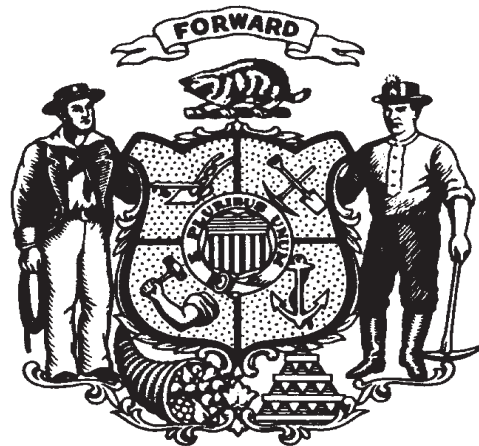


# Wisconsin Administrative Register

No. 596



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## Emergency rules now in effect

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

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

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

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

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

*Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at [www.legis.state.wi.us/rsb/code](http://www.legis.state.wi.us/rsb/code).*

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### 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  
**Hearing Date:** May 18, 2005

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

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### Health and Family Services (2) (Health, Chs. HFS 110—)

1. Rules adopted revising **ch. HFS 113**, relating to certification of first responders.

#### Finding of emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public, health, safety and welfare. The facts constituting this emergency are:

Currently, first responders are restricted in their provision of emergency medical services (EMS) to performing defibrillation. These amended rules are primarily being published by emergency order to allow first responders to also use the following 2 potentially life-saving skills:

1. Non-visualized airway, to treat patients who are either not breathing or their airway has been compromised due to trauma or other means; and
2. The administration of epinephrine, for patients who have suffered a severe allergic reaction.

The Department intends to immediately follow this emergency rule with an identical proposed permanent rulemaking order.

**Publication Date:** June 6, 2005  
**Effective Date:** June 6, 2005  
**Expiration Date:** November 3, 2005  
**Hearing Date:** June 27, 2005

2. Rules adopted amending **ss. HFS 119.07 (6) (b) to (d) and 119.15 (1) and (3)**, relating to operation of the health insurance risk-sharing plan.

#### Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2), Stats., by using emergency rulemaking procedures, except that the

Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Department staff consulted with the Health Insurance Risk-Sharing Plan (HIRSP) Board of Governors on April 22, 2005 regarding the rules, as required by s. 149.20, Stats.

The State of Wisconsin in 1980 established a Health Insurance Risk-Sharing Plan (HIRSP). HIRSP provides major medical health insurance for persons who are covered under Medicare because they are disabled, persons who have tested positive for HIV, and persons who have been refused coverage or who cannot get coverage at an affordable price in the private health insurance market because of their mental or physical health conditions. Also eligible for coverage are persons who recently lost employer-sponsored insurance coverage if they meet certain criteria. According to state law, HIRSP policyholder premium rates must fund sixty percent of plan costs, except for costs associated with premium and deductible reductions. The remaining funding for HIRSP is to be provided by insurer assessments and adjustments to provider payment rates, in co-equal amounts.

HIRSP Plan 1 is for policyholders that do not have Medicare. Ninety-one percent of the 18,530 HIRSP policies in effect in February 2005 were enrolled in Plan 1. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rates for Plan 1 contained in this rulemaking order increase an average of 15.0% for policyholders not receiving a premium reduction. The average rate increase for policyholders receiving a premium reduction is 12.1%. Rate increases for individual policyholders within Plan 1 range from 7.0% to 16.8%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. By law, Plan 1 rate increases reflect and take into account the increase in costs associated with Plan 1 claims.

HIRSP Plan 2 is for persons eligible for Medicare because of a disability or because they become age-eligible for Medicare while enrolled in HIRSP. Plan 2 has a \$500 deductible. Nine percent of the 18,530 HIRSP policies in effect in February 2005 were enrolled in Plan 2. The rate increases for Plan 2 contained in this rulemaking order increase an average of 20.3% for policyholders not receiving a premium reduction. The average rate increase for policyholders receiving a premium reduction is 17.3%. Rate increases for individual policyholders within Plan 2 range from 11.2% to 22.2%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. Plan 2 premiums are set in accordance with the authority and requirements set out in s. 149.14 (5m), Stats.

**Publication Date:** June 15, 2005  
**Effective Date:** July 1, 2005  
**Expiration Date:** November 28, 2005  
**Hearing Date:** July 11, 2005

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## Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2005.

### Finding of emergency

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

Actuarial and accounting data necessary to establish fund fees is first available in December of each year. It is not possible to complete the permanent fee rule process in time for the injured patients and families compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2005.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 05-028, will be filed with the secretary of state in time to take effect October 1, 2005. Because the fund fee provisions of this rule first apply on July 1, 2005, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 17, 2005.

**Publication Date:** June 27, 2005  
**Effective Date:** July 1, 2005  
**Expiration Date:** November 28, 2005

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## Natural Resources (2) (Environmental Protection – Water Regulation, Chs. NR 300—)

1. 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.

- Rules adopted creating **ch. NR 328, subch. III**, relating to shore erosion control on rivers and streams.

#### Finding of emergency

SECTION 2. FINDING. 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 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 law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken as exempt from a permit, or under a general permit. There are no statutory exemptions for shore protection on rivers and streams. Without emergency rules to create general permits, all shore protection projects on rivers and streams require an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit.

To carry out the intention of Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2005 construction season, with specific standards for shore erosion control structures on rivers and streams.

