stores will no longer be compared to the prices of larger stores, who can offer lower prices than their smaller counterparts due to economies of scale.

The Department also proposes to amend s. HFS 149.03 (7) to change the duration of authorization from every two years to every three years. Instead of ending on October 31 of even–numbered years regardless of when authorization was granted, the authorization would end on October 31 of every third year. This is now allowed per federal regulation and would lessen the burden of reauthorization for both the vendors and the state WIC office. In addition, the Department proposes to eliminate the one–year initial certification period, allowing new vendors' authorization period to extend to October 31 of every third year. The one–year certification has not proven to be effective in addressing fraud, and is

burdensome for both the vendor and the state WIC office.

Statutory authority

The Department's authority to amend these rules is found in ss. 46.016, 227.11 (2) (a), and 253.06 (5) (a), Stats.

Staff time required

The Department estimates it will take 40 hours of staff time to develop the proposed amendments.

Entities affected by rule

The entities that will be directly affected by the proposed amendments are Wisconsin grocery stores and pharmacies.

Comparison with federal requirements

The Wisconsin WIC program operates under a State Plan pursuant to 7 CFR 246. The Department does not know of any proposed regulations that address the subject of the proposed rules.

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 March 30, 2005, the Wisconsin Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Subject Matter

The proposed rule affects chs. Comm 2, 5 and 41 and relates to boilers and pressure vessels.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for May 2, 2005. The Department's Division of Safety and Buildings, is the organizational unit responsible for promulgation of the proposed rule.

Contact Information

Joe Hertel
608–266–5649
jhertel@commerce.state.wi.us

Hearing and Speech Examining Board

Rule Submittal Date

On March 31, 2005, the Hearing and Speech Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Subject Matter

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2), 459.12, 459.24 (5m) and (6) (c), Stats.

The proposed rule–making order relates to definitions, temporary trainees, continuing education, temporary licenses and unprofessional conduct.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 2, 2005, at 2:00 p.m. in Room 180, 1400 East Washington Avenue, Madison, Wisconsin, 53702.

Contact Information

Pamela Haack, Paralegal
Office of Legal Counsel
608–266–0495
pamela.haack@drl.state.wi.us

Transportation

Rule Submittal Date

On March 15, 2005, the Wisconsin Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Subject Matter

The proposed rule affects ch. Trans 196 of the Wisconsin Administrative Code and relates to convenience fee for telephone vehicle registration renewal.

Agency Procedure for Promulgation

A public hearing is required and a hearing is scheduled for April 13, 2005. The Department's Division of Motor Vehicles, Bureau of Vehicle Services, is the organizational unit responsible for promulgation of the proposed rule.

Contact Information

Julie A. Johnson, Paralegal
608–266–8810

Rule–making notices

Notice of Hearing

Commerce

[CR 05–025]

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (15) (h) to (j), 101.12 (3) (c), 101.19 (1) (b) and 101.17, Stats., the Department of Commerce will hold a public hearing on proposed rules under chapters Comm 41, 5 and 2, relating to boilers and pressure vessels.

The public hearing will be held as follows:

Date and Time: **Monday, May 2, 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 **May 16, 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

Statutes Interpreted. Sections 101.02 (15) (h) to (j), 101.12 (3) (c), 101.19 (1) (b) and 101.17, Stats.

Statutory Authority. Sections 101.02 (15) (h) to (j), 101.12 (3) (c), 101.19 (1) (b) and 101.17, Stats.

Related Statute or Rule. There is no related statute or rule.

Explanation of Agency Authority. Section 101.02 (15) (h) to (j), Stats., grants the Department of Commerce general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Section 101.12 (3) (c), Stats., directs the department to certify the competency of inspectors of boilers and pressure vessels. Section 101.19 (1) (b), Stats., authorizes the department to fix and collect fees for the inspection of boilers and pressure vessels. Section 101.17, Stats., indicates that machines and boilers cannot be installed or used in Wisconsin unless they comply with the rules of the department.

Summary of Proposed Rules.

Chapter Comm 41 currently contains minimum safety standards for the design, construction, installation, operation, inspection, testing, maintenance, repair and alteration of

boilers and pressure vessels installed in public buildings and at places of employment. Chapter Comm 5 contains requirements for certifying the competency of boiler and pressure vessel inspectors. Chapter Comm 2 contains the fees for providing inspections of boilers and pressure vessels.

The proposed rules consist of an update of chapter Comm 41 in order to bring the state boiler and pressure vessel code up to date with current technology and nationally recognized standards. The proposal also includes changes in chapter Comm 5 relating to the certification of boiler and pressure vessel inspectors, and in chapter Comm 2 relating to the inspection fee charged for multiple boilers or pressure vessels in one building. The following is a summary of the major changes being proposed. [The numbers in brackets indicate where the change can be found in the proposed rules.]

1. Revising the fee schedule for inspections of multiple boilers in one building and multiple pressure vessels in one building. [Comm 2.11 Tables 2.11–1 and 2.11–2]

2. Creating continuing education requirements for renewal of the certification as a certified boiler–pressure vessel inspector. [Comm 5.60 (5) (c)]

3. Updating currently adopted national standards to the most recent edition of the standards. [Comm 41.10 (2)]

4. Adding a rule requiring reporting inactive or non–existent boilers and pressure vessels to the department. [Comm 41.15 (3)]

5. Clarifying the exemption from inspection and registration for power piping. [Comm 41.16 (2) (b) and 41.41 (2) (b)]

6. Revising the requirements for indicating when an inspection of boilers and pressure vessels has been performed and for providing copies of inspection reports. [Comm 41.23 (1)]

7. Starting one year after the effective date of the proposed rules, requiring all inspection reports to be sent electronically to the department. [Comm 41.23 (2) (a) 2.]

