

HFS
110,
113

Emergency Rule – HFS 110 to 113

JCRAR HEARING

MAY 27, 2003

12:30 p.m.

Room 411 South

SUMMARY HFS – 110 to 113

John Morjan

Relating to licensing of EMT's and certification of first responders, incorporating responding to certain acts of terrorism as a training component.

Dee

Background

2001 Wisconsin Act 109 (Budget Adjustment Bill) created the need for the rules.

Summary

The rule would require that all EMTs Basic and EMTs Basic IV, EMTs Intermediate, EMTs Paramedic, and First Responders as of January 1, 2003 would need to have received training in response to acts of terrorism. The training would be required to be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003.

The rules require a completion of a NT100 Terrorism/Hazardous Materials Awareness training course, which is four hours in length. Materials for the training course were included in all EMT courses beginning January 1, 2003 and will also be available as a stand-alone course module.

Why can't this training be tied into existing time/training requirements.

Cost estimate for new training? Who covers?

How is 4 hours determined?



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

April 21, 2003

The Honorable Joseph Leibham, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 409 South, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Leibham:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below.

The emergency rules relate to the Department's requiring EMTs and first responders to receive training for responding to acts of terrorism. 2001 Wisconsin Act 109 amended sections 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. of the statutes by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department revised the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs- Basic IV (found in ch. HFS 110), EMTs- Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.)

The rule changes removed any question of whether the Department had the authority to require persons to receive training for acts of terrorism. Such training is needed to promote the public's health and safety and, due to the statutory effective date of January 1, 2003, the Department promulgated the rule changes through an emergency order. The emergency rulemaking order amending and creating rules was published and effective on **December 31, 2002, and will expire on May 30, 2003, unless extended.**

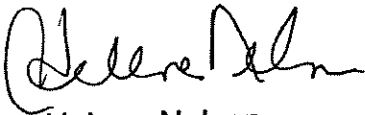
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Senator Leibham
April 21, 2003
Page 2

The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order. Replacement permanent rules were sent to the Legislative Council for review on December 27, 2002 and were the subject of a public hearing held on February 17, 2003. In response to comments the Department received from the Legislative Council Rules Clearinghouse and the Wisconsin Technical College Board, the Department modified its initial proposed permanent rules, and has attached the final proposed rules for your review. The Department transmitted these final proposed rules to the to the Presiding Officers of the Senate and Assembly on April 11th. Consequently, the Department will not be able to file the rules until at least June for an August 1, 2003, effective date. Therefore, I request an extension of the effective period of the emergency rules by **60 days**, through July 29, 2003.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Jon Morgan in the Division of Public Health at 266-9781.

Sincerely,



Helene Nelson
Secretary

Attachments

cc Representative Grothman
Senator Alan Lasee
Speaker John Gard
Gary Radloff

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

FINDING OF EMERGENCY

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

2001 Wisconsin Act 109 amended sections 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs-Basic IV (found in ch. HFS 110), EMTs- Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.)

The required rule changes will remove any question of whether the Department had the authority to require persons to receive training for acts of terrorism. Such training is needed to promote the public's health and safety and due to the statutory effective date of January 1, 2003, the Department is promulgating these rule changes through an emergency order. The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 146.50 (6) (b) 2. and (13) (a), 227.24 (1) and 250.04 (7), Stats., the Department of Health and Family Services hereby creates rules interpreting ss. 146.50 (6) (b) 2., (8) (b) 3., (c) and (13) (a) and 250.04 (7), Stats.

SECTION 1. HFS 110.07 (3) (c) 2. and (4) (a) and (b) are amended to read:

HFS 110.07 (3) (c) 2. The training shall include the knowledge and skills objectives contained in the U.S. department of transportation/national highway traffic safety administration's national standard curriculum for refresher training of EMTs–basic, 1994 edition, and additional training as approved by the department, including training for response to acts of terrorism.

(4) (a) EMT–BASIC TRAINING COURSE CONTENT AND HOURS. (a) The national standard curriculum for training EMTs–basic shall be used as the basis for a training course. Training shall also include instruction on responding to acts of terrorism. Additional skills training requires approval of the department. Any deviation from the curriculum shall be submitted separately and approved by the department prior to its use in the course.

(b) An EMT–basic training course shall have a minimum of 110 hours of instruction and may not exceed 140~~144~~ hours of mandatory attendance.

SECTION 2. HFS 111.06 (1) (c) 1. is amended to read:

HFS 111.06 (1) (c) 1. A description of the capabilities of the organization to train EMTs--intermediate in the provision of emergency medical care in pre-hospital, interfacility and hospital settings. The training shall include training covered in the national standard curriculum for training EMTs--intermediate and shall include additional training approved by the department, including instruction on responding to acts of terrorism.

SECTION 3. HFS 112.04 (5) (f) 2. is amended to read:

HFS 112.04 (5) (f) 2. A licensee who submits evidence of having successfully completed, within the 24 months immediately preceding the license renewal date, an EMT paramedic training course, including the knowledge and skills objectives of the National Standard Curriculum for Training EMTs--Paramedic, as approved by the department, including training for response to acts of terrorism, shall be considered to have met the requirement of subd. 1. b.

SECTION 4. HFS 112.06 (1) (c) 1. is amended to read:

HFS 112.06 (1) (c) 1. A description of the capabilities of the organization to train EMTs--paramedic in the provision of emergency medical care in pre-hospital, interfacility and hospital settings. The training shall include training covered in the National Standard Curriculum for Training EMTs--Paramedic and training for response to acts of terrorism and may include additional training approved by the department.

SECTION 5. HFS 113.04 (6) (a) 1m. is created to read:

HFS 113.04 (6) (a) 1m. Completion of training on responding to acts of terrorism.

SECTION 6. HFS 113.04 (10) (b) 3. is amended to read:

HFS 113.04 (10) (b) 3. Documentation that the certificate holder has, during the biennial period immediately preceding application, successfully completed the national standard first responder refresher course or equivalent training, including training for response to acts of terrorism, as determined by the department; and

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

Wisconsin Department of Health
and Family Services

By: 

for Phyllis Dubé
Secretary

Dated: December 27, 2002

SEAL:

PROPOSED ADMINISTRATIVE RULES – HFS 110
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES
PURSUANT TO S. 227.19 (3), STATS.

REPORT TO
LEGISLATURE
+
PERMANENT
RULES

Need for Rules

2001 Wisconsin Act 109 amended sections 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, ~~the applicant must have received training in response to acts of terrorism.~~ Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs- Basic IV (found in ch. HFS 110), EMTs- Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.) These rules will replace an emergency rule that took effect on December 31, 2002. ~~The rules require completion of a NT100 Terrorism/Hazardous Materials Awareness training course, which is four hours in length. Materials for the training course were included in all EMT courses beginning January 1, 2003 and will also be available as a stand-alone course module.~~

Response to Clearinghouse Recommendations

The Department accepted both comments of the Legislative Council's Rules Clearinghouse and modified the proposed rules accordingly. Specifically, Clearinghouse comment 5.a. suggested that the analysis to the rule should at least briefly describe the type and amount of training that will be accepted by the department as meeting the statutory requirement that "training for response to acts of terrorism" be provided. In response to comment 5.a., the Department added a sentence to the analysis section explaining the type and amount of training that will be accepted by the Department as meeting the statutory requirement that training for response to acts of terrorism will be required.

Clearinghouse comment 5.b. was "It is unclear where the rule sets forth the requirement that persons trained between July 2002 and January 2003 must complete a supplementary four-hour training module, as is mentioned in the department's fiscal estimate. When must the training be completed?" In response to comment 5.b., the Department added an amendment to HFS 110.05 (1) (d), 111.04 (1) (e), 112.04 (1) (d), and 113.04 (9) (a) 4., and further amended HFS 110.07 (3) (c) 2., 111.06 (1) (c) 1., 112.04 (5) (f) 2., and 113.04 (6) (a) 1m. to more clearly prescribe what training is required and when training must be completed for both initial licensure and license renewal.

Public Hearing and Written Comments

The Department held one public hearing on the proposed rule in Madison on February 17, 2003. Nan Turner, Chief of the Department's EMS Section attended the hearing. Only one person, Tim Hellenbrand of the Dane County EMS, attended the hearing. Mr. Hellenbrand agreed with the rule as written. The Department's comment period remained open until February 24th, but the Department received no written comments.

The Department also circulated a draft of the rules to the Wisconsin Technical College System Board for review and comment. In response, Stephen J. Teale, Emergency Services Consultant with the Wisconsin Technical College System Board, replied that the rules should specify an ending date on inclusion of the terrorism content in refresher courses. Mr. Teale also suggested that the statutory training only require one initial episode of training, i.e., no reflection of training to respond to acts of terrorism in each subsequent refresher course and no required recertification or retraining. The Department interprets the statute differently. Section 146.50 (6) (b) 2., Stats., states that the Department must develop rules that specify "...requirements for training for response to acts of terrorism, for license renewals for emergency medical technicians." Given this wording, the Department does not agree that training for response to acts of terrorism need not be an ongoing part of refresher courses. However, the Department agrees that the scope of training in refresher courses may be less than the entire 4-hour course. Consequently, the Department revised the rule to specify that the 4-hour course is required only once by specifying an ending date, and that the subsequent ongoing training requirement will be determined before June 30, 2004 by the Department, in conjunction with the EMS advisory board and the Wisconsin technical college system board.

Final Regulatory Analysis

These rules apply to the Department of Health and Family Services, the Division of Hearings and Appeals in the Department of Administration, ambulance service providers and emergency medical technicians. Some affected ambulance service providers may be "small businesses" as defined in s. 227.114 (1) (a), Stats. These rules implement new requirements, but any additional training costs are covered by the Department and there should be no additional expenses for businesses.

PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

To amend HFS 110.05 (1) (d), 110.07 (3) (c) 2. and (4) (a) and (b), 111.04 (1) (e), 111.06 (1) (c) 1., 112.04 (1) (d), 112.04 (5) (f) 2., 112.06 (1) (c) 1. and 113.04 (9) (a) 4. and (10) (b) 3., and to create HFS 113.04 (6) (a) 1m., relating to the licensing of emergency medical technicians and the certification of first responders to incorporate responding to acts of terrorism as a training component required for initial or renewed licensure or certification.

Analysis Prepared by the Department of Health and Family Services

2001 Wisconsin Act 109 amended sections 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs-Basic IV (found in ch. HFS 110), EMTs- Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.) These rules will replace an emergency rule that took effect on December 31, 2002. The rules require completion of a NT100 Terrorism/Hazardous Materials Awareness training course, which is four hours in length. Materials for the training course were included in all EMT courses beginning January 1, 2003 and will also be available as a stand-alone course module.

The Department's authority to create these rules is found in ss. 146.50 (6) (b) 2. and (13) (a), 227.11 (2) (a) and 250.04 (7), Stats. The rules interpret ss. 146.50 (6) (b) 2., (8) (b) 3., (c) and (13) (a) and 250.04 (7), Stats.

SECTION 1. HFS 110.05 (1) (d) is amended to read:

HFS 110.05 (1) (d) Present documentation of successful completion of department-approved ~~EMT basic or EMT basic IV~~ training taken within 24 months prior to application or proof of current national registry of EMTs registration or proof of equivalent training and current licensure from another state. The training shall include training for responding to acts of terrorism.

SECTION 2. HFS 110.07 (3) (c) 2. and (4) (a) and (b) are amended to read:

HFS 110.07 (3) (c) 2. The training shall include the knowledge and skills objectives contained in the U.S. department of transportation/national highway traffic safety administration's national standard curriculum for refresher training of EMTs–basic, 1994 edition, and additional training as approved by the department, including training for response to acts of terrorism. Completion of an NT100 terrorism and hazardous materials awareness training course that is 4 hours in length meets the requirement for training for response to acts of terrorism. Course material for training for response to acts of terrorism shall be included in all initial and refresher EMT courses beginning January 1, 2003 and shall also be available as a stand-alone course module for EMTs who received training before January 2003. After June 30, 2004, the required refresher training for acts of terrorism shall no longer be the full 4-hour NT100 terrorism and hazardous materials awareness training course. Prior to June 30, 2004, the ongoing training

requirement shall be determined by the department, in consultation with the EMS advisory board and the Wisconsin technical college system board. The department shall disseminate information on the ongoing training requirement to ambulance providers and training centers and offer multiple training methods.

(4) (a) EMT-BASIC TRAINING COURSE CONTENT AND HOURS. (a) The national standard curriculum for training EMTs-basic shall be used as the basis for a training course. Training shall also include instruction on responding to acts of terrorism. Additional skills training requires approval of the department. Any deviation from the curriculum shall be submitted separately and approved by the department prior to its use in the course.

(b) ~~An EMT-basic training course shall have a minimum of 110 hours of instruction and may not exceed 140-144 hours of mandatory attendance.~~

SECTION 3. HFS 111.04 (1) (e) is amended to read:

HFS 111.04 (1) (e) Present documentation that verifies the successful completion of classroom, clinical and field experience training offered by a department approved EMT-intermediate training course within 24 months prior to application, or equivalent training in all areas listed under s. HFS 111.06 (4) and is deemed to be comparable by the department. The training shall include training for responding to acts of terrorism.

SECTION 4. HFS 111.06 (1) (c) 1. is amended to read:

HFS 111.06 (1) (c) 1. A description of the capabilities of the organization to train EMTs-intermediate in the provision of emergency medical care in pre-hospital, interfacility and hospital settings. The training shall include training covered in the national standard curriculum for training EMTs-intermediate and shall include additional training approved by the department, including instruction on responding to acts of terrorism. Completion of an NT100 terrorism and hazardous materials awareness training course that is 4 hours in length meets the requirement for training for response to acts of terrorism. Course material for training for response to acts of terrorism shall be included in all initial and refresher EMT courses beginning January 1, 2003 and shall also be available as a stand-alone course module for EMTs who received training before January 2003. After June 30, 2004, the required refresher training for acts of terrorism shall no longer be the full 4-hour NT100 terrorism and hazardous materials awareness training course. Prior to June 30, 2004, the ongoing training requirement shall be determined by the department, in consultation with the EMS advisory board and the Wisconsin technical college system board. The department shall disseminate information on the ongoing training requirement to ambulance providers and training centers and offer multiple training methods.

SECTION 5. HFS 112.04 (1) (d) is amended to read:

HFS 112.04 (1) (d) Present documentation of successful completion of an EMT-paramedic training course approved under s. HFS 112.06 (3) within 24 months prior to application, or equivalent training acceptable to the department. In this paragraph, "equivalent training" means training in all areas listed under s. HFS 112.06 (3). Documentation shall include verification of completion of classroom, clinical and field experiences. The training shall include training for responding to acts of terrorism.

SECTION 6. HFS 112.04 (5) (f) 2. is amended to read:

HFS 112.04 (5) (f) 2. A licensee who submits evidence of having successfully completed, within the 24 months immediately preceding the license renewal date, an EMT paramedic training course, including the knowledge and skills objectives of the National Standard Curriculum for Training EMTs-Paramedic, as approved by the department, including training for response to acts of terrorism, shall be considered to have met the requirement of subd. 1. b. Completion of an NT100 terrorism and hazardous materials awareness training course that is 4 hours in length meets the requirement for training for response to acts of terrorism. Course material for training for response to acts of terrorism shall be included in all initial and refresher EMT courses beginning January 1, 2003 and shall also be available as a stand-alone course module for EMTs who received training before January 2003. After June 30, 2004, the required refresher training for acts of terrorism shall no longer be the full 4-hour NT100 terrorism and hazardous materials awareness training course. Prior to June 30, 2004, the ongoing training requirement shall be determined by the department, in consultation with the EMS advisory board and the Wisconsin technical college system board. The department shall disseminate information on the ongoing training requirement to ambulance providers and training centers and offer multiple training methods.

SECTION 7. HFS 112.06 (1) (c) 1. is amended to read:

HFS 112.06 (1) (c) 1. A description of the capabilities of the organization to train EMTs-paramedic in the provision of emergency medical care in pre-hospital, interfacility and hospital settings. The training shall include training covered in the National Standard Curriculum for Training EMTs-Paramedic and training for response to acts of terrorism, and may include additional training approved by the department.

SECTION 8. HFS 113.04 (6) (a) 1m. is created to read:

HFS 113.04 (6) (a) 1m. Completion of training on responding to acts of terrorism. Completion of an NT100 terrorism and hazardous materials awareness training course that is 4 hours in length meets the requirement for training for response to acts of terrorism. Course material for training for response to acts of terrorism shall be included in all initial and refresher EMT courses beginning January 1, 2003 and shall also be available as a stand-alone course module for EMTs who received training before January 2003.

SECTION 9. HFS 113.04 (9) (a) 4. and (10) (b) 3. are amended to read:

HFS 113.04 (9) (a) 4. Present documentation of having successfully completed the national standard basic or refresher curriculum or equivalent training as determined by the department for training first responders within 24 months prior to application, or hold current voluntary certification from the department as a first responder. The training shall include training for responding to acts of terrorism.

(10) (b) 3. Documentation that the certificate holder has, during the biennial period immediately preceding application, successfully completed the national standard first responder refresher course or equivalent training, including training for response to acts of terrorism, as determined by the department; and

SECTION 10. HFS 113.04 (10) (b) 5. is created to read:

HFS 113.04 (10) (b) 5. Completion of a NT100 terrorism and hazardous materials awareness training course that is 4 hours in length meets the requirement for training for response to acts of terrorism subd. 3. Course material for training for response to acts of terrorism shall be included in all initial and refresher first responder courses beginning January 1, 2003 and shall also

be available as a stand-alone course module for first responders who received training before January 2003. After June 30, 2004, the required refresher training for acts of terrorism shall no longer be the full 4-hour NT100 terrorism and hazardous materials awareness training course. Prior to June 30, 2004, the department, in consultation with the EMS advisory board and the Wisconsin technical college system board, shall determine the ongoing training requirement. The department shall disseminate information on the ongoing training requirement to ambulance providers and training centers and offer multiple training methods.

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

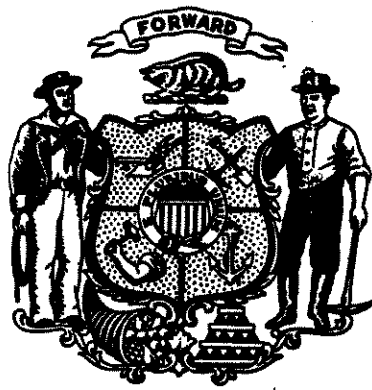
Wisconsin Department of Health
and Family Services

Dated:

By: _____
Helene Nelson
Secretary

SEAL:

END



END

HFS
115

Emergency Rule

HFS 115.04(9) to (13)

Relating to screening newborn infants for congenital disorders.

The Department of Health and Family Services requests an extension of the effective period of this emergency rule for 60 days. *First Consideration.*



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

February 3, 2003

The Honorable Joseph Leibham, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 409 South, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Leibham:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below.

The emergency rules relate to the early identification of particular congenital and metabolic disorders that are harmful or fatal to persons with the disorders is critical to mitigating the negative effects of such disorders. Section 253.13 of the statutes requires that every infant born be subjected to blood tests for congenital and metabolic disorders, as specified in administrative rules promulgated by the Department. Parents, however, may refuse to have their infants screened for religious reasons. The Department has issued ch. HFS 115, Screening of Newborns for Congenital and Metabolic Disorders, to administer this statutory requirement. Prior to the issuance of the emergency rule, s. HFS 115.04 listed eight congenital and metabolic disorders for which the state hygiene laboratory tested newborn blood samples.