**Publication Date:** April 8, 2005  
**Effective Date:** May 1, 2005  
**Expiration Date:** September 28, 2005  
**Hearing Date:** May 16, 2005

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### Public Instruction (2)

- Rules adopted revising **ch. PI 35**, relating to the private school proration process.

#### Finding of emergency

The department anticipates the program reaching the 15% cap in the 2005-06 school year. Because the department is required to prorate the number of spaces available at each participating private school, the prorating process must be in place as soon as possible to provide adequate notice to

participating schools and parents. Further, procedures must be in place prior to the beginning of the 2005-06 school year to avoid removing pupils from private schools that have lost seats after the prorating process is completed.

**Publication Date:** August 1, 2005  
**Effective Date:** August 1, 2005  
**Expiration Date:** November 29, 2005  
**Hearing Date:** August 31, 2005

- Rules adopted amending emergency rules revising **ch. PI 35**, relating to prorating under the Milwaukee Parental choice Program.

#### Finding of emergency

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

The department anticipates the program reaching the 15% cap in the 2005-06 school year. Because the department is required to prorate the number of spaces available at each participating private school, the prorating process must be in place as soon as possible to provide adequate notice to participating schools and parents.

The rules contained in this order do not apply after December 29, 2005, unless an extension is granted under s. 227.24 (2), Stats.

**Publication Date:** August 9, 2005  
**Effective Date:** August 9, 2005  
**Expiration Date:** November 29, 2005

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### Veterans Affairs (2)

- Rules adopted repealing **s. VA 2.04** and repealing and recreating **s. VA 2.02**, relating to the veterans tuition reimbursement program.

#### Exemption From Finding of emergency

The legislature has authorized the department to promulgate rules for the administration of the veterans tuition reimbursement program under the emergency rule procedure without providing evidence of the necessity of the preservation of the public peace, health, safety, or welfare at sec. 9153 (1) of 2005 Wis Act 25.

**Publication Date:** August 2, 2005  
**Effective Date:** August 2, 2005  
**Expiration Date:** November 30, 2005

- Rules adopted repealing and recreating **s. VA 2.01**, relating to the assistance to needy veterans program.

#### Exemption From Finding of emergency

The legislature has authorized the department to promulgate rules for the administration of the assistance to needy veterans program under the emergency rule procedure without providing evidence of the necessity of the preservation of the public peace, health, safety, or welfare at sec. 9135 (3k) of 2005 Wis Act 25.

This rule shall take effect on the date of publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.



**Publication Date:** August 2, 2005  
**Effective Date:** August 2, 2005  
**Expiration Date:** November 30, 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.

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## Scope statements

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### Agriculture, Trade and Consumer Protection

#### Subject

Compliance with Interstate Pasteurized Milk Ordinance (PMO).

*Objective of the rule.* Update Wisconsin's dairy rules to make them "substantially equivalent" to the 2005 version of the PMO, as required by s. 97.24 (3), Stats.

Make minor rule changes to accommodate dairy industry modernization and technological advances.

Make technical changes and practical improvements to dairy regulations, as necessary.

#### Policy analysis

Wisconsin is a member of the National Conference on Interstate Milk Shipments (NCIMS), a voluntary organization to which all states and U.S. territories belong. The primary goal of NCIMS is to ensure a safe milk supply. NCIMS has adopted the PMO, which provides uniform model milk sanitation standards for Grade A milk and milk products. NCIMS updates the PMO biennially. Proposed changes must be approved by the U.S. Public Health Service, Food and Drug Administration (FDA) before the changes are incorporated into the PMO.

State milk sanitation standards and procedures must be "substantially equivalent" to the PMO. Under NCIMS agreement, other states may refuse to accept milk shipments from a state that fails to comply with the PMO. FDA monitors state compliance.

Wisconsin does not adopt the PMO directly, but instead adopts its own statutes and rules to comply with PMO standards. A recent program audit by the FDA determined that Wisconsin's Grade A milk rules are not "substantially equivalent" to the PMO in a number of areas. If Wisconsin fails to conform its rules to PMO requirements, Wisconsin's dairy industry may be prevented from shipping Grade A dairy products to other states.

Rulemaking is needed to comply with the PMO. Minor changes are also needed to accommodate new production, processing, and packaging practices and to make the rules as clear as possible.

#### Comparison with federal requirements

The PMO is not a federal regulation, as such. NCIMS member states adopt and enforce the PMO under an interstate agreement, in cooperation with FDA. FDA approves PMO terms and monitors compliance. If FDA finds that a state is not in compliance, other states may refuse to accept milk shipments from that state.

#### Entities affected by the rule

Wisconsin Grade A dairy farms, dairy plants, milk haulers, and certified laboratories.

#### Policy Alternatives

None. According to s. 97.24 (3), Wis. Stats., DATCP must adopt rules that are "in reasonable accord" with the PMO. Failure to comply puts Wisconsin's dairy industry in jeopardy of losing its interstate markets for milk and fluid milk products.

#### Statutory authority

Statutory Alternatives: None.

#### Staff time required

DATCP estimates that .5 FTE staff time is required to develop this rule change. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. DATCP will assign existing staff to develop this rule.

### Insurance

#### Subject

*Objective of the rule.* To add one sentence providing information to employees describing how to obtain application information if they become eligible for special enrollment under a small employer's group health plan in accordance 45 CFR 146.117 (c) (1) and to add two (2) questions related to Medicare Part D.