8. Exempting ASME form P–4B from completion for boiler piping on certain ASME stamped boilers. [Comm 41.41 (3)]

9. Exempting cast iron sectional boilers stamped “H” and pressure vessels stamped “UM” from National Board registration. [Comm 41.42 (2) (b)]

10. Requiring registration with the National Board for routine repairs and for seal welding of 6 or more boiler tubes. [Comm 41.62 (2)]

11. Creating new rules for the inspection and testing of historical boilers operated at fairs, steam shows and other locations frequented by the public. [Subchapter IX]

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations.

An Internet–based search of the *Code of Federal Regulations* (CFR) found the following existing federal regulations relating to the activities to be regulated by the rule.

Title 46 CFR Part 59 – Repairs to Boilers, Pressure Vessels and Appurtenances. This regulation in the Department of Homeland Security applies to the repair of all boilers, appurtenances and pressure vessels subject to inspections by the Coast Guard. The regulation adopts sections I, VII, VIII and IX of the 1989 ASME Boiler and Pressure Vessel Code.

Title 30 CFR Part 56 – Safety and Health Standards – Surface Metal and Nonmetal Mines. Subpart L of this regulation in the Department of Labor requires all boilers and pressure vessels to be constructed, installed and maintained in accordance with the ASME Boiler and Pressure Vessel Code. This regulation adopts sections I, II, IV, V, VI and VII of the 1977 ASME Code and the 1979 edition of the National Board Inspection Code.

Title 30 CFR Part 57 — Safety and Health Standards – Underground Metal and Nonmetal Mines. Subpart L of this regulation is the same as subpart L in part 56.

Title 29 CFR Part 1910 – Occupational Safety and Health Standards. Subpart R of this regulation in the Department of Labor applies to establishments where pulp, paper and paperboard are manufactured and converted. This regulation adopts the 1968 edition of section VIII of the ASME Boiler and Pressure Vessel Code.

Title 10 CFR Part 50 – Domestic Licensing of Production and Utilization Facilities. This regulation in the Nuclear Regulatory Commission applies to systems and components of boiling and pressurized water–cooled nuclear power reactors. This regulation adopts section III, division 1 and section XI, division 1 through the 2000 addenda of the ASME Boiler and Pressure Vessel Code.

An Internet–based search of the 2004 and 2005 issues of the *Federal Register* found the following proposed federal regulations relating to the activities to be regulated by the rule.

June 30, 2004 Register, Title 46 CFR Part 32 et al. The Coast Guard in the Department of Homeland Security published a proposal to update the standards incorporated by reference for marine equipment. This proposal updates the ASME Boiler and Pressure Vessel Code to the 2001 edition.

October 1, 2004 Register, Title 10 CFR Part 50. The Nuclear Regulatory Commission published a final rule to update its regulations by incorporating by reference the 2001 edition and the 2002 and 2003 addenda of division 1 of section III and division 1 of section XI of the ASME Boiler and Pressure Vessel Code.

7. Comparison with Rules in Adjacent States.

The Illinois Office of the State Fire Marshal, Division of Boiler and Pressure Vessel Safety regulates the construction, installation, operation, inspection and repair of boilers and pressure vessels throughout the state of Illinois. The Illinois Boiler and Pressure Vessel Safety Rules and Regulations are very similar to the requirements in the Wisconsin Boiler and Pressure Vessel Code, including the Illinois incorporation by reference of the ASME Boiler and Pressure Vessel Code (2001 with 2003 addenda), the National Board Inspection Code (2001 with 2003 addenda), and the API 510 standard (8th edition).

The Iowa Department of Workforce Development, Division of Labor Services administers and enforces the Boilers and Unfired Pressure Vessels Chapter of the Iowa Code. That chapter requires new installations of boilers and pressure vessels to be designed, manufactured, installed, inspected and stamped in accordance with the applicable requirements of the ASME Boiler and Pressure Vessel Code (1998 with 1999 and 2000 addenda). The rules are similar to the Wisconsin rules, except that the Iowa rules recognize German, British, Japanese and Canadian construction and installation standards.

The Michigan Department of Labor and Economic Growth administers the Michigan Boiler Law and Rules. The rules are similar to the Wisconsin rules, and establish minimum standards of safety for the use, construction, installation, inspection, alteration and repair of boilers, with limited rules

for specified pressure vessels. The rules adopt the National Board Inspection Code (2001 with addenda), the ASME Boiler and Pressure Vessel Code (2001 with addenda), and the ASME B31.1 Power Piping standard (2001 with addenda).

The Minnesota Department of Labor and Industry, Division of Boiler Inspection administers rules that address the manufacture, installation, repair, operation, safety and inspection of boilers, pressure vessels and appurtenances. The rules contain provisions for licensing of boiler operators, and include minimal requirements for hobby boilers (steam traction engines). The rules are very similar to the Wisconsin rules, and incorporate the most recent editions and addenda of the ASME Boiler and Pressure Vessel Code and the National Board Inspection Code.

