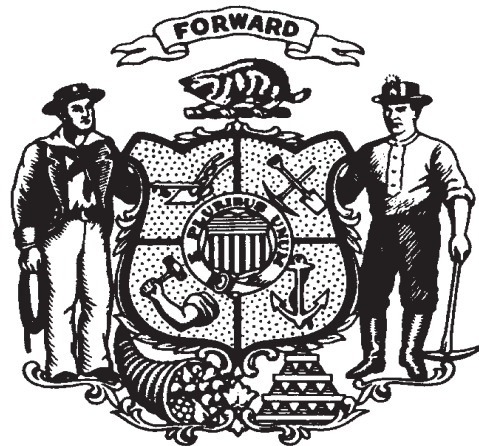


Wisconsin Administrative Register

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Emergency rules now in effect

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

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

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

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

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

Commerce

(Financial Assistance for Businesses and Communities) (Chs. Comm 105–128)

Rules adopted revising **ch. Comm 113** relating to the allocation of volume cap on tax-exempt private activity bonds.

Finding of emergency

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare.

Pursuant to s. 560.032, Stats., the Department of Commerce (Commerce) is responsible for administering the allocation of volume cap. The emergency rule is being adopted to incorporate in the administrative code recent changes to the Internal Revenue Code (Section CFR 146) which increases state volume cap limits on tax-exempt private activity bonds. The year 2000 limit was \$50 per resident of the state. For the year 2001 the limit has been raised to \$62.50; for the year 2002, the limit will be \$75.00; and thereafter, the limit will be indexed to inflation. The rule identifies a formula for the allocation of volume cap for the year 2001 and future years. This emergency rule outlines the distribution of the volume cap between the State Building Commission, the Wisconsin Housing and Economic Development Authority, and Commerce. The rules are also being revised to provide an allocation process that will allow Commerce to be more responsive to the needs of businesses as changes occur in the state's economy.

Publication Date: April 26, 2001
Effective Date: April 26, 2001
Expiration Date: September 23, 2001
Hearing Date: July 16, 2001

Financial Institutions – Corporate and Consumer Services

Rules adopted repealing **ch. SS 3** and creating **chs. DFI–CCS 1 to 6**, relating to the Uniform Commercial Code.

Finding of emergency

2001 Act 10 repealed and recreated the Wisconsin Uniform Commercial Code (“UCC”), effective July 1, 2001. The act authorizes the Department of Financial Institutions to promulgate rules to implement the UCC. Without these rules, the department will be unable to operate either a state-wide lien filing system or give effect to the provisions of the UCC before permanent rules can be promulgated. The act is part of an effort by the National Conference of Commissioners on Uniform State Laws and all member states to implement a revised model Uniform Commercial Code on July 1, 2001 to facilitate interstate commerce with nation-wide uniformity in lien filings. The rules address general provisions, acceptance and refusal of documents, the information management system, filing and data entry procedures, search requests and reports, and other notices of liens under the UCC.

Publication Date: July 2, 2001
Effective Date: July 2, 2001
Expiration Date: November 29, 2001

Health & Family Services

(Community Services, Chs. HFS 30–)

A rule was adopted amending **s. HFS 94.20 (3)**, relating to patients' rights.

Finding of emergency

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

The Department operates secure mental facilities for the treatment of ch. 980, Stats., sexually violent patients. Departmental investigations have indicated that a portion of the ch. 980 inpatient population has routinely abused their s. HFS 94.20 telephone rights by making inappropriate calls to members of the public, by fraudulently placing numerous long distance calls that are billed to innocent third-parties or by operating fraudulent schemes. Since the Department has previously had no means of monitoring patient telephone use, the extent of this activity is unknown, but given the experience of investigations triggered by citizen complaints, it is clear

that these sorts of activities are not infrequent among this population. In addition, experience with telephone monitoring in other secure institutions indicates that call monitoring can and does help staff detect contraband and other security-related issues and activities. These abuses are clearly contrary to the therapeutic activities conducted at the secure mental health facilities.

Until recently, the Department has been unable to stop these abuses because the Department's facilities lacked secure telephone systems. Previous DHFS efforts to obtain secure telephone systems from the telephone system's vendor used by the Department of Corrections were not successful because the call volume at DHFS's secure mental health facilities were viewed as insufficient to support the telephone system.

In late 2000, the Department of Corrections selected a new vendor for its secure telephone system. In May 2001, the new vendor agreed to also install the system in DHFS's secure mental health facilities. The installation of the system at the facilities will be completed by June 20, 2001. The systems will allow the Department to establish and enforce calling lists for each inpatient and monitor inpatients' calls for counter-therapeutic activity. An inpatient's calling lists is a finite number of telephone numbers associated with persons the inpatient is approved to contact by telephone. Use of calling lists alone, however, is insufficient to discourage and minimize inpatient attempts to subvert the system. The Department must monitor phone calls made by ch. 980 inpatients to discourage and minimize the occurrence of inpatients calling persons on their calling list who, in turn, subvert the secure system by forwarding the inpatient's call for the prohibited purposes and activities previously described. The Department must be able to monitor the phone calls of ch. 980 inpatients both to protect the public and promote therapeutic activities at the secure mental health facilities.

The Department is issuing these rules on an emergency basis to protect the public's safety by minimizing the recurring fraudulent activity associated with telephone use. These rules also ensure the public's safety and welfare by promoting the effective treatment mission of the secure mental health facilities. The recording capability of the telephone system hardware that has been installed at the Wisconsin Resource Center and the Sand Ridge Secure Treatment Center cannot be turned off, i.e., when the system is functional, all features of the system are fully operational. If the secure telephone system is not operational, both the Wisconsin Resource Center and the Sand Ridge facility will lose the therapeutic and safety advantages afforded by the system. Since the Sand Ridge facility is accepting its first patients during the week of June 18th, there is not alternative telephone system for patients.

Publication Date: June 22, 2001
Effective Date: June 22, 2001
Expiration Date: November 19, 2001
Hearing Date: September 12, 2001

Health & Family Services

(Health, Chs. HFS 110—)

Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan (HIRSP).

Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats.,

by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Department staff consulted with the Health Insurance Risk-Sharing Plan (HIRSP) Board of Governors on April 25, 2001 on the rules, as required by s. 149.20, Stats.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP offers different types of medical care coverage plans for residents.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-six percent of the 10,790 HIRSP policies in effect in March 2001, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rate increases for Plan 1 contained in this rulemaking order increase an average of 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. This increase reflects industry-wide premium increases and takes into account the increase in costs associated with Plan 1 claims. According to state law, HIRSP premiums must fund 60% of plan costs and cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market.

A second type of medical coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Fourteen percent of the 10,790 HIRSP policies in effect in March 2001, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. These rate increases reflect industry-wide cost increases.

The Department through this rulemaking order proposes to amend ch. HFS 119 in order to update HIRSP premium rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 2000. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2001. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$19,982,024. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$19,617,772. On April 25, 2001, the HIRSP Board of Governors approved

the calendar year 2000 reconciliation process and the HIRSP budget for the plan year July 1, 2001 through June 30, 2002.

The fiscal changes contained in this order also reflect the conversion of HIRSP from cash accounting to accrual accounting, as recommended by the Legislative Audit Bureau and the HIRSP Board of Governors. Cash accounting recognizes the costs of claims and expenses when paid. Accrual accounting recognizes the costs of claims and expenses in the time period when first incurred. Basically, HIRSP program liabilities have been understated under the cash accounting methodology. The net effect of the HIRSP conversion to accrual accounting is to provide a more accurate reflection of the program's financial condition.

Publication Date: June 29, 2001
Effective Date: July 1, 2001
Expiration Date: November 28, 2001

Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees.

Finding of emergency

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

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule No. 01-035, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2001.

The commissioner expects the permanent rule will be filed with the secretary of state in time to take effect October 1, 2001. Because the fund fee provisions of this rule first apply on July 1, 2001, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 16, 2001.

Publication Date: June 12, 2001
Effective Date: July 1, 2001
Expiration Date: November 28, 2001

Natural Resources – (3)

(Fish, Game, etc., Chs. NR 1-)

1. Rules adopted amending **s. NR 20.20 (73) (j) 1. and 2.**, relating to sport fishing for yellow perch in Green Bay and its tributaries and **s. NR 25.06 (2) (b) 1.**, relating to commercial fishing for yellow perch in Green Bay.

Finding of emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Yellow perch contribute significantly to the welfare of Wisconsin citizens by supporting popular and economically valuable sport and commercial fisheries. The yellow perch population in Green Bay is rapidly declining. This decline reflects a number of years of very poor reproduction. The

only recent year with reasonably good natural reproduction was 1998. The fish spawned that year contributed to the sport harvest in 2001 and will become vulnerable to commercial gear this summer. Sport and commercial harvests of adult yellow perch must be limited immediately in order to protect those fish and maximize the probability of good reproduction in the near future.

