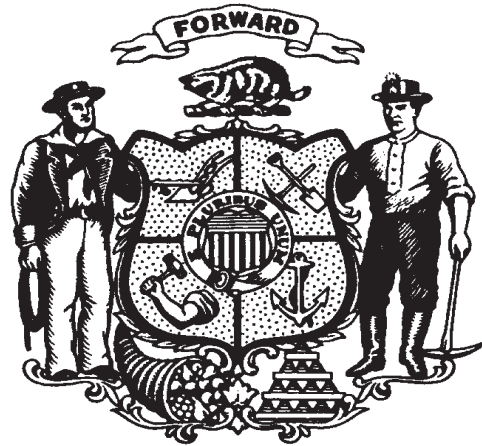


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Emergency rules now in effect

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

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

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

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

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

Agriculture, Trade and Consumer Protection

Rules adopted revising **ch. ATCP 77**, relating to certification of drug residue screening laboratories and approval of laboratory analysts to perform drug residue screening tests on milk.

Finding of emergency

The Department of Agriculture, Trade and Consumer Protection ("department") finds that an emergency exists and that the following emergency rule is necessary to protect the public welfare. This emergency rule will bring Wisconsin into compliance with federal requirements. Wisconsin must comply with the federal requirements in order for Wisconsin dairy plants to continue shipping milk in interstate commerce. Interstate milk shipments are critical for the state's dairy industry, and for the overall economy and well being of the state. The facts constituting the emergency are as follows:

(1) Grade A milk shipments are governed by the Interstate Pasteurized Milk Ordinance (PMO), jointly administered by the United States Food and Drug Administration (FDA) and the National Conference of Interstate Milk Shippers (representing participating states). In order for Wisconsin dairy plants to ship milk in interstate, Wisconsin must comply with the PMO and FDA mandates related to the PMO. Under s. 97.24, Stats., the Wisconsin Legislature has directed the department to adopt rules that conform to the PMO.

(2) Under the PMO and current state rules, all raw milk received by a dairy plant must be tested for certain drug residues (antibiotics from the penicillin family of drugs).

(3) FDA approves tests used for drug residue testing. There are 15 different tests that are approved for use. Some of these tests use a mechanical reader that determines the test result and then records it on a printer tape or directly to a computer. But other approved tests are "visually read", and involve no mechanical reader. In these tests, an individual analyst

interprets a color change to determine whether drug residues are present.

(4) The department currently certifies laboratories and analysts that conduct confirmatory drug residue tests on raw milk samples. The department certifies these laboratories and analysts under ch. ATCP 77, Wis. Adm. Code. The department does not currently certify laboratories or analysts that perform only preliminary screening tests for drug residues, although it does provide training. Some preliminary screening tests use mechanical readers, while others are "visually read."

(5) On July 2, 2001, FDA issued a new directive requiring states to approve laboratories that conduct screening tests (not just confirmatory tests) for drug residues in milk. A state must conduct an on-site evaluation before approving a laboratory or analyst to conduct "visual read" screening tests. According to the FDA, the department must complete its evaluations and issue its approvals by March 1, 2002. FDA may de-certify Wisconsin milk shippers if the department fails to carry out this directive, or if milk shipments are not tested by approved laboratories and analysts. De-certification could prevent the movement of Wisconsin milk in interstate commerce.

(6) In order to ensure the continued movement of Wisconsin milk in interstate commerce, the department must adopt rules expanding the current lab certification program under ch. ATCP 77, Wis. Adm. Code. The rules will require certification of laboratories conducting drug residue screening tests. The rules will also require on-site evaluation and approval of individual analysts conducting "visual read" screening tests. The rules will create new lab certification fees to pay for the expanded program, including the cost to perform the required on-site evaluations. The department must adopt these rules as soon as possible, in order to complete the required evaluations and issue the required approvals by March 1, 2002.

(7) The department cannot create this new program, by normal rulemaking procedures, in time to meet the March 1, 2002 deadline. The department is therefore adopting this temporary emergency rule under s. 227.24, Stats., pending the adoption of "permanent" rules by normal procedures. This emergency rule is needed to ensure the continued movement of Wisconsin milk in interstate commerce, and to prevent the economic disruption that would occur if that movement were interrupted.

Publication Date: November 15, 2001

Effective Date: November 15, 2001

Expiration Date: April 14, 2002

Hearing Dates: November 29, December 4, 5 & 6, 2001

Commerce

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

Rules adopted revising **ch. Comm 110** relating to brownfields redevelopment grants.

Finding of emergency

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

The facts constituting the emergency are as follows. Under section 3628 of 2001 Wis. Act 16, the Department must begin

accepting applications from trustees and nonprofit organizations, for brownfields redevelopment grants. And, under section 3630 of the Act, the Department must begin disallowing use of the 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 Department's rules for administering the brownfields grant program are currently contained in ch. Comm 110 Wis. Adm. Code. These current rules do not recognize trustees and nonprofit organizations as eligible applicants, and do not include disallowing grant funds for payments on either back taxes, or on state or federal lien claims.

In November, the Department expects to begin promulgating permanent rules for making ch. Comm 110 consistent with Act 16. Due to the mandatory rulemaking procedures under ch. 227, Stats., the permanent rules are not expected to become effective until July 1, 2002. In order to comply with Act 16 by accepting applications and issuing grants for trustees and nonprofit organizations prior to then, emergency rules reflecting these changes are needed, as included herein. These emergency rules also address the above disallowance for grant proceeds, and include some minor updating of the ch. Comm 110 criteria for submitting grant applications and for filing subsequent financial and program reports.

Pursuant to s. 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

Publication Date: October 27, 2001
Effective Date: October 27, 2001
Expiration Date: March 26, 2002

Financial Institutions – Corporate and Consumer Services

Rules adopted repealing **ch. SS 3** and repealing and recreating **chs. DFI–CCS 1 to 6**, created as emergency rules, 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: October 24, 2001
Effective Date: October 24, 2001
Expiration Date: March 23, 2002
Hearing Dates: December 3, 2001

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 Dates: September 12, 2001
Extension Through: January 17, 2002

- 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

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
Hearing Dates: July 31, 2001
Extension Through: January 26, 2002

Insurance

Rules adopted revising **chs. Ins 6, 26 and 28**, relating to Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model.

Finding of emergency

The Commissioner of Insurance finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

This rule accomplishes changes required for new agent licensing software and other changes required for Gramm Leach Bliley Act and conformance to the NAIC model licensing law. This rule has already been sent to the legislature for review and the review period is completed. The only modification pending is related to the exemption for Rental Car insurance. The germane amendment has been sent to the appropriate committees and should be acceptable. The remainder of the rule is exactly as sent to the legislature and will be promulgated and published. The publication of the rule will not be effective until February of 2002 at the earliest

and many of these provisions need to be effective immediately.

OCI has entered into a contract with a vendor for its agent's licensing software. This software is used by about 15 states. The software requires that certain modifications be made to existing rules in order for it to work. OCI has converted to the new system and requires the changes immediately.

In addition, in order for OCI to be considered reciprocal certain changes relating to the licensing of nonresidents need to be made.

Publication Date: November 9, 2001
Effective Date: November 9, 2001 and January 1, 2002
Expiration Date: April 8, 2001 and May 31, 2002

Natural Resources – (2)

(Fish, Game, etc., Chs. NR 1–)

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

Finding of emergency

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

Yellow perch contribute significantly to the welfare of Wisconsin citizens by supporting popular and economically valuable sport and commercial fisheries. The yellow perch population in Green Bay is rapidly declining. This decline reflects a number of years of very poor reproduction. The only recent year with reasonably good natural reproduction was 1998. The fish spawned that year contributed to the sport harvest in 2001 and will become vulnerable to commercial gear this summer. Sport and commercial harvests of adult yellow perch must be limited immediately in order to protect those fish and maximize the probability of good reproduction in the near future.

Publication Date: June 30, 2001
Effective Date: July 1, 2001
Expiration Date: November 28, 2001
Hearing Dates: August 13, 2001
Extension Through: January 26, 2002

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

Finding of emergency

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

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

Scope statements

Administration

Subject

Objective of the Rule. The Department of Administration proposes to repeal ch. Adm 25 regarding the Information Technology Investment Fund, which was eliminated in 1999 Wis. Act 9.

Policy analysis

Grants for the information technology development projects under ss. 16.971 (5) and 20.870, Stats., were eliminated by 1999 Wis. Act 9. As a result, this rule is no longer needed.

Statutory authority

Sections 16.004 (1) and 227.11, Stats.

Staff time required

10 hours.

Administration

Subject

Objective of the Rule. The Department of Administration proposes to repeal ch. Adm 41 regarding the Energy Development and Demonstration Fund program, which was eliminated in 1999 Wis. Act 9.

Policy analysis

Grants for the energy development and demonstration program under ss. 16.956 and 20.505 (1) (d), Stats., were repealed by 1999 Wis. Act 9. Since the program has been eliminated, the rule is no longer needed.

Statutory authority

Sections 16.004 (1) and 227.11, Stats.

Staff time required

10 hours.

Employee Trust Funds

Subject

1999 Wisconsin Act 11 (WA 11) revised the State Statutes to permit Wisconsin Retirement System (WRS) participating employees to elect to participate in the Variable Trust Fund. 1999 WA 11 also specifies that the Department shall by rule provide that any participant who elects or has elected variable participation may cancel that participation.

The Department proposes to renumber Wis. Adm. Code ss. ETF 10.30, 10.32, 10.33, and 10.34 as part of ETF 10.31, and to amend s. ETF 10.31. The changes are intended to further clarify the process of participating in the Variable Trust Fund and how interest will be credited to late reported contributions deposited in the accounts of participants in the Variable Trust Fund.

Description of Policy Issues

Objectives of the Rule. The proposed rule renumbering is intended to consolidate all rules governing participation in the Variable Trust Fund into one administrative code, s. ETF 10.31.

The proposed rule amendments are intended to provide clear guidance to WRS participants and to the Department of Employee Trust Funds staff regarding issues that include the effective dates for participants who elect or cancel participation in the Variable Trust Fund, how interest will be credited on late reported variable contributions, and the effect of variable cancellations for individuals with multiple WRS accounts.

Policy analysis

1999 Wisconsin Act 11 amended Wis. Stat. § 40.04 (7) (a) to permit all participating employees on or after January 1, 2001 to elect to have 50% of their future required and additional contributions deposited in the Variable Trust Fund. 1999 Wisconsin Act 11 also permits former Variable Trust Fund participants who completely cancelled their original variable participation to re-enroll in the Variable Trust Fund.

Renumbering Wisconsin Administrative Code ss. ETF 10.30, 10.32, 10.33, and 10.34 as part of s. ETF 10.31 will consolidate all administrative rules regarding participation in the Variable Trust Fund in one administrative code. This will streamline the administrative code and provide efficient administration of the Variable Trust Fund program.

Revising s. ETF 10.31 will further clarify the effective dates of a participant's election to participate in and to cancel participation in the Variable Trust Fund, how interest will be credited on late reported variable contributions to participants' accounts, and the effect of variable cancellations on individuals with multiple WRS accounts.

The rule is intended to consolidate and clarify the Department's administrative policy and procedures regarding participation and cancellation of participation in the Variable Trust Fund. If the rule is not revised, there may be uncertainty and confusion regarding the effective dates of participation or cancellation of participation in the Variable Trust Fund and potentially inaccurate interest crediting. This rule clarification is necessary for the orderly and efficient administration of the WRS.

Statutory authority

Section 40.03 (1) (m), (2) (i), (7) (d), and (8) (d), Stats.

Staff time required

80 hours.

Employee Trust Funds

Subject

Section ETF 20.35 clarifies how Wisconsin Retirement System (WRS) accounts and annuities are divided pursuant to qualified domestic relations orders (QDROs) under s. 40.08 (1m), Stats. The proposed rulemaking will amend s. ETF 20.35 to further clarify the impact on a participant's account when the Department receives more than one QDRO that divides a participant's WRS account when the participant has more than one marriage that is legally terminated. Multiple QDROs are especially problematic when they are received out of chronological order with respect to the dates of divorce. This occurs more frequently since 1997 Wisconsin Act 125 was enacted. This legislation newly permitted the Department to honor QDROs for divorces that occurred between January 1, 1982 and April 27, 1990.

The proposed rulemaking will also include several non-substantive, technical amendments to s. ETF 20.35 to add clarity to the text of the rule.

Description of Policy Issues

Objectives of the Rule. The proposed amendment would accomplish two objectives: provide clarification of the impact of multiple QDROs on a participant's WRS account, and make non-substantive technical changes to make the rule more clear.

Policy analysis

The Department must honor multiple QDROs for a participant's account when the participant has more than one marriage that is legally terminated, and the court awards a share of the participant's WRS account as part of the division of marital assets. Determining the effects of multiple QDROs on both the participant's and alternate payee's rights and benefits is extremely complex. The proposed rule would specify how the participant's benefits would be divided in the case of multiple QDROs.

The alternative to promulgating this rule would be to continue the confusion and lack of clarity in administration of multiple QDROs ordering the division of the account and/or annuity of a participant who has more than one legally terminated marriage. This would increase the risk of inconsistent account and annuity divisions in these situations, and participants, alternate payees, their attorneys and the courts would not have clear guidance on the results of multiple account divisions based on multiple QDROs.