8. Summary of Factual Data and Analytical Methodologies.

There were no factual data or analytical methodologies used to develop the proposed rules.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report.

The proposed rules should have a minimal effect on small business. There were no supporting documents used to determine the effect on small business, and an economic impact report was not prepared.

The proposed rules have been developed with the assistance of the Boiler and Pressure Vessel Code Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
William H. Andrae	Boiler & Pressure Vessel Repairers Assn.
Joe Bena	WI Manufacturers & Commerce
Peter H. Burno	WI Historical Steam Engine Assn.
Jay A. Ehrfurth	WI Department of Administration
Daniel Hegyi	American Insurance Association
Matt Keenan	WI Boiler Inspectors Association
Paul E. Prill	Wisconsin Pipe Trades Association
Randy S. Pucek	City of Milwaukee
Doug Smithback	Mechanical Contractors Assn. of WI

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.

Initial Regulatory Flexibility Analysis

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

Any business involved with the design, construction, installation, operation, inspection, testing, maintenance, repair or alteration of boilers or pressure vessels will be affected by the rules.

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

The rules include a new requirement for certified inspectors to report to the department when a boiler or pressure vessel becomes inactive or non-existent. Starting one year after the effective date of the proposed rules, all inspection reports must be reported to the department electronically.

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

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

4. Rules will not have a significant economic impact on small businesses.

Yes, rules submitted to Small Business Regulatory Review Board

Assumptions Used in Arriving at Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing rules relating to boilers and pressure vessels. Although the proposed rules contain a revised fee for the inspection of multiple boilers or pressure vessels in one building and a fee for administration of a competency examination, the Division anticipates the revenue change will be insignificant. 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 fiscal effect on local governments.

The proposed rules will not have a significant fiscal effect on the private sector. Anticipated new costs that will be incurred by the private sector are for inspection and testing of historical boilers and for obtaining continuing education credits for inspector certification renewal.

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 Hearing and Speech [CR 05–026]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Hearing and Speech Examining Board in ss. 15.08 (5) (b), 227.11 (2), 459.12, 459.24 (5m) and (6) (c), Stats., and interpreting ss. 459.07 (2), 459.24 (2) (f), 459.24 (5), 459.24 (6) and 459.34 (2), Stats., the Hearing and Speech Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal HAS 6.02 (4g), (4m), (5g) and (6b); to renumber HAS 6.09 (1) and 6.10 (3); to renumber and amend HAS 6.03 (7), 6.18 (2) and (3); to amend HAS 2.01 (2), 5.02 (2) (g) (intro.) and 2., 6.02 (1m), 6.10 (title), (1) (intro.) and (2), 7.02, 7.03 (1) (d), (2) (c), 8.03 (1) and 8.04 (1); to repeal and recreate HAS 6.18 (1) (h); and to create HAS 6.03 (7) (a) and (b), 6.09 (1), 6.10 (3), (4) and (5), 6.175, 7.03 (1) (e) and (2) (d), and 8.03 (6), relating to definitions, temporary trainees, continuing education, temporary licenses, and unprofessional conduct.

Hearing Date, Time and Location

Date: May 2, 2005
Time: 2:00 P.M.
Location: 1400 East Washington Avenue
 Room 180
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 13, 2005 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statute interpreted: Sections 459.07 (2), 459.24 (2) (f), 459.24 (5), 459.24 (6), 459.34 (2), Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2), 459.12, 459.24 (5m) and (6) (c), Stats.

Explanation of agency authority: The Hearing and Speech Examining Board licenses and regulates the conduct of hearing instrument specialists, audiologists and speech–language pathologists. The board is authorized under ss. 459.12 and 459.24 (5m) and (6) (c), Stats., to promulgate rules relating to the supervision of hearing instrument specialist trainees by audiologists; the grant of temporary licenses to individuals applying for licenses to practice speech–language pathology and audiology; continuing education requirements and unprofessional conduct.

Related statute or rule: There are no related statutes or rules other than those listed above.

Plain language analysis: The Hearing and Speech Examining Board herein sets forth revisions to its rules. Audiologists are granted the authority to supervise hearing instrument trainees, standards of unprofessional conduct for hearing instrument specialists and audiologists are broadened and restructured, the definition of audiologist is modified, an equivalency provision is added to the speech–language pathology application procedure, the periods of temporary licensure for speech–language pathologists and audiologists are amended, the renewal deadline for hearing instrument specialists is changed from even to odd–numbered years, the deadline for reporting continuing education course completion is extended from the first to the second renewal date following the initial granting of a license, and the time allowed for sponsors to submit an application for continuing education course approval is reduced.

SECTION 1 amends s. HAS 2.01 (2) to allow licensed audiologists to directly supervise trainees granted a permit to practice fitting hearing instruments, and making ear impressions and taking hearing measurements for the purpose of fitting hearing instruments. Currently, s. HAS 2.01 (2) only allows hearing instrument specialists to provide direct supervision. Audiologist supervisors would be liable for the trainee’s negligent acts and omissions in the fitting of hearing instruments, as hearing instrument specialists are under the current rule.