Publication Date: June 30, 2001
Effective Date: July 1, 2001
Expiration Date: November 28, 2001
Hearing Date: August 13, 2001

2. Rules adopted revising **ch. NR 10**, pertaining to deer hunting in various deer management units.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and forest resources, and to minimize deer nuisance problems, thereby protecting the public peace, health, safety and welfare. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify the rules will result in excessively high deer populations well above established goal levels, causing substantial deer damage to agricultural lands and forest resources, and potential for disease.

Publication Date: May 16, 2001
Effective Date: September 1, 2001
Expiration Date: January 29, 2002
Hearing Date: June 11, 2001

3. Rules adopted revising **ch. NR 10**, relating to the 2001 migratory game bird season.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: August 29, 2001
Effective Date: September 1, 2001
Expiration Date: January 29, 2002
Hearing Date: October 11, 2001
 [See Notice this Register]

Public Service Commission

Rules adopted amending **s. PSC 116.03 (4)** and creating **s. PSC 116.04 (6)** relating to the definition of fuel and permissible fuel costs.

Finding of emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of "fuel" in s. PSC 116.03 (4) and creating s. PSC 116.04 (6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the

summer of 2001 and beyond. This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192 (2) (a), Stats.

Publication Date: May 19, 2001
Effective Date: May 19, 2001
Expiration Date: October 16, 2001

Scope statements

Corrections

Subject

Rule amendment to update ch. DOC 310, relating to complaint procedures, to update and clarify the rule to conform to current law, terminology, and prison population.

Objective of the proposed rule. The administrative rules relating to the inmate complaint procedures were last updated in 1998. With over 3 years of experience working with these rules, and given increased prison populations and an increased number of complaints filed, the department proposes to update the rule to clarify the existing rule and streamline the complaint procedures.

Policy analysis

DOC 310 relates to the inmate complaint procedures in Wisconsin. It includes an overview of the inmate complaint review system, the scope of the system, the procedures necessary for inmates to file individual and group complaints, procedures for processing complaints at the institution level, procedures for the appropriate reviewing authority to issue its decision, review by the corrections complaint examiner, procedures for the secretary's decision, and implementation of affirmed complaints. The department plans to review and revise these existing rules to ensure that they conform with existing law, technology, terminology, prison populations and requirement of the inmate complaint systems operations. With over 3 years of experience with the rule, the department plans to revise the rule to clarify any ambiguities and the process to make the process more efficient and effective, thereby more adequately serving the needs of the inmates, the legislature, and society.

Statutory authority

Sections 227.11 (2), 301.02 and 301.03 (2), Stats.

Staff time required

100 hours.

Insurance

Regarding Chapter Ins 9, Wis. Adm. Code, relating to Defined Network Plans and Preferred Provider Plans.

Subject

Objective of the proposed rule. In accordance with the recently enacted 2001 Wis. Act 16, Chapter Ins 9 must be revised to incorporate terminology regarding defined network plans and revise requirements for preferred provider plans.

Policy analysis

The purpose of the rule is to provide definitions and standards pertaining to defined network plans and modify requirements pertaining to preferred provider plans in accordance with legislative changes to Ch. 609, Wis. Stats. The policy of this rule is to carry out legislative requirements. There is no policy alternative available to the Office.

Statutory authority

Sections. 601.41 and ch. 609, Wis. Stats.

Staff time required

250 hours.

Natural Resources

Subject

Chapter NR 25, commercial fishing – outlying waters.

Policy analysis

The proposed rule will change the minimum depth of commercial fishing for chubs in Lake Michigan during winter. Currently, commercial chub fishers may not set gill nets in water shallower than 60 fathoms (300 feet) from January 16 through February 28. The restriction minimizes the incidental catch and kill of lake trout. The proposed rule change will establish a shallower minimum depth for winter chub fishing, but extend the time it applies. Under the proposed rule commercial chub fishers would be limited to water deeper than 45 fathoms from January 16 through April 25. Department staff believe that this change will help commercial fishers by allowing them to fish closer to shore during winter, while also not increasing the total incidental kill of lake trout.

Statutory authority

Sections 29.014 (1), 29.041, 29.519 (1) and 227.11 (2) (a), Stats.

Staff time required

52 hours.

Natural Resources

Subject

Revision of ch. NR 149, Laboratory Certification and Registration.

Policy analysis

The department is proposing amendments to ch. NR 149 Wis. Adm. Code, Laboratory Certification and Registration. We anticipate that revision of test category and fee structures, incorporation of changes made to the federal safe drinking water regulations, expansion of quality control and documentation requirements, and modifications to the procedures for obtaining and maintaining certification or registration will be considered.

Statutory authority

Section s. 299.11, Stats.

Staff time required

1024 hours.

Natural Resources

Subject

Modifications to s. NR 200.03 to clarify the definition of a large scale Private Onsite Wastewater Treatment System ("POWTS").

Policy analysis

The Department of Commerce is currently preparing revisions to ch. Comm 83 pertaining to POWTS. Not all proposed changes are known at this time but the DNR may

need to revise DNR rules to provide consistency with the anticipated Comm 83 modifications. It is currently known that a change is desirable for the definition of a "Large POWTS". Recent experience with large proposed POWTS has revealed that different, and unintended, interpretations of the current code language are possible. DNR and Commerce intent to work together to revise rules to provide improved clarification and consistency. POWTS that are defined as "large" will be subject to DNR discharge permits authorized under ch. 283, Stats. The proposed code changes will affect owners of large scale POWTS.

Statutory authority

Sections 281.41, 283.31, and s. 283.37, Wis. Stats.

Staff time required

149 hours.

Natural Resources

Subject

Sanitary sewer overflows and bypasses.

Policy analysis

Sanitary sewer overflows can occur whenever there is a mechanical or electrical failure in the sewerage system, or when an excessive amount of infiltration and inflow of stormwater or groundwater enters the sanitary sewers. Significant overflow events have occurred in the past several years throughout the state due to large rainfall events. Existing rules related to this issue and in-plant diversions are located in different chapters and sections of the Wis. Adm. Code and are inconsistent and incomplete. Accordingly, this rulemaking will assure rules are in place to meet current requirements of state and federal law and regulations regarding discharges of sewage to state waters. Interested parties will include municipalities and the public who may be affected by these overflows and U.S. EPA.

Statutory authority

Clean Water Act; 40 CFR 122; Chapters 281 and 283, Wis. Stats.

Staff time required

858 hours.

Pharmacy Examining Board

Subject

To allow a pharmacy to remain open without placement of physical barrier during temporary periods of absence from a pharmacy by a pharmacist, and to set forth permissible technician activities during the temporary absence of a

pharmacist. *Objective of the Rule.* To allow pharmacy interns, technicians and support staff to continue to perform certain allowable functions and have interaction with patients at an open pharmacy during the temporary absence of the pharmacist.

Policy analysis

Currently, s. 6.04 (3) (a) 1. and 2., provides that in the absence of a pharmacist a pharmacy may convert to a non-prescription or sundry outlet if certain requirements are met, in part the placement of a physical barrier. Modifying the rule will allow certain limited interactions between pharmacy staff and patients as well as the carrying on of certain allowable pharmacy staff and patients as well as the carrying on of certain allowable pharmacy staff functions in the absence of a pharmacist. Patients will benefit by increased availability of pharmacy services.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 450.02 (3), Stats.

Staff time required

100 hours.

Workforce Development

Subject

Wisconsin works domestic abuse screening and training.

Policy analysis

The department will develop rules for screening W-2 participants for domestic abuse and for training of W-2 agency employees in domestic abuse issues. If a W-2 agency employee identifies an individual as a past or present victim of domestic abuse or as an individual who is at risk of domestic abuse or an individual identifies himself or herself as a past or present victim of domestic abuse or as an individual who is at risk of further abuse, the W-2 agency will provide the individual with information or referral to community-based abuse services, including information on shelters or programs for battered individuals, sexual assault provider services, medical services, sexual assault nurse examiners services, domestic violence and sexual assault hotlines, legal and medical counseling and advocacy, mental health care, counseling, and support groups.

Statutory authority

Section 49.1473, as created by 2001 Wisconsin Act 16, and 227.11, Stats.

Staff time required

150 hours

Submittal of rules to legislative council clearinghouse

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

Health and Family Services

Rule Submittal Date

On September 11, 2001, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: Section 51.44 (5) (a), Stats.

Counties must, under s. 51.44 (3) and (4), Stats., and s. HFS 90.06 (2), provide or contract for the provision of early intervention services for children with developmental needs in the age group from birth to 3. Section HFS 90.06 (2) (h) specifies that county administrative agencies must determine the amount of parental liability for the costs of the early intervention services in accordance with ch. HFS 1. Chapter HFS 1 contains the Department's cost liability determination and ability to pay standards and guidelines for services purchased or provided by the Department and counties. Section HFS 90.06 (2) (h) also states that parents may satisfy any liability not met by third party payers if parents pay the amount determined in accordance with the family support payment formula in s. HFS 65.05 (7).