In determining whether to add or delete disorders from the list under s. HFS 115.04, s. HFS 115.06 directs the Department to seek the advice of persons who have expertise and experience with congenital and metabolic disorders. For this purpose, the Department established the Wisconsin Newborn Screening Umbrella Advisory Group. Section HFS 115.06 also lists six criteria on which the Department must base its decision to add to or delete disorders from s. HFS 115.04. These criteria are:

1. Characteristics of the specific disorder, including disease incidence, morbidity and mortality.
2. The availability of effective therapy and potential for successful treatment.

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3. Characteristics of the test, including sensitivity, specificity, feasibility for mass screening and cost.
4. The availability of mechanisms for determining the effectiveness of test procedures.
5. Characteristics of the screening program, including the ability to collect and analyze specimens reliably and promptly, the ability to report test results quickly and accurately and the existence of adequate follow-up and management programs.
6. The expected benefits to children and society in relation to the risks and costs associated with testing for the specific condition.

In consideration of these criteria, the Wisconsin Newborn Screening Umbrella Advisory Group recommended that the Department add five aminoacidopathies, i.e., amino acid-related disorders, to the eight disorders currently screened for and listed in s. HFS 115.04. These disorders are:

- Maple Syrup Urine Disease;
- Homocystinuria;
- Tyrosinemia;
- Citrullinemia; and
- Argininosuccinic Acidemia.

Persons with these disorders can experience serious medical consequences such as failure-to-thrive, developmental delays, seizures, mental retardation and death.

The additional costs associated with these five additional screening tests is less than a dollar per baby screened because the amino acids in the blood sample are measured simultaneously with the acylcarnitines for Fatty Acid Oxidation and Organic Acidemias. In the absence of this screening, the Department estimates the annual Wisconsin costs for these disorders to be \$144,909. The Department also estimates the annual Wisconsin costs of this screening to be \$29,134. Therefore, the cost benefit from these five screening tests is \$115,775.

The Advisory Group also recommended that the Department immediately begin screening newborns for these additional disorders. Before this testing can begin, the Department had to change its rules to add the five new disorders to the existing list under s. HFS 115.04. Given the length of time required to promulgate permanent rules, and given that collectively, these disorders were projected to occur one to three persons being born with one of these five disorders and that those disorders would otherwise escape detection, the Department wanted to eliminate this possibility and ensure that newborn testing begin as soon as possible. Consequently, the Department chose to issue this rule change on an emergency basis while the Department promulgated a permanent rule.

Senator Leibham

February 3, 2003

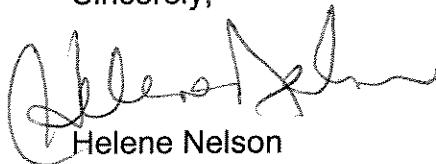
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The emergency rulemaking order was published and effective on **October 12, 2002**, and **will expire on March 11, 2003**, unless extended. Replacement permanent rules were sent to the Legislative Council for review on November 11, 2002 and were the subject of a public hearing held on December 17, 2002. The Department transmitted the Legislative Report to the Presiding Officers of the Senate and Assembly on January 6, 2003.

To date, neither assigned standing committee has asked to meet with the Department or has scheduled a public hearing on the proposed rules. The authority of the Assembly Committee on Children and Families expires on February 14, 2003. Unless either committee takes action on the rule in a manner that extends the committee's period of authority, the Department hopes to file the rules on February 15, 2003, and would anticipate an April 1, 2003 effective date. To accommodate the possibility that an assigned committee may take an action that delays the Department's ability to file the permanent rule, I request an extension of the effective period of the emergency rules by **60 days**, through May 9, 2003. If the effective period of the emergency rules is not extended, in the interim, the Department will not have the authority to require the testing.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Susan Uttech in the Division of Public Health at 267-3821.

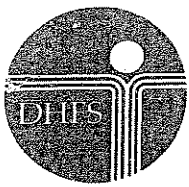
Sincerely,



Helene Nelson
Secretary

Attachments

cc Representative Grothman
Senator Allan Lese
Speaker John Gard
Gary Radloff



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

February 3, 2003

The Honorable Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 North, State Capitol
P.O. Box 8952
Madison, Wisconsin 53708-8952

Dear Representative Grothman:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below.

The emergency rules relate to the early identification of particular congenital and metabolic disorders that are harmful or fatal to persons with the disorders is critical to mitigating the negative effects of such disorders. Section 253.13 of the statutes requires that every infant born be subjected to blood tests for congenital and metabolic disorders, as specified in administrative rules promulgated by the Department. Parents, however, may refuse to have their infants screened for religious reasons. The Department has issued ch. HFS 115, Screening of Newborns for Congenital and Metabolic Disorders, to administer this statutory requirement. Prior to the issuance of the emergency rule, s. HFS 115.04 listed eight congenital and metabolic disorders for which the state hygiene laboratory tested newborn blood samples.

In determining whether to add or delete disorders from the list under s. HFS 115.04, s. HFS 115.06 directs the Department to seek the advice of persons who have expertise and experience with congenital and metabolic disorders. For this purpose, the Department established the Wisconsin Newborn Screening Umbrella Advisory Group. Section HFS 115.06 also lists six criteria on which the Department must base its decision to add to or delete disorders from s. HFS 115.04. These criteria are:

1. Characteristics of the specific disorder, including disease incidence, morbidity and mortality.
2. The availability of effective therapy and potential for successful treatment.
3. Characteristics of the test, including sensitivity, specificity, feasibility for mass screening and cost.
4. The availability of mechanisms for determining the effectiveness of test procedures.

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5. Characteristics of the screening program, including the ability to collect and analyze specimens reliably and promptly, the ability to report test results quickly and accurately and the existence of adequate follow-up and management programs.
6. The expected benefits to children and society in relation to the risks and costs associated with testing for the specific condition.

In consideration of these criteria, the Wisconsin Newborn Screening Umbrella Advisory Group recommended that the Department add five aminoacidopathies, i.e., amino acid-related disorders, to the eight disorders currently screened for and listed in s. HFS 115.04. These disorders are:

- Maple Syrup Urine Disease;
- Homocystinuria;
- Tyrosinemia;
- Citrullinemia; and
- Argininosuccinic Acidemia.

Persons with these disorders can experience serious medical consequences such as failure-to-thrive, developmental delays, seizures, mental retardation and death.

The additional costs associated with these five additional screening tests is less than a dollar per baby screened because the amino acids in the blood sample are measured simultaneously with the acylcarnitines for Fatty Acid Oxidation and Organic Acidemias. In the absence of this screening, the Department estimates the annual Wisconsin costs for these disorders to be \$144,909. The Department also estimates the annual Wisconsin costs of this screening to be \$29,134. Therefore, the cost benefit from these five screening tests is \$115,775.

The Advisory Group also recommended that the Department immediately begin screening newborns for these additional disorders. Before this testing can begin, the Department had to change its rules to add the five new disorders to the existing list under s. HFS 115.04. Given the length of time required to promulgate permanent rules, and given that collectively, these disorders were projected to occur one to three persons being born with one of these five disorders and that those disorders would otherwise escape detection, the Department wanted to eliminate this possibility and ensure that newborn testing begin as soon as possible. Consequently, the Department chose to issue this rule change on an emergency basis while the Department promulgated a permanent rule.

The emergency rulemaking order was published and effective on **October 12, 2002**, and **will expire on March 11, 2003**, unless extended. Replacement permanent rules were sent to the Legislative Council for review on November 11, 2002 and were the subject of a public hearing held on December 17, 2002. The Department transmitted the Legislative Report to the Presiding Officers of the Senate and Assembly on January 6, 2003.

Representative Grothman

February 3, 2003

Page 3

To date, neither assigned standing committee has asked to meet with the Department or has scheduled a public hearing on the proposed rules. The authority of the Assembly Committee on Children and Families expires on February 14, 2003. Unless either committee takes action on the rule in a manner that extends the committee's period of authority, the Department hopes to file the rules on February 15, 2003, and would anticipate an April 1, 2003 effective date. To accommodate the possibility that an assigned committee may take an action that delays the Department's ability to file the permanent rule, I request an extension of the effective period of the emergency rules by **60 days**, through May 9, 2003. If the effective period of the emergency rules is not extended, in the interim, the Department will not have the authority to require the testing.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Susan Uttech in the Division of Public Health at 267-3821.

Sincerely,

A handwritten signature in black ink, appearing to read "Helene Nelson", written in a cursive style.

Helene Nelson
Secretary

Attachments

cc Senator Leibham
Senator Allan Lese
Speaker John Gard
Gary Radloff



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Emergency Rule Extension Motion Form

March 6, 2003
North Hearing Room
State Capitol

Moved by GROTHMAN, Seconded by Carpenter

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules **HFS 115.04(9) to (13)** for 60 days at the request of the Department of Health and Family Services.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator WELCH	✓		
3. Senator LAZICH	✓		
4. Senator ROBSON	✓		
5. Senator CARPENTER	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

MAR 11 2003

March 6, 2003

The Honorable Alan Lasee
Senate President
State Capitol Building, Room 220 South
Madison, WI 53702

The Honorable John Gard
Assembly Speaker
State Capitol Building, Room 211 West
Madison, WI 53702

Dear President Lasee and Speaker Gard:


The Joint Committee for the Review of Administrative Rules met in Executive Session on March 6, 2003 and adopted the following motions:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.19 (4) (d) 6. and (5) (d), Stats., objects to s. NR 549.08 (3) (a) 2. and (4) (a) 4. and 5. of Clearinghouse Rule 02-60.
Motion Carried 10 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 115.04(9) to (13) at the request of Department of Health and Family Services by 60 days.
Motion Carried 10 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(c), Stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,


Senator Joseph Leibham
Senate Co-Chair


Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

March 6, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

The Joint Committee for the Review of Administrative Rules met in Executive Session on March 6, 2003 and adopted the following motion:

Pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 115.04(9) to (13) at the request of Department of Health and Family Services by 60 days.
Motion Carried 10 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

cc: Secretary of State Doug LaFollette
Revisor of Statutes Gary Poulson

HFS 115.04(9) to (13)

- Added 5 to required screenings of newborns
- Opt out for parents: religious reasons

CR 02-060

- Why 50,000?
 - Arbitrary
 - Reward for past efficiencies
- Letter to DNR on absence & treatment of Kedzie
 - Consult w/ committees on mods.
- Suspend Rule later or eliminate funding in budget

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING RULES

FINDING OF EMERGENCY

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

The early identification of particular congenital and metabolic disorders that are harmful or fatal to persons with the disorders is critical to mitigating the negative effects of such disorders. Therefore, Wisconsin Statute 253.13 requires that every infant born be subjected to blood tests for congenital and metabolic disorders, as specified in administrative rules promulgated by the Department. Parents, however, may refuse to have their infants screened for religious reasons. The Department has issued ch. HFS 115, Screening of Newborns for Congenital and Metabolic Disorders, to administer this statutory requirement. Currently, s. HFS 115.04 lists eight congenital and metabolic disorders for which the state hygiene laboratory must test newborn blood samples.

