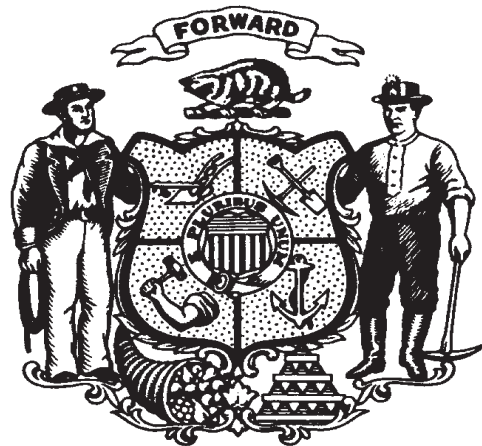


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Emergency rules now in effect

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 & Consumer Protection (2)

1. Rules adopted revising **chs. ATCP 10 and 11** relating to chronic wasting disease in cervids.

Finding of emergency

(1) Chronic wasting disease is a contagious disease known to affect several species of the cervid family, including elk, white-tailed deer, black-tailed deer, red deer and mule deer. The disease is always fatal. At the present time, there is no scientific evidence to suggest that chronic wasting disease is transmitted to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(2) The cause of chronic wasting disease is not fully understood. The disease appears to be related to aberrant protein molecules called prions. By an unknown mechanism, prions apparently cause other protein molecules in the cervid brain to take aberrant forms. The disease causes microscopic vacuoles (holes) in the brain. Diseased cervids become emaciated, display abnormal behavior patterns, and experience loss of bodily functions.

(3) Science does not understand how chronic wasting disease is spread. It is thought that infected cervids can transmit the disease to other cervids, either directly or by contaminating their environment. It appears that cervid-to-cervid contact facilitates the spread of the disease.

(4) On February 27, 2002, the national veterinary services laboratory informed Wisconsin that it had confirmed chronic wasting disease for the first time in this state. The laboratory confirmed the disease in test samples collected from 3 free-ranging white-tailed deer killed by hunters during the November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected these samples as part

of a statewide disease surveillance program. With the voluntary cooperation of hunters, DNR collected test samples from deer killed and registered by hunters at selected hunting registration sites around the state. DNR collected a total of 345 samples statewide, including 82 samples at the Mt. Horeb registration station. The 3 deer that tested positive for chronic wasting disease were all registered at the Mt. Horeb station. The 3 deer were shot in close proximity to each other in Vermont Township in Dane County. We do not know how the 3 deer were exposed to chronic wasting disease, nor do we know the extent of infection in the free-ranging herd.

(5) We do not know whether any captive cervids in Wisconsin are infected with chronic wasting disease (there are no findings to date). If captive cervids are infected, the close proximity of cervids within a captive herd may facilitate the spread of disease within the herd. The movement of infected cervids between herds may spread the disease to other herds. Contact between free-ranging and captive cervids may also spread the disease.

(6) Persons importing captive cervids to Wisconsin must obtain an import permit from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Importers must identify the herd of origin and the herd of destination. A veterinarian must certify that the cervids appear to be in good health, and that they have been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing requirement, because there is no way to test live cervids for the disease.

(7) Since 1995, a total of 2,604 captive cervids have been legally imported into Wisconsin. This includes 2,020 elk, 191 whitetail deer, 12 mule deer and 387 other cervids. Chronic wasting disease has been found in free-ranging herds or in some captive herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming. Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from these states. Most other states lack active chronic wasting disease surveillance programs, so the full extent of the disease is not known with certainty.

(8) DATCP currently registers captive cervid herds, other than white-tail deer herds. DNR currently licenses captive white-tail deer herds. Since 1998, DATCP has sponsored a voluntary program to monitor for chronic wasting disease among the captive herds that it registers. Approximately 50 herd owners currently participate in this program.

(9) Since chronic wasting disease was confirmed in this state, there has been widespread public concern about the disease. The public has expressed concern about the health of free-ranging deer and elk, and about potential threats to humans, livestock and deer-related businesses. Hunters and consumers have expressed food safety concerns. There is currently no scientific evidence to suggest that chronic wasting disease is transmissible to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(10) In order to protect the public peace, health, safety and welfare, it is necessary to take immediate steps to prevent and control the spread of chronic wasting disease in this state. Among other things, it is necessary to impose further controls on the import and movement of captive cervids and to implement a mandatory monitoring program. DATCP may adopt rules to implement these measures.