The Department's ability to pay system currently ties the "Birth to 3 program" to s. HFS 65.05 (7) and ch. HFS 1. Chapter HFS 90's use of these other Department administrative rules has had several undesirable consequences. First, the methodology in s. HFS 65.05 (7), while appropriate for families with children having severe disabilities, is inappropriate for the "Birth to 3 program" because of the variability in applying the methodology and the significantly greater turnover of families in the "Birth to 3 program." This turnover of families makes the chapter's complex calculations relatively onerous on counties to administer.

Sections HFS 90.06 (2) (h) and 90.11 (2) (a) 2. and 4. cross reference and incorporate ch. HFS 1. Section HFS 1.01 (4) (d) allows counties to request an exemption from applying the ability to pay system because the county can document that the imposition of a ch. HFS 1 family cost sharing charge is administratively unfeasible. Twenty-four counties have demonstrated to the Department that their cost of administering the ability to pay system amounts to more than the revenues the counties collect. The relatively high cost of administering the program under the current provisions of ch. HFS 90 combined with relatively low rates of cost-sharing by families permitted by counties' application of s. HFS 65.05 (7), has made the program burdensome on some counties.

Second, federal policies governing "Birth to 3" programs require participating states to administer a statewide early intervention system and do not allow a county to bill a family's insurance without the family's consent. Chapter HFS 1, however, requires that a family's insurance benefits be billed; a contradiction of

federal law. Third, the current ability of counties to request and obtain exemption from participating in the ability to pay system also is contrary to federal policies requiring states to operate a uniform statewide early intervention system. While federal regulations are currently being revised, none of the regulations circulated by the U.S. Department of Education would have any bearing on the Department of Health and Family Service's promulgation of these administrative rules.

The Department proposes to modify ch. HFS 90, the rules governing early intervention services for children with developmental needs up to age 3. The rule modifications would have two results. First, since ch. HFS 90 would no longer cross-reference ch. HFS 1, counties could no longer request exemption from participating in Wisconsin's "Birth to 3 program cost share." County participation in administering the Birth to 3 Program cost share would become mandatory. Second, the method of determining parents' share of the costs of needed services would be simplified and standardized statewide and would be based on the relationship of families' incomes to the federal poverty threshold.

The proposed rules would simplify the determination of parental cost share, thereby eliminating the current ability to pay system's inequities for families statewide and reducing counties' administrative costs associated with the program. The Department proposes using the federal poverty threshold, as revised annually, as a benchmark against which families' adjusted incomes would be compared to determine the parental cost share liabilities. Under such a system, the Department projects that the number of families required to share in the early intervention service costs would roughly double. Since each family's cost share will be based on approximately 1% of their income (as adjusted by a standard deduction for each child with a disability in the family) rather than the existing basis of 3% of income minus a standard deduction and disability-related expenses, the cost share of some families may increase. Families with incomes above 200% of the federal poverty level will be billed for part of the early intervention services their children receive. Families with adjusted incomes below 200% of the federal poverty threshold will be exempt from cost sharing. The Department projects that about 2,000 families would be exempt from cost sharing under the proposed formula and about 3,100 families are projected to have a liability for a cost share.

Under the simplified payment system the Department is proposing, the Department expects counties' costs to administer the payment system to decline as the number of forms and required calculations would be significantly reduced. The Department projects that the proposed rule changes would increase the revenues generated by counties, in total, due to the fact that more families would

have a parental cost share and more counties will be participating in the parental cost share system. However, individual counties having relatively lower per capita incomes may not experience significant revenue increases.

Agency Procedure for Promulgation

Public hearings will be held October 16 and 17, 2001.

Contact Person

Donna Miller, 267-5150

David Sorenson, 267-3270

Health and Family Services

Rule Submittal Date

On September 11, 2001, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: Sections 252.02 (4), 252.06 (1), 252.07 (1p) and (11), 252.10 (1) and (6) (a) and (b), and 254.51 (3), Stats.

This order updates the Department's rules for prevention and control of tuberculosis based on changes made to ss. 252.07 and 252.10, Stats., as created or amended in 1999 Wisconsin Act 9. These proposed rules would modify subch. II of ch. HFS 145 to reflect and implement the changes to ch. 252, Stats., made by Act 9. The rulemaking order proposes principally the following changes:

- To specify laboratory procedures for identification of *Mycobacterium tuberculosis*;
- To specify how the Department will assist local health departments in administration and enforcement of confinement of patients with tuberculosis;
- To establish standards for certification of public health dispensaries;
- To specify services and reimbursement rates for public health dispensaries; and
- To specify record-keeping requirements for public health dispensaries.

Agency Procedure for Promulgation

A public hearing will be held on October 18, 2001.

Contact Person

Tanya Oemig

261-6319

Natural Resources

Rule Submittal Date

On September 7, 2001, the Department of Natural Resources submitted a proposed rule revising ch. NR 328 to the Legislative Council Rules Clearinghouse.

Analysis

Department standards for erosion control in lakes and impoundments.

Agency Procedure for Promulgation

Public hearings will be held October 15, 16 and 17, 2001.

Contact Person

Paul Cunningham

Bureau of Fisheries Mgt. and Habitat Protection

267-7502

Natural Resources

Rule Submittal Date

On September 10, 2001, the Department of Natural Resources submitted a proposed rule affecting chs. NR 600 and 815 to the Legislative Council Rules Clearinghouse.

Analysis

Control of underground injection wells.

Agency Procedure for Promulgation

Public hearings will be held October 17, 18 and 24, 2001.

Contact Person

Richard Roth

Bureau of Drinking Water and Groundwater

266-2438

Rule-making notices

Notice of Hearings Health and Family Services (Community Services, Ch. HFS 30–) [CR 01–106]

Notice is hereby given that pursuant to ss. 227.16 (1), 227.17 and 227.18, Stats., the Department of Health and Family Services will hold a public hearing to consider the proposed renumbering of s. HFS 90.06 (1) and (2) (i) to (p); the amending of ss. HFS 90.06 (2) (h), 90.11 (2) (a) 2., 90.11 (4) and 90.12 (c); and the creation of s. HFS 90.06 (1) and (2) (i), Wis. Adm. Code, relating to early intervention services for children with developmental needs in the age group from birth to 3.

These proposed amendments would affect Wisconsin's application for funds under the Individuals with Disabilities Education Act, Part C. These hearings and opportunity to comments will also provide public participation for the proposed amendments to the application.

Hearing Information

The public hearings will be held:

<u>Date & Time</u>	<u>Location</u>
October 16, 2001 Tuesday 3:00 p.m. to 5:00 p.m.	Room 950A 1 W. Wilson Street Madison, WI
October 17, 2001 Wednesday 2:30 p.m. to 4:30 p.m.	State Office Building 610 Gibson Street Eau Claire, WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The Department's rules for the state's early intervention program (the Birth to 3 Program) are in ch. HFS 90 of the Wisconsin Administrative Code. Through this rulemaking order, the Department is proposing to establish a system for determining the parental cost share for early intervention services that is applied only to the Birth to 3 Program. The proposed rule would eliminate application of the Uniform Fee system in ch. HFS 1 and the Family Support Program payment formula in s. HFS 65.05 as the basis for determining the parental cost share.

Specifically, the rule modifications would have two results. First, since ch. HFS 90 would no longer cross-reference ch. HFS 1, county participation in administering the Birth to 3 Program cost share would become mandatory. Second, the method of determining parents' share of the costs of needed services would be simplified and standardized statewide and would be based on the relationship of families' incomes to the federal poverty threshold. This would reduce the administrative costs associated with the program.

The Department proposes using the federal poverty threshold, as revised annually, as a benchmark against which families' adjusted incomes would be compared to determine the parental cost share liabilities. Families with adjusted incomes below 200% of the federal poverty threshold will be

exempt from cost sharing. Families with incomes above 200% of the federal poverty level will be billed for part of the early intervention services their children receive.

Under the simplified payment system the Department is proposing, the Department expects counties' costs to administer the payment system to decline as the number of forms and required calculations would be significantly reduced. The Department projects that the proposed rule changes would increase the revenues generated by counties, in total, due to the fact that more families would have a parental cost share and more counties will be participating in the parental cost share system. However, individual counties having relatively lower per capita incomes may not experience significant revenue increases.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write, phone or e-mail:

Donna Miller
Bureau of Developmental Disabilities
P.O. Box 7851
Madison, WI 53701-7851
608-267-5150
milledm@dhfs.state.wi.us

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

Written comments received by mail or e-mail at an above address no later than 5:00 p.m., **November 15, 2001**, will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

The Department projects that the proposed rule changes would increase counties' revenues by \$1,459,762, in total, due to the fact that more families would have a parental cost share, counties' costs to administer the payment system will decline as the number of forms and required calculations would be significantly reduced, and more counties will be participating in the parental cost share system. However, individual counties having relatively lower per capita incomes may not experience significant revenue increases.

Initial Regulatory Flexibility Analysis

The revision of ch. HFS 90 will decrease the number of forms county administrative agencies are required to complete and the number of calculations agencies are required to perform as part of their billing and collection responsibilities under the Birth to 3 Program. Counties may delegate their billing and collection responsibilities to a service provider by written agreement. Occasionally, service providers are small businesses as defined under s. 227.114 (1) (a), Stats. Since county administrative agencies have ultimate responsibility for the paperwork associated with determining parental cost share and, through these proposed rules, the Department is proposing ease the administrative burden of the

program, the Department has not proposed specific exemptions from these requirements for small businesses.