In determining whether to add or delete disorders from the list under s. HFS 115.04, s. HFS 115.06 directs the Department to seek the advice of persons who have expertise and experience with congenital and metabolic disorders. For this purpose, the Department established the Wisconsin Newborn Screening Umbrella Advisory Group. Section HFS 115.06 also lists six criteria on which the Department must base its decision to add to or delete disorders from s. HFS 115.04. These criteria are:

1. Characteristics of the specific disorder, including disease incidence, morbidity and mortality.
2. The availability of effective therapy and potential for successful treatment.
3. Characteristics of the test, including sensitivity, specificity, feasibility for mass screening and cost.
4. The availability of mechanisms for determining the effectiveness of test procedures.
5. Characteristics of the screening program, including the ability to collect and analyze specimens reliably and promptly, the ability to report test results quickly and accurately and the existence of adequate follow-up and management programs.
6. The expected benefits to children and society in relation to the risks and costs associated with testing for the specific condition.

In consideration of these criteria, the Wisconsin Newborn Screening Umbrella Advisory Group recently recommended that the Department add five aminoacidopathies, i.e., amino acid-related disorders, to the eight disorders currently screened for and listed in s. HFS 115.04. These disorders are:

- Maple Syrup Urine Disease;
- Homocystinuria;
- Tyrosinemia;
- Citrullinemia; and
- Argininosuccinic Acidemia.

Persons with these disorders can experience serious medical consequences such as failure-to-thrive, developmental delays, seizures, mental retardation and death.

The additional costs associated with these five additional screening tests is less than a dollar per baby screened because the amino acids in the blood sample are measured simultaneously with the acylcarnitines for Fatty Acid Oxidation and Organic Acidemias. In the absence of this screening, the Department estimates the annual Wisconsin costs for these disorders to be \$144,909. The Department also estimates the annual Wisconsin costs of this screening to be \$29,134. Therefore, the cost benefit from these five screening tests is \$115,775.

The Advisory Group also recommended that the Department immediately begin screening newborns for these additional disorders. Before this testing can begin, the Department must change its rules to add the five new disorders to the existing list under s. HFS 115.04. Permanent rules require six or more months to take effect. Collectively, these disorders occur, on average, once in every 30,000 births. Given an annual birthrate of about 68,000 in Wisconsin, delaying the effective date of these rules by six or more months may result in one to three persons being born with one of these five disorders and that fact escaping detection. To eliminate this possibility and ensure that newborn testing begins as soon as possible, the Department has chosen to promulgate this rule change on an emergency basis while the Department promulgates a permanent rule.

While the Department is currently in the process of promulgating these amendments to the permanent rules, the Department must implement these changes immediately to preserve the public health. Therefore, the Department is issuing these identical amendments as an emergency order.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 253.13 (1), 227.11 (2) (a) and 227.24 (1), Stats., the Department of Health and Family Services hereby creates rules interpreting s. 253.13 (1), Stats.

SECTION 1. HFS 115.04 (9) to (13) are created to read:

HFS 115.04 (9) Maple Syrup Urine Disease, ICD-9-CM 270.3.

(10) Homocystinuria, ICD-9-CM 270.4.

(11) Tyrosinemia, ICD-9-CM 270.2.


(12) Citrullinemia, ICD-9-CM 270.6.

(13) Argininosuccinic Acidemia, ICD-9-CM 270.6.

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

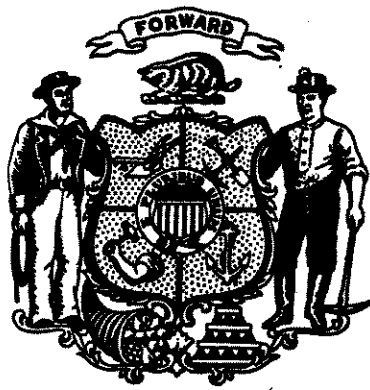
Wisconsin Department of Health
and Family Services

Dated: October 10, 2002

By: 
Phyllis Dube
Secretary

SEAL:

END



END

HFS
103

Emergency Rule – HFS 163

JCRAR HEARING

**MAY 27, 2003
12:30 p.m.
Room 411 South**



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

April 21, 2003

The Honorable Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 North, State Capitol
P.O. Box 8952
Madison, Wisconsin 53708-8952

The Honorable Joseph Liebham, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 409 South, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Liebham:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below. The emergency rules are as follows:

HFS 163, relating to the abatement of lead-contaminated soil and the standards defining lead-based paint hazards. The emergency rulemaking order amending, creating, and repealing rules was published and effective on January 3, 2003, and **will expire on June 2, 2003**, unless extended.

In Wisconsin, the Department of Health and Family Services administers the lead training and certification program. On January 5, 2001, in volume 66, number 4 of the Federal Register (66 FR 1206-1239), the EPA published regulations that established standards for lead-based paint hazards under 40 CFR Part 745, Subparts D and L, and required states with authorized lead training and certification programs under 40 CFR Part 745, Subpart Q, to implement the regulations by February 5, 2003. Because a proposed rule to implement 1999 Wisconsin Act 113, which established a program for registering lead-free and lead-safe properties had already been released for public review and comment, and the EPA standards for lead-based paint hazards would affect the lead-safe property standards under ch. HFS 163, the Department decided to educate the public about the new EPA standards for lead-based paint hazards before revising the rule to reflect the new EPA standards. If Wisconsin is to continue administering its program of training and certification of persons performing lead abatement and lead investigation activities (in lieu of a program operated by the EPA), the Department must revise ch. HFS 163 to comply with those most recent and final federal regulations at 40 CFR Part 745, Subparts D, L and Q.

The most significant proposed modification to the rules pertains to the permissible level of residual lead dust in window troughs. The current lead-safe property standards expressed under s. HFS 163.42 allow a higher level of lead dust in window troughs than is permissible in corresponding EPA regulations and also do not require properties to be free of soil-lead

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hazards. Making the changes to s. HFS 163.42 the Department proposes will mean that persons removing lead-based paint hazards may need to clean window troughs more thoroughly to reduce the dust-lead levels and also may need to cover bare soil.

Replacement permanent rules were sent to the Legislative Council for review on February 10, 2003 and were the subject of a public hearing held on April 2, 2003. The Department sent the Legislative Report to the Presiding Officers of the Senate and Assembly on April 18, 2003. Consequently, the Department will not be able to file the rules until at least May 19, 2003 for an August 1, 2003, effective date. Therefore, I request an extension of the effective period of the emergency rules by **60 days**, through August 2, 2003. If the effective period of the emergency rules is not extended, in the interim, the Department will not have the authority to conduct lead investigation activities or train and certify persons performing lead abatement. Also, the state will be out of compliance with revised standards promulgated by the EPA.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Gail Boushon, Supervisor, Administrative Unit in the Division of Public Health at 267-2289.

Sincerely,



Helene Nelson
Secretary

Attachment(s)

cc Representative Grothman
Senator Alan Lasee
Speaker John Gard

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING, RENUMBERING, AMENDING,
REPEALING AND RECREATING, AND CREATING RULES

FINDING OF EMERGENCY

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

The presence of lead in paint and soil is believed to contribute to the level of lead found in the blood of persons, particularly children, living in the area. The federal Environmental Protection Agency (EPA) maintains regulations intended to reduce environmental lead hazards principally by:

- Specifying the thresholds for an environment to be considered as presenting a lead-based paint hazard; and
- Requiring training and certification of persons who perform lead hazard reduction activities or lead investigation activities so those persons are best able to prevent exposure of building occupants to hazardous levels of lead.

The federal government may authorize a state to administer its own lead training and certification program if the state has regulations governing certification of persons for the identification, removal and reduction of lead-based paint hazards that are as protective as those specified in the EPA regulations.

In Wisconsin, the Department of Health and Family Services administers the lead training and certification program. The Department has established administrative rules under chapter HFS 163 to guide its administration of the program. In 2000, the Department began work to extensively revise ch. HFS 163 to implement 1999 Wisconsin Act 113, which established a program for registering lead-free and lead-safe properties. The proposed rule was released for public review and comment on December 12, 2000. On January 5, 2001, in volume 66, number 4 of the Federal Register (66 FR 1206-1239), the EPA published regulations that established standards for lead-based paint hazards under 40 CFR Part 745, Subparts D and L, and required states with authorized lead training and certification programs under 40 CFR Part 745, Subpart Q, to implement the regulations by February 5, 2003. Because the proposed rule had already been released for public review and comment and the EPA standards for lead-based paint hazards would affect the lead-safe property standards under ch. HFS 163, the Department decided to educate the public about the new EPA standards for lead-based paint hazards before revising the rule to reflect the new EPA standards. If Wisconsin is to continue administering its program of training and certification of persons performing lead abatement and lead investigation activities (in lieu of a program operated by the EPA), the Department must revise ch. HFS 163 by February 3, 2003 to comply with those most recent and final federal regulations at 40 CFR Part 745, Subparts D, L and Q.

