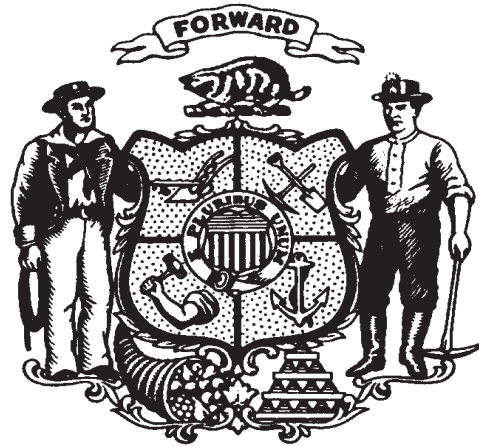


# Wisconsin Administrative Register

No. 550



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## Emergency rules now in effect

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

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

*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](http://www.legis.state.wi.us/rsb/code).*

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### 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  
**Extension Through:** November 21, 2001

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### 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

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### Health & Family Services (2)

#### (Community Services, Chs. HFS 30–)

1. 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

- Rules adopted revising **ch. HFS 90**, relating to early intervention services for children birth to 3 with developmental needs.

#### **Finding of emergency**

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the health and welfare of children receiving early intervention services under the Wisconsin

"Birth to 3 Program." The facts constituting the emergency are as follows:

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. Qualifying children in each county are entitled to receive needed services. While counties may assess parents of children receiving early intervention services a share of those service costs, counties ultimately are responsible for the costs of providing such services. Since counties' cost exposure for Birth to 3 program costs is unlimited, unanticipated increases in a county's costs may result in a county suspending program services due to a lack of funding. Even though such cessations are illegal, one county indeed suspended the provision of needed services within the past year. By the time the Department was able to reinstate services in the county, enrolled children were deprived of needed services for several months. Given the negative effect such service cessations could have on children with disabilities, the Department needs to immediately alleviate the cost burden on counties by increasing the share of service costs parents must bear. In doing so, the Department will preserve the continuity of early intervention services.

The Department is also proceeding with the promulgation of the body of rules contained in this order as proposed permanent rules that will remain in effect when this emergency order expires. The full basis for the changes made by these orders is explained below:

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's modifications to ch. HFS 90 have two results. First, since ch. HFS 90 no longer cross-references 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 becomes mandatory. Second, the method of determining parents' share of the costs of needed services is simplified and standardized statewide and is based on the relationship of families' incomes to the federal poverty threshold.

The rules 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's use of the federal poverty threshold, as revised annually, is a benchmark against which families' adjusted incomes are compared to determine the parental cost share liabilities. Under this system, the Department projects that the number of families required to share in the early intervention service costs will 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 previous 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 will be exempt from cost sharing under the proposed formula and about 3,100 families will have a liability for a cost share.

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

**Publication Date:** September 26, 2001  
**Effective Date:** October 1, 2001  
**Expiration Date:** February 28, 2002

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## 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

### Natural Resources – (3)

(Fish, Game, etc., Chs. NR 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

- 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

- 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

### Volunteer Fire Fighter and Emergency Medical Technician Service Award Board

Rules adopted creating ch. VFF-EMT 1, relating to the length of service award program.

#### Exemption from finding of emergency

(Section 10 (3) (a), 1999 Wis. Act 105.)

#### Analysis prepared by the Department of Administration:

Statutory authority: ss. 16.004 (1) and 16.25 (2), (3), (4) and (5), Stats.

Statutes interpreted: s. 16.25 *et seq.*, Stats.

Pursuant to section 16.25 (2) through (5), Stats., the Volunteer Fire Fighter and Emergency Medical Technician Service Award Board ("Board") is required to establish by rule a program ("Length of Service Awards Program" or "Program") to provide length of service awards, as described in 26 USC 457 (e) (11), to volunteer firefighters ("VFF") and municipalities that operate volunteer fire departments or contract with volunteer fire companies, and to volunteer emergency medical technicians ("EMT"). To the extent permitted by federal law, the Program is to be designed to treat length of service awards as a tax-deferred benefit under the Internal Revenue Code. The rules are to include design features for the Program, the requirements for and the qualifications of private sector entities that are eligible to provide administrative services and investment plans under the Program, and an appeal. Significant features of the rule are addressed below:

Section VFF-EMT 1.04 describes eligibility requirements for municipalities wishing to participate in the program, such as adopting a resolution or ordinance authorizing

participation, developing standards for determining the service required of the individuals it sponsors in order to qualify for municipal contributions and providing for circumstances where municipalities wish to jointly operate, or contract with, the same volunteer fire department or volunteer fire company.

Section VFF-EMT 1.05 sets forth requirements and procedures for municipal contributions made on behalf of eligible volunteers, and for the state's matching contribution (up to \$250 per eligible individual annually).

Section VFF-EMT 1.06 sets forth the parameters for municipal contributions for prior service rendered before the municipality began participating in the Program. The minimum contribution for prior service is set at \$100, and those contributions may spread over a number of years. A separate accounting is required for these prior service payments.

Section VFF-EMT 1.07 sets forth the Program's vesting requirements and the various permutations possible between full and partial vesting periods and the minimum age requirement (age 60) for payout. Section VFF-EMT 1.07 (1) establishes that 20 years service is required to fully vest and, upon reaching age 60, the award must be paid. (This requirement insures that the benefit maintains its tax deferred status.) Section VFF-EMT 1.07 (2) provides that a fully vested individual age 60 or older may continue to provide service toward a new length of service award under a new account but, for IRS rule purposes, contributions must be paid immediately and cannot accumulate. Section VFF-EMT 1.07 (3) provides for partial vesting after 10 years' service. Should the individual perform more than 10 but less than 20 years' service, upon reaching age 60, he or she will receive only 50% of the net asset value of the benefit account for the first 10 years of service rendered, and an additional 5% for each year thereafter, up to 19 years. Section VFF-EMT 1.07 (7) allows an individual to provide simultaneous service to two or more separate municipalities but, in such cases, only one year of service credit may be earned.

Section VFF-EMT 1.09 details the notice and procedure for when a VFF-EMT ceases performing service for one participating municipality and begins performing service for

another municipality, which utilizes a different program administrator or vendor. Such a transfer is allowed, but the account will be frozen and a new one started with the new program administrator. However, any accumulated years of credited service will continue to count toward the vesting requirements. Section VFF-EMT 1.10 allows for benefits to be received both upon disability, or to the beneficiaries upon death of the VFF-EMT.

Section VFF-EMT 1.12 sets forth minimum program administrator qualifications. These include five years of experience providing a length of service award program, adequate marketing and enrollment services capabilities, various accounting and record keeping procedures and abilities, membership in good standing in various organizations customary in the program administrator's or investment manager's industry that provides protection against loss, and overall financial strength.

Section VFF-EMT 1.13 provides for the administration of plans offered by a program administrator under a contract with the Board, and standard provisions to be included. These include compliance with all pertinent state and federal statutes, rules and regulations, mandatory full disclosure to the Board of all fees and commissions earned directly and indirectly on the operations of the program, audits, and data processing system failure and administrative service interruption contingency plans. Also important are the required annual statements to participating municipalities and the individuals they sponsor, detailing all contributions made and the fees commissions, and charges paid that affect the individual's account.

Section VFF-EMT 1.17 provides for a two-step appeals process in which a VFF-EMT may first protest service credit issues to the participating municipality, which may consult with the program administrator. Any decision of the municipality may be reviewed at the Board's discretion. An individual who has a substantial interest affected by a Board decision may appeal directly in writing to the Board. All Board decisions are final.