#### Policy analysis

Section Ins 8.49, Appendix 1, Wis. Adm. Code, must be modified to reflect two amendments to federal regulations. First, the federal guidelines governing Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 144 and 146, have been modified with applicability date of January 1, 2006 necessitating a minor modification to s. Ins 8.49 Appendix 1, Wis. Adm. Code, informing applicants that are declining coverage how to access application information in the event they qualify for special enrollment. Secondly, the appendix must be modified to include two questions within the Medicare information section of the form related to Medicare Part D.

#### Statutory authority

The statutory authority for this rule is ss. 601.41 (3), 601.41 (8), 635.10, 635.18 (8), Wis. Stat.

#### Staff time required

50 hours and no other resources are necessary.

#### Comparison with federal requirements

None.

#### Entities affected by the rule

Health insurers authorized to offer small employer group health insurance.

### Revenue

#### Subject

S. Tax 2.50, relating to the apportionment of net business income of interstate public utilities.

#### Policy analysis

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes. If the rules are not changed, they will be incorrect in that they will not reflect current law or current Department policy.

#### Entities affected by the rule

Certain public utilities that are engaged in business both in and outside of Wisconsin. This includes water, gas, electric,

and telecommunications companies. Also affected will be entities that prepare Wisconsin franchise or income tax returns for these companies.

### Comparison with federal requirements

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

*Objective of the rule.* The objective of the proposed rule is to reflect the following law changes relating to the apportionment of income by interstate public utilities:

Effective for taxable years beginning on or after January 1, 2006, certain public utilities begin a phase-in of single sale factor apportionment. This includes water, gas, and electric companies.

Effective for taxable years beginning on or after January 1, 2005, the sourcing of sales of services for purposes of the apportionment factor is changed.

### Statutory authority

227.11 (2) (a), Stats.

### Staff time required

The department estimates it will take approximately 400 hours to develop this rule order.

## Transportation

### Subject

*Objective of the rule.* This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding one highway segment to the network. The actual segment being proposed is the Chippewa Falls STH 29 bypass. In addition, a short segment of old highway 29 between the Seymour Cray Sr. Blvd. Interchange on the new bypass and STH 124 will retain its long truck route designation.

### Policy analysis

Wisconsin state law requires that the Department use the administrative rule process to make changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes.

The Department has constructed a bypass around Chippewa Falls for STH 29. Under current administrative rules, long trucks traveling between I-94 in Elk Mound and Green Bay are required to exit STH 29 at the edges of Chippewa falls and use STH 124 and STH 53 to detour around portions of STH 29 in Chippewa Falls that cannot accommodate long trucks. This rule making will remove the current requirement that trucks exit STH 29 at the Highway 53 and 124 highway intersections and permit them to use the bypass.

In addition, a short segment of what will become old highway 29 (or be renamed by local authorities) between STH 124 and the Seymour Cray Sr. Blvd. Interchange with the new STH 29 bypass on the east side of Chippewa Falls will retain its long truck route designation. This is to provide a means of connection between STH 29 and STH 124 for long trucks. (There is no STH 29 – STH 124 interchange).

### Comparison with federal requirements

In the Surface Transportation Assistance Act of 1982 (STAA), the federal government acted under the Commerce clause of the United States Constitution to provide uniform standards on vehicle length applicable in all states. The length provisions of STAA apply to truck tractor–semitrailer

combinations and to truck tractor–semitrailer–trailer combinations. (See Jan. 6, 1983, Public Law 97–424, § 411) The uniform standards provide that:

- No state shall impose a limit of less than 48 feet on a semitrailer operating in a truck tractor–semitrailer combination.

- No state shall impose a length limit of less than 28 feet on any semitrailer or trailer operating in a truck tractor–semitrailer–trailer combination.

- No state may limit the length of truck tractors.

- No state shall impose an overall length limitation on commercial vehicles operating in truck tractor–semitrailer or truck tractor–semitrailer–trailer combinations.

- No state shall prohibit operation of truck tractor–semitrailer–trailer combinations.

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

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

The Department of Transportation first adopted ch. Trans 276 of the Wisconsin Administrative Code in December of 1984. The rule is consistent with 23 CFR Part 658 in that the Wisconsin rule designates all of the highways in Wisconsin that are listed in 23 CFR Part 658 as part of the National Network for STAA authorized vehicles. The federal regulation does not prohibit states from allowing operation of STAA authorized vehicles on additional state highways. The rule making authority granted to the Wisconsin Department of Transportation in § 348.07 (4), Stats., allows the DOT to add routes in Wisconsin consistent with public safety. The rule making process also provides a mechanism to review requests from businesses and shipping firms for access to the designated highway system for points of origin and delivery beyond 5 miles from a designated route. A process to review and respond to requests for reasonable access is required by 23 CFR Part 658.

### Entities affected by the rule

The rule will affect all “long trucks” operated along STH 29 as it bypasses the city of Chippewa Falls, Wisconsin, and any “long trucks” operated between STH 124 and STH 29.

### Statutory authority

s. 348.07 (4), Stats.

### Staff time required

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

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## Submittal of rules to legislative council clearinghouse

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

### Health and Family Services

#### Rule Submittal Date

On August 15, 2005, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Subject

The Department proposes to revise ch. HFS 149 to change its methods of computing average price charged for a standardized combination of foods by vendors and vendor applicants for the Women, Infants, and Children program. The Department also proposes to change the contract periods for newly authorized vendors and for vendors seeking reauthorization.