Statutory authority

Section 40.03 (1) (m), (2) (i), (7) (d), and (8) (d), Stats.

Staff time required

20 hours.

Health and Family Services

Subject

To establish a separate prescription drug coinsurance benefit relating to the Health Insurance Risk-Sharing Plan (HIRSP) with limits on HIRSP policyholder out-of-pocket expenses for covered prescription drugs.

Policy analysis

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP health insurance coverage includes prescription drug coverage. Currently, two major issues affect HIRSP prescription drug coverage. The first issue is that pharmacies have difficulty determining the financial liability of HIRSP policyholders. The second issue is that the current system of HIRSP reimbursement to policyholders for prescription drug costs is financially burdensome to HIRSP policyholders. To resolve these issues, the department proposes to implement effective January 1, 2002, new coinsurance provisions for HIRSP's drug benefit that will clarify the financial liability of HIRSP policyholders for covered prescription drug costs and eliminate the process of reimbursing policyholders for prescription drug expenses by establishing policyholders' minimum and maximum out-of-pocket costs for covered prescription drugs.

The proposed rules will affect approximately 12,000 HIRSP policyholders statewide.

Statutory authority

The Department's statutory authority is derived from s. 149.14 (5) (e), Stats., as amended by 2001 Wisconsin Act 16 and s. 149.146 (2) (am) 5., Stats., as created by 2001 Wisconsin Act 16. Section 9123 (9w) of the Act authorizes the department to use the emergency rulemaking procedures under s. 227.24, Stats., to promulgate rules under s. 149.14 (5) (e), Stats., as amended by the Act and s. 149.146 (2) (am) 5., Stats., as created by the Act. Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), Stats., s. 9123 (9w), exempts the department from making a finding of emergency and from providing evidence that promulgating this rule as emergency rule is necessary for the preservation of public peace, health, safety, or welfare. The HIRSP Board of Governors on September 13, 2001, approved the out-of-pocket limits established in these rules, as required by s. 149.14 (5) (e) Stats., as amended and s. 149.146 (2) (am) 5., Stats., as created by 2001 Wisconsin Act 16.

Staff time required

45 hours.

Natural Resources

Subject

Commercial fishing in Lake Superior

Policy analysis

State and tribal representatives recently agreed to amend the Lake Superior State-Tribal Agreement to allow an increase in the harvest of lake trout. The proposed rule change is needed to implement the amendments as soon as possible. The order would also include the provisions requiring commercial fishers on Lake Superior to mark all gill net floats with their license number, setting a minimum distance from the surface for floating gill nets and deleting some outdated language from the administrative code.

Statutory authority

Sections 29.014 and 29.519 (1) (b), Stats.

Staff time required

25 hours.

Natural Resources

Subject

Pilot program for alternative methods of compliance with effective recycling program requirements contained in ch. NR 544.

Policy analysis

The issues to be resolved by this rule include what materials should be recycled as alternatives to banned materials; what are the goals for materials to be recycled as a percentage of solid waste generated in a geographic area; what procedures should be in place to evaluate if established goals are being achieved; and how will exiting rules be impacted by the program and what rule revisions will be necessary.

The Department is directed to select nine responsible units to participate in the pilot program; three shall have a population of less than 25,000, three shall have a population between 25,000 and 50,000 and three shall have a population of greater than 50,000.

Statutory authority

Section 287.11 (4), Stats.

Staff time required

Approximately 225 hours will be needed by the Department.

Public Instruction

Subject

Access to Statewide Examinations

Policy analysis

2001 Wis. Act 16 created s. 118.30 (3) (b), Stats., requiring the state superintendent to promulgate rules establishing procedures to allow a person to view the 4th, 8th, and 10th grade Wisconsin Knowledge and Concept Exams (WKCE) and the High School Graduation Exam.

- To require that any requests made to review the exams be made in writing within 90 days after the date of the administration of the exam.
- To the extent feasible, protect the security and the confidentiality of the exams.

The Department has provided guidance on proper test use and review in a document titled, "DPI Guidelines for Appropriate Testing Procedures." Rules will be promulgated based upon the guidance provided in this document.

New policies will include a requirement that districts use standardized procedures and maintain proper documentation for test review. Further, violations of proper test review procedures must be reported to the Department.

The department is required to promulgate rules to allow persons to view the 4th, 8th, and 10th grade WKCE and the High School Graduation Examination and to protect, to the extent feasible, the security and confidentiality of these exams. Therefore, there are no policy alternatives.

Statutory authority

Sections 227.11 (2) (a) and 118.30 (3) (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 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.

Transportation

Subject

Objective of the Rule. This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding 5 highway segments to the network. The actual segments being proposed are:

Taylor County

CTH "A" from STH 13 in Stetsonville to Marathon County Line.

Marathon County

CTH "F" from West County Line to CTH "M"

CTH "M" from CTH "F" to STH 97 in Athens

CTH "A" from STH 13 East of Dorchester to STH 97 South of Athens

Corlad Road from CTH "A" to CTH "M" West of Athens

Policy analysis

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with

changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received a request from E. J. Peter Trucking, Inc., in Marathon County, to add these highway segments.

Statutory authority

Section 348.07 (4), Stats.

Staff time required

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

Transportation

Subject

Objective of the Rule. This rule making will amend ch. Trans 320 which establishes a uniform method for the determination of fees that may be charged by the State Patrol for security and law enforcement services provided at public events, and for escort services provided to motor carriers who transport oversize/overweight loads. The authority of the State Patrol to charge for services was expanded by 2001 Wisconsin Act 16 section 2339. The State Patrol now has additional authority to charge for security and traffic control services provided at special events sponsored by public organizations. Previously, this authority to charge was limited to services provided at special events sponsored by private organizations.

2001 Wis. Act 16 section 2340 also provided the State Patrol with new authority to charge for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a public highway.

This rule making will enable the State Patrol to implement the additional authority to charge for services that was provided in Act 16.

Policy analysis

The State Patrol currently provides security and traffic control services to both private and public organizations that sponsor public events. Prior to the enactment of Act 16, the State Patrol could not charge for these services and deposit associated revenues in a program revenue appropriation that could be used to offset expenses, unless the sponsor was considered to be a private organization and an admission fee was charged for the event. In some instances, the Department of Administration has reluctantly approved the treatment of fees paid by public organizations for services provided at public events as refunds of expenditure. However, this approval was based upon the mutual understanding that this was an interim solution, pending approval of statutory changes included in Act 16.

The provision of security and traffic control services at certain public events sponsored by public organizations has involved the assignment of significant numbers of State Patrol officers and significant costs. Since these costs have not always been reimbursed, the ability of the State Patrol to meet other core obligations has been affected. In some instances, these public organizations have been willing and able to provide funding to offset these costs. For example, the University of Wisconsin–Madison agreed to reimburse the State Patrol for expenses resulting from the provision of security and traffic control services at home football games.

This rule making will enable the State Patrol to directly charge public organizations for these public event services and deposit associated revenues in a program revenue appropriation that will be used to offset related expenses.

The State Patrol presently charges motor carrier operators for costs related to the escort of oversize/overweight loads by State Patrol officers. The State Patrol has also received requests to provide traffic control services in situations involving the installation, inspection, removal or repair of utility facilities located in a highway right-of-way. The best example of this was the installation of fiber optic cable in the I 90/94 corridor by TouchAmerica. Before the enactment of Act 16, s. 85.51, Stats., and ch. Trans 320 did not provide a mechanism to facilitate the transfer of fees paid by TouchAmerica to a program revenue appropriation that could be used to offset State Patrol expenses. Refund of expenditure accounting was also used on an interim basis to resolve this problem.

This rule making will enable the State Patrol to directly charge utility companies for these services and deposit related revenues in a program revenue appropriation that will be used to offset related expenses.

There are no policy alternatives that are consistent with legislative intent as expressed in Act 16, and are also consistent with state accounting standards as defined by the Wisconsin Department of Administration.

Statutory authority

The authority to charge for security and traffic control services at public events is included in s. 85.51 (1), Stats. The authority to charge for security and traffic control services during the installation, inspection, removal, relocation or repair of a utility facility located on a highway is included in s. 85.51 (2), Stats. The authority to charge for escort services provided during the transport of oversize/overweight loads is included in s. 348.26 (2), Stats.

Staff time required

It is estimated that 100 hours of staff time will be required to revise ch. Trans 320.

Submittal of rules to legislative council clearinghouse

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

Accounting Examining Board

Rule Submittal Date

On November 15, 2001, the Accounting 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., and s. 442.01 (1), Stats., as created by 2001 Wisconsin Act 16.

The proposed rule-making order creates s. Accy 1.205, relating to auditing standards for accounting and review services, and standards for attestation engagements.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 14, 2001 at 9:30 a.m. in Room 180A, 1400 East Washington Avenue, Madison, WI 53702

Contact Person

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

Pharmacy Examining Board

Rule Submittal Date

On November 15, 2001, the Pharmacy 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., and s. 450.03 (1) (g), Stats., as created by 2001 Wisconsin Act 16, and s. 450.04 (3) (b), Stats., as amended by 2001 Wisconsin Act 16.

The proposed rule-making order affects chs. Phar 1 and 2, relating to a pharmacy internship program.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 11, 2001 at 9:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI 53702

Contact Person

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

Public Instruction

On November 14, 2001, the Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule makes technical modifications to chs. PI 10, 12 and 37 pursuant to statutory changes made under 1999 Wisconsin Act 9 and 2001 Wisconsin Act 16.

Agency Procedure for Promulgation

These technical modifications bring existing Administrative Code chapters into conformity with statutes that have been changed or enacted. Therefore, pursuant to s. 227.16 (2) (b), Stats., the department will not hold public hearings regarding the rule.

Contact Person

The Office of the State Superintendent is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Lori Slauson, Administrative Rules Coordinator, at (608) 267-9127.

Public Instruction

On November 14, 2001, the Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates ch. PI 27, relating to the commencement of a school term.

Agency Procedure for Promulgation

Public hearings will be scheduled.

Contact Person

The Office of the State Superintendent is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Anthony Evers, Deputy State Superintendent, at (608) 266-1771 or Lori Slauson, Administrative Rules Coordinator, at (608) 267-9127.

Public Instruction

On November 14, 2001, the Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule repeals chs. PI 23, 33, 39 and 43, relating to the elimination of obsolete rules.

Agency Procedure for Promulgation

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.

Contact Person

The Office of the State Superintendent is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Lori Slauson, Administrative Rules Coordinator, at (608) 267-9127.

Rule-making notices

Notice of Hearing

Accounting Examining Board [CR 01-133]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Accounting Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 442.01 (1), Stats., as created by 2001 Wis. Act 16, and interpreting s. 442.01 (1), Stats., the Accounting Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Accy 1.205, relating to auditing standards, standards for accounting and review services, and standards for attestation engagements.

Hearing Date, Time and Location

Date: December 14, 2001
Time: 9:30 A.M.
Location: 1400 East Washington Avenue
 Room 180
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by December 28, 2001 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: Sections 15.08 (5) (b), 227.11, and s. 442.01 (1) as created by 2001 Wis. Act 16.

Statute interpreted: Section 442.01

In this proposed rule-making order the Accounting Examining Board proposes to, by reference, all of the following:

(a) The statements on auditing standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants.

(b) The statements on standards for accounting and review services issued by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants.

(c) The statements on standards for attestation engagements issued by the Auditing Standards Board, the Accounting and Review Services Committee, and the Consulting Services Executive Committee of the American Institute of Certified Public Accountants.

The board is required to adopt these standards under s. 442.001, Stats., as created by 2001 Wis. Act 16.

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.

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

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

Agriculture, Trade and Consumer Protection [CR 01-124]

(reprinted from 11-15-01 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on all the following:

- A rule relating to dairy plants and cheesemakers. This rule modifies chs. ATCP 80 and 69, Wis. Adm. Code.

- A temporary emergency rule requiring DATCP approval of laboratory analysts who visually read drug residue screening tests on milk. This emergency rule modifies ch. ATCP 77, Wis. Adm. Code. DATCP will charge laboratories a fee to cover the cost of evaluating analysts. DATCP adopted this temporary emergency rule effective November 15, 2001.

- A proposal to adopt the above emergency rule as a "permanent" rule. DATCP proposes to do this by incorporating the emergency rule provisions with its "permanent" rules related to dairy plants and cheesemakers (see above).

DATCP will hold four hearings at the time and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rules. Following the public hearing, the hearing record will remain open until December 15, 2001, for additional written comments.

You may obtain a free copy of these rules by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4700. 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 **November 23, 2001**, by writing to Debbie Mazanec, Division of Food Safety, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4712. Alternatively, you may contact the department TDD at (608) 224–5058. Handicap access is available at the hearings.

Hearings are scheduled:

Thursday, November 29, 2000, 9:30 a.m. until 12:30 p.m.

WDATCP Eau Claire Regional Office
3610 Oakwood Hills Parkway
Eau Claire, WI 54701–7754
Handicapped accessible

Tuesday, December 4, 2001, 9:30 a.m. until 12:30 p.m.

Appleton Public Library
Lower Level Meeting Room
925 So. Oneida Street
Appleton, WI 54911
Handicapped accessible

Wednesday, December 5, 2001, 9:30 a.m. until 12:30 p.m.

Green County Agriculture Bldg.
2841 6th Street
Monroe WI 53566
Handicapped accessible

Thursday, December 6, 2001, 9:30 a.m. until 12:30 p.m.