**Publication Date:** September 21, 2001  
**Effective Date:** September 21, 2001  
**Expiration Date:** February 18, 2001

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## Scope statements

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### Commerce

#### Subject

*Objective of the proposed rule.* To update the Department's criteria in ch. Comm 110 for awarding grants for brownfields redevelopment to be consistent with associated statutory changes that were enacted in 2001 Wis. Act 16, and to update the requirements for applying for the grants.

#### Policy analysis

Section 560.13 (6), Stats., requires the Department to promulgate rules that establish criteria for awarding grants under the section for brownfields redevelopment or associated environmental remediation. These rules are currently in chapter Comm 110, which also includes requirements for applying for the grants, the conditions of required contracts with the Department, limitations on use of the grant funds, and requirements for submitting financial audits and program reports.

2001 Wis. Act 16 modified section 560.13, Stats., by (1) expanding the listing of eligible applicants to include trustees and nonprofit organizations, and (2) prohibiting use of any grant funds to pay either delinquent real estate taxes or lien claims of the Department of Natural Resources or the federal Environmental Protection Agency.

The proposed changes to ch. Comm 110 would (1) modify the definitions to match the statutory listing of eligible applicants, (2) expand the limitations on use of grant funds to include the statutory prohibition relating to delinquent taxes or lien claims, and (3) update several aspects of the application procedure that have evolved since the chapter was initially created as an emergency rule in 1997.

The alternative of not updating ch. Comm 110 to match the changes in 2001 Wis. Act 16 would result in unworkable conflicts between the chapter and the overriding statute.

#### Statutory authority

Section 560.13 (6), Stats.

#### Staff time required

The Department estimates approximately 100 hours will be needed to develop the rule changes. This time includes drafting the changes and processing them through public hearings, legislative review, and adoption. The Department will assign existing staff to develop the rule changes, and no other additional resources will be needed.

### Elections Board

#### Subject

*Objective of the proposed rule.* To create ch. ElBd 9 establishing the method by which an elector's ballot is challenged at a polling place and the method by which the elector's eligibility to vote is tested.

#### Policy analysis

Section 6.92, Stats., requires the State Elections Board to promulgate a rule establishing the questions that are to be asked an elector whose ballot is challenged at the polling place on election day. ch. ElBd 9 ballot challenges is the Board's response to that requirement. Ch. ElBd 9 will set forth the

bases for a challenge, the procedure for a challenge and the questions that may be asked an elector to test his or her eligibility to vote.

#### Statutory authority

Sections 5.05 (1) (f) and 227.11 (2) (a), Stats.

#### Staff time required

8 hours of staff time.

### Insurance

#### Subject

*Objective of the proposed rule.* To comply with the legislative mandate of 2001 Wis. Act 16 that the commissioner promulgate rules specifying the manner in which rates must be published under new s. 635.12, Stats.

#### Policy analysis

This is a new rule and policies have yet to be developed, the legislative mandate evinces a policy that such rates shall be published annually.

#### Statutory authority

Sections 601.41, 635.05 (7) & 635.12, Stats.

#### Staff time required

40 hours.

### Natural Resources

#### Subject

*Objective of the proposed rule.* The department plans to propose a rule, ch. NR 148 which would consolidate requirements for facilities and laboratories – reporting data to the agency.

#### Policy analysis

The department has identified several inconsistencies in data reporting requirements. These inconsistencies have made it difficult for the department's customers to understand and follow applicable Administrative Rule requirements. Traditionally, the department has relied on paper reporting mechanisms and current administrative rules reflect that mode of operation. Electronic reporting mechanisms will provide an opportunity to increase efficiency and reduce errors; however, department rules need updating to allow for electronic transmittals. The department will begin the administrative rule drafting process to consolidate and bring consistency, where possible, to data reporting requirements and to provide a regulatory foundation for electronic data reporting. In most cases, the information provided with reported results is inadequate to determine the quality of the data and limits its utility for decision-making. This rule making effort will affect all DNR environment programs, regulated facilities, and laboratories which report data to the department comprehensive changes to data reporting requirements will be made for all department rules at one time as part of this proposed rule package.

#### Statutory authority

Chapters 280, 281, 283, 285, 289, 291, 292 and 299, Stats.

#### Staff time required

510 hours.



## Natural Resources

### Subject

*Objective of the proposed rule.* Revision of NR 150, Environmental Analysis and Review Procedures for Department Actions.

### Policy analysis

Ch. NR 150, the department's rule guiding implementation of the Wisconsin Environmental Policy Act (WEPA) was last comprehensively updated in 1987. Significant changes have taken place since then with respect to the department's statutory authorities and the extent to which the department has incorporated the elements of the environmental analysis (WEPA) process into its various resource planning, management and permit review procedures. In addition, the department has many more years of experience to help shape its understanding of the potential environmental effects and level of public interest attendant to its resource management and regulatory activities. These changes necessitate revisions to NR 150. A primary goal of the revision process will be to further streamline the department's procedures by eliminating duplicative and unproductive work and increasing the department's focus on cumulative and ecosystem-level environmental effects.

### Statutory authority

Section 1.11, Stats.

### Staff time required

130 plus hours.

## Pharmacy Examining Board

### Subject

To implement and administer a pharmacy internship program.

*Objective of the proposed rule.* To implement and administer a pharmacy internship program to reflect recent statutory amendments to s 450.04 (3) (b), Stats, effective December 31, 2001.

### Policy analysis

Currently, no board rules exist to specify the requirements for the implementation and administration of a pharmacy internship program and establish necessary procedural and substantive guidelines for such a program.

### Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 450.03 (3), Stats.

### Staff time required

100 hours.

## Pharmacy Examining Board

### Subject

To allow practitioners and pharmacists to better meet legitimate patient need, not inconsistent with federal controlled substances prescription rules.

*Objective of the proposed rule.* Current requirements of s. Phar 8.05 (5) for the dispensing of prescription orders provides that no pharmacy, individual practitioner or other DEA registered dispenser may dispense at any one time, and no individual practitioner may prescribe for dispensing at any one time, a controlled substance in any quantity exceeding a 34-day supply, except that up to a 90 day supply of any

schedule III or IV anticonvulsant substance as determined by the directed dosage and frequency of dosage, may be prescribed and dispensed at one time. The proposed rule modification would make this section consistent with federal dispensing law.

### Policy analysis

Removing the 34-day restriction currently contained in s. Phar 8.05 (5), will better meet legitimate patient need in instances where a proper course of treatment as determined by a practitioner necessitates ongoing drug therapy such that dispensing a greater supply of any controlled substance will promote efficiency and continuity of treatment as well as patient convenience. The modification of this rule will therefore allow pharmacists and practitioners to more fully exercise their professional judgment in prescribing and dispensing of controlled substances.

### Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a), (d) and (e), and 961.31, Stats.

### Staff time required

100 hours.

## Pharmacy Examining Board

### Subject

To allow the board to grant a variance from the requirement of a pharmacy to have a centrally monitored alarm system in the pharmacy or the immediate physical structure within which the pharmacy is located.

*Objective of the proposed rule.* To provide greater flexibility to pharmacies in meeting the security requirements of s. Phar 6.08 consistent with the public health, safety and welfare.

### Policy analysis

Currently, s. Phar 6.08 requires a pharmacy to have a centrally monitored alarm system in the pharmacy or the immediate physical structure within which the pharmacy is located. Depending upon the physical structure or location of the pharmacy, other means may be available to provide for security of the pharmacy consistent with the public health, safety and welfare. Providing pharmacies a means to seek a variance from the requirements of s. Phar 6.08 will allow legitimate alternate methods of achieving security to be scrutinized and approved by the board.