(11) Normal rulemaking procedures require up to a year or more to complete. A temporary emergency rule is needed to protect the public peace, health, safety and welfare, pending the adoption of longer–term rules. This emergency rule will implement essential prevention and control measures on an immediate, interim basis.

Publication Date: April 9, 2002
Effective Date: April 9, 2002
Expiration Date: September 6, 2002
Hearing Date: May 22, 2002
Extension Through: May 31, 2003

2. Rules adopted revising **ch. ATCP 96** relating to milk producer security.

Finding of emergency

(1) The Legislature, in 2001 Wis. Act 16, repealed and recreated Wisconsin's agricultural producer security program. The new program is codified in ch. 126, Stats. (the "new law"). The new law takes effect, for milk contractors, on May 1, 2002. The new law is intended to protect milk producers against catastrophic financial defaults by milk contractors.

(2) The new law applies to milk contractors, including dairy plant operators, producer agents and other milk handlers, who procure producer milk in this state. Under the new law, milk contractors must be licensed by the Wisconsin department of agriculture, trade and consumer protection (DATCP). Milk contractors must pay license fees and do one or more of the following:

(a) Contribute to Wisconsin's agricultural producer security fund, to help secure milk payments to milk producers.

(b) File security with DATCP.

(c) File financial statements with DATCP, showing that the contractor meets minimum financial standards specified in ch. 126, Stats.

(3) The new law regulates producer agents (who market milk and collect payment for milk producers, without taking title to the milk), but treats them differently than other milk contractors. Producer agents may have lower fund participation requirements, and may file smaller amounts of security, than other milk contractors. The program may provide correspondingly less compensation to producers if a producer agent defaults.

(4) It is important to clarify the following matters before the new law takes effect for milk contractors on May 1, 2002:

(a) The treatment of dairy plant operators who provide custom processing services to milk producers, without marketing or taking title to milk or dairy products.

(b) The treatment of producer agents. Under s. 126.51, Stats., DATCP must adopt rules for milk contractors who wish to qualify as producer agents under the new law.

(c) The treatment of persons who market only processed dairy products for milk producers, without procuring, marketing or processing raw producer milk.

(d) The method by which milk contractors calculate and report milk payment obligations, for the purpose of calculating fund assessments and security requirements under the new law.

(5) Under s. 126.81 (4), Stats., DATCP may require milk contractors to disclose their security and fund contribution status to milk producers. It is important for milk contractors to begin making these disclosures soon after the new law takes effect, so that producers can evaluate the financial risk

associated with milk procurement contracts. Disclosures are important, because not all milk contractors are required to participate in the agricultural security fund or file security with DATCP.

(6) It is not possible, by normal rulemaking procedures, to adopt these essential clarifications and disclosure requirements by May 1, 2002. DATCP must, therefore, adopt them by emergency rule. This emergency rule is needed to implement the new law, to protect the financial security of milk producers, to preserve fair competition in the dairy industry, and to avoid unnecessary confusion and expense for dairy businesses.

Publication Date: April 29, 2002
Effective Date: April 29, 2002
Expiration Date: September 26, 2002
Hearing Date: May 16, 2002
Extension Through: November 24, 2002

Commerce

(Financial Assistance to Businesses and Communities, Chs. Comm 105 to 128)

The Wisconsin Department of Commerce proposes an order to create **ch. Comm 118** relating to the Agricultural Development Zone Program.

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.

Facts constituting the emergency are as follows:

1. In accordance with s. 560.798 (5), Stats., the Department of Commerce has the responsibility to promulgate rules for the operation of an agricultural development zone to provide for the attraction, promotion, retention, and expansion of agricultural businesses in the state.

2. Section 560.798 (3), Stats., makes available certain tax benefits for certified business within an agricultural development zone; tax credits first apply to tax years beginning on or after January 1, 2003.

3. Commerce, being the agency with primary authority for economic development in the state, recognizes that there is a verified need to attract, promote retain, and expand Wisconsin agricultural businesses. For example, over the past 50 years, Wisconsin has experienced an average of six dairy farms leaving production each day.

4. In the year 2001, state milk production declined by more than one billion pounds, resulting in a near 5% decline in milk production.

5. Western states have increased their cheese production, while Wisconsin experiences declining milk production and dairy processing activities; this program would immediately assist Wisconsin in regaining its prominence in dairy and dairy processing production.

6. The creation of this program combined with other economic development programs in the state is expected to increase the competitiveness of the Wisconsin dairy industry.