U. W. Pyle Center
702 Langdon Street
Madison, WI 53706
Handicapped accessible

The hearing in Madison on Thursday, December 6, 2001, will have videoconference connections with three additional locations. The public may participate in the hearing by testifying or registering an appearance at any of the four sites, and see as well as listen to testimony from other persons at all of the sites. Videoconference connections will be available from 9:30 a.m. until 12:30 p.m. at the following locations:

- LaCrosse State Office Building, Room B–29
3550 Morman Coulee Road
LaCrosse WI 54601
Handicapped accessible
- Wisconsin Rapids State Office Building
2610 Industrial Street, Conference Room #4
Wisconsin Rapids WI 54495
Handicapped accessible
- University of Wisconsin – Green Bay
Instructional Services Bldg. Room #1034
Green Bay, WI 54311
Handicapped accessible

Text of Rule

ATCP 80 and 69 (Proposed Rule)

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07 (1), 97.09 (4), 97.20 (4), 97.22 (8), 97.24 (3) and 97.52, Stats.

Statutes interpreted: ss. 93.06 (7) and (8), 97.02, 97.03, 97.12, 97.20, 97.22 to 97.24, 97.50 and 97.52, Stats.

Overview

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) regulates dairy plants to protect consumers and facilitate interstate shipment of

Wisconsin dairy products. This rule updates current dairy plant rules under chs. ATCP 69 and 80, Wis. Adm. Code. Among other things, this rule:

Establishes alternative training options for persons who wish to be licensed as cheesemakers.

Updates current standards for dairy plant facilities.

Authorizes a dairy plant operator to use reclaimed water for dairy plant operations, subject to specified conditions.

Clarifies a dairy plant operator’s responsibilities related to the receipt of raw milk from dairy farms.

Modifies current dairy product temperature standards.

Modifies current standards for bacteria and coliform in pasteurized dairy products.

Modifies current restrictions related to the reprocessing of packaged dairy products returned to a dairy plant.

Updates current pasteurization standards, and establishes standards for higher–heat shorter–time (HHST) pasteurizers.

Updates current pasteurization record keeping requirements. Among other things, this rule clarifies record keeping requirements related to high–temperature short–time (HTST) and higher–heat shorter–time (HHST) pasteurization.

Updates current standards related to dairy product fortification, dairy product test methods, and grade A audit surveys.

Makes other drafting and organizational changes to update and clarify current rules.

Background

DATCP currently licenses and inspects dairy plants under s. 97.20, Stats., and ch. ATCP 80, Wis. Adm. Code. DATCP licenses individual cheesemakers under s. 97.17, Stats., and ch. ATCP 69, Wis. Adm. Code. Dairy plants processing grade A fluid milk products must hold a grade A permit from DATCP. Dairy plants also have important responsibilities related to dairy farm milk procurement under ch. ATCP 60, Wis. Adm. Code.

All dairy products must be produced under sanitary conditions. Dairy plants producing grade A fluid milk products must also comply with the interstate Pasteurized Milk Ordinance (PMO). Failure to comply with PMO requirements may jeopardize the interstate shipment of Wisconsin dairy products. Current DATCP rules establish standards for all dairy plants, including grade A dairy plants. DATCP rules incorporate PMO standards.

Current DATCP rules spell out requirements related to:

- Dairy plant licensing and fees.
- Dairy plant facilities and operations.
- Dairy product quality standards and testing.
- Pasteurization of dairy products.
- Dairy plant records and reports.
- Inspection and enforcement.
- Cheesemaker license qualifications.

Rule Contents

Cheesemaker License Qualifications

Under current rules, individuals must meet certain training and experience requirements in order to be licensed as cheesemakers. Under current rules, an individual may be licensed if the individual does any of the following:

Completes an 18–month apprenticeship under a licensed cheesemaker.

Completes a 12–month apprenticeship, and either completes a university short course in cheesemaking or obtains a dairy–related associate degree at a vocational school.

Completes a 6–month apprenticeship and obtains a 4–year dairy–related college degree.

This rule creates another option for license applicants. Under this rule, an individual may be licensed as a cheesemaker if the individual completes a 240-hour apprenticeship, and completes DATCP-approved courses in all the following:

Cheesemaking.

Production of safe dairy foods

Hazard analysis critical control point (HAACP) process control.

Milk pasteurization.

Dairy sanitation.

DATCP may license the individual on a conditional basis, and may summarily suspend the license if the license holder fails to meet continuing education and performance standards.

Fluid Milk Products

Fluid milk products must be produced by grade A dairy plants, according to grade A standards. This rule updates the current "fluid milk product" definitions to conform to the interstate Pasteurized Milk Ordinance (PMO).

Dairy Plant Rooms

This rule clarifies, but does not substantially alter, current rules related to room separation in dairy plants. Certain activities must be separated from other activities to prevent contamination of dairy products.

Re-circulated Water; Testing

Under current rules, re-circulated water used in a dairy plant cooler or heat exchanger must be tested semi-annually by DATCP. This rule requires the dairy plant operator, not DATCP, to test semi-annually.

Reclaimed Water

This rule clarifies spells out standards for a dairy plant's use of water reclaimed from the condensation of milk or dairy products. The standards are designed to prevent dairy product contamination that may result from the improper use of reclaimed water. Under this rule:

- A dairy plant operator may use water reclaimed by means of evaporation, reverse osmosis or ultrafiltration. The water must meet different standards, depending on how it is used.
- Reclaimed water may not be used for any purpose requiring *potable* water unless all the following apply:
 - DATCP pre-inspects and pre-approves the reclamation system.
 - The reclaimed water is free of coliform bacteria.
 - The standard plate count of the reclaimed water does not exceed 500 per ml. and meets DNR bacteriological standards.
 - The organic content of the reclaimed water is less than 12 mg. per liter.
 - The reclaimed water has no off-odors, off-flavors or slime formations. The dairy plant operator must check these things weekly.
 - DATCP pre-approves any chemicals used to suppress bacterial growth, tastes or odors in the reclaimed water. Automatic proportioning devices must be used to add chemicals to the water. The dairy plant operator must test at least daily for chemical content. Chemicals may not contain substances that may contaminate dairy products.
 - The reclaimed water is stored in properly constructed tanks.
 - The dairy plant operator tests the reclaimed water for bacteriological and organic content at least semi-annually, and more often after the reclamation system is initially installed or repaired.

– There are no cross-connections between reclaimed water lines and any public or private water system.

• Reclaimed water may be used for the limited purposes of producing culinary steam, pre-rinsing food contact surfaces of equipment or utensils, or preparing cleaning solutions if all the following apply:

– The reclaimed water meets all potable water standards, other than bacteriological standards.

– The reclaimed water is used only on the day that it is reclaimed.

– The reclaimed water is automatically maintained at a temperature of not less than 145° F., or is chemically treated to suppress bacterial propagation. Chemical treatments must comply with standards for potable water.

– Distribution lines and hose stations used to distribute the reclaimed water are clearly identified as "**limited-use reclaimed water.**"

– The dairy plant operator posts clear instructions for the use of the reclaimed water. The instructions must limit the purposes for which the reclaimed water may be used.

– Water lines distributing the reclaimed water are not permanently connected to dairy product vessels. Temporary connections must be protected to avoid product contamination.

• Reclaimed water that does not qualify for any of the above uses may only be used as boiler feed water.

Dairy Plant Personnel; Sanitation

Under current rules, persons with discharging or infected lesions on their hands or arms may not handle unpackaged dairy products. This rule prohibits them from handling unpackaged dairy products unless they have appropriate sanitary protection (including bandages and gloves) specified in this rule.

Equipment and Utensils

Current rules spell out sanitary design and construction requirements for dairy plant equipment and utensils. The current rules incorporate, by reference, "3-A" technical standards published by FDA and the International Association for Food Protection.

Under current rules, persons installing C-I-P (cleaned in place) systems must submit plans for DATCP approval. This rule requires the dairy plant operator, not the installer, to submit the plans. DATCP must act on the plans within 20 business days (currently 30 calendar days).

This rule regulates the use of flexible pipelines in dairy plants, to prevent sanitation hazards. Dairy plant operators may use flexible pipelines, subject to conditions specified in this rule, if rigid pipelines are impractical. This rule also modifies current standards for chlorine sanitizers used to sanitize equipment and utensils.

Milk from Dairy Farms

This rule clarifies a dairy plant operator's responsibilities related to the receipt of raw milk from dairy farms. A dairy plant operator may not collect or receive milk from a dairy farm unless all the following apply:

- The dairy farm is properly licensed.
- A licensed milk weigher and sampler collects a sample of the producer's milk (for milk quality testing), and measures and records the temperature and quantity of the producer's milk.
- The operator complies with applicable milk testing and follow-up requirements under ch. ATCP 60 (dairy farms).

Bulk Milk Tanker Deliveries

Current rules prohibit a dairy plant operator from receiving a grade A bulk milk tanker delivery unless the bulk milk

tanker operator holds a grade A permit for that tanker. This rule also prohibits a dairy plant operator from receiving any bulk milk tanker delivery unless the tanker operator holds a bulk milk tanker license under s. 97.21 (2) (a), Stats., and ch. ATCP 82.

Product Temperature

Current rules require dairy plant operators to keep dairy products above or below specified temperatures, to prevent hazardous bacterial growth. This rule modifies some of these current temperature requirements.

- Under current rules, an operator who receives raw grade B milk or grade B dairy products for processing must keep those dairy products at 50° F. or less until they are pasteurized. Under this rule, the operator must keep those grade B dairy products at 45° or less until they are pasteurized (the same temperature currently required for grade A products). There is an exemption for milk received within 2 hours of milking, provided the milk is pasteurized or cooled to 45° within 4 hours.

- Under current rules, a dairy plant operator may not hold milk or dairy products for more than 4 hours at a temperature that is between 45° F. and 140° F. Certain dairy products are currently exempt. This rule adds some limited exemptions.

- Under current rules, dairy plant operators must keep certain non-dairy foods (including certain dairy product ingredients) at “safe temperatures” to prevent hazardous bacterial growth. This rule establishes new “safe temperature” requirements for these non-dairy foods, as follows:

- For refrigerated foods: 41° F. (currently 40° F.)
- For heated foods: 140° F. (currently 150° F.)
- For frozen foods: 0° F. (same as now)

Reprocessing Returned Products

Current rules prohibit a dairy plant operator from reprocessing *grade A* packaged dairy products returned to a dairy plant. There are certain exemptions. This rule prohibits a dairy plant operator from reprocessing *any* packaged dairy products (not just grade A products) returned to the dairy plant, except that it does not prohibit any of the following:

The use, as ingredients, of packaged dairy products that are specifically manufactured and packaged for use as ingredients in other dairy products.

Reprocessing packaged dry milk and dry milk products, if the inner package is intact.

Reprocessing packaged cheese or butter returned for failure to meet grade or color standards, if the inner package is intact and there is no evidence of product or temperature abuse.

Reprocessing dairy products collected from a packaging defoamer system, or drained from processing equipment at the end of a run, if the products are handled in a sanitary manner and repasteurized.

Reprocessing specifically authorized by DATCP in writing, under terms and conditions specified by DATCP.

Bacteria, Coliform, Yeast and Mold

This rule establishes more comprehensive bacteria and coliform standards for pasteurized dairy products. Under this rule, bacteria counts may not exceed 20,000 per ml. for most pasteurized dairy products. This standard does not apply to cultured dairy products (such as yogurt). Bacteria counts for the following products may not exceed the following levels:

30,000 per ml. for condensed milk, whey, dried whey and nonfat dry milk.

50,000 per gram for frozen desserts, except that the bacteria count for frozen dessert mixes may not exceed 20,000 per gram.

Under this rule, coliform counts in pasteurized dairy products may not exceed 10 per ml., except that coliform counts for pasteurized cheese, cheese products, butter and butter products may not exceed 100 per gram. If pasteurized cheese is manufactured from unpasteurized dairy products, its coliform count may not exceed 1,000 per gram.

Under this rule, the yeast and mold count in pasteurized cottage cheese may not exceed 10 per gram.

Fortified Dairy Products

This rule updates current standards for fortified dairy products. This rule incorporates the latest PMO standards (1999). DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate these standards by reference in this rule.

Milk Quality and Milk Component Test Methods

This rule updates current milk quality and milk component test methods. Milk test methods must be those prescribed in “Standard Methods for the Examination of Dairy Products,” 16th edition (1992), or in the “Official Methods of Analysis of the Association of Analytical Chemists (AOAC) International, 17th edition (2000). DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate the updated AOAC standards by reference in this rule. DATCP may approve other test methods.

Pasteurization Standards

This rule establishes standards for higher-heat shorter-time (HHST) pasteurizers, including minimum temperature and hold times. This rule also updates standards for conventional batch pasteurizers and high-temperature short-time (HTST) pasteurizers. HTST and HHST pasteurizers must meet technical standards published jointly by FDA, the International Association of Food Industry Suppliers and the International Association of Food Protection. DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate the updated standards by reference in this rule.

DATCP periodically tests pasteurizers according to procedures specified in the PMO. This rule updates current procedures to meet current PMO standards. DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate the updated PMO standards by reference in this rule.