### Statutory authority

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

### Staff time required

100 hours.

## Public Instruction

### Subject

1999 Wis. Act 9 and 2001 Wis. Act 16, Technical Changes.

### Policy analysis

The department proposes to make the following technical rule modifications:

- Chapter PI 10, relating to supplemental aid for school districts with a large area, has been modified to change school district eligibility criteria under the grant program. The chapter is amended to be consistent with the statutory changes made to s. 115.435, Stats., pursuant to 2001 Wis. Act 16.

- Chapter PI 12, relating to the Wisconsin School for the Deaf and the Wisconsin School for the Visually Handicapped, has been modified to replace the “Wisconsin School for the Visually Handicapped” with the “Wisconsin Center for the Blind and Visually Impaired.” The school name has been replaced to be consistent with the statutory name changes made under Subch. III of Ch. 115 pursuant to 1999 Wis. Act 9.

- Chapter PI 37, relating to national teacher certification grants, has been modified to eliminate the requirement that a person be a resident of this state in order to receive a grant.

These rule modifications bring an existing rule into conformity with a statute that has been changed or enacted and are considered technical. Therefore, pursuant to s. 227.16 (2) (b), Stats., the department will not hold public hearings regarding these rules.

#### **Statutory authority**

Sections 227.11 (2) (a), 227.16 (2) (b), 115.42 (4) and 115.435 (3), Stats.

#### **Staff time required**

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed in creating the rule language, itself, will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

## **Public Instruction**

### **Subject**

School start date.

### **Policy analysis**

2001 Wis. Act 16 requires school boards to start a school term after September 1 unless it submits a request to the Department of Public Instruction stating the reasons they would like the school term to start earlier. The department may grant a request only if it determines there are extraordinary reasons for granting it. The department is required to promulgate rules to implement and administer this provision:

### **Statutory authority**

Sections 118.045 (3) and 227.11 (2) (a), Stats.

### **Staff time required**

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed in creating the rule language, itself, will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

## **Public Instruction**

### **Subject**

1999 Wis. Act 9 and 2001 Wis. Act 16, Technical Changes.

### **Policy analysis**

Elimination of obsolete rules:

The department proposes to repeal the following rule chapters because of the elimination or modification of statutory language relating to these chapters:

- Chapter PI 23, relating to the youth initiatives program. This chapter will be repealed since the youth initiatives program under s. 115.28 (21), Stats., was eliminated June 30, 1996, pursuant to 1995 Wis. Act 27.

- Chapter PI 33, relating to academic excellence higher education scholarships. This chapter will be repealed since the program is no longer required by statute to be jointly implemented by both the Higher Educational Aids Board (HEAB) and the department. Current statutes, pursuant to 1993 Wis. Act 457, require the program to be implemented by HEAB only.

- Chapter PI 39, relating to collaborative projects. This chapter will be repealed since the grants for collaborative projects under s. 115.28 (35), Stats., was eliminated June 30, 1996, pursuant to 1995 Wis. Act 27.

- Chapter PI 43, relating to reporting of pupils attending technical college districts. This chapter will be repealed since the reporting requirement under s. 115.28 (38), Stats., was eliminated pursuant to 1995 Wis. Act 27.

The elimination of these chapters is technical because the statutes no longer exist for the rule to interpret or implement. Therefore, pursuant to s. 227.16 (2) (b), Stats., the department will not hold public hearings regarding these rules. The department no longer collects information, requires data, or distributes funds that are affected by these rule chapters. Therefore, an initial applicability clause is not necessary.

### **Statutory authority**

Sections 227.11 (2) (a), 227.16 (2) (b), Stats.

### **Staff time required**

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed in drafting the language to repeal the rule chapters will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

## **Regulation and Licensing**

### **Subject**

Training requirements certificates for individuals to carry a firearm while on duty as a private security person and relating to the approval of firearms proficiency certifiers.

*Objective of the Rule.* To clarify issues relating to applicants for a firearms permit who have received equivalent firearms training, and relating to the approval of firearms proficiency certifiers who have received equivalent firearms instructor training.

### **Policy analysis**

The current rules recognize 30 hours of equivalent training that a person may have received in another state, provided that the training was obtained 5 years prior to applying for a firearms permit and that the person was authorized by another licensing jurisdiction or governmental agency to carry a firearm while on duty as a peace officer, a person who standards watch for security purposes or as a private detective.

Section RL 34.04 (2) (a) 3. permits the department to approve a person as a firearms proficiency certifier who has, on or after January 1, 1995, been approved as a firearm instructor by the Wisconsin Law Enforcement Standards Board or by the National Rifle Association, provided the person takes a 6-hour refresher course offered by one of Wisconsin's vocational technical colleges that has been approved by the Wisconsin Law Enforcement Standards Board.



The new policy would accept, as equivalent firearms training, that training that was obtained by a current or former peace officer within 5 years preceding application for a firearms permit. The new policy would permit the vocational technical colleges that have been approved by the Wisconsin Law Enforcement Standards Board, as well as other qualified schools to offer the complete firearms instructor course and the 6-hour instructor refresher course.

**Statutory authority**

Sections 227.11 (2) and 440.26 (3m), Stats.

**Staff time required**

100 hours.

**Revenue****Subject**

Sections Tax 11.11 and 12.40 – relating to application procedures for property tax exemptions for waste treatment facilities. *Objective of the proposed rule.* To comply with the changes made to s. 70.11 (21), Stats., that eliminate the exemption application requirement for waste treatment property taxed under ch. 70.

**Policy analysis**

Section Tax 12.40 (2) specifies the application and

approval process for the industrial waste treatment property tax exemption. Sections Tax 11.11 (2) and (5) (c) specify that industrial waste treatment property qualifies for sales and use tax exemptions if it has been approved as exempt from the property tax.

Under 2001 Wis. Act 16, owners of industrial waste treatment facilities will no longer be required to apply to the Department of Revenue (DOR) for property tax exemptions; the application process would continue to be required for property taxed under ch. 76, Stats. This change requires that ss. Tax 12.40 (2) and 11.11 (2) and (5) (c) be amended to eliminate reference to the DOR approval process for industrial property taxed under ch. 70, Stats.

No new policies are being proposed other than to reflect changes made in 2001 Wisconsin Act 16. The standards and uses required for the property and the sales and use tax exemptions for industrial waste treatment property are unchanged.

**Statutory authority**

Sections 77.61 (9) and 227.11 (2), Stats.

**Staff time required**

The department estimates it will take approximately 80 hours to develop this rule order.

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## Submittal of rules to legislative council clearinghouse

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

### Chiropractic Examining Board

#### Rule Submittal Date

On October 9, 2001, the Chiropractic Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order relates to parapsychological space and the practice of chiropractic.

#### Agency Procedure for Promulgation

A public hearing is required and will be held on November 15, 2001 at 9:45 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI, 53702.

#### Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

### Health and Family Services

#### Rule Submittal Date

On September 26, 2001, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 146.50 (4) (c), (5) (b), (6) (b) 2., (6n) and (13) and 250.04 (7), Stats.

The proposed rule-making order relates to ch. HFS 111, licensing of emergency medical technicians-intermediate and approval of emergency medical technician-intermediate operational plans.

The Department of Health and Family Services licenses emergency medical technicians-intermediate (EMTs-intermediate) and approves the operational plans that counties, cities, towns, villages and hospitals propose for using EMTs-intermediate to deliver emergency medical care. The Department's rules are in ch. HFS 111, Wis. Adm. Code. No individual may perform the duties of an EMT-intermediate unless licensed by the Department.