Federal statutes or regulations which require adoption of or are relevant to the substance of proposed rules: The Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. 108–265, s. 203 (e) (10), 118 Stat. 777 requires state agencies to establish a WIC vendor peer group system, competitive price criteria among the peer groups, and reimbursement levels. There are no known proposed or existing federal regulations that address the subject of the proposed rules except that the Department operates the WIC program under a State Plan pursuant to 7 CFR 246.

Court decisions directly relevant to the proposed rule: None known.

#### Agency Procedure for Promulgation

A public hearing will be held from 2:00 p.m. to 4:00 p.m. on September 20, 2005 at 1 W. Wilson St., Room B155, in Madison, Wisconsin.

#### Contact Information

For substantive questions on rules contact:

Patti Herrick

WIC Program Director

Room 243, 1 West Wilson Street

Madison, WI 53701

Phone: 608–266–3821

Fax: 608–266–3124

herriph@dhfs.state.wi.us

For small business considerations contact:

Rosie Greer

608–266–1279

greerrj@dhfs.state.wi.us

For rules processing information contact:

Rosie Greer

608–266–1279

greerrj@dhfs.state.wi.us August 15, 2005

### Higher Educational Aids Board

#### Rule Submittal Date

On July 27, 2005, the Nursing Student Loan Program submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Subject

Statutory Authority: s. 39.393, Stats.

The request is to create administrative rule number HEA 15, relating to the procedures for the Nursing Student Loan Program.

#### Agency Procedure for Promulgation

A public hearing is required and will be scheduled at a later date.

#### Contact Information

Michelle Massen, Office Management Specialist, (608) 266–1658.

michelle.massen@heab.state.wi.uw

### Public Service Commission

#### Rule Submittal Date

NOTICE IS GIVEN, pursuant to s. 227.14 (4m), Stats., that on August 11, 2005, the Public Service Commission of Wisconsin submitted a proposed rule to the Joint Legislative Council Staff Rules Clearinghouse for review.

#### Subject

The proposed rule, Commission docket 1–AC–217, creates subch. VII of ch. PSC 111, Wis. Admin. Code, relating to rules concerning the establishment of capital cost ratemaking principles for certain rate base electric generating facilities.

#### Agency Procedure for Promulgation

A public hearing will be held on September 28, 2005, at 10:00 a.m. at the Public Service Commission Building at 610 North Whitney Way, Madison, Wisconsin.

#### Contact Information

The Commission's Gas and Energy Division is the organizational unit responsible for the promulgation of the rule. The contact person is Lois Hubert, Gas and Energy Division, at (608) 267–2210.

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## Rule-making notices

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### Notice of Hearing Health and Family Services (Health, Ch. HFS 110—) [CR 05–080]

NOTICE IS HEREBY GIVEN That pursuant to s. 253.06 (5) (a) 1., Stats, and interpreting ss. 46.016 and 253.06 (5) (a) 1., Stats., and the Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. 108–265, s. 203 (e) (10), 118 Stat. 777, the Department of Health and Family Services will hold a public Hearing to consider the repeal s. HFS 149.03 (7) (d) and (e); to amend s. HFS 149.02 (6), (17) and (23), and 149.03 (2) (c) and (7) (a); and to create s. HFS 149.02 (14m), relating to the selection and monitoring of vendors for the special supplemental food program for women, infants and children (WIC) and affecting small businesses.

#### Hearing Date and Location

Tuesday, **September 20, 2005**, 2:00 – 4:00 p.m.  
1 W. Wilson Street  
Madison, WI 53702  
Room B155

The hearing site is fully accessible to people with disabilities. If you are hearing impaired, do not speak English, or have circumstances that might make communication at a hearing difficult and you, therefore, require an interpreter or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

#### Written Comments

Written comments may be submitted at the public hearing, or in lieu of attending a public hearing. Written comments can be submitted to the Department using the Wisconsin Administrative Rules website at:  
<http://adminrules.wisconsin.gov> or to:

Patti Herrick, Wisconsin WIC Director  
P.O. Box 2659  
Madison, WI 53701–2659  
herriph@dhfs.state.wi.us  
Phone 608–266–3821

The deadline for submitting comments at the website and to the contact person is **4:30 p.m., on September 27, 2005**.

#### Analysis Prepared by the Department of Health and Family Services

Under the WIC program, 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 (WIC 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 all stores in a project service area for the standardized combination of foods during the previous 6-month period. 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.

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 redefine the term contract period and amend s. HFS 149.03 (7) (a) to change the duration of authorization from two years to three years and to specify the beginning and ending dates of contract periods. Instead of ending on October 31 of even-numbered years, 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 repeal s. HFS 149.03 (7) (d) to eliminate the one-year initial certification period. 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.

A copy of the full text of the proposed rules can be obtained at no charge from the Wisconsin Administrative Rules website at <http://adminrules.wisconsin.gov> or by contacting Patti Herrick at the address above.

Fiscal Estimate

By eliminating the one-year contract for newly authorized vendors, and extending the vendor contract from two to three years, both the state and local WIC programs will reduce administrative expenditures associated with more frequent authorizations. Authorized grocery stores and pharmacies (WIC vendors) will also experience a slight cost savings, assuming that it cost store owners and managers time to complete the applications.

It is not possible to estimate the reduction in expenditures resulting from this administrative rule change.