SECTION 2 amends s. HAS 5.02 (2) (g) (intro.) and 2. to make failure to comply with the terms of sale on a receipt, such as the product repair policy or guarantee, an act of unprofessional conduct. The current rule only requires those terms to be clearly stated on the receipt, with no explicit

authority for the board to act against the licensee for failure to comply with the terms.

SECTION 3 amends the definition of “Au.D.” to clarify that the board need not approve the college or university granting the degree.

SECTION 4 makes deletions to the definitions section of s. HAS 6.02, relating to the licensure of speech–language pathologists, audiologists, and temporary licensees.

SECTION 5 renumbers and amends s. HAS 6.03 (7) and SECTION 6 creates s. HAS 6.03 (7) (a) and (b), to allow the board to decide if an applicant’s education or training is equivalent to the completion of a postgraduate clinical fellowship. This is consistent with the licensure requirements for audiologists under s. HAS 6.04 and builds flexibility into the rule in the event that national certification requirements for postgraduate clinical fellowships are increased beyond what the board believes is necessary to protect public health and safety.

SECTION 7 renumbers s. HAS 6.09 (1).

SECTION 8 creates a definition of “hardship.”

SECTIONS 9 to 11 relate to temporary licenses. These amendments implement the statutory change that allowed the board to expand the period of validity for a temporary license to practice speech–language pathology and audiology. For speech–language pathologists, the 9 month period of validity and one–time renewal previously recognized by s. 459.24 (6) (c), Wis. Stats., was changed by 2003 Wisconsin Act 270 to make the length of the period of validity discretionary for the board. The rule allows 18 months with a one–time renewal that may exceed 18 months as a matter of board discretion. This change was spurred by a shortage of speech–language pathologist Ph.D. students and faculty in Communicative Disorders programs. Since the clinical fellowship year is completed after the master’s degree, the board’s purpose is to accommodate students who may wish to complete the Ph.D. under a temporary license. For audiologists, the period is increased from 9 to 12 months, with a one–time renewal that may exceed 12 months at the board’s discretion, but only in those instances where a permit holder who fails a licensure examination applies to take the next available examination or shows sufficient cause for renewal. The additional three months brings the time allowed under a temporary license for audiologists closer to the standard for speech–language pathologists. A 100–day grace period from the date the individual failed to take the examination is allowed unless board inaction or hardship is shown.

SECTION 12 creates s. HAS 6.175, with definitions of “full terms of sale,” “cerumen management,” “personal guarantee,” and “sell” or “sale.”

SECTION 13 repeals and recreates s. HAS 6.18 (1) (h) to include engaging in unprofessional conduct as an enumerated ground for discipline.

SECTION 14 renumbers and amends s. HAS 6.18 (2). In setting forth additional bases for unprofessional conduct, such as failure to comply with the terms of sale on a receipt, explicit recognition of other states’ hearing instrument specialist and audiologist hearing tests is allowed as a sufficient basis for sale if proper procedures, instrumentation and measurement are conducted. Only one basis for discipline is moved between the states.

SECTION 15 renumbers and amends s. HAS 6.18 (3). Currently, s. HAS 6.18 (3) describes, by enumeration, conduct defined in sub. (b) with exclusive reference to conduct evidencing a lack of knowledge or ability to apply professional principles or skills rather than as unprofessional conduct generally.

SECTION 16 amends s. HAS 7.02 to change the renewal date for hearing instrument specialists from even–numbered years to odd–numbered years.

SECTIONS 17 to 22 relate to completing continuing education hours for the renewal of a license. It also extends the first continuing education reporting deadline from the first to the second renewal date following the initial granting of a hearing instrument specialist, speech–language pathologist, or audiologist license. The purpose of this change is to avoid a truncated timeline for compliance with continuing education requirements after initial licensure. This eliminates the truncated compliance timeline on initial license applications that are completed close before an application deadline.

SECTION 23 reduces the time allowed for continuing education sponsors to submit an application from 45 to 30 days prior to the first date the program or course of study is offered.

Summary of, and comparison with, existing or proposed federal regulation: None. Checked the U.S. Code and Federal Register.

Comparison with rules in adjacent states: The following is a summary of the requirements to obtain and maintain a license in Illinois, Iowa, Michigan and Minnesota.

The states of Illinois and Minnesota require an individual to obtain a temporary license prior to completing a postgraduate clinical fellowship in speech–language pathology. Minnesota also requires an individual to obtain a temporary license prior to completing a postgraduate clinical fellowship in audiology.

None of the states authorize audiologists to supervise hearing instrument specialist trainees.

None of the states permit applicants to claim “hardship” for failure to take the required examinations.

The state of Illinois exempts audiologists and speech–language pathologists from the continuing education requirements during the first renewal period following initial licensure. The state of Minnesota exempts certified dispensers, who have been licensed less than one year, from the continuing education requirements.

All of the states have adopted a provision that authorizes disciplinary action based upon unprofessional conduct, unethical conduct or similar language.

Summary of factual date and analytical methodologies: The Hearing and Speech Examining Board considered its past experience as the credentialing and enforcement authority overseeing hearing instrument specialists, audiologists and speech–language pathologists in drafting the rules. The board also researched proposed national licensure standard changes to ensure Wisconsin license application requirements will remain current notwithstanding new standards that may be imposed, and to ensure a continuing role for the board in deciding on the adequacy of training to protect public health and safety. The board reviewed license applications in cooperation with department staff to clarify and amend where needs have been identified. Enforcement provisions were modified slightly to allow the board to act where its authority was less than clear in the past and to improve the overall structure of the enforcement rules.