This rulemaking order modifies ch. HFS 111, Wis. Adm. Code, to reflect changes in the practice of emergency medical services since the chapter was last revised. These changes result from extensive discussions with the EMS Advisory Board and EMS Physician Advisory Committee and other interested parties. Significant changes to the chapter include use of the term "interfacility" to distinguish between facilities and prehospital 911 care; clarification regarding the term

"medical director;" raising the minimum number of hours required for EMT-intermediate coursework from 100 hours to 400 hours; and expanding the scope of practice to keep it consistent with the national EMT-intermediate curriculum. The updating also adds license renewal requirements for EMT instructor-coordinators and gives medical directors the authority to remove an EMT's medical authority to practice if the medical director believes the EMT's training, skills, ability or judgment is sufficiently deficient or impaired. The Department also discussed educational modifications with the Education Committee of the EMS Board, which includes representation from the Wisconsin Technical College System.

#### Agency Procedure for Promulgation

Public hearings are scheduled for November 12 and 13, 2001.

#### Contact Person

Jon Morgan, 266-9781

### Natural Resources

#### Rule Submittal Date

On October 12, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 29.014, 29.041, 29.519 and 227.11 (2) (a).

The proposed rule-making order relates to ch. NR 25, commercial fishing in Lake Michigan and Lake Superior.

#### Contact Person

William Horns, 266-8782

### Public Instruction

#### Rule Submittal Date

On October 12, 2001, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

#### Analysis

The proposed rule amends ch. PI 25, relating to children at risk of not graduating from high school.

Public hearings will be scheduled.

#### Contact Person

The Division for Academic Excellence is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Beth Lewis, Children at Risk Coordinator, at 608/267-1062.

**Transportation****Rule Submittal Date**

On October 5, 2001, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

**Analysis**

Statutory Authority: s. 85.095, Stats.

The proposed rule-making order relates to ch. Trans 28, Harbor Assistance Program.

**Agency Procedure for Promulgation**

Notice of intent to adopt rule without public hearing under s. 227.16, Stats.

**Contact Person**

Julie A. Johnson, Paralegal, 266-8810.

**Transportation****Rule Submittal Date**

On October 15, 2001, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

**Analysis**

Statutory Authority: ss. 85.16 (1) and 110.075, Stats.

The proposed rule-making order relates to ch. Trans 305, standards for vehicle equipment.

**Agency Procedure for Promulgation**

A public hearing is scheduled for November 15, 2001.

**Contact Person**

Julie A. Johnson, Paralegal, 266-8810.

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## Rule-making notices

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### Notice of Hearing

#### Agriculture, Trade and Consumer Protection [CR 01-114]

(reprinted from 10-15-01 Wis. Adm. Register)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed amendment to chapter ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides. The hearing will be held at the time and place shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearing, the hearing record will remain open until November 16, 2001, for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4502. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearing. Please make reservations for a hearing interpreter by **October 19, 2001**, by writing to Bruce Rheineck, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4502. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

The hearing is scheduled on:

#### **Tuesday November 6, 2001**

afternoon session: 1:00 p.m. until 3:30 p.m.

evening session: 6:30 p.m. until 8:00p.m.

Great Wolf Lodge

I-90/94 & Hwy 12

Grey Wolf Room

Wisconsin Dells, WI 53965

Handicapped accessible

#### **Analysis prepared by the Department of Agriculture, Trade and Consumer Protection**

Statutory authority: ss. 93.07 (1), 94.69 (1), 160.19 (2), and 160.21 (1), Stats.

Statutes interpreted: ss. 94.69, 160.19 (2) and 160.21 (1), Stats.

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards. Based on new groundwater test data, this rule expands a current atrazine prohibition area and merges two others into a larger prohibition area.

#### **Atrazine Prohibition Areas**

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 103 designated areas, including major prohibition areas in the

lower Wisconsin river valley and much of Dane and Columbia counties.

This rule enlarges one current prohibition area and merges two others into a larger prohibition area. This will increase the statewide acreage of atrazine prohibition areas by about 11,300 acres. This rule includes maps describing the revised prohibition areas.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface which complies with s. ATCP 29.45, Wis. Adm. Code.

#### **Fiscal Estimate**

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 1 existing prohibition area (PA), and merging two other PAs into one larger PA.

Administration and enforcement of the proposal will involve new costs for the department. Specialist and field investigator staff time will be needed for inspections and enforcement in the new PAs (0.1 FTE, cost approximately \$4,000). Enforcement activities will be conducted in conjunction with current compliance inspections but at increased levels to ensure compliance with the additional prohibition areas. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants in the PAs require education to comply with the new regulations.

Soil sampling conducted in the additional PAs to determine compliance with the rules will require an estimated \$750 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to produce and distribute the informational materials will be \$750.

Total Annual Costs: \$5,500

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short term increased interest by individuals requesting samples.

The rule does not mandate that local government resources be expended on sample collection, rule administration or enforcement. The rule is therefore not expected to have any fiscal impact on local units of government. County agricultural agents will likely receive requests for information on provisions of the rule and on weed control strategies with reduced reliance on atrazine. This responsibility will probably be incorporated into current extension programs with no net fiscal impact.

#### **Initial Regulatory Flexibility Analysis**

Businesses Affected:

The amendments to ATCP 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition area contains approximately 11,300 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 2,825 acres of corn will be affected. Between 10 and 30 producers

would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

**Reporting, Recordkeeping and Other Procedures Required for Compliance:**

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10 Wis. Adm. Code.

**Professional Skills Required to Comply:**

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

#### **Draft Environmental Impact Statement**

The Department has prepared a draft environmental impact statement (EIS) for proposed 2002 amendment to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI, 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until November 16, 2001.

## **Notice of Hearing**

### **Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors**

**[CR 01-092]**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 443.06 (2) (am), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to amend s. A-E 6.04 (2) (b), relating to the number of required semester credits in land surveying for an applicant applying with a bachelor's degree in civil engineering.

#### **Hearing Date, Time and Location**

**Date:** November 12, 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 25, 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) and 227.11 (2), Stats.

Statute interpreted: s. 443.06 (2) (am), Stats.

Current rules of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors require a land surveyor applicant applying with a degree in civil engineering of not less than 4 years duration from a college or university, to have only 12 credits in courses concentrating on land surveyor education. The proposed rule will require a candidate to complete core land surveying courses that the Land Surveyors Section deems necessary as the minimal competency educational standard for the protection of the health, safety and welfare of the citizenry of Wisconsin.

#### **Text of Rule**

SECTION 1. A-E 6.04 (2) (b) is amended to read:

A-E 6.04 (2) (b) Received a bachelor's degree in civil engineering of not less than 4 years duration from a college or university accredited by a regional accrediting agency approved by the state where the college or university is located. The curriculum shall include no less than ~~12~~ 24 ~~semester~~ credits in courses concentrating on the legal principles of land surveying and the technical aspects of land



surveying. These courses shall include areas of study such as research of public and private records, principles of evidence and the interpretation of written documents used in boundary determination, the study of the legal elements of land surveying including those involving resurveys, boundary disputes, defective descriptions, riparian rights and adverse possession, the study of the professional and judicial functions of a land surveyor, the study of surveying methods for measuring distance and angular values, note keeping, computation and writing descriptions and the study of the Wisconsin statutes and local ordinances relating to the preparation of subdivision maps and plats.

#### **Fiscal Estimate**

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.

### **Notice of Hearing Chiropractic Examining Board [CR 01-118]**

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 446.01 (2), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. Chir 4.03; and to create s. Chir 4.02 (3), relating to parapsychological space and the practice of chiropractic.