When DATCP determines that a pasteurizer is operating correctly, it seals the pasteurizer to prevent alterations that might allow unpasteurized product to flow through the system. A dairy plant operator must immediately notify DATCP whenever a pasteurizer malfunctions or the operator breaks the seal (to repair a malfunctioning pasteurizer, for example). The dairy plant operator may not resume pasteurizer operations until certain safety requirements are met. This rule expands and clarifies those safety requirements. This rule extends, by 5 days, the current 5-day deadline for resealing the pasteurizer.

Pasteurization Records

This rule expands and updates current pasteurization record keeping requirements. Among other things it expands current record keeping requirements related to HTST and HHST pasteurization. Records must document that pasteurization met minimum standards designed to ensure dairy product safety.

Dairy Plant Records

Under current rules, a dairy plant operator must keep certain records and make those records available for

inspection and copying by DATCP. This rule expands and clarifies current record keeping requirements. This rule:

Authorizes a dairy plant operator to keep cleaning and sanitizing records for C-I-P (“cleaned in place”) systems in electronic form, with or without a hard copy. Electronic records must be accessible by a DATCP inspector.

Requires a dairy plant operator to keep records related to vitamin fortification of fluid milk products, including inventory records and vitamin assay records.

Grade A Audit Surveys

Under the PMO, current state statutes and current DATCP rules, the Department of Health and Family Services (DHFS) must audit grade A dairy plants and dairy farms for compliance with PMO requirements. DHFS also audits DATCP’s compliance program for compliance with the PMO. This rule updates current audit standards to meet current PMO requirements. DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate the updated PMO standards by reference in this rule.

Drafting and Organizational Changes

This rule makes a number of drafting and organizational changes to clarify and update current rules.

ATCP 77 (Emergency Rule and Proposed Rule) Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07 (1) and 93.12 (3), (5) and (7), Stats., and s. 227.24, Stats. (emergency rule)

Statutes interpreted: ss. 93.12, Stats.

Background

The Department of Agriculture, Trade and Consumer Protection (DATCP) certifies laboratories that test milk, food and drinking water for compliance with public health standards. Laboratory certification helps ensure that public health lab tests are accurate and reliable. DATCP has adopted laboratory certification rules under ch. ATCP 77, Wis. Adm. Code.

Under current rules, DATCP certifies laboratories and approves analysts who conduct confirmatory drug residue tests on milk samples. But DATCP does not currently approve analysts who conduct “visual read” drug residue screening tests. The U. S. Food and Drug Administration (FDA), recently required states to approve laboratory analysts who conduct “visual read” screening tests. Analysts must be approved by March 1, 2002, or dairy plants may no longer be able to ship milk in interstate commerce.

This emergency rule implements the new FDA mandate. Under this emergency rule, DATCP will immediately begin to evaluate and approve analysts performing “visual read” screening tests, so that approvals will be in place by the March 1, 2002 deadline. DATCP will charge fees to cover the cost of the new program.

The emergency rule will expire after 150 days, unless extended. In order to continue the new program, DATCP also proposes to adopt the emergency rule as a “permanent” rule. This will ensure continued compliance with grade A interstate milk shipment requirements.

Rule Contents

Under this rule, analysts conducting drug residue screening tests on milk must be approved by DATCP. DATCP will evaluate and approve laboratory analysts who conduct “visual read” tests. DATCP will evaluate analysts who work for certified laboratories. Analysts at an approved laboratory will be authorized to conduct “visual read” tests for which the laboratory is also approved. Analysts will be approved to

conduct those tests at that laboratory, but will not be approved to conduct the same tests at a different laboratory.

An approved laboratory may not employ unapproved analysts to conduct “visual read” tests. Before DATCP approves an analyst to perform a “visual read” test, DATCP will observe and evaluate the analyst’s competency to perform that test. An approval expires on December 31 of each year unless, by that date, the laboratory documents to DATCP that the analyst has completed an annual proficiency test and has correctly identified both positive and negative samples.

Under this rule, a laboratory conducting “visual read” drug residue screening tests must pay the following fees:

- \$500 for initial approval of up to 3 analysts, and \$25 for approval of each additional analyst during the same initial laboratory visit.
- \$150 for any subsequent visit to approve analysts, regardless of the number of analysts approved on that visit.
- \$100 for the annual renewal of analyst approvals. A \$100 annual renewal covers all analysts currently approved to perform milk drug residue screening tests at that laboratory.

No site visit is required for an annual renewal. An annual renewal does not cover new analysts, nor does it cover analysts performing tests that they have not yet been approved to perform.

Fiscal Estimate

(see p. 19, 11–15–01 Wis. Adm. Register)

Initial Regulatory Flexibility Analysis

(see p. 19, 11–15–01 Wis. Adm. Register)

Notice of Hearings

Agriculture, Trade and Consumer Protection [CR 01–125]

(reprinted from 11–15–01 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule to revise ch. ATCP 60, relating to dairy farm standards. The department will hold four hearings at the time and places shown below. The department invites the public to attend the hearings and comment on the proposed rules. Following the public hearing, the hearing record will remain open until December 15, 2001, for additional written comments.

You may obtain a free copy of these rules by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224–4700. 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 November 23, 2001, by writing to Debbie Mazanec, Division of Food Safety, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4712. Alternatively, you may contact the Department TDD at (608) 224–5058. Handicap access is available at the hearings.

Hearings are scheduled at:

Thursday, November 29, 2000, 9:30 a.m. until 12:30 p.m.
DATCP Eau Claire Regional Office
3610 Oakwood Hills Parkway
Eau Claire, WI 54701–7754
Handicapped accessible

Tuesday, December 4, 2001, 9:30 a.m. until 12:30 p.m.
 Appleton Public Library
 Lower Level Meeting Room
 925 So. Oneida Street
 Appleton, WI 54911
 Handicapped accessible

Wednesday, December 5, 2001, 9:30 a.m. until 12:30 p.m.
 Green County Agriculture Bldg.
 2841 6th Street
 Monroe WI 53566
 Handicapped accessible

Thursday, December 6, 2001, 9:30 a.m. until 12:30 p.m.
 U. W. Pyle Center
 702 Langdon Street
 Madison, WI 53706
 Handicapped accessible

The hearing in Madison on Thursday, December 6, 2001, will have videoconference connections with three additional locations. The public may participate in the hearing by testifying or registering an appearance at any of the four sites, and see as well as listen to testimony from other persons at all of the sites. Videoconference connections will be available from 9:30 a.m. until 12:30 p.m. at the following locations:

- LaCrosse State Office Building, Room B–29
 3550 Morman Coulee Road
 LaCrosse WI 54601
 Handicapped accessible
- Wisconsin Rapids State Office Building
 2610 Industrial Street, Conference Room #4
 Wisconsin Rapids WI 54495
 Handicapped accessible
- University of Wisconsin – Green Bay
 Instructional Services Bldg. Room #1034
 Green Bay, WI 54311
 Handicapped accessible

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

Statutory authority: ss. 93.07 (1), 97.09 (4), 97.20 (4), 97.22 (8), 97.24 (3) and 97.52, Stats.

Statutes interpreted: ss. 93.06 (7) and (8), 97.02, 97.03, 97.12, 97.20, 97.22 to 97.24, 97.50 and 97.52, Stats.

Overview

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) regulates dairy farms to protect consumers and facilitate interstate shipment of Wisconsin dairy products. This rule updates current dairy farm rules under ch. ATCP 60, Wis. Adm. Code. Among other things, this rule:

- Requires out-of-state dairy plant operators to test milk procured in this state from Wisconsin producers, and report test results.
- Authorizes milk producers to ship milk to 2 or more dairy plant operators. Each operator must comply with testing, reporting and other requirements related to milk shipped to that operator. One of the operators must take responsibility for producer licensing functions. That operator must pay the producer’s license, grade A permit and re-inspection fees, and must perform initial dairy farm inspections and biennial water supply tests required for licensing purposes. Operators must report producer transfers.

- Authorizes milk producers (such as grazers) to discontinue milk shipments temporarily, without jeopardizing their license or permit status.

- Extends current rules to cover farms producing milk from sheep (current rules apply to cows and goats).

- Modifies current hot water capacity requirements for dairy farms.

- Authorizes the use of re-circulated water in plate coolers, subject to conditions specified in this rule.

- Authorizes milk producers to milk directly to bulk transport containers, subject to standards specified in this rule.

- Clarifies milk testing and reporting requirements.

- Requires dairy plant operators to respond immediately if the bacteria count in a producer’s milk is more than 750,000 bacteria per ml. (the current “immediate response” level is 1,000,000 per ml.).

- Authorizes electronic reporting of milk test records. Dairy plant operators are encouraged, but not required, to implement electronic reporting by July 1, 2002.

- Requires a dairy plant operator to recover, from producers who contaminate milk with drug residues, the full amount of the operator’s loss related to that milk. Under current rules, an operator must test bulk loads of milk, reject contaminated loads, and recover at least part of the loss from offending producers. This rule requires the operator to recover the full value of each rejected load (not just part), plus disposal costs.

- Tightens the current test standard for beta lactam drug residues in milk, and modifies current standards for Neomycin, Chlortetracycline and Oxytetracycline, per federal standards.

- Requires milk laboratories and laboratory analysts to be certified by DATCP, not the Department of Health and Family Services (DHFS). The Legislature recently transferred dairy, food and water lab certification responsibilities from DHFS to DATCP.

- Codifies DATCP’s current program of performance-based dairy farm inspection. Under this program, DATCP inspects different farms with different frequency, depending on their performance.

- Updates current sanitation requirements for dairy farms.

- Updates current DATCP administrative procedures.

- Make drafting and organizational changes to clarify and modernize current rules.

Background

DATCP currently licenses and inspects dairy farms under ss. 97.22 to 97.24, Stats., and ch. ATCP 60, Wis. Adm. Code. All dairy farms must be licensed. Grade A dairy farms must also hold a grade A permit. Only grade A milk may be sold as fluid milk. Grade B milk (and grade A milk) may be used to produce cheese and other non-fluid milk products. Grade A milk typically commands a higher price.

All milk must be produced under sanitary conditions. Grade A milk production must also comply with the Interstate Pasteurized Milk Ordinance (PMO). Failure to comply with PMO requirements may jeopardize Wisconsin interstate milk shipments. Current DATCP rules establish standards for grade A and grade B dairy farms. DATCP rules incorporate PMO standards.

A milk producer typically ships milk to a single dairy plant operator, although this industry custom is changing. DATCP licenses dairy plants located in this state. DATCP does not license out-of-state dairy plants, although it does have authority to regulate out-of-state dairy plants that procure milk in this state from Wisconsin producers. DATCP currently regulates dairy plants under ch. ATCP 80, Wis.

Adm. Code. ATCP 60 also spells out dairy plant responsibilities related to milk procurement from dairy farms.

Under current law, a dairy plant operator must submit milk producer license applications, license fees, and grade A permit applications on behalf of the milk producers who ship milk to that operator. A dairy plant operator must also test producer milk shipments for drug residues, bacteria, somatic cells and other adulterants, and must report test results to DATCP. A dairy plant operator must reject milk that fails to meet critical minimum standards.

Bulk milk haulers collect milk shipments from dairy farms, and transport those shipments to dairy plants. Each bulk tanker load typically includes milk shipments from several producers, although some large producer shipments may fill an entire tanker. The milk hauler weighs and measures the milk at the farm (for payment purposes), and collects a sample of each producer's milk before that milk is commingled with milk from other producers.

The milk hauler transmits producer milk samples to the dairy plant operator's laboratory for testing. The operator tests samples for drug residues, bacteria and somatic cells, and reports test results to DATCP. DATCP regulates milk haulers under ch. ATCP 82, Wis. Adm. Code, and certifies milk testing laboratories under ch. ATCP 77, Wis. Adm. Code.

Under current rules, a dairy plant operator must also screen each bulk load of milk before the operator commingles that load with any other loads. If a bulk load tests positive for drug residues, the dairy plant operator must reject it and test the individual producer samples for that bulk load. If a producer sample tests positive for drug residues, the dairy plant operator may charge that producer for the cost of the bulk load.

DATCP currently inspects dairy farms, and monitors milk quality test reports. DATCP inspects grade A dairy farms at a specified frequency, based on dairy farm performance. DATCP inspects grade B farms less frequently. DATCP may suspend or revoke a producer's license or grade A permit for cause, including violations of farm sanitation or milk quality standards. Current rules spell out compliance procedures, including notice and appeal procedures.

Rule Contents

Out-of-State Dairy Plants

Current rules require licensed dairy plants to file license and permit applications for milk producers, pay producer license and reinspection fees, test producer milk shipments, and report test results to DATCP. Current rules do not apply to out-of-state dairy plants, which are not licensed by DATCP, although most out-of-state plants perform these functions voluntarily when procuring milk from Wisconsin producers. This rule requires out-of-state dairy plants to perform these functions when they procure milk in this state from Wisconsin producers. But this rule does not require out-of-state dairy plants to be licensed in this state.

Producer Shipping to 2 or More Dairy Plants

A milk producer typically ships milk to a single dairy plant operator, although this industry custom is changing. Some large producers concurrently ship milk to 2 or more dairy plant operators. This rule allows a producer to ship to 2 or more dairy plant operators if all the following apply:

- Each operator tests milk shipments shipped to that operator, and reports test results. The operator must also comply with other requirements related to those shipments.
- One of the operators files license and permit applications for the milk producer, and pays producer license and

reinspection fees. Under this rule, as under current rules, the operator must charge producer reinspection fees back to the producer.