Determination of significant fiscal effect on the private sector: The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal Effect

The proposed rules will have no impact on the department’s funds.

Effect on Small Business

These proposed rules will be reviewed by the Department's Small Business Review Advisory Committee to determine whether there will be a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats. The Department's Regulatory Review Coordinator may be contacted by email at christopher.klein@drl.state.wi.us, or by calling (608) 266–8608.

Agency Contact Person

Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708–8935. Telephone: (608) 266–0495. Email: pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the addresses listed above. Comments must be received on or before May 13, 2005 to be included in the record of rule–making proceedings.

TEXT OF RULE

SECTION 1. HAS 2.01 (2) is amended to read:

HAS 2.01 (2) A trainee permit issued by the board entitles the trainee to practice fitting hearing instruments, make ear impressions and make measurements of human hearing, for the purpose of fitting hearing instruments, for a period of one year and only while under the direct supervision of a hearing instrument specialist or an audiologist who holds a license issued under ch. 459, Stats. The licensee is liable for the trainee's negligent acts and omissions in the fitting of hearing instruments.

SECTION 2. HAS 5.02 (2) (g) (intro.) and 2. are amended to read:

HAS 5.02 (2) (g) (intro.) Failing to clearly state the full terms of sale on a receipt, as required in s. 459.03, Stats., and failing to comply with those terms. The full terms of sale shall include all of the following:

2. The date, and place and method of delivery.

SECTION 3. HAS 6.02 (1m) is amended to read:

HAS 6.02 (1m) “Au.D.” means a doctor of audiology degree ~~granted by a college or university approved by the board.~~

SECTION 4. HAS 6.02 (4g), (4m), (5g) and (6b) are repealed.

SECTION 5. HAS 6.03 (7) is renumbered HAS 6.03 (7) (intro.) and is amended to read:

HAS 6.03 (7) (intro.) Evidence satisfactory to the board that the applicant has ~~completed a postgraduate clinical fellowship in speech–language pathology approved by the board.~~ satisfied one of the following:

SECTION 6. HAS 6.03 (7) (a) and (b) are created to read:

HAS 6.03 (7) (a) Completed a postgraduate clinical fellowship in speech–language pathology approved by the board.

(b) Completed education or training that the board determines is substantially equivalent to the completion of a postgraduate clinical fellowship in speech–language pathology.

SECTION 7. HAS 6.09 (1) is renumbered HAS 6.09 (1m).

SECTION 8. HAS 6.09 (1) is created to read:

HAS 6.09 (1) “Hardship” means serious illness or some other personal adversity, as determined by the board.

SECTION 9. HAS 6.10 (title), (1) (intro.) and (2) are amended to read:

HAS 6.10 (title) Application for licensure temporary license. (1) (intro.) Before commencing a postgraduate clinical fellowship in speech–language pathology or audiology, an individual shall obtain a temporary license under s. 459.24 (6), Stats. The applicant shall submit all of the following:

(2) A temporary license granted by the board to practice speech–language pathology is valid for a period designated by the board, not to exceed 18 months. ~~A temporary license granted by the board to practice speech–language pathology and may be renewed once for 18 months or longer, at the discretion of the board. A temporary license granted to practice audiology may be renewed once by the board if the applicant fails an examination for audiologist licensure under s. 459.26 (2) (a) or (b), Stats., and applies to take the next available examination or if the applicant shows, to the satisfaction of the board, sufficient cause for the renewal.~~

SECTION 10. HAS 6.10 (3) is renumbered HAS 6.10 (6).

SECTION 11. HAS 6.10 (3), (4) and (5) are created to read:

HAS 6.10 (3) Except as provided in sub. (5), a temporary license granted to practice audiology is valid for a period designated by the board, not to exceed 12 months.

(4) A temporary license granted under sub. (3) may be renewed once for 12 months or longer, at the discretion of the board, if the applicant fails an examination for licensure under s. 459.26 (2) (a) or (b), Stats., and applies to take the next available examination or if the applicant shows, to the satisfaction of the board, sufficient cause for the renewal.

(5) If an individual who is granted a temporary license under sub. (3) to practice audiology fails to take the next available examination under s. 459.26 (2) (a) or (b), Stats., for reasons other than inaction by the board or hardship, the temporary license granted under sub. (3) automatically expires on the one–hundredth calendar day following the date the individual failed to take the examination.

SECTION 12. HAS 6.175 is created to read:

HAS 6.175 Definitions. In this subchapter and in subchapter II of ch. 459, Stats.:

(1) “Cerumen management” means the removal of cerumen from the external auditory canal by the utilization of methods and techniques performed in accordance with minimum standards and procedures established in the audiological profession.

(2) “Full terms of sale” means the conditions of a sale agreed to by an audiologist and the purchaser of a hearing instrument.

(3) “Personal guarantee” means a promise made by an audiologist to a hearing instrument purchaser to provide the minimum product warranty offered by a manufacturer.

(4) “Sell” or “sale” has the meaning given in s. 459.20 (3t), Stats.