A copy of the full text of the fiscal estimate may be obtained at no charge at the Wisconsin Administrative Rules website at <http://adminrules.wisconsin.gov> or by contacting Patti Herrick at the address above.

### **Initial Regulatory Flexibility Analysis**

The proposed rule will affect industries in the Food and Beverage Stores subsector and the health and personal care stores subsector of the retail trade sector (sector 44-45) as classified by the North American Industry Classification System (NAICS).

In Wisconsin, the Food and Beverage Stores subsector includes approximately 2,372 establishments with revenues of approximately \$7,830,155 and approximately 61,524 paid employees. Industries in the Food and Beverage Stores subsector usually retail food and beverage merchandise from fixed point-of-sale locations. The specific industry group affected by the proposed rules in this subsector is grocery stores, including supermarkets and other grocery (except convenience) stores, and convenience stores. This industry group accounts for over half of the Wisconsin Food and Beverage Stores subsector, or 1,410 establishments, revenues of \$7,288,475 and 56,204 paid employees.

The Health and Personal Care Stores subsector includes approximately 1,348 establishments with \$1,904,229 in revenues, and 17,190 paid employees. Industries in the Health and Personal Care Stores subsector retail health and personal care merchandise from fixed point-of-sale locations. The specific industry group affected by the proposed rules in this subsector is pharmacy and drug stores which includes establishments primarily engaged in retailing prescription drugs and selling other items, such as proprietary drugs, medicines, and health and first-aid products; cosmetics; toiletries; greeting cards; magazines; tobacco; and candy; beauty preparations; household supplies; and candy and prepackaged snacks. This industry group includes approximately 724 establishments \$1,646,621 in revenues and 14,058 paid employees.

As of July 21, 2005, the Department authorizes 861 grocery stores and 160 pharmacies for a total of 1,041 authorized WIC vendors. The proposed rules will affect all 1,041 currently authorized WIC vendors and approximately 1,113 potential applicants for WIC vendor authorization.

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 all stores in a project service area for the standardized combination of foods during the previous 6-month period. 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.

The Department believes that this method of computing average price may impede the ability 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 proposed changes will allow the Department to compute average price based on reported prices of a vendor's peer group. The Department believes that the proposed method of computing average price will result in 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. Also, by eliminating the one-year contract for newly authorized vendors, and extending the vendor contract from two to three years, authorized grocery stores and pharmacies (WIC vendors) will experience a slight cost savings due to the reduction in the time that vendors spend on completing applications for vendor authorization. It is not possible to estimate the reduction in expenditures resulting from this proposed change. The proposed rule does not establish operational standards, or require reporting, bookkeeping and other procedures, or use of professional skills for compliance with the rule.

### **Contact Person**

Patti Herrick, Wisconsin WIC Director  
1 W. Wilson St. Room 243  
Madison, WI 53702  
herriph@dhfs.state.wi.us  
Phone: 608-266-3821  
Fax: 608-266-3125

### **Small Business Regulatory Coordinator**

Rosie Greer  
Department of Health and Family Services  
1 W. Wilson St. Rm. 658  
Madison, WI 53702  
Greerrj@dhfs.state.wi.us  
Phone: 608-266-1279  
Fax: 608-267-1434

## **Notice of Hearing Public Service Commission [CR 05-079]**

NOTICE IS GIVEN that a hearing will be held beginning on **Wednesday, September 28, 2005**, at 10:00 a.m. in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding Administrative Law Judge. This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the Docket Coordinator listed below.

### **Written Comments**

Any person may submit written comments on these proposed rules. The hearing record will remain open for written comments from the public, effective immediately, and until Friday, October 7, 2005, at noon or until Thursday, October 6, 2005, at noon, if filed by fax. All written comment must include a reference on the filing to docket 1-AC-217. All industry parties are required to file comments through ERF.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the Docket Coordinator listed below.

#### Comments Due:

October 7, 2005 – Noon

Address Comments To:

Lois J. Hubert, Docket Coordinator

Gas and Energy Division

Public Service Commission

P.O. Box 7854

Madison, WI 53707-7854

FAX (608) 266-3957

#### Contact Persons

Questions regarding this matter may be directed to Deputy General Counsel John Lorence at (608) 266-8128, or by e-mail at john.lorence@psc.state.wi.us. Comments should be addressed to Lois J. Hubert, Docket Coordinator, and filed through the Commission's ERF system at the Commission's website <http://psc.wi.gov> or to the address shown in the Notice of Hearing.

#### Introductory Clause

The Public Service Commission of Wisconsin proposes an order to amend ch. PSC 111 (title), and to create subch. VII of ch. PSC 111, Wis. Admin. Code, relating to rules concerning the establishment of capital cost ratemaking principles for certain rate base electric generating facilities.

#### Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02 (3), 196.371 and 227.11 (2), Stats.

Statute interpreted: s. 196.371, Stats.

Section 196.371, Stats., established a process for a public utility to obtain a Commission order regarding capital cost ratemaking principles which may be applicable to the proposed purchase or construction of an electric generating facility. Section 196.371 (4), Stats., directs the Commission to promulgate rules for administering the process. This promulgates those rules as subch. VII of ch. PSC 111, Wis. Admin. Code.

No similar federal provision is known. However, Iowa Code Ann. § 476.53 (2005), grants the Iowa Utility Board similar authority which is codified in Iowa Administrative Code r. 199-7.