Producer Transferring Between Dairy Plants

A dairy plant operator must notify DATCP if a producer transfers to that operator, or if the operator assumes license and fee payment responsibilities for that producer.

Milk Shipments Discontinued

This rule authorizes a producer (such as a grazer) to discontinue milk shipments for up to 180 days without jeopardizing the producer's license status, and for up to 60 days without jeopardizing the producer's grade A permit status. A dairy plant operator must report to DATCP when the producer stops and resumes shipments.

If a dairy plant operator terminates a milk producer, the operator must report the termination to DATCP. DATCP will revoke the producer's license 30 days after the termination unless the producer is shipping milk to another operator.

Dairy Sheep

Current dairy farm rules apply to cattle and goats. This rule extends current rules to include sheep.

Lighting in Barns, Milking Parlors and Milkhouses

This rule increases the minimum lighting standard in barns, milking parlors and milkhouses. This rule requires at least 30 foot-candles of illumination in milking parlors and milkhouses (current rules require 20 foot-candles).

Water Supply

Under current rules, a dairy plant operator must biennially sample a milk producer's water supply. The water sample must be tested at a certified laboratory. The Legislature recently transferred water lab certification responsibilities from the Department of Health and Family Services (DHFS) to DATCP. DATCP has adopted laboratory certification rules under ch. ATCP 77, Wis. Adm. Code. This rule updates current dairy farm rules to require lab certification by DATCP, not DHFS.

Hot Water

This rule modifies current capacity requirements for hot water supply systems. This rule eliminates a number of specific capacity requirements, but requires adequate hot water for all milkhouse operations (with a minimum of 10 gallons to clean equipment and utensils). DATCP may approve alternative systems, including heat recovery and continuous flow systems that provide adequate hot water.

Re-Circulated Cooling Water

Current rules prohibit the use of re-circulated water to cool milk. This rule permits the use of re-circulated water in plate coolers if all the following apply:

- The re-circulated water originates from a safe source that complies with DNR rules.
 - The re-circulated water is bacteriologically safe, and is protected from contamination. The milk producer must test for bacteria at least twice a year. Test results must meet minimum standards specified in this rule.
 - The re-circulating system uses non-toxic coolants.
- If a re-circulating water system becomes contaminated, the milk producer must stop using the system until the producer does all the following:
- Eliminates the contamination source and treats the re-circulated water.
 - Re-tests the re-circulated water, and determines that the water meets the bacteriological test standards under this rule.

Toilet Facilities

This rule re-states, but does not substantially alter, current standards for toilets on dairy farms. Toilets must comply with applicable DNR and Department of Commerce rules.

Milking Directly to Bulk Transport Containers

Most farmers milk to a permanent bulk tank in the milkhouse, where milk is cooled and stored for shipment. A milk hauler then collects the milk from the bulk tank, and transports it in a bulk milk tanker to a dairy plant. However, some large farmers propose to cut costs by milking directly to the bulk transport container (tanker) in which the farmer then transports the milk to the dairy plant. This rule authorizes producers to milk directly to a bulk transport container if all the following apply:

- The producer controls the operation and maintenance of the bulk transport container. The producer may not collect milk from other producers unless the producer operates as a licensed as a milk hauler under ch. ATCP 82.
- The bulk transport container is constructed and maintained according to bulk milk tanker standards under ch. ATCP 82.
- The bulk transport container has an access port that can be sealed.
- The bulk transport container, while parked at the dairy farm, is kept on a pad of concrete or other impervious material. The pad must be located next to the milkhouse, to minimize the length of the transport hose between the milkhouse and the bulk transport container.
- All permanent pipelines connecting the bulk transport container to the milk handling system terminate in the milkhouse.
- The milk producer cools all milk to a temperature of 45° F. (7° C.) or lower before the milk enters the bulk transport container. The producer may use a plate cooler, tube cooler or bulk tank to cool the milk. The producer must measure and record milk temperatures.
- The bulk transport container outlet valve is close-coupled and protected with an effective dust cover.
- The producer keeps the bulk milk cooling device, transport hose and bulk transport container outlet valve in clean and sanitary condition.
- The dairy plant operator collects a milk sample, screens for drug residues, and records the temperature and quantity of milk before unloading the bulk transport container.
- The dairy plant operator cleans and sanitizes the bulk transport container after each milk shipment, just as the operator would clean and sanitize a bulk milk tanker under ch. ATCP 82.

Milk Testing and Reporting

Under current rules, dairy plant operators must test milk from dairy farms and report test results to DATCP. This rule clarifies current reporting requirements and authorizes electronic reporting. Dairy plant operators are encouraged, but not required, to implement electronic reporting by July 1, 2002.

Under this rule, as under the current rule, milk tests must be performed at certified laboratories. Under this rule, milk laboratories and analysts must be certified by DATCP, not the Department of Health and Family Services (DHFS). The Legislature recently transferred dairy, food and water lab certification responsibilities from DHFS to DATCP.

This rule updates current milk test methods. Milk test methods must be those prescribed in "Standard Methods for the Examination of Dairy Products", 16th edition (1992), or in the "Official Methods of Analysis of the Association of

Analytical Chemists (AOAC) International", 17th edition (2000). DATCP will ask the Attorney General and the Revisor of Statutes for permission to incorporate these updated technical standards by reference in this rule. DATCP may approve other test methods.

Bacteriological Testing; "Immediate Response" Levels

Under current rules, dairy plant operators must take immediate steps if a producer's milk is found to contain more than 1,000, 000 bacteria per ml. This rule lowers the "immediate" response level to 750,000 bacteria per ml.

Drug Residue Testing

Under current rules, a dairy plant operator must screen each bulk load of milk for drug residues, before the operator commingles that load with any other loads. If a bulk load tests positive for drug residues, the dairy plant operator must reject it and test the individual producer samples for that bulk load. If a producer sample tests positive for drug residues, the dairy plant operator may charge that producer for the cost of the bulk load. Under current rules, the operator must recover at least part of the operator's loss from the offending producer.

Under this rule, the dairy plant operator must recover the full value of each rejected load (not just part) from the offending producer. The operator must also recover any additional transportation, testing and disposal costs caused by the contamination. If there are 2 or more offending producers, the operator must recover pro rata from those producers based on the relative size of their milk shipments in the contaminated bulk load.

This rule tightens current test standards for beta lactam drug residues in milk, and modifies current standards for Neomycin, Chlortetracycline and Oxytetracycline, per federal standards.

Performance-Based Dairy Farm Inspection

This rule codifies DATCP's current program of performance-based dairy farm inspection. Under this program, DATCP inspects different grade A dairy farms with different frequency, depending on their performance. The terms of the performance-based inspection are consistent with the requirements of the Interstate Pasteurized Milk Ordinance (PMO).

Under this rule, DATCP must evaluate each grade A dairy farm every 3 months, based on inspection reports, milk quality tests and department compliance actions during the preceding 12 months. Based on this evaluation, DATCP must place the dairy farm in one of the following categories:

Twelve-Month Inspection Category. DATCP must inspect a grade A dairy farm in this category at least once every 12 months. DATCP must place a dairy farm in this category if all the following apply, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months:

- All of the producer's standard plate counts (SPC) are less than 25,000, except one SPC may exceed 25,000 if it is not more than 100,000.
- All of the producer's somatic cell counts (SCC) are less than 500,000.
- DATCP has not issued any warning for drug residue violations or "key" farm inspection violations.
- No dairy farm inspection report shows more than 5 violations.
- DATCP has not suspended the producer's grade A dairy farm permit or milk producer license.
- The producer's latest water supply test complies with this rule.

Six-Month Inspection Category. DATCP must inspect a grade A dairy farm in this category at least once every 6

months. DATCP must place a dairy farm in this category if all the following apply, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months:

- The dairy farm fails to qualify for the 12-month inspection category.
- DATCP has not issued more than one warning for violations of bacteria or somatic cell test standards.
- DATCP has not issued any warning for drug residue violations or “key” farm inspection violations.
- No dairy farm inspection report shows more than 5 violations.
- DATCP has not suspended the producer’s grade A dairy farm permit or milk producer license.
- The producer’s latest water supply test complies with this rule.

Four-Month Inspection Category. DATCP must inspect a grade A dairy farm in this category at least once every 4 months. DATCP must place a dairy farm in this category if the dairy farm does not belong in the 12-month, 6-month or 3-month inspection category, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months.

Three-Month Inspection Category. DATCP must inspect a grade A dairy farm in this category at least once every 3 months. DATCP must place a dairy farm in this category if all the following apply, based on dairy farm inspection reports, milk quality tests and DATCP compliance actions during the preceding 12 months:

The dairy farm does not qualify for the 12-month or 6-month inspection category.

DATCP has done any of the following:

- * Issued more than one warning for violations of bacteria or somatic cell test standards.
- * Issued more than one warning for drug residue violations.
- * Issued more than one warning for “key” farm inspection violations.
- * Conducted more than one re-inspection of the dairy farm.
- * Suspended the producer’s dairy farm license or grade A permit.

Compliance Procedures

This rule clarifies DATCP compliance procedures related to dairy farms. This rule does not make significant changes in current procedures, except that it extends the deadline for holding an informal hearing on a contested drug residue finding. Under current rules, DATCP must hold the informal hearing within 3 business days after the producer requests the hearing, unless the producer requests a later hearing date. Under this rule, DATCP must hold the informal hearing within 10 business days after the producer requests the hearing, unless the producer requests a later hearing date. This new deadline is consistent with the current deadline for holding informal hearings on other contested dairy farm violations.

Fiscal Estimate

(see p. 23, 11-15-01 Wis. Adm. Register)

Initial Regulatory Flexibility Analysis

(see p. 23, 11-15-01 Wis. Adm. Register)

Notice of Hearing Controlled Substances Board [CR 01-107]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Controlled Substances Board in ss. 961.11 (1), 961.16 and 961.19, Stats., and interpreting s. 961.14 (5) (ag), Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create s. CSB 2.27, relating to the scheduling of certain drugs under ch. 961, Stats., the Uniform Controlled Substances Act.

Hearing Date, Time and Location

Date: **February 6, 2002**
Time: 9:15 a.m.
Location: 1400 East Washington Avenue
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 February 13, 2002, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 961.11 (1), 961.16 and 961.19, Stats.

Statute interpreted: s. 961.14 (5) (ag), Stats.

Gamma-butyrolactone (GBL) is currently classified under state law as a schedule I drug, s. 961.14 (5) (ag), Stats. This chemical is only classified by DEA as a list one chemical. GBL is legitimately used for industrial, scientific research, food industry uses and other uses. GBL is currently classified as a schedule I controlled substance under state law, but is classified by the Drug Enforcement Administration (DEA) as a list one chemical. Legitimate uses for gamma-butyrolactone exist for industrial, scientific research, food industry uses and other uses. The Controlled Substances Board has received information that currently the federal Environmental Protection Agency (EPA) has approved the use of GBL as an industrial solvent. The objective of the rule is to delete the schedule I listing of GBL which will obviate the need for obtaining a special use authorization under s. 961.335, Stats.

Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Currently, persons having otherwise legitimate possession of GBL for legitimate uses are at risk of prosecution under the Wisconsin Controlled Substances Act in Chapter 961, Wis. Stats. Distributors of GBL located outside of this state and end users located within this state do not currently have the benefit of a limited industrial use exemption for the possession and use of GBL. With the delisting of GBL, the illicit use of GBL would still be prohibited since it is a violation of federal law as GBL is classified as a list one chemical. However, the mere possession and legitimate use of GBL in the state will no longer be a violation of the Uniform Controlled Substance Act.

Text of Rule

SECTION 1. CSB 2.27 is created to read:

CSB 2.27 Deletion of gamma-butyrolactone from schedule I. Section 961.14 (5) (ag), Stats., is amended to read:

Section 961.14 (5) (ag) Gamma-hydroxybutyric acid (commonly known as gamma hydroxybutyrate or "GHB") and gamma-butyrolactone.

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**Natural Resources****(Fish, Game, etc., Chs. NR 1—)
[CR 01-127]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.039 (2), 29.319 and 227.11 (2), Stats., interpreting ss. 23.09, 23.11, 29.011, 29.014 and 29.041, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 18, Wis. Adm. Code, relating to falconry. Currently there is no permit fee for resident and nonresidents engaging in the sport of falconry, except that nonresidents must obtain a valid small game or general hunting license when hunting with a raptor. Section 29.319, Stats., now provides statutory authority to the department to establish a permit fee by rule. The proposed rule establishes a fee of \$75 for a 3-year permit for residents and an annual fee of \$100 for nonresidents engaging in the sport of falconry, clarifies definitions and modifies restrictions on the types of raptors used for educational purposes.

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

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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

Tuesday, December 11, 2001 at 6:30 p.m.

Lowell Center

610 Langdon Street, Madison

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 Sumner Matteson at (608) 266-1571 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal estimate

Based on an estimated 110 resident falconers and an estimated 5 nonresident falconers annually, the annual revenue from the new permit system is expected to amount to \$3,250, which will be deposited into the Fish and Wildlife account of the conservation fund. Since a permit system is currently in place for resident and nonresident falconers, there is no major workload increase anticipated that is associated with processing applications.

Written comments on the proposed rule may be submitted to Mr. Sumner Matteson, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707 no later than December 21, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [ER-32-01] and fiscal estimate may be obtained from Mr. Matteson.