Bureau of Developmental Disabilities

P.O. Box 7851

Madison, WI 53701-7851

608-267-5150

milledm@dhfs.state.wi.us

Notice of Hearings
Health and Family Services
(Health, Chs. HFS 110—)
[CR 01-108]

Notice is hereby given that pursuant to s. 227.16 (1), 227.17 and 227.18, Stats., the Department of Health and Family Services will hold public hearings to consider the proposed repeal of ch. HSS 157 and creation of ch. HFS 157 Radiation Protection, relating to the regulation of radiation producing devices and radioactive materials.

Hearing Information

The public hearings will be held:

<u>Date and Time</u>	<u>Location</u>
October 26, 2001 Friday 1:00 p.m. to 4:00 p.m.	Room 751 1 W. Wilson Street Madison, WI
November 2, 2001 Friday 12:30 p.m. to 3:30 p.m.	Rib Mountain Inn 4700 Rib Mountain Drive Wausau, WI
November 6, 2001 Tuesday 1:00 p.m. to 4:00 p.m.	Country Inn, Meadow Brook West Room 2810 Golf Road Waukesha, WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

Governor Thompson assigned the Department of Health and Family Services the responsibility of pursuing an agreement with the U.S. Nuclear Regulatory Commission (NRC) that will allow the state to assume regulatory (including judicial) authority over certain radioactive materials currently under federal jurisdiction. Under this agreement, Wisconsin would become an "agreement state" with the NRC and assume responsibility for licensing, inspecting and regulating the use of radioactive materials at 253 facilities statewide, excluding nuclear power reactors and federal facilities. Among other requirements, the NRC requires a potential agreement state to update their state radiation protection rules with a compatible version of current federal radiation protection regulations prior to signing the agreement transferring regulatory authority. The state rules must also establish a radioactive material licensing and inspection program that is at least as stringent as that of the NRC. This is the reason for and purpose of this proposed rulemaking order.

The proposed chapter HFS 157 is based upon an agreement state rule template called the "Suggested State Regulations for the Control of Radiation" (SSRCR) developed by the Conference of Radiation Control Program Directors, Inc. (CRCPD). The CRCPD is a national organization of state radiation control staff that supports and represents state radiation control programs. The SSRCR is developed with the involvement of federal radiation agencies, such as the

Nuclear Regulatory Commission, the Food and Drug Administration and the Environmental Protection Agency. The SSRCR is also continually updated and used by most of the 32 existing agreement states to help meet federal requirements. Chapter HFS 157 was also developed with the input of a 40-member rules advisory group representing a cross-section of the regulated user community.

The ch. HFS 157 proposed rulemaking order would accomplish the following:

1. Retain the current requirement under s. 254.35, Stats. to register x-ray devices and propose no change to the annual \$36 site fee and \$30 (dental) or \$44 (other) tube fees for x-ray producing devices.

2. Retain the registration requirement and associated \$36 annual fee for naturally occurring and accelerator produced radioactive materials (NARM), currently under state jurisdiction, until Wisconsin becomes an agreement state. The registration requirement and associated fee would terminate at that point.

3. Establish a radioactive material licensing and inspection program equivalent to the NRC program, license application fees, annual fees, license amendment fees, reciprocity fee, enforcement structure and violation penalties for all radioactive materials not exempted from regulation, including NARM.

4. Establish a registration program and annual fee for certain generally-licensed devices that is equivalent to a new NRC generally licensed device registration requirement.

5. Establish radiation safety and regulatory requirements for all regulated uses of radioactive materials, including medical, industrial, research and academic, that are consistent with current radiation safety and regulatory requirements in Title 10 (energy), Code of Federal Regulations, Parts 20, 21, 33-36, 39, 40, 70, 71 and 150 and applicable portions of Title 49 (transportation), Code of Federal Regulations.

6. Update the radiation safety requirements for x-ray producing devices to reflect new technologies, current federal regulations and the input of an ad hoc advisory group consisting of a cross-section of regulated users.

7. Retain existing standards for radioactivity in community water systems.

Contact Person

To find out more about the hearings or to request a copy of the proposed rules, write, phone or e-mail:

Paul Schmidt

Radiation Protection Section

P.O. Box 2659

Madison, WI 53701-2659

608-267-4792 or, if you are hearing impaired,
608-267-7371

schmips@dhfs.state.wi.us

A copy of the proposed rules is also available on the Department's website at www.dhfs.state.wi.us.

If you are hearing or visually impaired, do not speak English or have circumstances that might make communication at a hearing difficult, and if you require an interpreter or a non-English, large print or taped version of the hearing document, contact the person at the address or phone number given above at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments received by mail or email at an above address no later than 5:00 p.m., November 30, 2001 will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

The proposed ch. HFS 157 maintains existing registration fees for x-ray device users. The rulemaking order also proposes to maintain the existing registration program and \$36 annual fee for naturally occurring and accelerator produced radioactive materials (NARM) until Wisconsin can become an agreement state with the U.S. Nuclear Regulatory Commission (NRC). At that point, the rulemaking order proposes to terminate the existing radioactive material registration requirement and associated \$36 fee and, instead, regulate all radioactive materials through a licensing program. In addition, ch. HFS 157 proposes a registration program for certain devices containing radioactive material, purchased under a general license, that is consistent with a new federal registration requirement for the same devices. This new generally licensed device registration requirement would not be implemented until Wisconsin can become an agreement state with the NRC.

The fee structure contained in the proposed rulemaking order would have the following economic impact on radioactive material licensing and generally licensed device registration fees if Wisconsin succeeds in becoming an agreement state with the NRC:

1. Reduce radioactive material licensing fees by a projected average of 40% (compared to 2001 NRC fees) for approximately 215 medical, industrial, and research facilities currently licensed and regulated by the federal government in Wisconsin, while maintaining regulatory quality and public safety.

2. Establish a \$100 site fee and \$50 per device annual registration fee for generally-licensed devices containing certain types and quantities of radioactive material. These devices are used primarily by manufacturing industries to measure flow through pipes, level of material in containers, thickness of materials or coatings, consistency and uniformity of materials and other parameters. The state fees would replace a \$450 annual federal fee for a similar NRC mandated device registration program. The state registration fee will be lower than the federal fee for facilities with six or fewer devices (\$400 state fee vs. \$450 federal fee). Facilities that choose to specifically license their devices would be exempt from the registration requirement and associated fee. This option can reduce the regulatory cost for facilities with large numbers of devices.

3. Establish licensing fees for approximately 100 facilities utilizing naturally-occurring and accelerator-produced radioactive materials due to the proposed licensing requirement. The current Wisconsin annual radioactive material registration fee is \$36. This \$36 fee would be terminated, if Wisconsin becomes an agreement state, and replaced with licensing fees. Under the proposed rulemaking order, the fees to obtain a license would range from \$200 to \$5,000 (depending on type of license desired) for the existing facilities that only utilize NARM.

4. Establish licensing fees for 22 academic facilities (for example, Marquette University and the U.W. System campuses) that are currently licensed by the NRC but exempt from paying NRC fees. These academic facilities will require regulatory oversight necessitating cost recovery. This rulemaking order proposes an academic license category and a \$1,000 annual fee to provide regulatory cost recovery and ensure continued educational and research use of radioactive materials. Academic facilities may choose a different type of license, depending upon the number and quantity of radioactive isotopes and type of use desired.

5. Increase licensing fees for 16 facilities, primarily businesses, which are classified as NRC small entities. Small entity status is based upon number of employees and annual revenue. NRC currently provides a radioactive material license to certain small entities at a reduced and subsidized cost of \$500 per license. The proposed rulemaking order does not utilize the NRC small entity classification. Proposed state licensing fees would range from \$1,400 to \$5,000 for existing facilities classified as NRC small entities. Licensing fees in the proposed ch. HFS 157 are based upon the department's estimate of its regulatory oversight costs.

Development of a Wisconsin radioactive materials licensing/inspection capability is projected to take 3-4 years. State regulation of radioactive materials currently under federal jurisdiction is expected to result in streamlined regulation and overall reduced cost to the regulated community, while maintaining public safety. The SFY 00-01 biennial budget bill approved the first phase of the agreement state effort by authorizing necessary statutory changes, 5.25 FTE position authority and a temporary 36% NRC license surcharge fee to fund development costs. The SFY 02-03 biennial budget request will address the second phase of program development. Program development is projected to conclude in the SFY 04-05 biennium.

The agreement state regulatory program will require 9.5 FTE and an SFY 2004 estimated operating budget of \$906,589. Projected SFY 2004 personnel costs are \$688,548 with total projected capital, supplies and services of \$218,041. Estimated SFY 2004 operating revenue of \$1,006,700 is derived by calculating the total annual license fee revenue from the existing NRC licensees and state materials registrants in Wisconsin using the fees in HFS 157. There is insufficient data available to calculate the fiscal effect of the application, amendment and other fees on SFY 2004 operating revenue.