Hearing Date, Time and Location

Date: **November 15, 2001**  
Time: 9:45 a.m.  
Location: 1400 East Washington Avenue  
Room 179A  
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 30, 2001 to be included in the record of rule-making proceedings.

#### **Analysis Prepared by Department of Regulation and Licensing**

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

Statute interpreted: s. 446.01 (2), Stats.

In a recent opinion of the Attorney General regarding the practice of chiropractic, the definitions of chiropractic that appear in s. 446.01 (2), Stats., and ss. Chir 4.02 and 4.03, contain general language which does not provide specific guidance to chiropractors and to practitioners of other professions. In this proposed rule-making order the board creates additional, more specific language.

#### **Text of Rule**

SECTION 1. Chir 4.02 (3) is created to read:

Chir 4.02 (3) "Parapsychological space" means the range of motion of a skeletal articulation that exceeds voluntary movement but does not exceed anatomical integrity.

SECTION 2. Chir 4.03 is amended to read:

Chir 4.03 Practice. The practice of chiropractic is the application of chiropractic science in the adjustment of the spinal column, skeletal articulations and adjacent tissue which includes diagnosis and analysis to determine the existence of spinal subluxations and associated nerve energy expression and the use of procedures and instruments preparatory and complementary to treatment of the spinal column, skeletal articulations and adjacent tissue. Diagnosis and analysis may include physical examination, specimen analysis, drawing of blood, blood-analysis and the use of x-ray and other instruments. Any procedure that causes a joint structure of the spine or pelvis to enter the parapsychological space is a practice of chiropractic.

#### **Fiscal Estimate**

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.

### **Notice of Hearings Health and Family Services (Health Ch. HFS 110-) [CR 01-116]**

Notice is hereby given that pursuant to s. 146.5 (6m) and (13) (b) and (c), Stats., the Department of Health and Family Services will hold public hearings to consider the repeal and recreation of Ch. HFS 111, Wis. Adm. Code, relating to the licensing of emergency medical technicians-intermediate.

#### **Hearing Information**

The public hearings will be held:

<u>Date &amp; Time</u>	<u>Location</u>
November 12, 2001 Monday 11:00 a.m.–2:00 p.m.	Room B155 State Office Building 1 W Wilson Street Madison, WI
<b>November 13, 2001</b> Tuesday 10:00 a.m.–2:00 p.m.	Pineary Room Stevens Point Library Stevens Point, WI

The hearing sites are fully accessible to persons with disabilities.

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

This order generally updates ch. HFS 111, rule for licensing emergency medical technicians–intermediate. The updating is being done on recommendation of the Emergency Medical Services Board under s. 146.58, Stats., which is advisory to the Department. The rule was amended to incorporate current medical practices, update training requirements, and to clarify, correct, and improve rule language based on experience with the rule that was last revised in 1996.

The updating of HFS 111 has involved modifying some current definitions and creating new definitions to reflect current changes in scope of practice. The updating has also involved deleting or modifying language based on experience in implementing the current rule and renumbering parts of the rule to accommodate the changes and to organize this chapter in a way similar to the other chapters of Emergency Medical Services Program rules. Other changes include use of the term “interfacility” to distinguish between facilities and prehospital 911 care; raising the minimum number of hours required for EMT–Intermediate coursework from 100 hours to 400 hours; and expanding the scope of practice to keep it consistent with the national EMT–Intermediate curriculum. The updating also adds renewal requirements for EMT instructor coordinators and gives medical directors the authority to remove an EMT’s medical authority to practice if the medical director believes the EMT’s training, skills, ability or judgement is sufficiently deficient or impaired.

#### **Contact Person**

To find out more about the hearings or to request a copy of the rule write or call:

Karen Dixon (608) 266–1568  
Division of Public Health  
Bureau of EMS and Injury Prevention  
P.O. Box 2659  
Madison, WI 53701–2659

If you are hearing or visually impaired, do not speak English, or have circumstances which 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 above. A person requesting a non–English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rule received at the above address no later than **November 20, 2001** will be given the same consideration as testimony presented at a hearing.

#### **Fiscal Estimate**

This order revises the Department’s rules for licensing emergency medical technicians–intermediate (EMTs–intermediate). Revision of the rules will not significantly affect the expenditures or revenues of state government or local

governments. The only additional costs would be associated with increased training hours for those services that want to be licensed at the new EMT–Intermediate level. There is no requirement for services to upgrade to this level of service, so any additional costs would be the result of the service wanting to increase their level of care.

The rules are amended to incorporate current medical practices; update training requirements; clarify, correct and improve rule language for interfacility patient transports, EMT–intermediate licensing and training sections; add a requirement for biennial renewal of the certification of training center instructor–coordinators; and update the required elements of an EMT–intermediate operational plan that must be submitted to the Department as a condition for licensure as an EMT–intermediate ambulance service.

Under the revised rules, Department staff will have some additional workload because of the need to review EMT–intermediate ambulance service operational plans and their revisions and to certify training course instructor–coordinators every 2 years. On the other hand, Department staff will have reduced workload because these functions will be done through electronic submission, which will result in less review time per application.

Of the 108 EMT–intermediate ambulance service providers statewide, 73 are operated by local governments. Although the revised rule increases the minimum number of hours required for EMT–intermediate training, this revision only updates the requirement in line with national standards and is not required in order to maintain their current level of services.

#### **Initial Regulatory Flexibility Analysis**

These rules will not affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. There are approximately 25 ambulance services that may qualify as small businesses. There are no rule changes that require additional equipment or personnel expenses.

### **Notice of Hearings**

#### **Natural Resources (Fish, Game, etc., Chs. NR 1—) [CR 01–115]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.041, 29.014 (1), 29.519 (1) (b) and 227.11 (2) (a), Stats., interpreting ss. 29.041, 29.014 (1) and 29.519 (1) (b), Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 25, Wis. Adm. Code, relating to commercial fishing in Lake Superior and Lake Michigan. The two substantive rule changes proposed would encourage the use of trap nets in the commercial whitefish fishery. One would increase the maximum allowable depth for trap nets from 90 feet to 150 feet. The other would allow trap nets to be set in Whitefish Bay, Door county. These changes should increase commercial fishing efficiency and could also lead to reductions in the incidental kill of chinook salmon and lake trout in the whitefish fishery by encouraging increased use of trap nets. The nonsubstantive provisions are housekeeping corrections needed to correctly express the intent of Board Order No. FH–26–00, to remove language that became irrelevant with the adoption of Board Order No. FM–18–94, to restore language inadvertently repealed in 1997 with the adoption of Board Order No. FM–51–96 and to correctly express the rule’s intent.

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

a. Types of small businesses affected: Commercial fishers in Lake Michigan and Lake Superior.

b. Description of reporting and bookkeeping procedures required: No new procedures.

c. Description of professional skills required: No new skills.

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:

**November 15, 2001** Room A324, Door Co. Courthouse  
421 Nebraska Street, Sturgeon Bay  
Wednesday at 1:00 p.m.

**November 15, 2001** Room 106, Sheboygan Co. Job  
Center, 3620 Wilgus Avenue  
Sheboygan  
Wednesday at 4:30 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 Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

#### Contact Person

Written comments on the proposed rule may be submitted to Mr. William Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than November 25, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Horns.

#### Fiscal Effect

No fiscal impact anticipated.

### Notice of Proposed Rule Transportation [CR 01-117]

NOTICE IS HEREBY GIVEN that pursuant to the authority of s. 85.095, and 227.11, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 28 without public hearing unless, within 30 days after publication of this notice on **November 1, 2001**, the Department of Transportation 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.

Questions about this rule and any petition for public hearing may be addressed to Ellen Fisher, Department of Transportation, Bureau of Rails and Harbors, Room 155B, P. O. Box 7914, Madison, WI 53707-7914.