Notice of Hearings**Natural Resources****(Fish, Game, etc., Chs. NR 1—)
[CR 01-128]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.733 (2) (f) and 227.11 (2) (a), Stats., interpreting s. 29.733, Stats., the Department of Natural Resources will hold public hearings on revisions to subch. II of ch. NR 16, Wis. Adm. Code, relating to fish farms. The proposed rule will:

1. Modify the definition of "natural body of water" to reflect existing water law regulation of "private" ponds and to expand the types of private ponds that are exempt from regulation.

2. Add an exemption for department permitted wetland ponds to the definition of natural body of water consistent with the exemption of waterways considered private under chs. 30 and 31, Stats.

3. Clarify the criteria the department will use to assess permit renewals after the 10-year permit expires.

4. Make minor housekeeping changes including updating permit application deadlines, clarifying statutory enforcement provisions and how multiple waterways on a contiguous parcel of property are permitted, and adding a definition for "department hatching and rearing facilities".

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: Fish farms

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:

Tuesday, December 18, 2001 @ 6:00 p.m.

Conference Rooms 1 & 2

DNR South Central Region Headquarters

Fish Hatchery Road, Fitchburg

Thursday, December 20, 2001 @ 6:00 p.m.

LMC Room, John Muir Middle School

1400 W. Stewart Ave., Wausau

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 Steve Hewett at (608) 267-7501 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal estimate

The minor revisions to the rule will not significantly affect the number of permits, workload, or fees associated with the permitting of natural bodies of water used as fish farms.

Written comments on the proposed rule may be submitted to Mr. Steve Hewett, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than December 21, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-16-01] and fiscal estimate may be obtained from Mr. Hewett.

Notice of Hearing

Natural Resources

(Environmental Protection – Remediation, Chs.

NR 700 —)

[CR 01-129]

NOTICE IS HEREBY GIVEN that pursuant to s. 227.11 (2) (a), Stats., interpreting ss. 292.11 and 292.31 and ch. 160, Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 700, 714, 722, 726 and 749, Wis. Adm. Code, relating to deed restrictions on contaminated lands and soil GIS registry. The rule changes proposed to ch. NR 726 are needed to clarify the criteria and process for applying deed restrictions and deed notices to contaminated properties where residual soil contamination remains after case closure. The rule changes authorize the creation of a soil geographic information system (GIS) registry that will be available on the Internet to replace the use of most soil deed notices. The rule changes in ch. NR 749 establish a fee of \$200 to enable the Department to recover its costs in managing the GIS Registry. The fee will be charged at the time closure is requested. The soil GIS registry will be analogous to the groundwater GIS registry which will be available on the Internet. Sites closed with residual soil contamination will be placed on the soil GIS registry as a means of notifying future owners/users of the property of the existence of soil contamination.

Because the GIS registry will provide public access to information about residual contamination at properties, this rule repeals s. NR 714.07(5) which previously required responsible parties to publish a legal notice in a local newspaper when they proposed a performance standard to address residual soil contamination. The rule specifies when deed restrictions are to be placed on properties with soil contamination remaining after site closure. The new rules will help ensure consistent application of deed restrictions by staff at the Department of Natural Resources and the Department of Commerce. The rule change will allow the owners of contaminated properties and other responsible parties to anticipate what restrictions on land use are likely to be required as a condition of case closure by clearly establishing the type of institutional controls that will be required by the agencies at the time of closure in various fact situations.

Other related changes to ch. NR 700 and 726 are included to define the term "industrial land use", to specify the contents of the required deed instruments and to make the rules that were recently adopted to implement a groundwater GIS registry consistent with these new soil GIS registry rules.

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

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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

Wednesday, January 16, 2002 @ 10:00 a.m.

Video conference participation will be available at:

- Room 021, GEF 2 Bldg, 101 South Webster St., Madison
- Room 139, State Office Bldg, 718 W. Clairemont Ave., Eau Claire
- Room 618, State Office Bldg, 200 N. Jefferson St., Green Bay
- Room 542, State Office Bldg, 819 N. 6th Street, Milwaukee
- Room 3, DNR Regional Headquarters, 107 Sutliff Avenue, Rhinelander
- Lower Level Conf. Room, DNR Regional Hdqrs., 810 W. Maple St., Spooner

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 Dale Ziege at (608) 267-7533 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal estimate

The rule package proposes a change in the ch. NR 749 fee schedule to enable the department to recover costs in maintaining the soil GIS registry. The fee is \$200 per site added to the registry. It is estimated that 500 sites per year will be closed with residual soil contamination and will therefore be required to participate in the soil GIS registry.

Written comments on the proposed rule may be submitted to Mr. Dale Ziege, Bureau of Remediation and

Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than February 1, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [RR-9-01] and fiscal estimate may be obtained from Mr. Ziege.

Notice of Hearing
Pharmacy Examining Board
[CR 01-134]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 450.03 (1) (g), Stats., as created by 2001 Wis. Act 16, and s. 450.04 (3) (b), Stats., as amended by 2001 Wis. Act 16, and interpreting ss. 450.03 (1) (g) and 450.04 (3) (b), Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order revising chs. Phar 1 and 2, relating to a pharmacy internship program.

Hearing Date, Time and Location

Date: December 11, 2001
Time: 9:15 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 December 28, 2001 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), and s. 450.03 (1) (g), as created by 2001 Wis. Act 16, and s. 450.04 (3) (b), as amended by 2001 Wis. Act 16.

Statutes interpreted: ss. 450.03 (1) (g) and 450.04 (3) (b)

In this proposed rule-making order the Pharmacy Examining Board creates rules relating to a pharmacy internship program to reflect statutory amendments to s. 450.04 (3) (b), Wis. Stat. effective December 31, 2001. 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.

SECTION 1 defines an "intern." This is necessary to maintain the distinction between the interns and technicians encompassed in Wis. Admin. Code ch. Phar 7. Interns, with limitations, practice pharmacy. Technicians do not practice pharmacy. Five classes of interns are created.

The first class of intern, s. Phar 1.02 (4e) (a), defines an intern as a student who is practicing as part of a practical experience program sponsored by the student's school or college of pharmacy.

The second class of intern, s. Phar 1.02 (4e) (b), defines a student who practices under the direct supervision of a pharmacist. This type of intern typically engages in the practice of pharmacy within the context of summer

internships for no credit under a practical experience program.

The third class of intern, s. Phar 1.02 (4e) (c), defines foreign graduates applying for original licensure who may not have completed a traditional pharmacy internship therefore needing a means to complete an internship in the practice of pharmacy in this state.

The fourth class of intern, s. Phar 1.02 (4e) (d), defines recent graduates from an approved pharmacy school who have filed an application for licensure with the board and are awaiting board action. This class of intern may need either to obtain additional hours of internship credit to qualify for original licensure, or may be working under the direct supervision of a pharmacist while awaiting final board action on their application.

The fifth class of intern is a statutory creation, restating in the rule for clarity the provisions of s. 450.03 (1) (g), Wis. Stat. These persons have applied for a license under s. 450.05, Wis. Stat. (out-of-state licensees) and their practice of pharmacy is limited to performing duties under the direct supervision of a person licensed as a pharmacist by the board and during the period before which the board takes final action on the person's application. This class of intern is not included within the definition of "internship" because this intern does not need to satisfy an internship requirement for licensure under s. 450.05, Wis. Stat. However, a definition as an "intern" is still necessary to place such persons and their supervising pharmacists on notice of the requirements and distinctions between interns and technicians created by Wis. Admin. Code ch. Phar 7.

An internship in the practice of pharmacy is defined to mean the completion of 1,500 hours in aggregate in the practice of pharmacy in the delineated categories. Not all of the required 1,500 hours need to be completed in any one category, yet a minimum of 1,500 hours must be earned and certified. There are five types of categories of internship experience.

The first category is the practice of pharmacy in a practical experience program consisting of the practice of pharmacy sponsored by a professional Bachelor's of Science degree in pharmacy or Doctor of Pharmacy degree granting institution located in this or another state.

The second category is the practice of pharmacy by a qualified student under the direct supervision of a pharmacist. The hours earned in this category may not count as a part of a practical experience program if previously credited therein. Hours earned in this second category are therefore considered in addition to the hours earned in the practical experience program.

The third category allows foreign graduate applicants applying for original licensure to earn internship credits to qualify for original licensure. This internship is limited to a maximum of 2,000 hours of credit earned at which time the internship is deemed ended. The applicant may not then further engage in the practice of pharmacy until such time a license is granted by the board.

The fourth category allows applicants for original licensure awaiting board action on their application to practice pharmacy under the direct supervision of a pharmacist during the pendency of their application. This internship is limited to a maximum of 1,500 hours of credit earned at which time the internship is deemed ended. The applicant may not then further engage in the practice of pharmacy until such time a license is granted by the board.

The fifth category is created by statute at s. 450.04 (3) (b), Wis. Stat. The statute allows the board to grant credit for practical experience acquired in another state which is

comparable to include in an internship and which is approved and verified by the board or by the agency which is the equivalent of the board in the state in which the practical experience was acquired. In determining comparable practical experience the board shall consider the duties performed constituting the practice of pharmacy as described in s. 450.01 (16), Wis. Stat.

SECTION 3 creates the definition of a “supervising pharmacist” who supervises an intern in the practice of pharmacy.

SECTION 4 amends the requirement for original licensure removing the statutory reference to Wis. Stat. s. 450.045, which was repealed.

SECTIONS 5 and 6 amend the required proofs necessary to evidence the successful completion of an internship in the practice of pharmacy and the payment of fees under that section.

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

Submittal of proposed rules to the legislature

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

Financial Institutions–Banking

(CR 01–112)

Ch. DFI–Bkg 74 – Relating to procedures for the cancellation and return of certain collection agency accounts.

Natural Resources

(CR 00–175)

Chs. NR 460 and 464 – Relating to hazardous air pollutant emissions from pulp and paper mills.

Natural Resources

(CR 01–037)

Chs. NR 20 and 25 – Relating to sport fishing and commercial fishing for yellow perch in Green Bay.

Natural Resources

(CR 01–067)

Ch. NR 809 – Relating to safe drinking water standards for radionuclides.

Nursing Home Administrator Examining Board

(CR 01–101)

Chs. NHA 1 to 5 – Relating to examination, education, continuing education, reciprocity requirements and unprofessional conduct.

Public Service Commission

(CR 00–184)

Ch. PSC 163 – Relating to telecommunications utility price regulation.

Rule orders filed with the revisor of statutes bureau

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

**Architects, Landscape Architects, Professional
Engineers, Designers and Land Surveyors
(CR 01-034)**

An order affecting ch. A-E 2, relating to seals and stamps.
Effective 1-1-02

**Employee Trust Funds
(CR 01-096)**

An order affecting ch. ETF 20, relating to joint and survivor annuity reduced 25% upon death of annuitant or named survivor.
Effective 1-1-02

**Financial Institutions-Division of Securities
(CR 01-082)**

An order affecting chs. DFI-Sec 4, 5 and 7, relating to securities broker-dealer, agent, investment adviser and investment adviser representative licensing procedures, examination requirements, and rule of conduct provisions.
Effective 1-1-02

**Financial Institutions-Division of Securities
(CR 01-083)**

An order affecting chs. DFI-Sec 2, 7 and 9, relating to securities registration exemptions involving capital formation by businesses.
Effective 1-1-02

**Optometry Examining Board
(CR 01-060)**

An order affecting ch. Opt 5, relating to contact lens prescription release by optometrists.
Effective 1-1-02

Rules published with this register and final regulatory flexibility analyses

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

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

Commerce (CR 01-070)

An order affecting ch. Comm 113, relating to allocation of volume cap on tax-exempt private activity bonds.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

The proposed rules are not expected to have any impact on small businesses except for businesses located within the state that desire to obtain the economic benefit of industrial revenue bond financing using the volume cap allocated by the Department of Commerce

Summary of Comments of Legislative Standing Committees

No comments received.

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

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Funeral Directors Examining Board (CR 01-063)

An order affecting chs. FD 1 and 4, relating to apprenticeship credit and continuing education.

Effective 12-1-01

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, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Health and Family Services (CR 00-091)

An order affecting ch. HFS 112, relating to licensing of emergency medical technicians-paramedic and approval of emergency medical technician-paramedic operational plans.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

These rules apply to the following organizations: the Department of Health and Family Services, the Division of Hearings and Appeals in the Department of Administration, ambulance service providers and emergency medical technicians.

There are 14 ambulance service providers that may be "small businesses" as defined in s. 227.114 (1) (a), Stats. These rules implement new requirements, but any additional training costs are covered by the department and there should be no additional expenses for businesses.

Summary of Comments of Legislative Standing Committees

On June 6, 2001, the Senate Committee on Health, Utilities, Veterans and Military Affairs met in executive session and voted 7-2 to object in part to Clearinghouse Rule 00-091. The Senate Committee objected to a portion of proposed s. HFS 112.07 (2) (u) 1. a. In part, the objected to portion of the rule authorized a two-paramedic service provider to dispatch the paramedics from separate sites and, under certain circumstances, authorized one of the two responders to be released for other duty while the other responder would return with the patient. The objected to portion of the rule also specified the actions a single paramedic could perform until the arrival of the second responder.