(5) “Unprofessional conduct” means the violation of any standard of professional behavior, which through experience, state statute or administrative rule has become established in the practice of speech–language pathology or audiology.

SECTION 13. HAS 6.18 (1) (h) is repealed and recreated to read:

HAS 6.18 (1) (h) Engaged in unprofessional conduct.

SECTION 14. HAS 6.18 (2) is renumbered HAS 6.18 (3) and is amended to read:

HAS 6.18 (3) (intro.) In addition to the grounds bases for discipline unprofessional conduct set forth in under sub. (4) (2), the board may reprimand an audiologist, or deny, limit, suspend or revoke a license or permit, if it finds that the applicant, licensee or permittee has done any of engaged in the following unprofessional conduct:

(a) Violated any federal or state statute, rule or regulation that relates to the practice of fitting and dealing in hearing aids.

(b) Failed to conduct a direct observation of the ear canal of a ~~purchaser of~~ person for whom a hearing aid is purchased.

(c) Sold a hearing aid ~~to~~ for use by a person who was not given tests by a hearing instrument specialist or an audiologist licensed under ch. 459, Stats., or in another state using appropriate procedures and instrumentation and without proper measurement of the functional intensity and range of the person's hearing.

(d) Failed to calibrate audiometric equipment at least once every 12 months.

(e) Failed to maintain adequate records of certification of calibrations of audiometric equipment for a period of 5 years or failed to provide access to those records when requested by the board or its representative.

(f) (intro.) Failed to clearly state the full terms of sale on a receipt, as required in s. 459.24 (3m), Stats., or failed to comply with those terms. The full terms of sale shall include all of the following:

1. The amount and method of payment.
2. The date, and place and method of delivery.
3. The terms of any personal guarantee.
4. The nature and duration of the trial period and extension, if any.
5. The refund policy and amount, if any.
6. The product return and exchange policy, if any.
7. The product repair policy, if any.

(g) Failed to perform cerumen management in a competent manner.

SECTION 15. HAS 6.18 (3) is renumbered HAS 6.18 (2) and is amended to read:

HAS 6.18 (2) (intro.) In this section, ~~“conduct in the practice of speech–language pathology or audiology which evidences a lack of knowledge or ability to apply professional principles or skills”~~ includes subchapter and in s. 459.34 (2) (h), Stats., the following, without limitation because of enumeration, are violations of standards of professional behavior that constitute unprofessional conduct:

(a) Subject to ss. 111.321, 111.322 and 111.34, Stats., practicing or attempting to practice speech–language pathology or audiology while the person's ability to practice is impaired by a mental or emotional disorder.

(b) Using the title “speech–language pathologist,” “audiologist” or any similar title unless the individual holds a current speech–language pathologist or audiologist license granted under s. 459.24 (2) or (3), Stats.

(c) Violating the conditions or limitations placed upon a license or permit by the board.

(d) Engaging in conduct likely to deceive, defraud, or harm an individual or the public in the course of the practice of speech–language pathology or audiology.

(e) Having a license, certificate, permit or registration issued by another jurisdiction to practice as a speech–language pathologist or audiologist limited, suspended or revoked.

(f) Aiding or abetting an unlicensed person, knowingly conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person to evade the use of a title prohibited under s. 459.24 (1) or (1m), Stats.

(g) Engaging in sexual intimacies in connection with the practice of speech–language pathology or audiology.

(h) Failing to fully inform persons served of the nature and possible adverse effects of services rendered and products dispensed.

(i) Failing to evaluate the effectiveness of services rendered or products dispensed.

(j) Providing services or dispensing products when benefits cannot reasonably be expected.

(k) Guaranteeing the results of any treatment or procedure, directly or by implication, except that a reasonable statement of prognosis may be made.

(L) Evaluating or treating speech, language, or hearing disorders except in a professional relationship.

(m) Treating solely by correspondence.

(n) Failing to maintain adequate records of professional services rendered and products dispensed for a period of 5 years.

Note: Speech–language pathologists and audiologists are also required to maintain patient health care records in accordance with ss. 146.81 to 146.84, Stats.

(o) Failing to provide access to records of professional services rendered and products dispensed when requested by the board or its representative in connection with an investigation of a complaint filed against the applicant, licensee or permittee.

(p) Failing to record all of the following information in each client record:

1. The name of the licensee.
2. The date of entry of pertinent information.
3. Information sufficiently legible to allow interpretation by other individuals for the benefit of the client.

(q) Misrepresenting diagnostic information, services rendered, or products dispensed or engaging in any scheme to defraud in connection with obtaining reimbursement.

(r) Using persons in research or as the subject of a teaching demonstration without obtaining their informed consent.

(s) Failing to practice speech–language pathology or audiology within the scope of the licensee's competence, education, training and experience.

(t) Delegating the provision of clinical services to an unlicensed individual for whom the licensee does not provide direct supervision.

(u) Delegating the provision of clinical services to a temporary licensee for whom the licensee does not provide supervision.

(v) Knowingly permitting any professional staff or unlicensed individual to provide clinical services that exceed that person's competence, education, training and experience.

(w) Failing to assign credit to persons who have contributed to clinical services, a publication, presentation or product in proportion to their contribution.

~~(x) Failed to perform cerumen management in a competent manner~~ Violating any federal or state statute, rule or regulation that relates to the practice of speech–language pathology or audiology, as appropriate.