If the Department does not make these changes to ch. HFS 163, Wisconsin could lose some or all of its Federal lead grant funding and EPA's authorization for the Department's lead program. Since the federal regulation provides the first measurable definition of a lead-based paint hazard, the Department needs to adopt this definition in order to protect the state's citizens.

The most significant modification to the rules pertains to the permissible level of residual lead dust in window troughs. The current lead-safe property standards expressed under s. HFS

163.42 allow a higher level of lead dust in window troughs than is permissible in corresponding EPA regulations and also do not require properties to be free of soil-lead hazards. Making the changes to s. HFS 163.42 through this order will mean that persons removing lead-based paint hazards may need to clean window troughs more thoroughly to reduce the dust-lead levels and also may need to cover bare soil. Most lead investigation professionals in Wisconsin already perform lead investigation work in conformance with the more stringent lead levels specified in EPA's regulations to ensure a more protective environment for residents, especially when conducting clearance following abatement activities. Conformance with the more stringent EPA regulations is also currently required when lead hazard reduction work is performed using federal funds. Since most lead investigation professionals already use the more protective EPA standards, the rule changes should have little effect on persons conducting lead investigation or abatement activities.

Among the changes the Department is making through this order, the most significant are the following:

1. Prior to this order, section HFS 163.14 (5) (c) 8. required that, following lead abatement, a window well or trough may contain no more than 800 micrograms of lead dust per square foot. The revised EPA regulations specify a maximum level of 400 micrograms per square foot. To comply with federal regulations, the Department is reducing the permissible threshold to 400 micrograms per square foot.

2. Prior to this order, section HFS 163.15 (2) specified that a lead hazard is present in soil when the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million. The EPA revised regulations state that a lead hazard is present in soil when bare soil in a play area contains total lead content equal to or exceeding 400 parts per million or when bare soil in the rest of the yard contains an average of 1,200 parts per million of lead. To comply with the federal regulations, the Department is reducing the permissible threshold to that specified by the EPA.

3. The Department is adding standards, as section HFS 163.15 (3), for determining when a lead-based paint hazard exists.

4. The Department is modifying section HFS 163.42 (1) (b) and (c) to require that all exterior painted components, regardless of their height above the ground, be free of deteriorated paint unless the paint is proved to be lead-free.

5. The Department is revising its standards for lead-safe property under s. HFS 163.42 (1) (f) and (j) to reflect these lower levels for lead in dust and soil.

6. Finally, the Department is revising section HFS 163.42 (1) (j) to require that there be no soil-lead hazard on registered lead-safe property.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 227.24 (1), 254.167, 254.172 and 254.179 (1) (a) and (2), Stats., the Department of Health and Family Services hereby repeals, renumbers, amends, repeals and recreates, and creates rules interpreting ss. 254.167, 254.172 and 254.179, Stats.

SECTION 1. HFS 163.14 (1) (g) and (5) (c) 8. c. are amended to read:

HFS 163.14 (1) (g) Requirements when soil abatement is removed~~conducted~~. 1. If soil is removed, any replacement soil shall have a level of lead concentration of less no greater than 400 parts per million. The soil that is removed shall not be used as topsoil at another dwelling or child-occupied facility.

2. If the soil abatement does not involve removal of soil-lead, the soil shall be permanently covered by a barrier consisting of solid, relatively impermeable materials, such as asphalt or concrete.

(5) (c) 8. c. ~~Eight~~Four hundred micrograms per square foot (~~800~~400 mg/ft²) on window wells or troughs.

SECTION 2. HFS 163.14 (5) (c) 8. c. Note is repealed.

SECTION 3. HFS 163.14 (9) is amended to read:

(9) (g) 1. ~~Mid-yard~~Exterior play areas where bare soil is present.

2. ~~Dripline and foundation areas~~The rest of the yard where bare soil is present.

SECTION 4. HFS 163.15 (title) and (2) are amended to read:

HFS 163.15 Lead-based paint hazard standards ~~for dust and soil samples~~.

(2) SOIL-LEAD HAZARD. A soil-lead hazard is present when ~~the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million.~~the laboratory result for a bare soil sample is equal to or greater than any of the following:

(a) Four hundred parts per million (400 ppm) for the soil-lead concentration from a composite sample of bare soil in a play area.

(b) One thousand two hundred parts per million (1,200 ppm) for the arithmetic mean lead concentration from one or more composite sample of bare soil from the rest of the yard.

SECTION 5. HFS 163.15 (2) Note is repealed.

SECTION 6. HFS 163.15 (3) is created to read:

HFS 163.15 (3) LEAD-BASED PAINT HAZARD. A lead-based paint hazard is present when any of the following applies:

(a) A friction surface is subject to abrasion and the dust-lead levels on the nearest horizontal surface underneath the friction surface are equal to or greater than the dust-lead hazard levels under sub. (1).

(b) A chewable lead-based painted surface bears evidence of teeth marks.

(c) There is any damaged or deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(d) There is any other deteriorated lead-based paint in any dwelling or child-occupied facility or on the exterior of any dwelling or child-occupied facility.

SECTION 7. HFS 163.42 (1) (b) is amended to read:

HFS 163.42 (1) (b) ~~Exterior painted components below 5 feet~~. Exterior painted components ~~at a height from ground or floor level to 5 feet above ground or floor level~~ shall be free of deteriorated paint unless the paint is proven to be lead-free.

SECTION 8. HFS 163.42 (1) (c) is repealed.

SECTION 9. HFS 163.42 (1) (d) to (j) are renumbered (c) to (i).

SECTION 10. HFS 163.42 (1) (e) 2. c., as renumbered, is amended to read:

HFS 163.42 (1) (e) 2. c. The laboratory result for a dust sample collected from a window trough or well is equal to or greater than ~~800~~400 micrograms per square foot (~~800~~400 mg/ft²).

SECTION 11. HFS 163.42 (1) (i), as renumbered, is repealed and recreated to read:

HFS 163.42 (1) (i) *Soil-lead hazard*. There shall be no soil-lead hazard on registered lead-safe property. A soil-lead hazard is present when bare soil is present and an assessment conducted under s. HFS 163.14 (9) (g) determines that the bare soil is a soil-lead hazard under s. HFS 163.15 (2).

SECTION 12. HFS 163.42 (2) (a) 10. is amended to read:

HFS 163.42 (2) (a) 10. 'Collection of soil samples.' ~~If the property owner requests assessment of the lead concentration in soil, no soil~~Soil analysis is not required if ~~no~~unless bare soil is present. If bare soil is present, collect soil samples for analysis of lead concentrations from the following locations:

- a. ~~Mid-yard areas~~Exterior play areas where bare soil is present ~~or the area of bare soil closest to mid-yard.~~
- b. ~~Dripline and foundation areas~~The rest of the yard where bare soil is present.

SECTION 13. HFS 163.42 (2) (e) 3. d. is repealed.

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

Wisconsin Department of Health and
Family Services

Dated: December 30, 2002

By: _____
Phyllis J. Dubé
Secretary

SEAL:



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Emergency Rule Extension Motion Form

May 27, 2003
411 South
State Capitol

Moved by Grothman, Seconded by Hebl

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules HFS 163 for 60 days at the request of the Department of Health and Family Services.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator WELCH	✓		
3. Senator LAZICH	✓		
4. Senator ROBSON	✓		
5. Senator LASSA	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals	10	0	0

Motion Carried

Motion Failed



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 30, 2003

Helene Nelson, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Nelson:

The Joint Committee for the Review of Administrative Rules met in Executive Session on May 27, 2003 and adopted the following motion:

Emergency Rule – HFS 163 Relating to the abatement of lead-contaminated soil and the standards defining lead-based paint hazards. Moved by Representative Grothman, seconded by Representative Hebl that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 163 at the request of the Department of Health and Family Services by 60 days.

Motion Carried 10 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

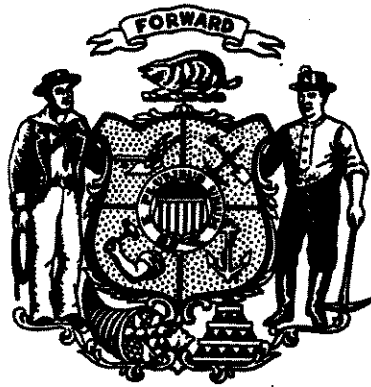
Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pvs

cc: Secretary of State Doug LaFollette
 Revisor of Statutes Gary Poulson

END



END

NR
16, 19

Emergency Rule – NR 16 and 19

JCRAR HEARING

**MAY 27, 2003
12:30 p.m.
Room 411 South**

SUMMARY NR 16 and 19

Relating to Captive Wildlife.

Background

2001 Wisconsin Act 56 enacted and on April 3, 2003 removed WI's captive wildlife farms from ch. 29 Stats and created ch. 169 Stats. The basically transferred game farm regulations from ch. 29 to ch. 169. But with the transfer, the game farms will get new license requirements and requirements of operation.

Summary

The rule will create NR 14 which will incorporate by reference most of the rules that were applicable to captive animals under ch. 29 Stats. and that they are now applicable under ch. 169.

New standards created under the rule –

- Increases the required height of new fences from 8 feet to 10 feet.
- Phases in a requirement that deer farms be double-fenced unless the deer farm is enrolled in the CWD herd monitoring or herd surveillance program.
- Fur Farm rules changes: acreage requirements for new fur farms and tagging requirements for otter are created.
- Creates a definition of sporting club for purposes of this fee waiver allowed for such groups.
- Creates standards for the issuance of licenses for dog training clubs. The licenses did not exist previously.
- Changes the license needed for commercial operations dealing with reptiles and amphibians from a commercial permit to a captive wild animal license.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, AMENDING AND CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 16.01 and 19.26 (7)(c) and (d); to amend NR 19.26 (6)(b) and (c), (7)(a) and (b), (8)(a),(b) and (c); and to create ch. NR 14 relating to captive wildlife.