As a result of the Senate Committee action, the Joint Committee for Review of Administrative Rules (JCRAR) was required to nonconcur in the standing committee's partial objection or object to the rule itself. As part of the deliberations over this matter, JCRAR and DHFS agreed that the Department would consider making modifications to the rule. Following receipt of the modifications, the issues before JCRAR were (1) whether an emergency medical technician-paramedic operational plan should require the participation of two responders together from the time of dispatch to the time of return and (2) what services should be provided if another paramedic arrived at the scene of an emergency prior to the arrival of an ambulance.

The Joint Committee for Review of Administrative Rules held a public hearing and executive session on July 18, 2001. At that time the JCRAR requested modifications to the rule. The Department submitted modifications on August 16, 2001 and the Committee met in executive session on August 30, 2001. At the August 30th executive session, the Committee voted 6-4 to object to part of the rule because, under s. 227.19 (4) (d) 2. and 6., Stats., it constituted an emergency relating to public health, safety and welfare and because it was arbitrary and capricious and imposed an undue hardship. The portion of the rule to which the Committee objected is in modified s. HFS 112.07 (2) (u) 1. a., beginning with the second sentence and continuing to the end of the subdivision paragraph. This action rejected the Department's

attempt to move away from the two-person team currently required in an emergency medical technician-paramedic operational plan. JCRAR met again on September 20, 2001 in executive session and voted to rescind a part of its objection to Clearinghouse Rule 00-091. By taking this partial rescission of its previous action, the Joint Committee restored the following language to the rule: "A single paramedic, licensed registered nurse, licensed physician assistant, or physician performing in the staffing configuration specified in this paragraph may perform all of the skills authorized under s. HFS 112.04 (4) for EMTs-paramedic." On September 20, 2001, the Joint Committee voted 8-2 to introduce LRB 3716/2 and 3717/2 to sustain its objection to the rule.

While the ultimate legislative outcome remains to be decided, the Department is proceeding to file all but the objected to portion of the rule. Based on the legislative outcome, the Department may subsequently file the remainder of the rule.

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

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments received.

Natural Resources (CR 00-112)

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

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. On March 15, 2001, the Senate Committee on Environmental Resources voted to ask the Department to modify s. NR 7.088. The Department is working on proposed modifications and is proceeding with processing the portion of the rule that did not need to be modified.

Natural Resources (CR 01-007)

An order affecting chs. NR 5 and 50, relating to boating safety and enforcement.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

This rule will primarily affect individual boaters and units of government, and will not directly impact small businesses.

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 September 20, 2001, the Senate Committee on Environmental Resources held a public hearing. On September 26, 2001, the Assembly Committee on Natural Resources held a public hearing. Neither committee requested any modifications to the proposed rule.

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.

Summary of Final Regulatory Flexibility Analysis

The proposed rules are applicable to individual sports persons 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 the hearing.

Natural Resources (CR 01-012)

An order affecting chs. NR 20, 21 and 50, relating to fishing on the inland, outlying and boundary waters of Wisconsin and fish rearing pond grants.

Effective 12-31-01 and 4-1-02

Summary of Final Regulatory Flexibility Analysis

These rules will not directly affect small business; 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 01-013)

An order affecting chs. NR 20 and 26, relating to sport fishing on the inland, outlying and boundary waters and fish refuges on the inland waters of Wisconsin.

Effective 12-31-01 and 4-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rules regulate individuals. 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 01-030)**

An order affecting ch. NR 1, relating to the cooperating forester program and private forestry priorities for assistance.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

The proposed rule should increase business for private enterprise. The changes in work priorities for Department foresters emphasize their role in giving landowners objective initial guidance followed by referral to private enterprise resource managers to implement the work. Since participation in the Cooperating Forester Program is entirely voluntary, those firms that are in disagreement with the new policies are free to continue their businesses independently from the program.

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. The Assembly Committee on Rural Affairs and Forestry held a public hearing on August 15, 2001 in Laona. No requests for modifications were received as a result of this hearing.

**Natural Resources
(CR 01-038)**

An order affecting ch. NR 8, relating to the issuance of licenses and approvals.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

These rules will not directly affect small business; therefore, no analysis is 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 September 20, 2001, the Senate Committee on Environmental Resources held a public hearing. On September 26, 2001, the Assembly Committee on Natural Resources held a public hearing. Neither committee requested any modifications to the proposed rule.

**Natural Resources
(CR 01-066)**

An order affecting ch. NR 10, relating to the 2001 migratory game bird season.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

The rules are applicable to individual sport persons and impose no compliance or reporting requirements for small

businesses, nor are any design or operational standards contained in the rule. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

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

**Transportation
(CR 01-084)**

An order revising ch. Trans 195, relating to fees for searching, verifying and certifying motor vehicle records.

Effective 12-1-01

Summary of Final Regulatory Flexibility Analysis

The proposed rule will have negligible impact on small businesses. Vehicle record abstracts are generally obtained by attorneys and private investigators, towing companies, debt collectors, and similar businesses. While these businesses will be required to pay an increased fee, the number of vehicle record abstracts which any single business obtains is a very small number (about 50,000 vehicle records are accessed annually, in a statewide fleet of about 4.5 million vehicles). Thus, a \$2 per record fee increase will have negligible impact on any single business. The telephone account minimum fee, representing 6 vehicle records checked in a month, is accounted for within the numbers cited above.

About 2,500 certifications and verifications each year are requested, for vehicle records (out of a fleet of about 4.5 million vehicles). About 2,000 certifications and verifications of driver license records are requested each year (in a population of about 3.5 million drivers). Thus, a \$2 per certification/verification fee increase will have negligible impact on any single business.

Summary of Comments of Legislative Standing Committees

There were no comments.

**Veterinary Examining Board
(CR 01-061)**

An order affecting ch. VE 7, relating to the definition of unprofessional conduct of the practice of veterinary medicine.

Effective 12-1-01

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

There were no comments.

Sections affected by rule revisions and corrections

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

Commerce:

Ch. Comm 113

- S. Comm 113.02 (1), (2), (8) (b) and (19)
- S. Comm 113.03 (entire section)
- S. Comm 113.041 (entire section)
- S. Comm 113.05 (1) (b)
- S. Comm 113.06 (1), (2) and (4) (a)
- S. Comm 113.07 (1) (k) and (L), (1m), (2), (3) (c) and (4) (e) to (j)
- S. Comm 113.08 (1) (a) and (2)

Controlled Substances Board:

Ch. CSB 2

- S. CSB 2.26 (entire section)

Funeral Directors Examining Board:

Ch. FD 1

- S. FD 1.07 (entire section)

Ch. FD 4

- S. FD 4.03 (4m) and (5)
- S. FD 4.045 (entire section)

Health and Family Services:

Ch. HFS 112 (entire chapter)

Insurance, Commissioner of:

Ch. Ins 9

- S. Ins 9.33 (entire section)

Ch. Ins 18 (entire chapter)

Natural Resources:

Ch. NR 1

- S. NR 1.16 (2)
- S. NR 1.212 (1) and (2)
- S. NR 1.213 (3) (b) and (d)

Ch. NR 5

- S. NR 5.001 (1m), (11m) and (16m)
- S. NR 5.08 (1) (intro.)
- S. NR 5.125 (1) (c)

Ch. NR 7

- S. NR 7.03 (3a) and (8a)
- S. NR 7.04 (6) and (9)
- S. NR 7.05 (10) and (11)

S. NR 7.084 (entire section)

S. NR 7.086 (entire section)

Ch. NR 8

- S. NR 8.02 (2) (a) and (b) and (4)
- S. NR 8.06 (1)

Ch. NR 10

- S. NR 10.01 (1) (b), (d), (g) and (u)

Ch. NR 11

- S. NR 11.011 (intro.)

Ch. NR 16

- S. NR 16.02 (1) and (7)

Ch. NR 17

- S. NR 17.02 (3) (e) and (f) and (4) (b)

Ch. NR 20

- S. NR 20.03 (17), (19), (22), (31), (37m), (42) and (43)
- S. NR 20.05 (1) and (4)
- S. NR 20.06 (5)
- S. NR 20.08 (2)
- S. NR 20.09 (3)
- S. NR 20.10 (3m), (3s), (4) to (6), (10) and (11)
- S. NR 20.11 (1) (a)
- S. NR 20.12 (2) (h) and (4) (b) and (c)
- S. NR 20.13 (6) and (7)
- S. NR 20.14 (3) and (6)
- SS. NR 20.15 and 20.16 (entire sections)
- S. NR 20.20 (1) (e) and (h), (8) (a), (9) (a), (11) (h) and (k), (12) (e) and (g), (13) (f) and (h), (14) (d) and (f), (16) (a), (19) (d), (20) (a) to (c) and (f), (22) (e) and (g), (23) (d), (24) (b), (25) (f) and (h), (26) (b) and (f), (28) (d), (29) (h), (30) (d), (33) (b) and (e), (34) (b) and (bm), (35) (g), (37) (e) and (i), (39) (b) and (e), (41) (b), (42) (f), (44) (b), (c) and (g), (45) (b) and (g), (46) (b), (49) (am), (50) (b), (d) and (h), (52) (e), (53) (e) and (g), (54) (b), (c) and (d), (56) (g) and (j), (57) (f) and (i), (58) (b), (59) (d), (60) (d), (63) (b), (64) (b) to (d) and (h), (65) (a) and (e), (66) (dm), (67) (b), (68) (e), (69) (b) and (e), (70) (a), (e) and (f), (71) (b) and (g), (72) (h), (73) (b), (e), (g), (h) and (j) to (m)
- S. NR 20.39 (1) (intro.) and (b)
- S. NR 20.40 (4) (b), (5) and (9)

Ch. NR 21

- S. NR 21.04 (2) (a) and (3) (a)
- S. NR 21.06 (4)

S. NR 21.065 (entire section)
S. NR 21.11 (2) (a)

Ch. NR 26

S. NR 26.14 (entire section)
S. NR 26.24 (9)

Ch. NR 45

S. NR 45.09 (5) (intro.)

Ch. NR 50

S. NR 50.13 (6)

Transportation:**Ch. Trans 195**

S. Trans 195.09 (1), (2) and (5) to (7)

Veterinary Examining Board:**Ch. VE 7**

S. VE 7.06 (14)

Editorial corrections

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

Commerce:**Ch. Comm 113**

S. Comm 113.08 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Insurance, Commissioner of:**Ch. Ins 9**

S. Ins 9.32 (1) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. Ins 9.42 (1) to (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Natural Resources:**Ch. NR 5**

S. NR 5.19 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. NR 5.22 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 13

S. NR 13.04 (1) (a), (2) (a), (3) (g) to (o) and (4) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 13.05 (2) to (4) (b), (6) (b) and (11) (a) and (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 13.10 (1) (a) to (j) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 13.12 (1) (b) and (10) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 13.30 (1) (a) to (x) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 13.51 (1) (e) and (f) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 13.55 (3) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 21

S. NR 21.04 (13) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 22

S. NR 22.02 (4), (8) and (10) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 22.11 (2) and (10) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 22.13 (3) (a), (b) and (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 24

S. NR 24.02 (intro.), (5), (8) and (9) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 24.04 (2) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 24.05 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. NR 24.07 (3) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. NR 24.08 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 28

S. NR 28.01 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. NR 28.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. NR 28.03 (1) (a) and (b) and (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 30

S. NR 30.08 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 37

S. NR 37.03 (12) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 60

S. NR 60.10 (3) (b) 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 23**

S. NR 23.05 (5) (d) was reprinted to correct printing error.

Nursing, Board of:**Ch. N 3**

S. N 3.03 (2) (a) and (b) were each reprinted to correct printing error.

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
Ins 6.80 (2) (b) 2.	Ins 2.07 (5) (a) 2. d. and (b) 2. b.	Note inserted: Note: Sections Ins 2.07 (5) (a) 2. d. and (b) 2. b. do not exist. Section Ins 2.07 was repealed and recreated eff. 3-1-82.
Ins 6.80 (2) (b) 5.	Ins 6.17 (3) (d) and (e)	Ins 6.17 (3) (c) and (d)
Ins 6.80 (2) (b) 6.	Ins 6.03 (2) (a) 1. e.	Ins 6.30 (2) (a) 1. e.
PSC 2.01 (4)	16.275 (6)	230.35 (4)
PSC 2.03	256.17	895.20
PSC 2.72 (2)	196.85 (2) (a)	196.85 (2)
PSC 5.04 (1)	196.01 (1)	196.01 (5)
PSC 5.04 (4)	59.964 and 66.076	66.0821 and 200.59
PSC 6.03 (13)	196.795 (5) (p)	196.795 (6m) (b)
PSC 7.06 (3)	144.385 (3)	Note inserted: Note: 1995 Wis. Act 227 repealed s. 144.385, Stats.
PSC 98.04 (3)	194.22	Note inserted: Note: Chapter 347, Laws of 1981, repealed s. 194.22, Stats.
PSC 104.02 (1) (b) 2.	PSC 113.22	PSC 113.0606
PSC 104.02 (3)	196.01 (1)	196.01 (5)
PSC 108.01 (intro.)	184.01 (1)	201.01 (2)
PSC 108.01 (intro.)	184.01 (3)	201.01 (3)
PSC 111.01 (17)	66.073	66.0825
PSC 112.01 (2)	196.01 (1)	196.01 (5)
PSC 113.0203 (intro.) and (2)	182.0175 (2) (e)	182.0175 (2m) (b)
PSC 113.0204 (2)	182.0175 (2) (d)	Delete the reference
PSC 113.1003 (13)	PSC 112.02 (8) (c)	PSC 112.02 (8)
PSC 132.06 (5)	66.047	66.0831
PSC 133.05 (2)	196.49 (4)	196.49 (3) (b)
PSC 134.0622 (2) (g)	167.16	101.865