The fiscal effect of an agreement state licensing and inspection program on units of government will be minimal since less than 36 state and local government agencies combined are expected to utilize radioactive materials that will require a license under HFS 157.

Initial Regulatory Flexibility Analysis

The proposed rulemaking order will affect a limited number of small businesses that utilize radioactive materials. The regulatory requirements for radioactive materials contained in the proposed ch. HFS 157 are compatible with equivalent NRC regulations and will not require any new reporting or record keeping requirements, with the exception of an annual self-inspection form for generally licensed devices. This form is being proposed to improve user awareness of the regulatory requirements that apply to certain generally licensed devices that can contain large quantities of radioactive material. The department estimates that it will take about 10 minutes to complete this form.

Based on NRC licensee data, sixteen of the 253 radioactive material licensees in Wisconsin meet the definition of small business under s. 227.114 (1) (a), Stats. The department will be required to license and inspect current NRC facilities no less stringently than the federal government, and ensure equally high standards of public health and safety in the use of radioactive materials, regardless of facility size or small business classification. Facilities that are 'small businesses' as defined in s. 227.114, Stats., cannot be exempted from the proposed fees, or receive a reduced fee, without jeopardizing the department's revenue needed to regulate facilities using radioactive materials. For this reason, the department is not

proposing exemptions or alternatives for small businesses to the proposed license fee structure.

Notice of Hearing
Health and Family Services
(Health, Chs. 110–)

[CR 01–105]

Notice is hereby given that pursuant to ss. 227.16 (1), 227.17 and 227.18, Stats., the Department of Health and Family Services will hold a public hearing to consider the proposed amendment of s. HFS 145.01 and repeal and recreation of ss. HFS 145.08, 145.09, 145.10, 145.11, 145.12 and 145.13, relating to control of communicable diseases.

Hearing Information

The public hearing will be held:

Date & Time	Location
October 18, 2001	Room B155
Thursday	1 W. Wilson Street
9:00 a.m. to 12:00 p.m.	Madison, WI

The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The Department's proposed order updates the Department's rules for prevention and control of tuberculosis based on changes made to ss. 252.07 and 252.10, Stats., as created or amended in 1999 Wis. Act 9. These proposed rules would modify subch. II of ch. HFS 145 to reflect and implement the changes to ch. 252, Stats., made by Act 9. The rulemaking order proposes principally the following changes:

- To specify laboratory procedures for identification of *Mycobacterium tuberculosis*;
- To specify how the Department will assist local health departments in administration and enforcement of confinement of patients with tuberculosis;
- To establish standards for certification of public health dispensaries;
- To specify record-keeping requirements for public health dispensaries.
- To specify services and reimbursement rates for public health dispensaries; and

The proposed rulemaking order expands the sections on public health dispensaries for the diagnosis and treatment of persons with or suspected of having tuberculosis. The expanded sections specify how the Department will certify public health dispensaries and which dispensary services the Department will reimburse. Local health departments and the Department are authorized by s. 252.10 (1), Stats., to establish public health dispensaries and the Department is authorized by s. 252.10 (6) (b), Stats., to reimburse the dispensaries at the medical assistance program rate for services specified in rule.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write, phone or e-mail:

Tanya Oemig
Bureau of Communicable Diseases
P.O. Box 2969
Madison, WI 53701–2969
608–261–6319 or, if you are hearing impaired,
608–266–7376 (TTY) oemigtv@dhs.state.wi.us

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

Written comments received by mail or e-mail at an above address no later than 5:00 p.m., October 26, 2001 will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

These rules add specificity to the statutory requirements enacted by the Legislature and do not create new requirements that would affect expenditures or revenues. All costs of implementing the statutory requirements were taken into consideration by the Legislature during development of 1999 Wisconsin Act 9.

Initial Regulatory Flexibility Analysis

Some of the laboratories may be in hospitals that may be considered "small businesses" as defined under s. 227.114, Stats. However, the requirements contained in the proposed rules elaborate on changes made to ss. 252.07 and 252.10, Stats., that were created or amended in 1999 Wisconsin Act 9. Moreover, the Department considers the procedures specified in the proposed rules to be necessary for the preservation of the public's health. Consequently, the Department is not proposing variations from these procedures and requirements for laboratories that may be considered "small businesses."

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 29.197, 227.11 (2) (a) and 227.24, Stats., interpreting ss. 29.014, 29.041 and 29.197, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM–24–01(E) pertaining to the 2001 migratory game bird season. This emergency order took effect on September 1, 2001. The significant regulations are:

Ducks – The state is divided into two zones, each with 60-day seasons. This year the northern and southern duck zone seasons will run concurrent. The season begins at noon September 29 and continues for 60 days, closing November 27. The daily bag limit is 6 ducks including no more than 4 mallards, of which only one may be a hen, one black duck, one pintail, 2 wood ducks, 2 redheads and 3 scaup. Shooting of canvasbacks is prohibited from September 29 to October 19 and November 9 to November 27. The daily bag limit is one and the canvasback is counted as part of the 6 duck daily bag limit.

Canada geese – The state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone – 66 days; Horicon Zone – 94 days; Exterior Zone – 70 days; and Mississippi River Subzone – 70 days. The Burnett County Subzone is closed to Canada goose hunting.

Youth waterfowl hunt – The daily bag limit for Canada geese and canvasback ducks during the 2-day youth waterfowl hunt is created.

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

October 11, 2001 Room 027
 Thursday GEF #2
 101 South Webster Street,
 Madison
 at 1:00 p.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Jon Bergquist at (608) 266-8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Impact

The proposed changes will not result in any significant changes in spending or revenue. There are no government costs anticipated due to the provisions of this rule.

Written comments on the emergency rule may be submitted to Mr. Jon Bergquist, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than October 15, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule may be obtained from Mr. Bergquist.

Notice of Hearings

Natural Resources (Water Regulation, Chs. NR 300—)

[CR 01-103]

NOTICE IS HEREBY GIVEN that pursuant to s. 30.2035, Stats., interpreting s. 30.12 (2) and (3) (a) 3., Stats., the Department of Natural Resources will hold public hearings on the creation of subch. II of ch. NR 328, Wis. Adm. Code, relating to permanent breakwaters for control of shore erosion. Several of Wisconsin's large inland flowages exhibit systemic problems related to water level management. One of the most severe problems is loss of their adjacent wetlands. Historically, these wetlands have been protected by summer drawdown (to reestablish emergent plants) or by placing of riprap against the face of the wetland. Permanent breakwaters are another newer approach that protects the wetland from erosion while promoting a natural transition zone. This approach entails the construction of an off-shore, wave-arrestor structure to absorb wave energy which provide a quiet zone behind it. Aquatic plants soon colonize the quiet zone and provide a natural transition between the water and the wetland. The wave arrestors are typically linear rock structures placed 50-100 feet of shore, roughly parallel to the shoreline.

This proposed subchapter enables the Department to identify the permanent breakwaters in these limited settings as structures and work with local municipalities to control shore erosion and preserve/restore aquatic habitat. The affected waters include Lake Koshkonong, Petenwell flowage, Castle Rock lake, Big Eau Pleine reservoir, Lake Nokomis ? Rice River reservoir, Lake DuBay, Beaver Dam lake, Lake Buttes des Morts, Lake Poygan, Lake Winneconne, and Lake Winnebago. The purpose of this subchapter is to establish when deposits of material constitute structures (as opposed to fill) for the purpose of controlling shore erosion and to set criteria for determining when structures will be authorized under s. 30.12, Stats.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental

effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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

October 15, 2001 Room 027, GEF #2, 101 South
 Monday Webster, Madison
 at 3:00 p.m.

October 16, 2001 Schmeckle Reserve, UW-Stevens
 Tuesday Pt., 2419 N. Point Dr., Stevens Point
 at 3:00 p.m.

October 17, 2001 Room A, James P. Coughlin Center
 Wednesday 625 E. County Road Y, Oshkosh
 at 3:00 p.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Paul Cunningham at (608) 267-7502 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Paul Cunningham, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than October 27, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-31-01] and fiscal estimate may be obtained from Mr. Cunningham.

Fiscal Impact

State Costs:

Subchapter I: The Department anticipates no net increase in costs associated with administering Subchapter I of these proposed rules, only a shift in workload resulting from: 1) less workload associated with long-form permit decisions (site analysis, permit decisions, and contested case hearings); and 2) and offsetting increase in the workload associated with short form review, technical assistance, and application of the rule.

Subchapter II: The Department anticipates no more than one municipal breakwater permit per year as authorized under Subchapter II of these proposed rules. the workload associated with municipal breakwater permit and plan review is estimated to be 100 hours per permit. The annual salary-related costs associated with this permitting and plan review are estimated @ \$30 per hour for 100 hours, or \$3000 annually. The Department will absorb with workload in its current budget.