2005 Wisconsin Act 7 provides a public utility that proposes to build or purchase an electric generating facility to request that the Commission determine, in advance and by order, the underlying principles by which the Commission will treat the recovery of the capital costs of the facility in setting rates for the utility. These capital costs include the purchase price and any necessary modifications or improvements to the facility made at the time of purchase. The Commission may issue an order if it finds that the proposed principles provide a sufficient degree of certainty to the utility, investors, and ratepayers with respect to future recovery of the facility's costs and that the order is otherwise in the public interest. The proposed rules elaborate on the process and the information required in the application.

The capital structure and other financial parameters surrounding capital cost recovery are important parameters in determining whether the facility complies with the criteria

under Wis. Stats. s. 196.49 (3) (b) 3. Fixing financial parameters for electric generating facilities is optional and the public utility should have evaluated whether such treatment is in its investors' and customers' best interest prior to submitting its application to build or purchase. Consequently, a public utility which does not file an application under these rules simultaneously with its application to purchase or build will not be allowed to make such a filing at a later date.

#### TEXT OF PROPOSED RULE

Section 1. Chapter PSC 111 (title) is amended to read:

REQUIREMENTS FOR STRATEGIC ENERGY ASSESSMENTS,

AND CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY,

AND FIXED FINANCIAL PARAMETERS FOR CERTAIN RATE BASE ELECTRIC

GENERATING FACILITIES

Section 2. Subchapter VII of ch. PSC 111 is created to read:

SUBCHAPTER VII – FIXED FINANCIAL PARAMETER APPLICATIONS

PSC 111.61 Purpose. The purpose of this subchapter is to implement s. 196.371, Stats.

PSC 111.62 Applicability. (1) A public utility may, but is not required to, apply for an order fixing financial parameters under s. 196.371, Stats.

(2) An electric generating facility proposed to be constructed cannot qualify for fixed financial parameters, unless the public utility's application for a certificate, as defined in s. 196.371 (1), Stats., for construction was made simultaneous with the application for fixed financial parameters.

(3) An electric generating facility proposed to be purchased by a public utility may qualify for fixed financial parameters if all of the following apply:

(a) The application for authority to purchase the electric generating facility was made simultaneously with the application for fixed financial parameters.

(b) The proposed sale and purchase is not between affiliates.

(c) The electric generating facility has never been owned by the public utility or any of its affiliates.

PSC 111.63 Information required. A public utility desiring fixed financial parameters shall provide the following minimum information in its application:

(1) The economic useful life of the facility, including technology type and commercial operation date.

(2) The proposed return on equity and rate of return for the facility, including supporting materials such as relevant studies or testimony.

(3) The proposed capital structure and financing mechanisms for the facility.

(4) The capital cost of the facility For purchased facility, the capital costs shall include the cost of any necessary modifications or improvements to the facility.

(5) The proposed method for determining the costs that may be recovered in rates.

(6) Any other proposals or information regarding the recovery of the costs that the public utility determines are necessary for providing certainty to the public utility, investors and ratepayers in future rate-making proceedings.

(7) The cost of debt plus issuance costs, and related credit ratings for any short-term or long-term project financing which may already have occurred.

(8) Any other information required by the commission.

Section 3. Effective date This rule shall take effect on the first day of the first month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

**Initial Regulatory Flexibility Analysis**

The rules being created apply to a public utility that has or expects to have electric generating facilities in this state and

provides electric service to end users in this state. It is unlikely that any such entity would be a small business as defined in s. 227.114 (1), Stats. Therefore, the proposed rules are not expected to affect small businesses as defined in s. 227.114 (1), Stats.

**Fiscal Effect**

This rule has no fiscal impact.



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## Submittal of proposed rules to the legislature

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

### **Financial Institutions – Banking**

**(CR 05–065)**

Ch. DFI–Bkg 80, relating to prohibited bases for discriminating in the extension of consumer credit.

### **Insurance**

**(CR 05–023)**

Ch. Ins 3, relating to mortgage guaranty insurance.

### **Marriage and Family Therapy, Professional Counseling and Social Work Examining Board**

**(CR 05–041)**

Ch. MPSW 3, relating to expiration of a temporary credential issued by the Social Worker Section.

### **Marriage and Family Therapy, Professional Counseling and Social Work Examining Board**

**(CR 05–042)**

Chs. MPSW 2 and 3, relating to postgraduate education and field experience for licensure as a clinical social worker.

### **Pharmacy Examining Board**

**(CR 05–029)**

Ch. Phar 7, relating to the return or exchange of health items.

### **Revenue**

**(CR 05–063)**

Ch. Tax 18, relating to a formula that produces negative assessments for agricultural land

### **Tourism**

**(CR 05–070)**

Ch. Tour 1, relating to the Joint Effort Marketing Program.

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## Rule orders filed with the revisor of statutes bureau

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*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.*

### **Agriculture, Trade and Consumer Protection (CR 04-103)**

An order affecting chs. ATCP 10 to 12, 17, 55 and 60, relating to the livestock premises registration.  
Effective 10-1-05.

### **Agriculture, Trade and Consumer Protection (CR 04-140)**

An order affecting ch. ATCP 40, relating to fertilizer and related products.  
Effective 10-1-05.

### **Hearing and Speech Examining Board (CR 05-026)**

An order affecting chs. HAS 2 and 6 to 8, relating to definitions, temporary trainees, continuing education, temporary licenses and unprofessional conduct.  
Effective 10-1-05.