This emergency rule is being created in order that the process of designating an agricultural development zone be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Agricultural Development Zone Program.

Publication Date: August 13, 2002
Effective Date: August 13, 2002
Expiration Date: January 10, 2003
Hearing Date: October 16, 2002

Corrections (2)

1. Rules adopted revising **ch. DOC 328**, relating to adult field supervision.

Finding of emergency

The department of corrections finds that an emergency exists and that rules are necessary for preservation of the public peace, safety and welfare. A statement of the facts constituting the emergency is: Pursuant to s. 304.074 (2) Stats., the department has authority to collect “at least \$1 per day, if appropriate” from offenders on supervision. However, the current proposed budget reform bill, Assembly Bill 1, directs the department to amend supervision fees and provides, in relevant part, the following:

“...the department of corrections shall promulgate the rules that are required under s. 304.074 (5) of the statutes and that set rates under s. 304.074 (2) of the statutes. The rules shall take effect on July 1, 2002.”

“...the rules shall require the department to have a goal of receiving at least \$2 per day, if appropriate, from each person who is on probation, parole, or extended supervision and who is not under administrative supervision, as defined in s. 304.74 (1) (a) of the statutes, or minimum supervision, as defined in s. 304.74 (1) (b) of the statutes.”

While the language and potential requirements of Assembly Bill 1 doubles the amount the department may collect in supervision fees, the current Administrative Code limits the department’s efforts to do so. The current ch. DOC 328 establishes a set fee schedule with a maximum collection of \$45 per month.

As proposed, the budget reform bill requires the department to rely upon the collection of an increased amount of supervision fees. If the department remained without administrative rule authority to collect the increased fees on July 1st, the department, and clearly the public, would be significantly impacted by the loss of revenue. The proposed budget has anticipated and relied upon such increase in establishing budgetary guidelines for the department of corrections.

This situation requires the department to effect an emergency rule rather than complying with the notice, hearing, legislative review and publication requirements of the statutes. Complying with the standard promulgation procedures for a permanent rule could easily delay the department’s ability to collect the necessary fees by seven months to one year. This delay would have a substantial impact on the department because more than 85% of the department’s supplies and services budget will be funded by program revenue generated from supervision fees collected in the next fiscal year. This revenue provides for a variety of essential departmental functions, including rent for approximately 114 probation and parole offices, vehicles that enable probation and parole agents to conduct home visits on offenders, extradition of absconders, and computers that enable agents to conduct such critical functions as pre-sentence investigation reports. If the department were somehow hindered in the attempt to perform these functions it would obviously affect the department’s ability to adequately supervise offenders and ultimately result in a

breakdown in the department’s ability to help protect the public.

This order:

- Raises the department’s supervision fee goal to at least \$2 per day, if appropriate, from all offenders under supervision by the department.
- Eliminates the distinction between offenders supervised by the department on administrative and minimum supervision and offenders who are deemed medium, maximum and high risk as it relates to supervision fees. All offenders under supervision by the department will pay, based on their ability, according to one supervision–fee scale.

Publication Date: July 2, 2002
Effective Date: July 2, 2002
Expiration Date: November 28, 2002
Hearing Dates: July 29 & 30, 2002

2. Rules adopted amending **ch. DOC 316**, relating to medical, dental and nursing copayment charges.

Exemption from finding of emergency

The department of corrections adopts this emergency rule pursuant to the statutory requirements of 2001 Wis. Act 109. The Act provides, in relevant part:

“Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate the rules that are required under section 302.386 (4) (a) of the statutes relating to the deductible, coinsurance, copayment, or similar charge that must be imposed under section 302.386 (3) (b) of the statutes.”

and,

“Notwithstanding section 302.386 (3) (b) of the statutes, the rules shall require the department to require that, subject to the exception and waiver provisions under section 302.386 (3) (c) of the statutes, each person to whom section 302.386 (1) of the statutes applies pay a deductible, coinsurance, copayment, or similar charge of at least \$7.50 for each request that the person makes for medical or dental services.”

Currently, the department’s administrative rules provide for a \$2.50 copayment under such circumstances as described above. This emergency rule raises the copayment to \$7.50 as directed by 2001 Wis. Act 109.

In addition, pursuant to 2001 Wis. Act 109 the department makes no finding of emergency in promulgating this rule. 2001 Wis. Act 109 expressly exempts the department from the statutory requirements to do so.