Local Costs (Subchapter II only):

Local government costs are permissive only. Currently local units of government do not have the opportunity to place permanent breakwaters on the beds of lakes and flowages through a Department permitting process. Permits for offshore breakwaters may be issued to municipalities for placement in the following water bodies: Lake Koshkonong, Petenwell flowage, Castle Rock lake, Big Eau Pleine reservoir, Lake Nokomis - Rice River reservoir, Lake DuBay, Beaver Dam lake, Lake Buttes des Morts, Lake Poygan, Lake Winneconne, and Lake Winnebago.

These listed waters are generally typified by the following conditions - impounded; 5000 acres and larger; extensive water level fluctuation; high shoreline recession rates; and

historic loss of shoreline vegetation. As stated above, the Department anticipates no more than one municipal breakwater permit per year, statewide.

There are no direct fees or costs to local municipalities associated with processing permits. Local municipalities' permissive costs (planning, engineering services) to implement breakwater projects and comply with the administrative rule will vary widely. For purposes of this fiscal note, the Department assumes that local governments applying for municipal breakwater permits have developed management plans. The Department estimates that, on average, a local government would invest up to 300 hours to develop the proposed NR 328 permit application information. Assuming that the local government's costs are \$30 per hour, it would incur up to \$9000 in costs related to the permit application.

Notice of Hearings

Natural Resources (Hazardous Waste and Water Supply, Chs. NR 600— and Chs. NR 800—)

[CR 01–104]

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 280.11 (1), 281.11, 281.12 (1), 281.17 (8), 283.001 (2), 291.07 (1) and (2), 292.31 (3), 293.13 (1) and (2), 295.35 (2) and (3) and 227.11 (2) (a), Stats., interpreting ss. 281.17 (8) and 283.001 (2), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 600.03 and 600.04 and the creation of ch. NR 815, Wis. Adm. Code, relating to the control of underground injection wells. Proposed ch. NR 815 has been developed in response to new federal rules for Class V injection wells that went into effect on April 5, 2000. The new regulations expanded the definition of an injection well, prohibited the construction or use of a large-capacity cesspool, and prohibited the disposal of waste fluids from the repair or maintenance of motorized vehicles via an injection well.

Proposed ch. NR 815 utilizes definitions that are consistent with those used in the federal regulations and establishes an injection well classification scheme similar to that used in those states where the U.S. Environmental Protection Agency implements the underground injection control program. The proposed rule provides references to existing requirements already found in other parts of the Wisconsin Administrative Code that apply to the use of injection wells. The proposed rule also adopts prohibitions and injection well reporting requirements that are consistent with those imposed under federal law.

Proposed revisions to ch. NR 600 modify the current state ban on underground injection of hazardous wastes and allow reinjection at clean-up sites under certain circumstances. The current U.S. EPA rules and policy regarding underground injection of hazardous waste allow this type of reinjection. Underground injection of any hazardous waste is currently prohibited in Wisconsin. The rule revisions provide that the Department can approve the injection of treated, contaminated groundwater that meets the definition of a hazardous waste or contains a hazardous waste if that activity is necessary for the cleanup of soil or groundwater contamination.

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

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this

action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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

- | | |
|--------------------------------------|--|
| October 17, 2001
Wednesday | Room 027, GEF #2, 101 South Webster Street, Madison
at 1:00 p.m. |
| October 18, 2001
Thursday | Room A, Oshkosh Public Library,
106 Washington Avenue, Oshkosh
at 10:30 a.m. |
| October 24, 2001
Wednesday | Room 158, DNR West Central
Region Service Center, 1300 W.
Clairemont, Eau Claire
at 1:30 p.m. |

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Richard Roth at (608) 266-2438 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The Bureau of Drinking Water and Groundwater believes that the primary fiscal effect of the proposed action will be an increase in the cost of establishing and maintaining a statewide inventory of injection wells. The Bureau currently allocates 36 hours of staff time, at approximately \$34 per hour for salary and fringe, to maintain a statewide injection well inventory. The time required to maintain this inventory might triple upon the adoption of the proposed chapter because of an increase in the number of wells reporting. The fiscal impact is likely therefore to be \$34 x 72 hours = \$2448.

The Bureau used the following assumptions in making its determination:

1. Most underground injection has been prohibited under state administrative rules that were first adopted in the 1930s;
2. State administrative rules governing septic systems, including those that may be classified as injection wells, have been adopted and enforced by the Wisconsin Department of Commerce and its predecessor agencies since the 1980s;
3. State administrative rules enacted as part of the Wisconsin Pollutant Discharge Elimination System (WPDES) program already govern or prohibit the discharge of municipal wastewater, industrial wastes, or other pollutants to subsurface land treatment systems;
4. State administrative rules governing environmental remediation already exist, proposed revisions to ch. NR 600 will simply clarify existing provisions or extend the beneficial use of injection techniques to cleanup sites dealing with hazardous wastes.
5. An unknown number of large-capacity septic systems and other subsurface land treatment systems may need to submit inventory information because they will be included under the expanded definition of an injection well.

The Bureau expects to absorb the costs of this proposal by renegotiating annual workplan activities with EPA and reallocating staff hours from existing authorized positions.

Written comments on the proposed rule may be submitted to Mr. Richard Roth, Bureau of Drinking Water and

Groundwater, P.O. Box 7921, Madison, WI 53707 no later than October 31, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [DG-22-01] may be obtained from Mr. Roth at the above address, by calling (608) 266-2438 or via e-mail at rothr@dnr.state.wi.us.

Notice of Hearing

Nursing Home Administrator Examining Board [CR 01-101]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Nursing Home Administrator Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 456.02, Stats., and interpreting ss. 456.05, 456.07 (2), 456.08 and 456.10 (1) (d), Stats., the Nursing Home Administrator Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend ss. NHA 1.02 (intro.) and (3), 2.02 (intro.), 3.02 (5), the Note following ss. NHA 3.03 (1) (c), 4.01 (1) (d), and the Note following ss. NHA 4.03 (1); and to create ss. NHA 1.02 (2n), (5m) and 5.02 (15) relating to examination, education, continuing education, reciprocity requirements and unprofessional conduct.

Hearing Date, Time and Location

Date: **October 18, 2001**
Time: 10:00 A.M.
Location: 1400 East Washington Avenue
Room 180
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by November 1, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 456.02, Stats.

Statutes interpreted: ss. 456.05, 456.07 (2), 456.08 and 456.10 (1) (d), Stats.

In this proposed rule-making order the Nursing Home Administrator Examining Board amends several provisions contained in chs. NHA 1, 2, 3 and 4, relating to examination, education, continuing education and reciprocity requirements, and creates several provisions relating to unprofessional conduct.

First, the following minor and technical changes are made to the rules for purposes of clarity, grammar, form and style.

1. Name and address change. The definition of "NAB" found in s. NHA 1.02 (3), is being revised to reflect the organization's name change. In addition, the note following s. NHA 3.03 is being revised to reflect NAB's new address.

2. Application deadline. Section NHA 2.02 (intro.), requires an applicant to submit an application for examination "60 calendar days prior to the date of examination. This requirement is being eliminated because the board now offers computer-based examinations on a weekly basis.

3. Continuing education hours. In s. NHA 3.02 (5), "continuing education credits" is being change to "continuing education hours" to reflect the terminology used in chs. NHA 1 and 3.

4. Citation. The citation in s. NHA 4.01 (1) (d), to "s. NHA 2.02 (1) (a)," should read "s. NHA 2.02 (1)."

5. Address change. The note following s. NHA 4.03 (1) is being revised to reflect the American College of Health Care Administrators' new address.

Second, s. NHA 1.02 (2n) is being created to define the term "inspection" to mean any type of inspection conducted by the Wisconsin Department of Health and Family Services pursuant to s. 50.04, Stats., or 42 CFR Part 488. Section 1.02 (5m) is being created to define "pattern of serious violations of federal or state statutes, rules or regulations," as that phrase is used in s. 456.10 (1) (d), Stats.

Third, s. NHA 5.02 (15) is being created to state that it shall be unprofessional conduct for a nursing home administrator to intentionally provide false information to the board in connection with an application for a license or for renewal of a license.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

Notice of Proposed Rule Regulation and Licensing [CR 01-102]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) and 458.24, Stats., and interpreting ss. 458.24 and 458.26 (3) (b), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Regulation and Licensing will adopt the following rules as proposed in this notice, without public hearing unless, within 30 days after publication of this notice, on October 1, 2001, the Department of Regulation and Licensing is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis Prepared by the Department of Regulation and Licensing

Statutory Authority: ss. 227.11 (2) and 458.24.

Statutes interpreted: ss. 458.24 and 458.26 (3) (b), Stats.

In this proposed rule-making of the Department of Regulation and Licensing, proposes to repeal and recreate ch. RL 87, Appendix I, which contains the Uniform Standards of Professional Appraisal Practice (USPAP).

The department proposes to repeal Appendix I which contains the USPAP and recreate it to incorporate by reference the 2002 edition of USPAP. As required under s. 227.21, Stats., the department has obtained the consent of the attorney general and revisor of statutes to the incorporation of the 2002 edition of USPAP into the rules by reference.