#### Analysis Prepared by Department of Transportation

Statutory Authority: s. 85.095, Stats.

Statutes Interpreted: s. 85.095, Stats.

#### General Summary of Proposed Rule

This rule making will enable communities where cruise ships are a part of call to apply for Harbor Assistance Program (HAP) funds to construct/improve docking and terminal facilities to accommodate these ships. It will also enable communities that have already received HAP funding to use these previously-constructed facilities for cruise ships.

#### Text of Proposed Rule

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.095, Stats., the department of transportation hereby proposes to amend a rule interpreting s. 85.095, Stats., relating to the Harbor Assistance Program.

SECTION 1. Trans 28.01 is amended to read:

Trans 28.01 Purpose and scope. The purpose of this chapter is to set forth the ~~department of transportation's~~ department's administrative interpretation of s. 85.095, Stats., and to prescribe the administrative policies and procedures for implementing the harbor assistance program authorized by s. 85.095, Stats.

SECTION 2. Trans 28.02 (1m) and (9m) are created to read:

Trans 28.02 (1m) "Cruise vessel" means a passenger vessel as defined in 46 USC 2101(22) or a small passenger vessel as defined in 46 USC 2101(35) that provides overnight accommodations for at least 50 passengers for hire and operates on a schedule between 2 points of sailing. Cruise vessels are not considered to be recreational vessels.

(9m) "Ferry" means a passenger vessel that has provisions for deck passengers or vehicles, or both, and operates on a regular schedule between a minimum of 2 points.

SECTION 3. Trans 28.04 (1) and (2) are amended to read:

Trans 28.04 (1) DESCRIPTION. Every eligible harbor assistance project shall benefit a commercial transportation facility. Eligible harbor assistance projects include: dockwall and disposal facility construction, repair, maintenance or rehabilitation; maintenance dredging of materials from a harbor or dredging of new harbor areas; dredged material disposal; and other harbor improvements related to the physical needs of a port that maintain or increase commodity or passenger movement capabilities.

(2) LOCATION. Eligible projects shall be located only in Great Lakes or Mississippi River system harbors where vessels take on or discharge a combined total of more than 1,000 tons of commercial cargo per year; where commercial, naval or recreational vessels are built; where passenger or vehicle-carrying ferry service connects the Wisconsin communities along the Great Lakes and Mississippi River or connects the Wisconsin mainland with other states, Canadian provinces or populated islands in Wisconsin or where commercial fishing vessels unload fish. The U.S. army corps of engineers' annual tonnage figures shall be the basis for the tonnage determination; where tonnage figures are not available, an applicant shall provide tonnage figures based on auditable records.

SECTION 4. Trans 28.05 (1) (a) 1., (c) and (3) are amended to read:

Trans 28.05 (1) (a) 1. Indicators of expected economic impact shall be determined by ~~an efficiency analysis known~~ as a benefit-cost analysis. Benefits must exceed costs for the project to be further evaluated for funding.

(c) Amount of tonnage and waterborne transportation: Higher priority shall be given to projects in harbors with larger amounts of tonnage and waterborne transportation, and a lower priority shall be given to projects in harbors with



lesser amounts of tonnage and waterborne transportation. Improvements that benefit cruise vessels shall be of lower priority than improvements benefiting vessels transporting cargo or operating as ferries.

(3) The department shall establish an advisory council, under authority of s. 15.04 (1) (c), Stats., to evaluate harbor assistance program project applications. The advisory council shall include a representative of the Wisconsin department of development commerce and of the Wisconsin coastal management council and shall include 2 or 3 other persons familiar with water transportation. Consistent with this chapter, the advisory council shall evaluate and rank the proposed projects and shall recommend to the department the priority of the projects to be funded.

**SECTION 5.** Trans 28.07 (4) is amended to read:

Trans 28.07 (4) The department shall may not assume a continuing funding responsibility for any project.

**SECTION 6.** Trans 28.09 (2) (a) 5. is amended to read:

Trans 28.09 (2) (a) 5. A statement that the proposed project is consistent with the ~~three-year~~ 3-year harbor development statement of intentions submitted by the eligible applicant as required by s. Trans 28.10.

**SECTION 7.** Trans 28.09 (2) (j) is created to read:

Trans 28.09 (2) (j) An estimated annual number of passengers that will be affected by the project.

#### **Fiscal Estimate**

There are potentially twelve communities likely to be affected by this change in policy: Milwaukee, Green Bay, Manitowoc, Sturgeon Bay, Sheboygan, Marinette, Northport, Washburn, Superior, Bayfield, LaCrosse and Prairie du Chien. Six of these communities may seek an amendment to their current HAP agreement for projects that have already been constructed (Green Bay, Northport, Superior, Marinette, Milwaukee and LaCrosse). Other than a few hours of HAP staff time, there would be no cost associated with this change.

The communities most likely to seek HAP funding within the next 8–10 years to construct new facilities for cruise ships are Manitowoc, Sturgeon Bay, and Milwaukee. The current HAP budget is \$4 million for the biennium. If these projects are economically justified and compete favorably against applications to improve cargo–handling facilities, almost half of the current HAP budget could be spent for this type of project over the next 8–10 years.

#### **Initial Regulatory Flexibility Analysis**

This proposed change is not expected to have a significant direct affect on small businesses.

#### **Copies of Proposed Rule.**

Copies of the proposed rule may be obtained upon request, without cost, by writing to Ellen Fisher, Department of Transportation, Bureau of Railroads and Harbors, Room 155B, P.O. Box 7914, Madison, WI 53707–7914, or by calling (608) 267–9319. Hearing–impaired individuals may contact the Department by using TDD (608) 266–3096. Alternate formats of the proposed rule amendment will be provided to individuals at their request.

## **Notice of Proposed Rule Transportation**

### **[CR 01–120]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1), 110.075 and 227.10 (1), Stats., and interpreting s. 110.075, Stats., the Department of Transportation will hold a public hearing in **Room 551** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **15th** day of **November**, 2001, at **10:00 a.m.** to consider the amendment of ch. Trans 305, Wis. Adm. Code, relating to standards for vehicle equipment.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business on Friday, November 16, 2001, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Lorelee Brumund, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707–7912.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

#### **Analysis Prepared by Department of Transportation**

Statutory Authority: ss. 85.16 (1), 110.075 and 227.10 (1), Stats.

Statute Interpreted: s. 110.075, Stats.

#### **General Summary of Proposed Rule**

This proposed rule will require van–type vehicles to have operable interior door handles on passenger doors located on the sides of the vehicles. The intent is to enhance the safety of passengers inside the vehicles, enabling them to escape the vehicle, in instances of vehicle crashes. The vehicles most affected by this rule amendment would be those vehicles operated by private companies that transport passengers for recreational purposes, for shuttle transportation, and general transport. It is not intended to be applied to vans used primarily for transportation of cargo, or to impose substantial additional costs on operators of van–type vehicles.

#### **Fiscal Estimate**

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally–recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

#### **Initial Regulatory Flexibility Analysis**

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

#### **Copies of Proposed Rule.**

Copies of the rule may be obtained upon request, without cost, by writing to Lorelee Brumund, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707–7912, or by calling (608) 267–3622. Hearing–impaired individuals may contact the Department using TDD (608) 266–3096. Alternate formats of the proposed rule will be provided to individuals at their request.

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## Submittal of proposed rules to the legislature

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

**Administration**

(CR 01-048)

Ch. Adm 46 – Relating to high-voltage transmission line fee.