WM-03-03(E)

Summary prepared by Department of Natural Resources

Statutory Authority: ss. 90.21(6), 169.11(1)(a), 169.15(5), 169.18(5), 169.19(6), 169.20(4), 169.21(3), 169.23(3), 169.25(6), 169.26(4), 169.27(4), 169.39(2) and (3), 227.11(2)(a) and 227.24, Stats.

Statutes Interpreted: ss. 90.21(2) and (5), 169.11(1), 169.12(1) and (4), 169.14(2), 169.15(4), 169.18(2) and (3), 169.19(2) and (3), 169.20(1),(2) and (3), 169.21(1) and (2), 169.23(2), 169.25(1),(2),(3),(4) and (5), 169.26(1),(2) and (3), 169.27(1),(2) and (3) and 169.31(1)(a), Stats.

2001 Wisconsin Act 56 enacted on April 3, 2003 removed Wisconsin's captive wildlife laws from ch. 29, Stats., and created ch. 169, Stats. As of January 1, 2003, the effective date of most of the provisions of ch. 169, Stats., game farms, fur farms and other holders of live captive wildlife will be subject to regulation under ch. 169, Stats. This will include to new license requirements and requirements of operation. While Wis. Act 56 provides for a transfer of ch. 29, Stats., licenses to ch. 169, Stats., licenses, it does not automatically transfer the rules for captive animals held under ch. 29, Stats., to rules applicable to captive animals held under ch. 169, Stats. This rule will create ch. NR 14 which will incorporate by reference most of the rules that were applicable to captive animals under ch. 29, Stats., and make it clear that those standards are now applicable to captive animals held under ch. 169, Stats.

In some areas the rule creates new standards. Section NR 14.01, while incorporating many of the deer farm fence standards from ch. NR 16, increases the required height of new fences from 8 feet to 10 feet. It also phases in a requirement that deer farms be double fenced unless the deer farm is enrolled in the chronic wasting disease herd monitoring or herd surveillance program. While the deadlines for the double fence regulations will likely not occur until after the expiration of this rule, they are included in order to put the public on notice of the requirements that will be proposed in the permanent rule proposal that will follow this emergency rule. A second area of change is in the fur farm rules where acreage requirements for new fur farms and tagging requirements for otter are created.

The rule creates a definition of sporting club for purposes of this fee waiver allowed for such groups. The rule also creates standards for the issuance of licenses for dog training clubs. This license did not exist previously and allows members of a dog training club to dog train on club premises under the authority of the club license. Without standards, it would be difficult if not impossible to implement this program.

Finally, the rule changes the license needed for commercial operations dealing in reptiles and amphibians from a commercial permit under ch. NR 19 to a captive wild animal license under ch. 169, Stats. This change is required by Wis. Act 56.

SECTION 1. Chapter NR 14 is created to read:

Chapter NR 14
Captive wildlife

NR 14.001 Definitions. In this chapter:

(1) "Department" means the department of natural resources.

(2) "Dog training" means the activity of teaching a dog to retrieve, point, flush, or track game for the purpose of hunting, dog trial competition or hunt testing for a recognized dog organization.

(3) "Dog training club" means an organization that owns or leases a total of at least 40 acres of land for the purpose of teaching a bird dog or hound dog to retrieve, point, flush or track game.

(4) "Dog trial" means any organized competitive field event involving sporting dog breeds which is sanctioned, licensed or recognized by a local, state, regional or national dog organization.

(5) "Farm-raised deer" has the meaning given in s. 95.001(1)(ag), Stats.

(6) "Heavily galvanized" means a zinc coating weight of 230 g/m² or 0.8 oz/ft².

(7) "High tensile" means a tensile strength of 1235 to 1450 mega pascals or 179000 to 210000 lb/in².

(8) "Medium tensile" means a tensile strength of 700 to 850 mega pascals or 101000 to 123000 lb/in².

(9) "Pen" means any cage, fenced-in plot or other enclosure in which animals are held.

(10) "Predator proof" means a fence that is buried 12 inches under ground or has a fence apron that is attached to the bottom of the fence and staked out onto the ground at 3 feet out from the fence.

(11) "Resident deer" means a deer 2 years of age or older that has resided in the licensed acreage area for not less than 2 years.

(12) "Solid fence" means a fence that meets all of the standards of s. NR 14.01(1)(a) to (g) that is covered with a fabric or other solid material that prevents deer on opposite sides of the fence from making visual or physical contact.

(13) "Sporting club" means a non-profit organization whose primary purpose is wildlife related outdoor education.

NR 14.01 Farm-raised deer; white-tailed deer, specifications. (1) FENCING SPECIFICATION. Any person who keeps farm-raised deer that are white-tailed deer shall keep the deer enclosed by a fence that meets all of the following requirements:

(a) *Fencing height and material.* The fence shall be at least 10 feet high and shall be a high tensile fence that satisfies par. (b), a woven wire fence that satisfies par. (c) or, if made of other materials, is of a design and level of strength that provides equivalent retentive capacity. The top 2 feet of the fence may consist of 3 single strands of smooth high tensile wire with each strand being no more than 8 inches apart. Existing fences constructed and approved prior to January 1, 2003 need only be 7'10" in height.

(b) *High tensile fence.* A high tensile fence shall satisfy the requirements of this subsection if all the following apply:

1. The horizontal line wires are not less than 2.5 millimeters in size and are heavily galvanized medium tensile wire.

2. The vertical stay wires are not less than 2.5 millimeters in size and are heavily galvanized medium tensile wire.

3. The knot wire is not less than 2.24 millimeters in size and is heavily galvanized mild steel.

4. The distance between vertical stay wires is not more than 6 inches.

5. The distance between horizontal line wires is not more than 4 inches in the bottom foot of the fence, is not more than 6.5 inches in the next 2 feet of the fence and is not more than 8.5 inches in the rest of the fence.

6. The posts are not more than 20 feet apart.

(c) *Woven wire fence.* A woven wire fence shall satisfy the requirements of this subsection if all of the following apply:

1. The wire is 14½ gauge or heavier.

2. If the wire is 14½ gauge, the mesh is not larger than 36 square inches.

3. If the wire is heavier than 14½ gauge, the mesh is not larger than 48 square inches.

4. The distance between horizontal line wires is not more than 4 inches in the bottom foot of the fence, is not more than 6.5 inches in the next 2 feet of the fence and is not more than 8.5 inches in the rest of the fence.

5. The posts are not more than 12 feet apart.

(d) *Wooden posts.* If the fence is made of wood posts, all of the following shall apply:

1. The post shall be at least 14 feet long.

2. The top of the line posts shall, if rectangular, be at least 3.5 inches in the smallest dimension or, if round, at least 3.5 inches in diameter.

3. The top of the corner and gate posts shall, if rectangular, be at least 5.5 inches in the smallest dimension or, if round, at least 5.5 inches in diameter.

4. The wires shall be held securely to the posts, allowing for free movement of the horizontal line wires, using 9-gauge staples of at least 1.5 inch size.

(e) *Steel or iron posts.* If the fence is made with steel or iron posts, all of the following shall apply:

1. The posts shall be at least 14 feet long or, if the posts are of the type known as T post, the posts are at least 12 feet long.

2. The wires are installed on the side of the fence toward the farm-raised white-tailed deer except at corners.

(f) *Additions or expansion to fences.* Additions to or expansions of perimeter fencing that increase the size of the fenced area shall meet the 10' height requirement if constructed after January 1, 2003.

(g) *Gates.* All gates shall remain closed and secured except when persons or equipment are traveling through the gates.

(h) *Trees.* All new fences, additions or expansions that increase the size of the fenced area shall have a 25 foot corridor free from trees on both sides of the fence.

(2) SPECIAL FENCING REQUIREMENTS; DOUBLE OR SOLID FENCES. (a) *Farm-raised deer farms with perimeter fences less than 80 acres in size.* No person may possess captive farm-raised deer that are

white-tailed deer on any farm-raised deer farm with a perimeter fence less than 80 acres in size unless enrolled in the chronic wasting disease herd monitoring program established by s. ATCP 10.67 or unless captive farm-raised white-tailed deer are enclosed by double perimeter fences or at least one solid fence meeting the following standards:

1. Both fences shall meet the requirements established in s. NR 14.01(1)(a) to (g) except that the second fence need not exceed 8 feet and the 2 fences shall be at least 8 feet but not more than 12 feet apart.

2. Solid fences shall meet the requirements established in s. NR 14.01(1)(a) to (g) with a height requirement of 10 feet, the top 2 feet of the fence may consist of 3 horizontal strands of smooth high tensile wire with each strand being not more than 8 inches apart. The lower 7 feet of the fence shall be covered with solid material that prevents animals on opposite sides of the fence from making visual or physical contact. The solid perimeter fence shall contain at least one single strand electrified wire on the inside or the outside of the entire length of the perimeter fence at a height of 3 feet and shall be at a distance of 2 feet from the main fence.

(b) *Farm-raised deer farms with perimeter fences 80 acres or greater in size.* No person may possess captive farm-raised deer that are white-tailed deer on any farm-raised deer farm with a perimeter fence 80 acres or greater in size unless one of the following apply:

1. The farm-raised deer farm is enrolled in the hunting preserve chronic wasting disease surveillance program established by ch. ATCP 10.

2. The owner of a farm-raised deer farm files a deer harvest plan with the department to sample 10% of the resident deer population annually for chronic wasting disease over 3 consecutive years and 5% annually after the first 3 years.