Text of Rule

SECTION 1. Chapter RL 87, Appendix I is repealed and recreated:

CHAPTER RL 87**Appendix I****Uniform Standards of Professional Appraisal Practice**

The 2002 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this appendix. The 2002 edition of USPAP is effective January 1, 2002 to December 31, 2002.

After January 1, 2002, copies of the 2002 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, (202) 347-7722. After January 1, 2002, copies of the 2002 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at <http://www.appraisalfoundation.org>.

Note: As required under s. 227.21, Stats., the attorney general and revisor of statutes have consented to the incorporation by reference of the 2002 edition of the Uniform Standards of Professional Appraisal Practice. After January 1, 2002, copies of the 2002 edition of the USPAP will be on file in the offices of the Department of Regulation and Licensing, the Secretary of State and the Revisor of Statutes.

Fiscal Impact

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708-8935, (608) 266-0495.

**Notice of Hearing
Regulation and Licensing**

[CR 01-100]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 458.03 and 458.085, Stats., and interpreting ss. 458.06, 458.08, 458.13, 458.24 and 458.26, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order revising chs. RL 80 to 87, relating to real estate appraisers.

Hearing Date, Time and Location

Date: **October 15, 2001**
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
Room 133

Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by October 22, 2001 to be included in the record of rule-making proceedings.

Analysis Prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 227.11 (2), 458.03 and 458.085, Stats.

Statutes interpreted: ss. 458.06, 458.08, 458.13, 458.24 and 458.26, Stats.

In this proposed rule-making order the Department of Regulation and Licensing amends, renumbers, repeals and recreates numerous provisions contained in chs. RL 80 to 87, Code, relating to the regulation of certified and licensed appraisers. Significant changes to the current rules are as follows:

1. Section RL 80.03, Code, is revised to create definitions for "distance education," "FIRREA" and "non-federally related transaction." Several definitions, "ad valorem tax appraisal," "appraisal analysis," "appraisal experience," "feasibility analysis," "fee and staff appraisal," "highest and best use," and "real estate counseling" are being revised to delete references to the applicable version of USPAP. This information is already identified in s. RL 83.01 (3) (a), Code, which provides that work claimed for appraisal experience must be in compliance with the USPAP "as in effect at the time the appraisals were prepared."

2. Section RL 81.03 (2) (b), Code, is being repealed because in the future the department will obtain written verification of current licensure or certification of appraisers from the Federal Registry established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. Under s. RL 81.03 (2) (d), Code, an applicant will be required to submit a written statement identifying each state in which he or she practices as an appraiser.

3. Section RL 82.03, Code, is being repealed because the department now reports examination results to candidates as "pass/fail."

4. Section RL 83.02 (2), Code, is being repealed because the department no longer accepts teaching experience as appraisal experience. Section RL 83.02 (3), Code, is also being amended to reflect that teaching experience is no longer acceptable as appraisal experience.

5. Sections RL 84.01 (6) and 85.02 (8), Code, are being repealed and recreated. These revisions are being made to reflect the changes to the requirements for distance education set forth in the Real Property Appraiser Qualification Criteria adopted by the Appraiser Qualifications Board of the Appraisal Foundation.

6. Section RL 86.01, Code, is being repealed because it is not consistent with the Competency Rule contained in USPAP. Section RL 86.01 (6), Code, states that a certified or licensed appraiser shall not offer to perform, nor perform, services which he or she is not competent to perform through education or experience. The Competency Rule provides that prior to accepting an assignment or entering into an agreement

to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently, or alternatively, must do all of the following:

- a. Disclose the lack of knowledge and/or experience to the client before accepting the assignment.
- b. Take all steps necessary or appropriate to complete the assignment competently.
- c. Describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

Fiscal Impact

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the

current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Submittal of proposed rules to the legislature

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

Commerce

(CR 01-044)

Ch. Comm 30 – Relating to fire department safety and health.

Insurance

(CR 01-074)

Ch. Ins 6 – Relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model.

Natural Resources

(CR 01-066)

Ch. NR 10 – Relating to the 2001 migratory game bird season.

Optometry Examining Board

(CR 01-060)

Ch. Opt 5 – Relating to contact lens prescription release by optometrists.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board

(CR 01-020)

Ch. SFC 4 – Relating to supervision of pre-certification supervised practice of social work.

Rule orders filed with the revisor of statutes bureau

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

Agriculture, Trade and Consumer Protection**(CR 01-021)**

An order affecting ch. ATCP 29, relating to pesticide license fee surcharges.

Effective 11-1-01

Insurance**(CR 00-133)**

An order affecting ch. Ins 3, relating to Medicare Supplement and Replacement Plans.

Effective 11-1-01

Insurance**(CR 01-050)**

An order affecting ch. Ins 50, relating to notes to financial statements.

Effective 11-1-01

Nursing**(CR 01-046)**

An order affecting chs. N 4 and 8, relating to the Nurse Licensure Compact.

Effective 11-1-01

Nursing**(CR 01-049)**

An order affecting chs. N 2 and 3, relating to the Nurse Licensure Compact.

Effective 11-1-01

Public Service Commission**(CR 01-033)**

An order affecting ch. PSC 185, relating to standards for water public utility service.

Effective 11-1-01

Workforce Development**(CR 00-182)**

An order affecting ch. DWD 14, relating to stale electronic food stamp accounts.

Effective 11-1-01

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **September 30, 2001** Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Agriculture, Trade and Consumer Protection (CR 01-028)

An order affecting chs. ATCP 1, 29, 30, 57, 91, 92, 98, 101, 109, 110, 111, 116, and 121, relating to minor remedial changes to department rules.

Part Effective 10-1-01

Part Effective 11-1-01

Final Regulatory Flexibility Analysis

This rule will have no effect on small businesses or local units of government.

Summary of Comments of Legislative Standing Committees

On June 12, 2001, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Labor and Agriculture and the Assembly Committee on Agriculture.

- The Assembly committee took no action on the rule during the review period.
- The Senate committee took no action on this rule during the review period.

Commerce (CR 00-159)

An order affecting chs. Comm 2, 5 and 20, relating to uniform dwelling code inspection agencies.

Effective 10-1-01 and 12-1-01

Final Regulatory Flexibility Analysis

Wisconsin statutes provide for a mandatory, statewide, uniform building code for one- and 2-family dwellings. The proposed rules under Clearinghouse Rule No. 00-159 are a means to provide for uniform inspection procedures for the construction of one- and 2-family dwellings. The statutory intent is to have uniform dwelling construction standards regardless of the size of the business engaged in construction or inspection. Therefore, no differentiation is considered based on the size of the firm involved.

Summary of Comments of Legislative Standing Committees

No comments received.

Elections Board (CR 00-153)

An order affecting ch. ElBd 2, relating to the filing of and challenges to nomination papers.

Effective 10-1-01

Final Regulatory Flexibility Analysis

This rule does not affect small businesses.

Health and Family Services (CR 01-051)

An order affecting ch. HFS 120, relating to the collection, analysis and dissemination of health care information.

Effective 10-1-01

Final Regulatory Flexibility Analysis

The proposed rules affect hospitals, freestanding ambulatory surgery centers and physicians. Six hospitals meet the s. 227.114 (1), Stats., definition of a "small business." In addition, the Department estimates that approximately 2,400 to 2,800 physician practices that would be required to submit data under these proposed rules have fewer than 25 employees. The Department does not have data from ambulatory surgery centers that allow an estimate of which centers may be characterized as "small businesses." Many centers are located at a medical clinic or hospital.

The proposed rules add a category of data associated with emergency departments to the data already periodically submitted by hospitals. Therefore, no new reporting or bookkeeping procedures or new professional skills are required for compliance with the proposed rule.

To accommodate entities that can meet the s. 227.114 (1), Stats., definition of a "small business," the rules propose applying a less stringent standard for a physician who does not currently submit electronic claims. In addition, the rule proposes that the Department may grant an exception to the data submission requirements for a physician who submits an affidavit of financial hardship and supporting evidence demonstrating financial inability to comply with the requirements of the rules.

Section 227.114, Stats., requires agencies to consider whether any of the following methods can be employed for reducing the effect of rulemaking orders on small businesses:

- Establishing less stringent compliance or reporting requirements;
- Establishing less stringent schedules or deadlines for compliance or reporting requirements;
- Consolidating or simplifying compliance or reporting requirements;
- Establishing performance standards to replace design or operational standards required in the rule; and
- Exempting small businesses from any or all requirements of the rule.

With respect to hospitals meeting the definition of "small business," the Department cannot do any of the preceding because doing so would be impractical insofar as it would negate the Department's ability to create a timely and complete set of emergency department data.

Summary of Comments of Legislative Standing Committees

No comments were received.

Health and Family Services (CR 01-052)

An order affecting ch. HFS 110, relating to licensing of ambulance service providers and licensing of emergency medical technicians—basic and emergency medical technicians—basic IV.

Effective 10-1-01

Final Regulatory Flexibility Analysis

The rule changes will not affect small businesses as defined in s. 227.114 (1) (a), Stats.

Summary of Comments of Legislative Standing Committees

No comments were received.