### **Health and Family Services (CR 04-067)**

An order affecting ch. HFS 57, relating to group foster homes for children.  
Effective 1-1-06.

### **Public Service Commission (CR 03-086)**

An order affecting ch. PSC 111, relating to the time period covered by a strategic energy assessment.  
Effective 10-1-05.

### **Transportation (CR 05-024)**

An order affecting ch. Trans 196, relating to the convenience fee for telephone vehicle registration renewal.  
Effective 10-1-05.

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## Rules published with this register and final regulatory flexibility analyses

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*The following administrative rule orders have been adopted and published in the August 31, 2005, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

### Commerce (CR 05-010)

An order affecting ch. Comm 16, relating to electrical construction. Effective 9-1-05.

#### Summary of Final Regulatory Flexibility Analysis

Sections 101.63 (1), 101.73 (1) and 101.82, Stats., direct the Department to promulgate rules for the construction and inspection of electrical construction in dwellings, public buildings and places of employment. The proposed rules of Clearinghouse Rule No. 05-010 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

#### Summary of Comments by Legislative Review Committees

No comments were received.

### Dietitians Affiliated Credentialing Board (CR 05-021)

An order affecting chs. DI 2 and 3, relating to filing applications for temporary certificates and examinations. Effective 9-1-05.

#### Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.114 (1) (a), Stats., these proposed rules will have no significant economic impact on a substantial number of small businesses. The Department's Small Business Regulatory Review Coordinator may be contacted by email at [chris.klein@drl.state.wi.us](mailto:chris.klein@drl.state.wi.us), or by calling (608) 266-8608.

#### Summary of Comments by Legislative Review Committees

No comments were received.

### Natural Resources (CR 05-016)

An order affecting ch. NR 10, relating to deer hunting as it relates to the management of chronic wasting disease. Effective 9-1-05.

#### Summary of Final Regulatory Flexibility Analysis

The proposed revisions to ch. NR 10 pertain to the rules relating to the control and eventual eradication of chronic wasting disease from the state's deer herd and impose no compliance or reporting requirements for small businesses, nor are there any design or operational standards contained within the proposed rules. Therefore, under s. 227.19 (3m), Stats., a final regulatory flexibility analysis is not required.

### Summary of Comments by Legislative Review Committees

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Transportation. The Assembly Committee on Natural Resources held a public hearing on May 25, 2005 and the Senate Committee on Natural Resources and Transportation held a public hearing on May 26, 2005. No modifications were requested as a result of the public hearings.

### Natural Resources (CR 04-107)

An order affecting chs. NR 400, 406, 407, and 410, relating to implementing general and registration air permit programs. Effective 9-1-05.

#### Summary of Final Regulatory Flexibility Analysis

Small business will benefit by the streamlining procedures provided within these proposed rule revisions. The proposed rule revisions should lead to greater flexibility and reduced administrative cost for small businesses. However, small businesses that elect registration operation permits will be responsible for complying with all applicable requirements in chs. NR 400 to 499, without having these requirements identified in the permit. These requirements are identified in individual and general operation permits.

#### Summary of Comments by Legislative Review Committees

No comments were received.

### Pharmacy Examining Board (CR 05-001)

An order affecting ch. Phar 6, relating to variance alternatives of alarm systems. Effective 9-1-05.

#### Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.114 (1) (a), Stats., these proposed rules will have no significant economic impact on a substantial number of small businesses. The Department's Small Business Regulatory Review Coordinator may be contacted by email at [chris.klein@drl.state.wi.us](mailto:chris.klein@drl.state.wi.us), or by calling (608) 266-8608.

#### Summary of Comments by Legislative Review Committees

No comments were received.

### State Public Defender (CR 04-038)

An order affecting ch. PD 6, relating to the repayment of cost of legal representation. Effective 9-1-05.

**Summary of Final Regulatory Flexibility Analysis**

The proposed rule does not impact small business as defined in ch. 227, Stats.

**Summary of Comments by Legislative Review Committees**

No comments were received.

**Revenue  
(CR 05-035)**

An order affecting ch. Tax 18, relating to the 2005 agricultural use value. Effective 9-1-05.

**Summary of Final Regulatory Flexibility Analysis**

This proposed rule should not have a significant fiscal effect on small business.

**Summary of Comments by Legislative Review Committees**

No comments were received.

**Veterinary Examining Board  
(CR 04-125)**

An order affecting chs. VE 1, 7, 9 and 10, relating to renewal, conduct and continuing education for veterinarians and veterinary technicians. Effective 9-1-05.

**Summary of Final Regulatory Flexibility Analysis**

Pursuant to s. 227.114 (1) (a), Stats., these proposed rules will have no significant economic impact on a substantial number of small businesses. The Department's Small Business Regulatory Review Coordinator may be contacted by email at christopher.klein@drl.state.wi.us, or by calling (608) 266-8608.

**Summary of Comments by Legislative Review Committees**

No comments were received.

**Workforce Development  
(CR 05-056)**

An order affecting ch. DWD 272, relating to increasing Wisconsin's minimum wages. Effective 9-1-05.

**Summary of Final Regulatory Flexibility Analysis**

Department response on a possible exemption of small

businesses from the requirements of the rule. Department economists estimate that a very high percentage of workers affected by the proposed minimum wage increase work for employers that meet the definition of small business in s. 227.114 (1), Stats. If the rule exempted these employers from minimum wage coverage, it would render the minimum wage nearly meaningless.