**Health and Family Services**

(CR 01-073)

Ch. HFS 119 – Relating to operation of the health insurance risk-sharing plan (HIRSP).

**Natural Resources**

(CR 01-011)

Ch. NR 45 – Relating to public use of department lands.

**Natural Resources**

(CR 01-055)

Ch. NR 410 – Relating to asbestos inspection fees.

**Public Service Commission**

(CR 00-155)

Ch. PSC 163 – Relating to telecommunications utility price regulation, regarding the productivity offset factor.

**Revenue**

(CR 99-158)

Ch. Tax 20 – Relating to the lottery and gaming property tax credit.



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## Rule orders filed with the revisor of statutes bureau

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

**Controlled Substances Board  
(CR 01-071)**

An order affecting ch. CSB 2, relating to the scheduling of Dihydroetorphine under ch. 961, Stats., the Uniform Controlled Substances Act.

Effective 12-1-01

**Insurance  
(CR 00-169)**

An order affecting ch. Ins 18, relating to health benefit plan grievance requirements and independent review organizations.

Effective 12-1-01

**Natural Resources  
(CR 00-112)**

An order affecting ch. NR 7, relating to the recreation boating facilities program.

Effective 12-1-01

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

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*The following administrative rule orders have been adopted and published in the **October 31, 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 01-021)**

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

Effective 11-1-01

#### **Final Regulatory Flexibility Analysis**

Businesses affected: Currently all manufacturers and labelers of pesticides used in agricultural crop production must register those pesticides and pay certain fees for those pesticides, with the fees based on the value of Wisconsin sales. Agricultural coops and farm centers that sell or apply pesticides must be licensed to do these activities. A portion of these fees, known as the Agricultural Chemical Cleanup Program (ACCP) surcharge, are used to clean up sites that have been contaminated by spills of pesticides and fertilizers. Most of the surcharge fees are passed to farmers through distributor imposed surcharges on the products.

The product and license surcharge fees have not been collected since December of 1997 because the balance of funds that were available in the ACCP fund exceeded the anticipated costs of cleaning up contaminated sites. This is no longer the case, and as a result, the proposed changes to ATCP 29, Wis. Adm. Code, reinstate the product and license surcharge fees.

Most manufacturers of pesticides and many manufacturers of fertilizers, as well as many agricultural coops and farm centers are not small businesses. Some smaller coops and farm centers are small businesses. Since most of these fees are passed on to farmers, the greatest impact should be at the farm level, most of which are small businesses.

Anticipated impacts: The department estimates this rule will increase farm costs by \$1,560,000 during state FY 2001/2002. Based on 30,000 farms, the department anticipates average per farm cost of about \$52. Separate from this rule, previously scheduled increases in license fees and surcharges, fertilizer tonnage fees and surcharges and pesticide registration fees and surcharges will commence in state FY 2002/2003. These fee and surcharge increases total \$3.7 million, with a per farm cost of \$123 per year, starting in State FY 2002/2003.

There are no anticipated changes in recordkeeping, reporting, or other practices as a result of this rule.

#### **Summary of Comments of Legislative Standing Committees**

On June 8, 2001, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Senate Agriculture, Environmental Resources and Campaign Finance Reform and the Assembly

Committee on Agriculture. A joint hearing was held on August 2, 2001. Neither committee filed an objection to the rule.

### **Hearing and Speech Examining Board (CR 01-043)**

An order affecting ch. HAS 6, relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals.

Effective 11-1-01

#### **Summary of Final Regulatory Flexibility Analysis**

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

#### **Summary of Comments of Legislative Standing Committees**

No comments reported.

### **Insurance (CR 00-133)**

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

Effective 11-1-01

#### **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**

The legislative standing committees had no comments on this rule.

### **Insurance (CR 01-050)**

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

Effective 11-1-01

#### **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**

The legislative standing committees had no comments on this rule.

**Medical Examining Board  
(CR 01-031)**

An order affecting ch. Med 10, relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Effective 11-1-01

**Summary of Final Regulatory Flexibility Analysis**

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

**Summary of Comments of Legislative Standing Committees**

No comments reported.

**Medical Examining Board  
(CR 01-032)**

An order affecting ch. Med 1, relating to the United States Medical Licensing Examination (USMLE).

Effective 11-1-01

**Summary of Final Regulatory Flexibility Analysis**

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

**Summary of Comments of Legislative Standing Committees**

No comments reported.

**Natural Resources  
(CR 01-002)**

An order affecting ch. NR 415, relating to control of particulate matter emissions.

Effective 11-1-01

**Final Regulatory Flexibility Analysis**

These updated rules will affect any company that emits particulate matter in certain portions of Beloit, Milwaukee and Waukesha. However, the rule will not change applicable emission limits or add any new requirements for such sources.

**Summary of Comments of Legislative Standing Committees**

The proposed rules were reviewed by the Assembly Committee on Environment and the Senate Committee on Environmental Resources. There were no comments.

**Natural Resources  
(CR 01-008)**

An order affecting chs. NR 1, 10, 11, 16, 17 and 45, relating to hunting, trapping and captive wildlife.

Effective 11-1-01, 1-1-02 and 4-1-02

**Final Regulatory Flexibility Analysis**

The proposed rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses. Therefore, a final regulatory flexibility analysis is not required.

**Summary of Comments of Legislative Standing Committees**

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. On July 25, 2001, the Assembly Committee on Natural Resources held a public hearing. No requests for modifications were received as a result of this hearing.

**Natural Resources  
(CR 00-111)**

An order affecting chs. NR 716, 749, 811 and 812, relating to implementation of a geographic information system registry of closed remediation sites, for properties with groundwater contamination exceeding NR 140 enforcement standards at the time of case closure.

Effective 11-1-01

**Final Regulatory Flexibility Analysis**

The department does not expect any negative impact on small business as a result of this action. It is anticipated that this action will save time and potentially money for prospective purchasers as they will be better able to access the available GIS database and BRRTS and determine whether environmental concerns exist on the property early on.

**Summary of Comments of Legislative Standing Committees**

The proposed rules were reviewed by the Assembly Committee on Environment and the Senate Committee on Environmental Resources. On June 21, 2002, the Senate Committee on Environmental Resources held a public hearing. On July 17, the Assembly Committee on Environment held a public hearing. No requests for modifications were received as a result of these hearings.

**Natural Resources  
(CR 01-014)**

An order creating ch. NR 199, establishing municipal flood control and riparian restoration grants.

Effective 11-1-01

**Final Regulatory Flexibility Analysis**

The proposed rule does not regulate businesses; therefore, a final regulatory flexibility analysis is not required.

**Summary of Comments of Legislative Standing Committees**

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. On July 25, 2001, the Assembly Committee on Natural Resources held a public hearing. No requests for modifications were received as a result of this hearing.

**Natural Resources  
(CR 01-036)**

An order affecting ch. NR 46, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Effective 11-1-01

**Final Regulatory Flexibility Analysis**

This rule does affect small business. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. Existing compliance and reporting procedures are defined by statutes.

**Summary of Comments of Legislative Standing Committees**

The proposed rules were reviewed by the Assembly Committee on Rural Affairs and Forestry and the Senate Committee on Environmental Resources. There were no comments.

**Nursing  
(CR 01-046)**

An order affecting chs. N 4 and 8, relating to the Nurse Licensure Compact.  
Effective 11-1-01

**Summary of Final Regulatory Flexibility Analysis**

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

**Summary of Comments of Legislative Standing Committees**

No comments reported.

**Nursing  
(CR 01-049)**

An order affecting chs. N 2 and 3, relating to the Nurse Licensure Compact.  
Effective 11-1-01

**Summary of Final Regulatory Flexibility Analysis**

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

**Summary of Comments of Legislative Standing Committees**

No comments reported.