SECTION 16. HAS 7.02 is amended to read:

HAS 7.02 Licenses. Hearing instrument specialist licenses granted under ss. 459.05 and 459.06, Stats., expire on February 1 of each ~~even–numbered~~ odd–numbered year. Except as provided in s. 459.24 (6), Stats., speech–language pathologist and audiologist licenses granted under ss. 459.24 and 459.28, Stats., expire on February 1 of each ~~odd–numbered~~ year.

SECTION 17. HAS 7.03 (1) (d) is amended to read:

HAS 7.03 (1) (d) ~~Certification~~ Except as provided in par. (e), certification that the applicant has completed, within the

2 years immediately preceding the date of his or her application, 20 hours of continuing education programs or courses of study approved by the board.

SECTION 18. HAS 7.03 (1) (e) is created to read:

HAS 7.03 (1) (e) A new licensee is not required to report continuing education hours until the second renewal date following the initial grant of his or her license.

SECTION 19. HAS 7.03 (2) (c) is amended to read:

HAS 7.03 (2) (c) Certification Except as provided in par. (d), certification that the applicant has completed, within the 2 years immediately preceding the date of his or her application, 20 hours of continuing education programs or courses of study approved by the board, as provided under s. HAS 8.03.

SECTION 20. HAS 7.03 (2) (d) is created to read:

HAS 7.03 (2) (d) A new licensee is not required to report continuing education hours until the second renewal date following the initial grant of his or her license.

SECTION 21. HAS 8.03 (1) is amended to read:

HAS 8.03 Continuing education. (1) A licensee Except as provided in sub. (6), hearing instrument specialists, audiologists and speech–language pathologists shall complete at least 20 hours of board approved continuing education programs or courses of study which pertain to the practice of fitting and dealing in hearing instruments, audiology or speech–language pathology, as appropriate, in each biennial renewal period.

SECTION 22. HAS 8.03 (6) is created to read:

HAS 8.03 (6) A new licensee is not required to report continuing education hours until the second renewal date following the initial grant of his or her license.

SECTION 23. HAS 8.04 (1) is amended to read:

HAS 8.04 Approval of continuing education programs and courses of study. (1) Except as provided in subs. (6) and (7), to apply for approval of a continuing education program or course of study, a sponsor shall submit to the board office, at least ~~45~~ 30 calendar days prior to the first date the program or course of study is offered, an application on forms provided by the board and shall include the name of the sponsor, the program or course title, general description and an outline of the program or course, the dates, the location, the name and qualifications of each instructor.

Notice of Hearing

Insurance

[CR 05–023]

(Corrected and Reprinted from March 31, 2005 Register)

Notice is hereby given that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 3.09 (19), Wis. Adm. Code, relating to mortgage guaranty insurance.

Hearing Information

Date: ***Monday, April 18, 2005***

Time: 10:00 a.m., or as soon thereafter as the matter may be reached.

Place: OCI, Room 223
125 South Webster St 2nd Floor
Madison, WI

Written comments or comments submitted through the Wisconsin Administrative Rule website at: <https://adminrules.wisconsin.gov> on the proposed rule will be considered. The deadline for submitting comments is 4:00 p.m. on the 7th day after the date for the hearing stated in this Notice of Hearing.

Written comments should be sent to:

Fred Nepple
Legal Unit – OCI Rule Comment for Rule Ins 3.09 (19)
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707–7873

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

Statutes interpreted

Sections 600.01, 601.42, 611.19 (1), 611.24, 618.21, 623.02, 623.03, 623.04, 623.11, 627.05, 628.34 (12), and ch. 617 Stats.

Statutory authority

Sections 601.41 (3), 601.42, 611.19 (1), 618.21, 623.02, 623.04, 623.11, 627.05, 628.34 (12), and ch. 617, Stats.

Explanation of the OCI's authority to promulgate the proposed rule under these statutes:

The proposed rule modifies the current restriction on issuance of mortgage guaranty insurance to or for the benefit of affiliates, and is authorized as governing an unfair trade practice under s. 628.34 (12), Wis. Stats., and as addressing financial risk to the insurer governed by statutes allowing the commissioner to establish standards and reporting requirements, including ss. under 601.42, 611.19 (1), 618.21, 623.02, 623.04, 623.11, 627.05, and for affiliate transactions under ch. 617, Stats.

Related Statutes or rules

None

The plain language analysis and summary of the proposed rule

Under current rules a mortgage guaranty insurer may not directly or indirectly issue coverage for mortgages originated by an affiliate, unless the insurer is no more than 50% owned or controlled by the affiliate. The proposed rule would permit the insurer to issue coverage for mortgages originated by the affiliate but only subject to the same underwriting standards as are applied to non–affiliates. The proposed rule requires the insurer to annually file an officer's certification of compliance.

Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule

None

Comparison of similar rules in adjacent states as found by OCI

Iowa: None

Illinois: Section 50 ILAC 202.60 (e) of Illinois insurance regulations prohibits a mortgage insurer from covering loans originated by a lender if the lender or its affiliate owns an equity interest in the mortgage insurer.