Hearings and Appeals (CR 01-018)

An order affecting ch. HA 2, relating to the revocation of extended supervision of persons serving a bifurcated sentence.

Effective 10-1-01

Final Regulatory Flexibility Analysis

These rules affect procedures before administrative law judges in revocation hearings and do not impact small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

Insurance (CR 01-035)

An order affecting ch. Ins 17, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2001.

Effective 10-1-01

Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments were received.

Public Service Commission (CR 00-138)

An order affecting ch. PSC 167, relating to extended area telephone service.

Effective 10-1-01

Final Regulatory Flexibility Analysis

The proposed rules would apply to the entities defined in ch. 196, Stats. This includes small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. (There are 76 small telecommunications utilities in Wisconsin.) However, these

rules only come into effect if a petition for EAS is filed and certain threshold requirements on calling volumes are met. The agency has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small businesses. However, this rule does not impose any new compliance requirements or any new reporting, bookkeeping, or other procedural compliance requirements other than requiring that customer ballots not be included with bills. This rule basically codifies current practice. Therefore, the impact reduction methods are not really applicable.

Summary of Comments of Legislative Standing Committees

No comments were received.

Transportation (CR 01-040)

An order affecting ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Effective 10-1-01

Final Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Summary of Comments of Legislative Standing Committees

No comments were received.

Transportation (CR 01-065)

An order affecting ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Effective 10-1-01

Final Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Summary of Comments of Legislative Standing Committees

No comments were received.

Workforce Development (CR 01-039)

An order affecting ch. DWD 128, relating to unemployment insurance requirement of ability to work and availability for work.

Effective 10-1-01

Final Regulatory Flexibility Analysis

The proposed rules have no significant impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments of Legislative Standing Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **September 2001**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Agriculture, Trade and Consumer Protection:

Ch. ATCP 1

- S. ATCP 1.31 (2)
- S. ATCP 1.32 (1)

Ch. ATCP 30

- S. ATCP 30.30 (17)

Ch. ATCP 82

- S. ATCP 82.04 (3)

Ch. ATCP 92

- S. ATCP 92.01 (1) to (15)
- S. ATCP 92.04 (entire section)

Ch. ATCP 98

- S. ATCP 98.08 (1) (b) and (3) (c)
- S. ATCP 98.22 (2) (a)

Ch. ATCP 110

- S. ATCP 110.02 (3) (d) and (7) (c)
- S. ATCP 110.05 (2) (intro.)

Ch. ATCP 116

- S. ATCP 116.01 (10)

Ch. ATCP 118

- S. ATCP 118.02 (2) (b)

Ch. ATCP 121

- S. ATCP 121.02 (entire section)

Commerce:

(Fee Schedule, Ch. Comm 2)

Ch. Comm 2

- S. Comm 2.34 (1) to (3)

(Licenses, Certifications, etc., Ch. Comm 5)

Ch. Comm 5

- S. Comm 5.003 (48m)
- S. Comm 5.02 Table 2 (lines 37 to 66)
- S. Comm 5.06 Table 5.06 (lines 37 to 66)
- S. Comm 5.635 (entire section)

(Uniform Dwelling, Chs. Comm 20-25)

Ch. Comm 20

- S. Comm 20.02 (entire section)
- S. Comm 20.06 (1) and (3)
- S. Comm 20.07 (60m) and (75m)

S. Comm 20.08 (entire section)

S. Comm 20.09 (1) to (3), (4) (intro.), (5), (6) (intro.) and (b) and (8)

S. Comm 20.10 (1) (intro.), (a) and (c)

S. Comm 20.11 (entire section)

Ch. Comm 21

S. Comm 21.18 (1) (b), (c) and (d) and (2) (a) and Tables 21.18-A to -F.

Elections Board:

Ch. ElBd 2

- S. ElBd 2.05 (2), (4) and (14) to (18)
- S. ElBd 2.07 (2)

Health and Family Services:

(Health, Chs. HFS 110--)

Ch. HFS 110

- S. HFS 110.02 (entire section)
- S. HFS 110.03 (25), (42m) and (54)
- S. HFS 110.04 (1) (b)
- S. HFS 110.05 (4) (b)
- S. HFS 110.06 (2m) and (3) to (5)
- S. HFS 110.07 (1) (c) and (3) (b)
- S. HFS 110.09 (1) (intro.), (2) (a) and (6)

Ch. HFS 120

- S. HFS 120.03 (9m)
- S. HFS 120.04 (2) (intro.) and (3) (a)
- S. HFS 120.07 (entire section)
- S. HFS 120.09 (3) (a)
- S. HFS 120.10 (1)
- S. HFS 120.11 (1) and (3) (d)
- S. HFS 120.12 (5) (b) and (g), (5m) and (6) (c) and (h)
- S. HFS 120.13 (2) (d) and (7) (a)
- S. HFS 120.14 (1) (b)
- S. HFS 120.22 (2) (intro.)
- S. HFS 120.31 (3) (c)

Hearings and Appeals, Division of:

Ch. HA 2

- S. HA 2.01 (entire section)
- S. HA 2.02 (8)
- S. HA 2.05 (1) (g) and (h) and (7) (d) and (f) to (i)

Insurance, Commissioner of:

Ch. Ins 17

- S. Ins 17.01 (3) (intro.)
- S. Ins 17.28 (6) and (6a)

Public Service Commission:

- Ch. PSC 167**
 S. PSC 167.02 (1m)
 S. PSC 167.08 (1) to (3)

Transportation:

- Ch. Trans 276**
 S. Trans 276.07 (6) and (10)

Workforce Development:**(Unemployment Insurance, Chs. DWD 100–150)**

- Ch. DWD 128**
 S. DWD 128.01 (2) (b)
 S. DWD 128.02 (1) (a) and (3)

Editorial corrections

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

Agriculture, Trade and Consumer Protection:

- Ch. ATCP 92**
 S. ATCP 92.05 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Financial Institutions—Banking:

- Ch. DFI–Bkg 41**
 SS. DFI–Bkg 41.01 (intro.) and 41.02 (intro.) each had a correction made under s. 13.93 (2m) (b) 7., Stats.

Hearings and Appeals, Division of:

- Ch. HA 3**
 S. HA 3.01 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Insurance, Commissioner of:

- Ch. Ins 26**
 SS. Ins 26.05 (1) (f) and 26.06 (1) (a) each had a correction made under s. 13.93 (2m) (b) 7., Stats.

Justice:

- Ch. Jus 8**
 SS. Jus 8.01 to 8.04 (entire sections) had corrections made under s. 13.93 (2m) (b) 7., Stats.
 SS. Jus 8.06 to 8.11 (entire sections) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. Jus 9

- S. Jus 9.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. Jus 9.03 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. Jus 9.04 (1) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.
 S. Jus 9.08 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Jus 10

- S. Jus 10.03 (7) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Jus 11

- S. Jus 11.07 (7) and (8) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. Jus 12

- S. Jus 12.01 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. Jus 12.02 (5) (n) and (15) (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Labor and Industry Review Commission:**Ch. LIRC 1**

- S. LIRC 1.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. LIRC 2

- S. LIRC 2.03 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. LIRC 4

- SS. LIRC 4.01 (intro.) and 4.04 (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Natural Resources:**(Environmental Protection—General, Chs. NR 100—)****Ch. NR 113**

- S. NR 113.07 (1) (e) and (g) and (2) (b) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
 SS. NR 113.10 (2) (g) and 113.14 (3) each had a correction made under s. 13.93 (2m) (b) 7., Stats.

Errata

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

Commerce:**(Uniform Dwelling Code, Chs. Comm 20–25)****Ch. Comm 21**

- S. Comm 21.03 (6) (e) was reprinted to correct a printing error.

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
Trans 128.09 (1) (a)	218.01 (1) (a)	218.0101 (23)
Trans 277.02 (19)	144.01 (19)	281.01 (18)
Trans 277.04 (3) (a) 2. and Note	Ch. 147	Ch. 283
Trans 277.07 (1)	66.122	66.0119
Trans 277.11 (2)	227.01 (2) (a)	227.01 (3) (a)
Trans 401.01 (2)	144.01	281.01
Trans 401.01 (2)	ch. 144 or 147	ch. 281 or 283
Trans 401.04 (19)	147.015 (13)	283.01 (13)
Trans 401.04 (36)	144.01 (19)	281.01 (18)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 21. Relating to directing the Public Service Commission to redirect funds intended to provide voice mail services for the homeless.

Executive Order 22. Relating to a special election for the forty-second assembly district.

Executive Order 23. Relating to a proclamation that the Flag of the United States and the Flag of the State of Wisconsin be flown at half-staff due to terrorist attacks on the United States.

Executive Order 24. Relating to the Governor's Pardon Advisory Board.

Executive Order 25. Relating to Executive Order No. 23, the proclamation that the Flag of the United States and the Flag of the State of Wisconsin be flown at half-staff due to terrorist attacks on the United States.

Executive Order 26. Relating to Executive Order No. 23, the proclamation that the Flag of the United States and the Flag of the State of Wisconsin be flown at half-staff due to terrorist attacks on the United States.

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