3. Captive farm-raised white-tailed deer are enclosed by double perimeter fences or at least one solid perimeter fence meeting the following standards:

a. Both fences shall meet the requirements established in s. NR 14.01(1)(a) to (g) with a height requirement of 8 feet and the 2 fences shall be at least 8 feet but not more than 12 feet apart.

b. Solid fences shall meet the requirements established in s. NR 14.01(1)(a) to (g) with a height requirement of 10 feet, the top 2 feet of the fence may consist of 3 horizontal strands of smooth high tensile wire with each strand being not more than 8 inches apart. The lower 7 feet of the fence shall be covered with solid material that prevents animals on opposite sides of the fence from making visual or physical contact. The solid perimeter fence shall contain at least one single strand electrified wire on the inside or the outside of the entire length of the perimeter fence at a height of 3 feet and shall be at a distance of 2 feet from the main fence.

(3) **MINIMUM SIZE.** A farm-raised white-tailed deer farm fence may not enclose less than ½ acre or 21,780 square feet.

(4) **PREDATORS.** In order to be eligible for wolf damage payments, all outside perimeter fences shall be predator proof to prevent wolves from entering the facility.

(5) **EXCEPTIONS.** The use of materials, other than those specified in this section for farm-raised deer farm boundary fence construction may be permitted by the secretary of the department if found to exceed minimum specifications and sufficient to hold the deer inside the enclosure.

(6) **FENCING COMPLIANCE EXTENTION.** (a) *Time period to bring farm-raised deer farms with perimeter fences less than 80 acres in size fences into compliance with s. NR 14.01(2).* Farm-raised deer farms with white-tailed deer with perimeter fences less than 80 acres in size shall have until June 1, 2003

to enter the chronic wasting disease herd monitoring program established by s. ATCP 10.67 or file a fencing plan with the department on forms supplied by the department.

(b) *Time period to bring farm-raised deer farms with perimeter fences 80 acres or greater in size fences into compliance with s. NR 14.01(2).* Farm-raised deer farms with white-tailed deer with perimeter fences 80 acres or greater in size shall have until June 1, 2003 to enter the chronic wasting disease herd surveillance program established by ch. ATCP 10 or file a fencing plan with the department on forms supplied by the department.

(c) *Fencing plan.* The fencing plan shall include all of the following:

1. Name and address of the farm-raised white-tailed deer farmer.
2. Farm-raised white-tailed deer farm registration number.
3. Number of fenced acres containing white-tailed deer not in the chronic wasting disease herd monitoring program as established by s. ATCP 10.67 or surveillance program as established by ch. ATCP 10.
4. Plans for double or solid fencing of the property.
5. Signed statement that the double or solid fence will be installed by:
 - a. December 31st 2003 for perimeter fences less than 80 acres in size.
 - b. December 31st 2004 for perimeter fences 80 acres or greater in size.

(7) **REPORTING OF FENCE FAILURE.** Any time a fence required by s. 90.21, Stats., fails to contain farm-raised deer that are white-tailed deer, the person issued the fence certificate shall notify the department of the fence failure. The notification shall take place immediately if possible but not later than 48 hours after the person is aware the fence failure has occurred.

NR 14.02 Removal of wild white-tailed deer. (1) REMOVAL OF WILD DEER. Prior to the issuance of a fence inspection certificate as provided by s. 90.12(2), Stats., all wild white-tailed deer remaining in a fenced area after the fence surrounding the area is completely closed shall be killed in one of the following ways:

(a) *Permit.* A written permit issued to the landowner or persons designated by the department to shoot the wild white-tailed deer within the fence.

(b) *Department employees.* By department employees.

(2) **DISPOSAL OF WILD WHITE-TAILED DEER.** All deer killed shall be disposed of as directed by the department.

NR 14.03 Harmful wild animals. The following wild animals are designated harmful wild animals:

(1) **URSIDAE.** Members of the family ursidae commonly known as bears.

(2) **FELIDAE.** The species felis concolor commonly known as cougars.

NR 14.04 Captive wild animal farm licenses. For captive wild animal farm licenses issued under s. 169.15, Stats., the standards in ss. NR-16.02 (5)(e) and (7) and 16.10(4) and (6) to (11) shall apply.

NR 14.05 Nonprofit educational exhibitors licenses. For nonprofit educational exhibitors licenses issued under s. 169.26, Stats., the standards established in s. NR 16.10(4) and (6) to (11) shall apply.

NR 14.06 Nonresident temporary exhibitors licenses. For nonresident temporary exhibitors licenses issued under s. 169.27, Stats., the standards established in s. NR 16.10(4) and (6) to (11) shall apply.

NR 14.07 Stocking licenses. For stocking licenses issued under s. 169.23, Stats., the standards established in s. NR 19.05 shall apply.

NR 14.08 Scientific research licenses. For scientific research licenses issued under s. 169.25, Stats., the standards established in s. NR 19.11 shall apply.

NR 14.09 Wild fur farms. (1) ELIGIBILITY REQUIREMENTS. Except as authorized by s. 169.18(3)(b), Stats., in order to be eligible for a wild fur farm license, the applicant shall own or lease at least 40 acres of land in a single parcel. If multiple, noncontiguous parcels are sought to be licensed by an applicant, the applicant shall obtain a separate wild fur farm license for each parcel. No application may include parcels of land which are contiguous to a parcel which consists of 640 acres of land already licensed by the applicant or sought to be licensed in a separate application.

(2) PUBLIC RIGHTS. The issuance of a wild fur farm license does not affect any public right of hunting, fishing or navigation on navigable waters included within the licensed premises.

(3) TAGGING. Otter taken under authority of the wild fur farm license shall be tagged with tags provided by the department prior to being removed from the licensed premises. Live otter shall be tagged by attachment of the tag to the shipping pen. The tag shall be retained by the purchaser for 3 years and may not be returned to the seller.

(4) AUTHORIZATION. The wild fur farm license authorizes the taking of beaver, coyote, mink, muskrat, opossum, otter, raccoon and skunk only on the licensed premises.

(5) LIMITATION. The wild fur farm license does not authorize the taking or possession of badger, bobcat, fisher, fox, lynx, marten, weasel or wolf.

NR 14.10 Bird hunting preserve licenses. For bird hunting preserve licenses issued under s. 169.19, Stats., the standards established in s. NR 19.07(1), (5), (8)(b) and (c) shall apply except that provisions regarding contiguous lands and department certifications are not applicable.

NR 14.11 Dog trial licenses. For dog trial licenses issued under s. 169.21, Stats., the standards established under s. NR 17.01 shall apply.

NR 14.12 Dog training licenses. For dog training licenses issued under s. 169.20, Stats., the standards established under s. NR 17.02 shall apply.

NR 14.13 Dog club training licenses. (1) LICENSES. The licensee shall be subject to the following conditions:

(a) Display of license. Be in possession of a dog club training license at the clubhouse or training grounds while engaged in training activities. If a club member is engaged in training activities but not within physical proximity to the clubhouse, the member shall be in possession of a copy of the club training license. Club members shall make the license available to any authorized department agent upon request.

(b) Area restrictions. 1. Be an owner or lessee of lands designated on the license.

2. Train only in the areas identified on the license.

(2) **AUTHORITY.** A dog club training license authorizes the club members to possess and use for bird dog training, captive wild pheasants of the species *phasianus colchicus* or *syrmaticus reevesii*, quail of the subfamily *odontophorinae*, gray partridge, chukar partridge, red-legged partridge, and mallard duck that are bred in captivity. A dog club training license authorizes the club members to possess and use for hound dog training, captive wild raccoons and rabbits. The license does not authorize the use of captive bear, commercial shoots, dog trials, animal selling, breeding or propagation.

(a) *Proof of legal possession.* Any person using captive wild birds or wild animals for dog training shall possess a receipt or invoice meeting the requirements of s. NR 17.11 and showing the captive birds or animals were purchased from a licensed captive wild animal farm, wild fur farm or bird hunting preserve.

(b) *Care and treatment.* Captive wild birds, raccoons and rabbits possessed for dog training purposes shall be treated in a humane manner and confined under sanitary conditions with proper and adequate space, shade and fresh water. If birds or animals are severely injured they shall be humanely killed. Animals held in primary enclosures shall meet the standards in s. NR 16.10 (10) and (11).

(c) *Captive wild bird identification.* All captive wild birds except mallards identified as required under 50 CFR 21.13 (b) released and killed under the authority of a dog training license shall be marked around the leg with a permanent band supplied by the department prior to release.

(d) *Bird bands.* No person may have on their person while engaged in dog training any unused department dog training bird bands.

(e) *Licensed captive raccoons.* Captive raccoons used for dog training shall be tattooed on either ear with an identifying number, unless controlled by leash, cage or similar restraint.

SECTION 2. NR 16.01 is repealed.

SECTION 3. NR 19.26(6)(b) and (c) are amended to read:

NR 19.26(6)(b) Native leopard frogs of the species *Rana pipiens*, mudpuppies of the species *Necturus maculosus* or tiger salamanders of the species *Ambystoma tigrinum* collected within Wisconsin may be sold if the seller has been specifically authorized, by ~~commercial permit~~ a class A captive wild animal farm license issued under sub. (7), to sell those species.

(c) Native amphibians and reptiles legally collected out-of-state or purchased from out-of-state may only be sold to educational or research institutions in state. The seller shall possess a ~~commercial permit~~ a class A captive wild animal farm license issued under sub. (7).

SECTION 4. NR 19.26(7)(a) and (b) are amended to read:

NR 19.26(7)(a) The department may issue ~~commercial herptile permits~~ a class A captive wild animal farm license to take, possess and sell amphibian species listed under sub. (4)(g).

(b) The department may issue ~~commercial herptile permits~~ a class A captive wild animal farm license to possess and sell native amphibians and reptiles legally collected out-of-state or purchased from out-of-state.

SECTION 5. NR 19.26(7)(c) and (d) is repealed.