Department response on less stringent deadline for compliance. Section 227.22 (2) (e), Stats., provides that if a rule has a significant economic impact on small businesses, as defined in s. 227.114 (1), Stats., the rule shall apply to small businesses on the first day of the 3rd month commencing after the date of publication of the rule. This provision applies to the proposed rule and adds an extra 2 months to the promulgation time frame. To avoid confusion, the rule will apply to all businesses on the first day of the 3rd month commencing after the date of publication of the rule.

Summary of issues raised by small businesses during the hearings. No comments were received during the hearings. Representatives from the Wisconsin Manufacturers and Commerce, Wisconsin Restaurant Association, Wisconsin Grocers Association, National Federation of Independent Businesses-Wisconsin, and the Wisconsin Merchant Federation served on the Minimum Wage Advisory Council. The Advisory Council's recommendations are incorporated in the proposed rule.

Nature and cost of measures required to comply with the rule. The effect of the wage increase on business will be \$175 million in increased payroll costs. Low-wage workers will circulate this money back into the economy immediately, representing a 0.1 percent increase in the gross state product. The increased spending by affected workers may be a revenue growth for some businesses. Higher wages also have a positive impact on both workers and their employers by reducing turnover, increasing work experience, and saving on training and recruitment costs for both workers and employers. Any increase in the cost of doing business will likely be passed on to consumers as part of the price of the product or service being purchased. A very high percentage of affected businesses meet the definition of small business in s. 227.114 (1), Stats.

**Summary of Comments by Legislative Review Committees**

No comments were received.

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## Sections affected by rule revisions and corrections

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The following administrative rule revisions and corrections have taken place in **August 2005**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

### Revisions

#### Commerce

##### Ch. Comm 16

- S. Comm 16.12
- S. Comm 16.155
- S. Comm 16.185
- S. Comm 16.20 (1) and (2) (b)
- S. Comm 16.22
- S. Comm 16.23
- S. Comm 16.257
- S. Comm 16.27 (intro.)
- S. Comm 16.31
- S. Comm 16.32
- S. Comm 16.327
- S. Comm 16.37
- S. Comm 16.38
- S. Comm 16.392
- S. Comm 16.395
- S. Comm 16.42 (1) and (2)
- S. Comm 16.436
- S. Comm 16.45 (1) and (2)
- S. Comm 16.48
- S. Comm 16.49

#### Dietitians Affiliated Credentialing Board

##### Ch. DI 2

- S. DI 2.04 (1) (c)

##### Ch. DI 3

- S. DI 3.01 (1)

#### Natural Resources

##### Ch. NR 10

- S. NR 10.01 (3) (et) and (ez)
- S. NR 10.104 (11) and (13)
- S. NR 10.105 (2), (3) and (4)
- S. NR 10.106 (2) (g)
- S. NR 10.28 (3)

##### Ch. NR 400

- S. NR 400.02 (73m) and (131m)

##### Ch. NR 406

- S. NR 406.02 (1) to (6)
- S. NR 406.04 (1) (c), (ce), (cm), (m), and (2m)
- S. NR 406.11 (1) (intro.), (c), (g), and (3)
- SS. NR 406.16 to 406.18

##### Ch. NR 407

- S. NR 407.02 (3) and (3m)
- S. NR 407.03 (1) (c), (ce), (cm)
- S. NR 407.05 (7)
- S. NR 407.10
- S. NR 407.105
- S. NR 407.107
- S. NR 407.14 (4) (c)
- S. NR 407.15 (intro.), (3) and (8)

##### Ch. NR 410

- S. NR 410.03 (1) (a)

##### Ch. NR 484

- S. NR 484.05 (1)

#### Pharmacy Examining Board

##### Ch. Phar 6

- S. Phar 6.08

#### Public Defender

##### Ch. PD 6

- S. PD 6.01
- S. PD 6.02 (1)
- S. PD 6.025 (2)

#### Revenue

##### Ch. Tax 18

- S. Tax 18.07 (1) (b) and (c)

#### Veterinary Examining Board

##### Ch. VE 1

- S. VE 1.02 (intro.)

##### Ch. VE 7

- S. VE 7.055
- S. VE 7.06 (22)

##### Ch. VE 9

- S. VE 9.035
- S. VE 9.05 (12)

##### Ch. VE 10 (Entire Chapter)

#### Workforce Development

##### Ch. DWD 272

- S. DWD 272.01 (9m)
- S. DWD 272.03 (1), (1m), (3), and (3m)

S. DWD 272.05 (1) (a), (b), (2) (a) and (b)  
S. DWD 272.07 (3), (3g) and (3r)

S. DWD 272.08  
S. DWD 272.12 (2) (g)

### **Editorial corrections**

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

#### **Natural Resources**

##### **Ch. NR 407**

S. NR 407.03 (1) (t)

### **Errata**

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

#### **Public Service Commission**

##### **Ch. PSC 163**

S. PSC 163.04 (7)

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## Executive orders

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**The following are recent Executive Orders issued by the Governor.**

**Executive Order 112.** Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Captain Benjamin Jansky of the United States Army Reserve who lost his life during Operation Iraqi Freedom.

**Executive Order 113.** Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Staff Sergeant Chad Simon of the United States Marine Corps Reserve who lost his life during operation Iraqi Freedom.

**Executive Order 114.** Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Specialist John Tollefson of the United States Army who lost his life during Operation Iraqi Freedom.

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