Minnesota: None

Michigan: None

A summary of the factual data and analytical methodologies that OCI used in support of the proposed

rule and how any related findings support the regulatory approach chosen for the proposed rule

The proposed rule is based on the experience of the Office regulating and examining mortgage guaranty insurers, and the expertise of the financial analysts and examiners responsible for their regulation, including the application of the existing exception in s. Ins 3.09 (19) (c), Wis. Adm. Code.

Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

The Office reviewed the annual financial reports of licensed mortgage guaranty insurers. There are no such insurers that are small businesses.

If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

There is no significant fiscal effect on the private sector. The proposed rule will establish an exception from an existing prohibition. The limited reporting requirement included will not impose any significant cost beyond the existing reporting requirements.

A description of the Effect on Small Business:

This rule will have no effect on small businesses.

Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: <http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264–8110
 Email: Inger.Williams@OCI.State.WI.US
 Address: 125 South Webster St – 2nd Floor
 Madison WI 53702

Mail: PO Box 7873, Madison WI 53707–7873

Place where comments are to be submitted and deadline for submission

The deadline for submitting comments is 4:00 p.m. on the 7th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Fred Nepple
 Legal Unit – OCI Rule Comment for Rule Ins 3.09 (19)
 Office of the Commissioner of Insurance
 PO Box 7873
 Madison WI 53707–7873

Street address:

Fred Nepple
 Legal Unit – OCI Rule Comment for Rule Ins 3.09 (19)
 Office of the Commissioner of Insurance
 125 South Webster St – 2nd Floor
 Madison WI 53702

WEB Site: <http://oci.wi.gov/ocirules.htm>

Summary of Proposed Rule and Fiscal Estimate

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

OCI Small Business Regulatory Coordinator

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266– 7843 or at email address Eileen.Mallow@oci.state.wi.us

Contact Person

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet WEB site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Services Section, OCI, at: Inger.Williams@OCI.State.WI.US, (608) 264–8110, 125 South Webster Street – 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707–7873.

Submittal of proposed rules to the legislature

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

Health and Family Services

(CR 04–067)

Chapter HFS 57, relating to group foster homes.

Health and Family Services

(CR 04–142)

Chapter HFS 148, relating to the cancer repository program.

Insurance

(CR 04–121)

Chapters Ins 3, Apps. 1 to 6 and 8 and Ins 18, relating to Medicare supplement, replacement, cost and select, Medicare Advantage and Medicare D prescription drug plans.

Natural Resources

(CR 04–102)

Chapters NR 406 and 410, relating to asbestos permit exemption fees and inspection fees and a program for recovering the exact costs of laboratory fees for sample analysis for the asbestos program.

Natural Resources

(CR 04–122)

Chapter NR 20, relating to live well standards for participants in the bass fishing tournament pilot program established in 2003 Wisconsin Act 249.

Natural Resources

(CR 04–113)

Chapters NR 500, 502, 544 and 545, relating to recycling.

Regulation and Licensing

(CR 04–124)

Chapter RL 17, relating to supervision by real estate brokers.

Transportation

(CR 05–009)

Chapters Trans 254 and 255, relating to the standards and procedures for the issuance of single and multiple trip oversize and overweight permits.

Rule orders filed with the revisor of statutes bureau

The following administrative rule orders have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Revisor of Statutes Bureau at gary.poulson@legis.state.wi.us or (608) 266–7275 for updated information on the effective dates for the listed rule orders.

Natural Resources (CR 02–099)

An order affecting ch. NR 328, relating to shore erosion control of inland lakes and impoundments.
Effective 5–1–05.

Natural Resources (CR 03–066)

An order affecting chs. NR 404 and 484, relating to ambient air quality standards.
Effective 6–1–05.

Natural Resources (CR 04–062)

An order affecting ch. NR 329, relating to miscellaneous structures in navigable waterways.
Effective 5–1–05.

Natural Resources (CR 04–063)

An order affecting ch. NR 325, relating to boathouses and fixed houseboats in navigable waterways.
Effective 5–1–05.

Natural Resources (CR 04–064)

An order affecting ch. NR 323, relating to fish and wildlife habitat structures in navigable waterways.
Effective 5–1–05.

Natural Resources (CR 04–065)

An order affecting chs. NR 300, 310 and 322, relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterways.
Effective 5–1–05.

Natural Resources (CR 04–066)

An order affecting ch. NR 1, relating to Natural

Resources Board policies on protection and management of public waters.
Effective 5–1–05.

Natural Resources (CR 04–078)

An order affecting chs. NR 10 and 19, relating to the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.
Effective 5–1–05.

Natural Resources (CR 04–084)

An order affecting ch. NR 320, relating to the regulation of bridges and culverts in or over navigable waterways.
Effective 5–1–05.

Natural Resources (CR 04–085)

An order affecting chs. NR 340 and 341, relating to regulation of grading on the bank of a navigable waterway.
Effective 5–1–05.

Natural Resources (CR 04–086)

An order affecting chs. NR 340 and 343, relating to regulation of construction, dredging and enlargement of an artificial water body.
Effective 5–1–05.

Natural Resources (CR 04–087)

An order affecting ch. NR 345, relating to dredging in navigable waterways.
Effective 5–1–05.

Regulation and Licensing (CR 04–120)

An order affecting ch. RL 87, Appendix I, relating to the 2005 edition of the Uniform Standards of Professional Appraisal Practice (USPAP).
Effective 5–1–05.

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