SECTION 6. NR 19.26(8)(a), (b) and (c) are amended to read:

NR 19.26(8)(a) ~~Commercial permittees~~ Class A captive wild animal farm licensees shall keep complete and accurate records in the English language of all harvesting, selling and buying activities for all native species collected or obtained in-state or from out-of-state. Records shall include: ~~permittee's~~ licensee's name, ~~permit number, fishing or applicable hunting license number and address.~~ Harvest data shall ~~included~~ include daily collection records, date of harvest, counties harvested, species and the pounds of each amphibian species harvested. All buying and selling records shall include the species bought and sold, the number of each reptile species bought and sold and the pounds of each amphibian species bought and sold, the date of the transaction, and the name and address of the person or business the ~~permittee~~ licensee is buying from and selling to. Reporting forms shall be provided by the department.

(b) ~~Commercial permittees~~ Class A captive wild animal farm licensees shall submit copies of all records specified under par. (a) for the past calendar year. The records shall be submitted in person or by first class mail to the department address shown on the form so that it is received by the 15th day of March following the year of record. Failure to submit all records on time, or the submission of inaccurate or incomplete records, may result in a delay or denial of a ~~permit~~ license renewal.

(c) The department may issue ~~permit~~ license renewals contingent on the receipt of complete and accurate paper records from the prior year.

SECTION 7. STATEMENT OF EMERGENCY. 2001 Wisconsin Act 56 was not enacted until April of 2002. It required standards for captive animals held under licenses issued under ch. 169, Stats., to be in place by January 1, 2003, the effective date of the change from licensing under ch. 29, Stats., to ch. 169, Stats. As the use of the permanent rule process would not allow these standards to be in place by January 1, 2003, the Department had no choice but to use the emergency rule procedures. Failure to have standards in place would result in the lack of humane care standards for wild animals held in captivity and the lack of pen standards necessary to prevent the interactions between captive and wild animals.

SECTION 8. EFFECTIVE DATE. This rule shall take effect on January 1, 2003.

SECTION 9. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 4, 2002.

Dated at Madison, Wisconsin

December 6, 2002

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

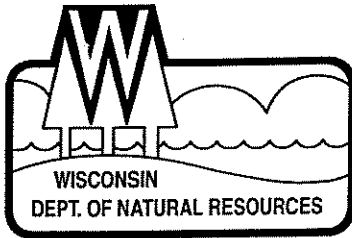
By

Darrell Bazzell

Darrell Bazzell, Secretary

(SEAL)

APR 18 2003



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

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April 15, 2003

Honorable Joseph Leibham, Chair
Joint Committee for Review of Administrative Rules
Room 409 South
State Capitol

Honorable Glenn Grothman, Chair
Joint Committee for Review of Administrative Rules
Room 15 North
State Capitol

Subject: Extension of Emergency Order No. WM-03-03(E)
relating to captive wildlife

Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend natural Resources Board Emergency Order No. WM-03-03(E) for 60 days. This emergency order pertaining to captive wildlife took effect on January 1, 2003 and is to expire on May 31, 2003.

The extension of this emergency rule is needed to keep in effect the standards applicable to licenses issued under ch. 169, Stats. The Department held public hearings in January 2003 on permanent rules.

A copy of the emergency order is attached. If you have any questions, please contact Kurt Thiede, Bureau of Wildlife Management at 267-2452 or Michael Lutz, Bureau of Legal Services at 267-7456.

Sincerely, -

Scott Hassett
Secretary

cc: Presiding Officers
Kurt Thiede - WM/4
Michael Lutz - LS/5
Carol Turner - LS/5

Attach.

**Joint Committee for the Review of Administrative Rules
Committee Hearing
Tuesday, May 27, 2003
411 South – State Capitol**

Request extension of emergency rules revising chs. NR 16 and 19 and creating ch. 14, relating to captive wildlife.

Good afternoon, my name is Kurt Thiede, I am the rules and regulations specialist for the Department of Natural Resources, Bureau of Wildlife Management. I am joined today by two members of the Department that have lead the effort to draft rules relating to captive wildlife, Conservation Warden Tom Van Haren and Dr. Sarah Shapiro Hurley, the Deputy Division Administrator for the DNR Lands Division. If you have questions, we will hopefully be able to answer them for you.

Today, the Department of Natural Resources is requesting a 60-day extension of the effective period of the emergency rule, which revises chs. NR 16 and 19 and creates ch. 14, relating to captive wildlife.

This emergency rule is needed and was developed in order to avoid a lack of standards and regulation applicable to licenses issued under the newly created captive wildlife laws, ch. 169, Stats, which were enacted on April 3, 2002 as part of 2001 Wisconsin Act 56 and went into effect on January 1, 2003. By extending these emergency rules, it avoids significant gaps in the regulation of captive wildlife activities, such as captive animal farms, bird hunting preserves, fur farms and deer farm fencing standards until permanent rules can be implemented. In addition, the emergency rule was intended to allow the department additional time to work with user groups to develop permanent rules that address these captive wildlife activities.

Specifically, this emergency rule creates a new chapter, NR 14, which incorporates by reference most of the existing rules and standards for captive animal licenses created by the new captive wildlife laws. In other words, existing administrative rules needed to be updated to reference the newly created licenses so that these activities did not go unregulated during the interim while permanent rules were drafted. In some areas however, this emergency rule creates new standards. The captive wildlife legislation transferred the regulation of deer farms from the DNR to the Department of Agriculture, Trade and Consumer Protection. However, the department retained the regulation of deer farm fencing. Therefore, many of the old deer farm fencing standards were included in this rule, however in light of disease concerns in the state, new standards such as double fencing if the farm is not enrolled in a CWD herd monitoring program and a requirement that new fences be 10 feet high rather than 8 feet were created. While most of the deadlines for changes in fencing regulations will not occur until after the expiration of this rule, they are included in the order to put the public on notice of the new requirements that may be proposed in the permanent rule proposal that we will be taking to our Natural Resources Board for adoption in June.

A second area of change from existing rules is that fur farms acreage requirements for new fur farms (at least 40 acres in a single parcel and not more than 640 contiguous acres) and tagging requirements for otter are created. The rules also create standards for the issuance of dog training licenses for dog training clubs, which is a new license offered through the captive wildlife laws. Finally, the rule changes the license needed for commercial operations dealing in reptiles and amphibians from a commercial permit under ch. NR 19 to a captive wild animal license under the new captive wildlife laws. A change required by Act 56.

As I mentioned earlier, we will be going to our Natural Resource Board in June and requesting adoption of the permanent rules (CH 03-030 and 03-031) that are intended to take the place of this emergency rule package. Provided the Board adopts the permanent rules, the Legislature will have the opportunity to review the rules in July.

Finally, I would add that extensive public involvement took place throughout the drafting of the captive wildlife legislation, continued as the Department developed these emergency rules, and was significant as we drafted the proposed permanent rules.

If you have any questions regarding this request or the emergency rules we would now be happy to address them.



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Emergency Rule Extension Motion Form

May 27, 2003
411 South
State Capitol

Moved by Grothman, Seconded by Leibham

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules NR 16 and 19 for 60 days at the request of the Department of Natural Resources.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator WELCH	✓		
3. Senator LAZICH	✓		
4. Senator ROBSON	✓		
5. Senator LASSA	✓		
6. Representative GROTHMAN	✓		
7. Representative SERATTI	✓		
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals	10	0	0

Motion Carried

Motion Failed



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MADISON, WI 53708-8952
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

May 30, 2003

Scott Hassett, Secretary
Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison, WI 53707-7921

Dear Secretary Hassett:

The Joint Committee for the Review of Administrative Rules met in Executive Session on May 27, 2003 and adopted the following motion:

Emergency Rule – NR 16 and 19 Relating to Captive Wildlife. Moved by Representative Grothman, seconded by Senator Leibham that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 16 and 19 at the request of the Department of Natural Resources by 60 days.

Motion Carried 10 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pvs

cc: Secretary of State Doug LaFollette
Revisor of Statutes Gary Poulson



P.O. Box 7882
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 2003

The Honorable Alan Lasee
Senate President
State Capitol Building, Room 220 South
Madison, WI 53702

The Honorable John Gard
Assembly Speaker
State Capitol Building, Room 211 West
Madison, WI 53702

Dear President Lasee and Speaker Gard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 29, 2003 and adopted the following motions:


Emergency Rule COMM 105-128 Relating to the use of rapid response funds ineconomically depressed areas of Wisconsin. Moved by Senator Leibham, seconded by Senator Lazich that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends COMM 105-128 at the request of the Department of Commerce by 60 days.
Motion Carried 9 Ayes, 0 Noes.

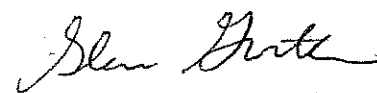
Emergency Rule – NR 16 and 19 Relating to Captive Wildlife. Moved by Senator Leibham, seconded by Senator Lazich that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 16 and 19 at the request of the Department of Natural Resources by 60 days. **Motion Carried 9 Ayes, 0 Noes.**

Emergency Rule – HFS 110 to 113 Relating to licensing of EMT's and certification of first responders, incorporating responding to certain acts of terrorism as a training component. Moved by Senator Leibham, seconded by Senator Lazich that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends HFS 110 to 113 at the request of the Department of Health and Family Services by 60 days. **Motion Carried 10 Ayes, 0 Noes.**

Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,


Senator Joseph Leibham
Senate Co-Chair


Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 2003

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The Joint Committee for the Review of Administrative Rules met in Executive Session on July 29, 2003 and adopted the following motion:

Emergency Rule – NR 16 and 19 Relating to Captive Wildlife. Moved by Senator Leibham, seconded by Senator Lazich that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 16 and 19 at the request of the Department of Natural Resources by 60 days.

Motion Carried 9 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

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cc: Secretary of State Doug LaFollette
 Revisor of Statutes Gary Poulson