Location of invalid cross-reference	Invalid cross-reference	Correction
PSC 135.014 (1) (intro.), (a) and (b)	66.047	66.0831
PSC 135.015 (1)	66.047	66.0831
PSC 136.04 (3) (h)	ILHR 22.13	Comm 22.13
PSC 136.04 (4) (d)	ch. ILHR 63	ch. Comm 63
PSC 136.05 (3) (d)	chs. ILHR 22 and 63	chs. Comm 22 and 63
PSC 160.11 (2)	PSC 160.18 (1) (a)	PSC 160.18 (1)
PSC 161.01 (1)	196.218 (4r) (b)	44.73 (1)
PSC 161.02 (5)	196.218 (4r) (a) 1.	44.70 (1m)
PSC 161.02 (7)	196.218 (4r) (a) 2.	44.70 (3g)
PSC 161.04 (1)	196.218 (4r) (c) 5.	44.73 (2) (e)
PSC 161.05 (3)	196.218 (4r) (g)	44.73 (6)
PSC 161.08 (2)	196.218 (4r) (g)	44.73 (6)
PSC 162.04 (2)	196.49 (4)	196.49 (3) (b)
PSC 164.04 (1) (f) 2.	227.07	227.44
PSC 165.066 (intro.)	66.047 (2)	66.0831
PSC 170.02 (1)	196.01 (1)	196.01 (1d)
PSC 170.02 (2)	196.01 (5m)	Note inserted: Note: 1997 Wis. Act 218 repealed s. 196.01 (5m), Stats.
PSC 171.02 (1)	196.01 (1)	196.01 (1d)
PSC 171.07 (4)	196.195 (11)	Note inserted: Note: 1993 Wis. Act 496 repealed s. 196.195 (11), Stats.
PSC 172.02 (2)	196.202 (4) (a) or (b)	Note inserted: Note: 1993 Wis. Act 496 repealed s. 196.202 (4), Stats.
PSC 172.03 (5)	196.202 (4)	Delete the reference
PSC 172.04 (1)	196.202 (4) (b)	Delete the reference
PSC 172.07 (1) (b) and (2) (c)	196.202 (3)	Note inserted: Note: 1993 Wis. Act 36 repealed s. 196.202 (3), Stats.
PSC 172.08	196.195 (11), 196.202 (4) (a)	Delete the references
PSC 179.03 (intro.)	196.26 (1) (a) 3.	196.26 (1) (c)
PSC 183.01	66.0735	66.0823 (2) (f)
PSC 183.02 (1)	66.0735	66.0823 (2) (f)
PSC 183.02 (2)	66.0735 (8)	66.0823 (8)
PSC 183.02 (3)	66.0735 (2) (g)	66.0823 (2) (g)
PSC 183.04 (1) (b)	66.0735 (8) (c)	66.0823 (8) (c)

Location of invalid cross-reference	Invalid cross-reference	Correction
PSC 183.04 (1) (c)	66.0735 (8) (b)	66.0823 (8) (b)
PSC 184.01 and chapter title	66.077	66.0819
PSC 186.01 (12)	101.91 (1)	101.91 (10)
PSC 186.01 (13)	196.01 (3p)	Note inserted: Note: 2001 Wis. Act 16 repealed s. 196.01 (3p), (3q), and (3s), Stats.
PSC 186.01 (14)	196.01 (3q)	Note inserted: Note: 2001 Wis. Act 16 repealed s. 196.01 (3p), (3q), and (3s), Stats.
PSC 186.01 (15)	196.01 (3s)	Note inserted: Note: 2001 Wis. Act 16 repealed s. 196.01 (3p), (3q), and (3s), Stats.
PSC 187.01	66.076 (1) (b)	66.0821 (2) (a) 2.
PSC 187.02 (3) and Note	66.076 (1) (m)	66.0821 (1) (a)
PSC 187.03	66.077	66.0819
PSC 187.03 Note	66.076	66.0821
PSC 187.05 (1)	66.60 and 66.62	66.0701 and 66.0703
RB 2.03 (intro.)	30.44 (9)	Note inserted: Note: 1995 Wis. Act 211 repealed s. 30.44 (9), Stats.
TCS 1.06 (1) (d)	66.03	66.0235
Trans 4.02 (2) (c)	66.30	66.0301
Trans 4.03	66.065 (5)	66.0803 (2) (a)
Trans 6.04 (1) (b)	66.065 (5)	66.0803 (2) (a)
Trans 29.03 (21)	59.968, 66.30 or 66.943	59.58 (3), 66.0301, or 66.1021
Trans 31.02 (11)	66.30	66.0301
Trans 101.04 (5)	343.32 (1) (b) or (c)	343.32 (1) (c) or (1s)
Trans 102.15 (2) (c) 4.	343.31 (1) (e)	343.31 (2r)
Trans 102.15 (2) (c) 5.	343.32 (1) (b)	343.32 (1s)
Trans 102.20 (1)	343.055 (1) (f)	Note inserted: Note: 1993 Wis. Act 19 repealed s. 343.055 (1) (e) to (g), Stats.
Trans 107.08 (1) (o)	343.10 (10)	Delete the reference
Trans 112.02 (3)	161.01 (4)	961.01 (4)
Trans 112.15 (2) (g)	941.324	941.325
Trans 112.15 (2) (L)	ch. 161	ch. 961
Trans 132.01 (1)	110.06 (1)	85.16 (1)
Trans 132.02 (2)	340.04 (11)	340.01 (11)
Trans 132.02 (4)	194.01 (15)	194.01 (4)

Location of invalid cross-reference	Invalid cross-reference	Correction
Trans 133.06 (3)	341.10 (1) (b)	341.10 (1)
Trans 137.01 (1)	218.01 (1)	218.0101 (20)
Trans 137.01 (1)	218.01 (3) (a) 27. (twice)	218.0116 (1) (n) (twice)
Trans 137.01 (1)	218.01 (2) (bc)	218.0114 (6)
Trans 137.03 (7)	218.01 (3) (a) 27.	218.0116 (1) (n)
Trans 138.01 (1)	218.01 (5)	218.0152
Trans 138.01 (1)	218.01 (1) (e), (n), (2) (d) 1., (2a), (3) (a) 30., (bf), (d), (7a)	218.0101 (6) and (23) (a), 218.0114 (14) (a), 218.0116 (1) (om), (3), and (5), 218.0119, 218.0146,
Trans 138.01 (3)	218.01	218.0101
Trans 138.025 (1)	218.01	218.0101 to 218.0163
Trans 138.025 (1)	218.01 (2)	218.0114
Trans 138.025 (2) (intro.)	218.01	218.0101 to 218.0163
Trans 138.025 (2) (a)	218.01 (1) (o)	218.0101 (23) (b)
Trans 138.025 (2) (h)	218.01 (2) (a)	218.0114 (1)
Trans 138.027 (1)	218.01	218.0101 to 218.0163
Trans 138.03 (2)	218.01 (3) (bf) 1.	218.0116 (3)
Trans 138.03 (2)	218.01	218.0101 to 218.0163
Trans 138.04 (intro.)	218.01 (3) (bf) and (d)	218.0116 (3) and (5)
Trans 139.01 (1)	218.01 (5)	218.0152
Trans 139.01 (1)	218.01 (3) (a) 6., 9., 14., 18., 19., 22., (5m), (7a) and 341.16 (1m)	218.0116 (1) (cm), (e), (gm), (im) 2., (j), and (km), 218.0141, and 218.0146
Trans 139.04 (2) (b)	218.01 (3) (a) 22.	218.0116 (1) (km)
Trans 139.05 (2) (i)	218.01 (5m)	218.0141
Trans 139.06 (8) (a)	218.01 (3) (a) 22.	218.0116 (1) (km)
Trans 140.01 (1)	218.01 (5)	218.0152
Trans 140.01 (1)	218.01 (2) (b), (bb), (h), (j), (3) (a) 1. and 7.	218.0114 (4), (5), (20), (22), 218.0116 (1) (a) and (d)
Trans 140.01 (2) (b)	218.01 (2) (bb) or (h)	218.0114 (5) or (20)
Trans 140.022 (1) (intro.) and (a)	218.01	218.0101 to 218.0163
Trans 140.022 (1) (b)	218.01	218.0116
Trans 140.027 (2) (a)	218.01 (twice)	218.0101 to 218.0163 (twice)
Trans 140.027 (2) (d)	218.01 (2) (a), (b), (bb), (h), (3) (a) 7., 31.	218.0114 (1), (4), (5), and (20), 218.0116 (1) (d) and (p)
Trans 140.027 (2) (d)	218.01 (3) (a) 4., 5., 6., 8., 9., 10., 11., 14., 18., 19., 25. (twice)	218.0116 (1) (bm), (c), (cm), (dm) to (f), (gm), (im) 2., (j), and (m) (twice)

Location of invalid cross-reference	Invalid cross-reference	Correction
Trans 140.027 (2) (d)	218.01	218.0101 to 218.0163
Trans 140.027 (2) (d)	218.01 (3) (a) 1.	218.0116 (1) (a)
Trans 140.028 (1) (c)	218.01 (2) (h) 2.	218.0114 (20) (b)
Trans 140.028 (2) (Note)	218.01 (2) (h) 3.	218.0114 (20) (c)
Trans 140.07 (3) (b)	180.41	Note inserted: Note: 1989 Wis. Act 303 repealed s. 180.41, Stats.
Trans 140.20 (5)	218.01 (1) (m)	218.0101 (22)
Trans 140.20 (5)	218.01 (2)	218.0114
Trans 140.21 (1) (c) 1.	218.01 (3) (a) 1. to 14., 18. to 21., 25. or 27. to 31.	218.0116 (1) (a) to (gm), (im) 2., (j), (jm), (k), (m), (n), (nm), or (p)
Trans 140.21 (1) (c) 5.	218.01 (3) (a)	218.0116 (1)
Trans 143.01, 143.02 (1), (3), (5), (6), (9), (10) and (12), 143.03 (1) and (2) (c), 143.05 (3), 143.06 (4) (c), (d) 5., and (10), 143.07 (2) (b), (c) and (h), 143.08 (1) (intro.), 143.10 (1) and (2) (e), 143.11 (3) (a) and (c)	218.015	218.0171
Trans 143.02 (7)	218.01 (1) (L)	218.0101 (20)
Trans 152.02 (intro.)	78.04	Delete the reference
Trans 154.01	218.01 (7a)	218.0146
Trans 154.02 (intro.)	218.01 (1)	218.0101
Trans 155.01 (1)	342.30 (1)	342.30 (1g)
Trans 156.05 (2) (c)	218.01 (twice)	218.0101 to 218.0163 (twice)
Trans 175.01, 175.02 (1), 175.03	194.44 (2)	Note inserted: Note: 1987 Wis. Act 369 repealed s. 194.44, Stats.
Trans 176.01 (2)	344.51 (1)	344.51 (1m)
Trans 206.02 (8)	59.031	59.17
Trans 220.01 (3) (b)	66.047	66.0831
Trans 220.06 (7) (a) and (b)	66.047	66.0831
Trans 230.01 (3) (e) 24.	59.965	59.84
Trans 230.08 (3) (intro.)	Trans 230.01 (3) (c) 2., 3. and 4.	Trans 230.01 (3) (c)
Trans 250.03 (1)	348.27 (8) and (11)	348.17 (3) and (4)
Trans 254.11 (4) (intro.)	59.965	59.84
Trans 254.12 (2)	59.965	59.84
Trans 255.11 (4) (intro.)	59.965	59.84
Trans 255.12 (2)	59.965	59.84
Trans 257.11 (2)	59.965	59.84

Location of invalid cross-reference	Invalid cross-reference	Correction
Trans 260.11 (3) (intro.)	59.965	59.84
Trans 260.12 (2)	59.965	59.84
Trans 261.11 (3) (intro.)	59.965	59.84
Trans 261.12 (1)	59.965	59.84
Trans 262.10 (3) (intro.)	59.965	59.84
Trans 267.01 (1) and (2)	348.27 (11)	348.17 (4)
Trans 267.06 (intro.)	348.27 (11)	348.17 (4)
Trans 268.01	348.27 (8)	348.17 (3)
Trans 268.02 (2)	348.27 (8)	348.17 (3)
Trans 301.03 (4)	340.01 (23) (g)	340.01 (23g)
Trans 304.03	110.06 (1)	85.16 (1)
Trans 305.24 (4)	218.01	218.0101 to 218.0163
Trans 312.01 (1)	110.06 (1)	85.16 (1)
Trans 504.05 (3) (b) 3. c.	227.09	227.46
Trans 504.06 (3) (b) 2. c.	227.09	227.46
Trans 512.02 (2)	66.943	66.1021
UWS 17.03 (1) (b)	ch. 161	ch. 961

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 31. Relating to the Governor's task force on terrorism preparedness.

Executive Order 32. Relating to the creation of the Governor's commission on historic sites.

Executive Order 33. Relating to the creation of the Governor's task force on financial education.

Executive Order 34. Relating to the creation of the Governor's Year of the Trails Commission.

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