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

An order affecting ch. PSC 185, relating to standards for water public utility service.  
Effective 11-1-01

**Summary Regulatory Flexibility Analysis**

The proposed rules would apply to public utilities as defined in s. 196.01 (5), Stats. The proposed rules do not affect small businesses as defined in s. 227.114, Stats.

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

An order affecting ch. DWD 14, relating to state electronic food stamp accounts.  
Effective 11-1-01

**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**

None.

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## Sections affected by rule revisions and corrections

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The following administrative rule revisions and corrections have taken place in **October 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 29**

- S. ATCP 29.11 (3) (intro.) and (c)
- S. ATCP 29.15 (4) (b)
- S. ATCP 29.20 (6) (b)
- S. ATCP 29.25 (5) (a)
- S. ATCP 29.56 (1) (e)

#### **Hearing and Speech Examining Board:**

##### **Ch. HAS 6**

- S. HAS 6.01 (entire section)
- S. HAS 6.02 (1m), (4o), (4r) and (7) to (9)
- S. HAS 6.03 (5) and (6)
- S. HAS 6.04 (5) to (8)
- SS. HAS 6.05 to 6.065 (entire sections)
- S. HAS 6.07 (1) (intro.) and (c)
- S. HAS 6.08 (1) (e), (2) (b) and (c) and (3)
- SS. HAS 6.09 to 6.18 (entire sections)

#### **Insurance, Commissioner of:**

##### **Ch. Ins 3**

- S. Ins 3.39 (2) (a), (3) (cm), (4) (intro.), (a) and (b), (7) (b) to (g), (13), (21) (f), (34) (b) and (c) and Appendix 1

##### **Ch. Ins 50**

- S. Ins 50.06 (2) (f)

#### **Medical Examining Board:**

##### **Ch. Med 1**

- S. Med 1.06 (3) (b)

##### **Ch. Med 10**

- S. Med 10.02 (2) (s) and (zb)

#### **Natural Resources:**

##### **Ch. NR 10**

- S. NR 10.001 (1L) and (9b)
- S. NR 10.01 (1) (g), (2) (f), (3) (e) and (es)
- S. NR 10.101 (1) (c) and (2) (d)
- S. NR 10.104 (4) (b)
- S. NR 10.105 (entire section)
- S. NR 10.13 (1) (b)
- S. NR 10.27 (3) and (7)
- S. NR 10.29 (entire section)

##### **Ch. NR 46**

- S. NR 46.30 (1) (e) and (2) (a) to (c)

#### **Ch. NR 199 (entire chapter)**

##### **Ch. NR 415**

- S. NR 415.035 (entire section)
- S. NR 415.04 (2) (intro.), (3) (intro.) and (a), (4) (intro.) and (b) and (5)
- S. NR 415.05 (3) (intro.) and (5)
- S. NR 415.06 (3) (intro.), (4) and (5)
- S. NR 415.075 (3) (intro.)

##### **Ch. NR 716**

- S. NR 716.15 (2) (d), (j), (k) and (L)

##### **Ch. NR 726**

- S. NR 726.05 (2) (am), (b), (c) and (d), (3) (a) and (8) (am)

##### **Ch. NR 811**

- S. NR 811.16 (4) (d) and (5) (d)

##### **Ch. NR 812**

- S. NR 812.03 (entire section)
- S. NR 812.09 (4) (w)
- S. NR 812.10 (2)
- S. NR 812.12 (15)
- S. NR 812.42 (1) (b)

#### **Nursing, Board of:**

##### **Ch. N 2**

- S. N 2.02 (2) and (5m)
- S. N 2.03 (1) (c) and (d) and (2) (c) and (d)
- S. N 2.04 (1), (2), (5) and (6)

##### **Ch. N 3**

- S. N 3.02 (4m)
- SS. N 3.03 and 3.04 (entire sections)
- S. N 3.05 (2)

##### **Ch. N 4**

- S. N 4.03 (3)
- S. N 4.04 (1) (d), (3) and (4)

##### **Ch. N 8**

- S. N 8.02 (1) (a)
- S. N 8.03 (1)

#### **Public Service Commission:**

##### **Ch. PSC 185**

- S. PSC 185.22 (1)
- S. PSC 185.33 (10) (a), (13) (b), (18) (c) and (d)
- S. PSC 185.361 (4) (b)



- S. PSC 185.37 (1) (b), (1m), (2) (am), (e) and (L), (8) (h), (8m), (9) and (11) (a)
- S. PSC 185.38 (4m)
- S. PSC 185.39 (2) (c)
- S. PSC 185.75 (5)
- S. PSC 185.76 (6)
- SS. PSC 185.87 to 185.89 (entire sections)

**Workforce Development:****Ch. DWD 14**

- S. DWD 14.24 (entire section)

**Editorial corrections**

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

**Financial Institutions—Banking:****Ch. DFI—Bkg 3**

- S. DFI—Bkg 3.01 (1) (intro.) and (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 3.04 (3) and (5) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 3.05 (1) (k) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 3.06 (1) (c), (3) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. DFI—Bkg 14**

- S. DFI—Bkg 14.01 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 14.02 (entire section) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
- S. DFI—Bkg 14.03 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 14.07 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 14.11 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. DFI—Bkg 16**

- SS. DFI—Bkg 16.02 and 16.03 (entire sections) each had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 16.05 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 16.07 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. DFI—Bkg 18**

- S. DFI—Bkg 18.01 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- SS. DFI—Bkg 18.02 and 18.03 (entire sections) each had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Bkg 18.04 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- SS. DFI—Bkg 18.05 to 18.07 (entire sections) each had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Insurance, Commissioner of:****Ch. Ins 3**

- S. Ins 3.39 (34) (b) had corrections made under s. 13.93 (2m) (b) 1., Stats.

**Public Instruction:****Ch. PI 1**

- S. PI 1.01 (2) (b) and (d) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 3**

- S. PI 3.01 (6) and (10) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 3.023 (1) (a) and (b) and (2) (intro.) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 3.025 (2) (c) and (d) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 3.03 (2) (b), (6) (b), (9) (c) and (11) (c) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
- S. PI 3.13 (4) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 3.305 (1) (d) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
- S. PI 3.55 (2) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 5**

- S. PI 5.05 (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 8**

- S. PI 8.001 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 8.01 (2) (i) and (m) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.

**Ch. PI 14**

- S. PI 14.02 (1) (b) and (2) (intro.) and (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 17**

- S. PI 17.03 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 18**

- S. PI 18.02 (10) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 18.04 (2) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 19**

- S. PI 19.03 (intro.) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 19.05 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 19.06 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 25**

- S. PI 25.02 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 32**

- S. PI 32.03 (3) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 34**

- S. PI 34.05 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 34.35 (5) (f) and (6) (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 43**

- S. PI 43.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 43.03 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PI 43.04 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. PI 44**

- S. PI 44.02 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Public Service Commission:****Ch. PSC 185**

- S. PSC 185.12 (19) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PSC 185.16 (1) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. PSC 185.33 (19) (c) 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:

**Natural Resources:****Ch. NR 465**

- S. NR 465.09 (4) (d) and (e) were each reprinted to correct error.

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## Executive orders

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

**Executive Order 27.** Relating to the design of Wisconsin's 2004 commemorative quarter.

**Executive Order 28.** Relating to a proclamation regarding a potential emergency.

**Executive Order 29.** Relating to a proclamation declaring a state of emergency and calling to active duty elements of the Wisconsin National Guard.

**Executive Order 30.** Relating to the creation of the governor's task force on terrorism preparedness.





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