Publication Date: September 3, 2002
Effective Date: September 3, 2002
Expiration Date: January 31, 2003
Hearing Date: November 18, 2002

Health and Family Services (Medical Assistance, Chs. HFS 100—)

Rules adopted creating **ch. HFS 109**, relating to SeniorCare.

Finding of emergency

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

The high cost of prescription drugs in Wisconsin and nationwide are especially burdensome on the elderly, many of whom live on a fixed income. Through 2001 Act 16,

Wisconsin has addressed the problem those increasingly high costs pose to the elderly by creating section 49.688 of the statutes. Section 49.688 directs the Department to develop and administer the program of prescription drug benefits for the elderly that has come to be known as “SeniorCare.” The statute also directs the Department to develop administrative rules for implementing SeniorCare, which the Department has done by creating a new chapter of administrative rules, HFS 109. The rules address a variety of issues associated with operating the program in accordance with section 49.688, Stats., including specifying:

- what prescription drugs are covered;
- who is eligible for benefits and services;
- how the Department determines household income for the program’s eligibility determination;
- how the Department monitors compliance by pharmacists and pharmacies; and
- mechanisms for preventing fraud and abuse.

The Department drafted these rules to parallel the prescription drug provisions of the existing Medicaid rules in chs. HFS 101 to 108. The Department developed the program’s administrative elements in consultation with an advisory committee composed of representatives of physicians, counties, seniors and pharmacies.

While the Department is currently in the process of promulgating ch. HFS 109 as permanent rules, s. 49.688 (5) (a) and (7) (a), Stats., mandate the initiation of some SeniorCare program elements beginning on September 1, 2002. To meet this deadline, the Department is issuing ch. HFS 109 as emergency rules to preserve the public welfare.

Publication Date: September 1, 2002
Effective Date: September 1, 2002
Expiration Date: January 29, 2003
Hearing Date: October 10, 2002

Health and Family Services (2)

(Health, Chs. HFS 110—)

1. Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk–Sharing Plan.

Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) 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. Department staff consulted with the Health Insurance Risk–Sharing Plan (HIRSP) Board of Governors on April 17, 2002 on the rules, as required by s. 149.20, Stats.

Analysis prepared by the Department of Health and Family Services

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

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–eight percent of the 13,645 HIRSP policies in effect in March 2002, 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 25.4%. This produces policyholder premiums that are equivalent to 150% of the industry standard, the minimum allowed by statute. Rate increases for specific policyholders range from 19.2% to 27.8%, depending on a policyholder’s age, gender, household income, deductible and zone of residence within Wisconsin. These rate increases reflect general and industry–wide premium increases and take into account the increase in costs associated with Plan 1 claims. For example, recent annual industry standard premium rates have increased by approximately 35%. HIRSP costs have risen by a smaller amount, hence the smaller rate increases for HIRSP, relative to the industry standard. 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 for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Twelve percent of the 13,645 HIRSP policies in effect in March 2002, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 30.8%. Rate increases for specific policyholders range from 23.3% to 33.5%, depending on a policyholder’s age, gender, household income and zone of residence within Wisconsin. These rate increases reflect general and industry–wide cost increases and adjust premiums to a level in accordance with the authority and requirements set out in s. 149.14 (5m), Stats.

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 (2) (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 rulemaking order is also increasing total HIRSP insurer assessments and reducing 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 2001. 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, 2002. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$24,750,178. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$26,003,305. On April 17, 2002, the HIRSP Board of Governors approved the calendar year 2001 reconciliation process. The Board also approved the HIRSP budget for the plan year July 1, 2002 through June 30, 2003.

Publication Date: June 17, 2002
Effective Date: July 1, 2002
Expiration Date: November 28, 2002
Hearing Date: July 15, 2002

2. Rules adopted creating **s. HFS 115.04 (9) to (13)**, relating to screening newborn infants for congenital disorders.

Finding of emergency

The Department of Health and Family Services finds that an emergency exists and that rules are necessary for the

immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

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

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

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

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

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

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

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

The Advisory Group also recommended that the Department immediately begin screening newborns for these

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

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

Publication Date: October 12, 2002
Effective Date: October 12, 2002
Expiration Date: March 11, 2003

Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to the Wisconsin health care insurance plan's primary limits.

Finding of emergency

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

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2002.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 02–035, will be filed with the secretary of state in time to take effect September 1, 2002. Because the fund fee provisions of this rule first apply on July 1, 2002, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 3, 2002.

Publication Date: June 20, 2002
Effective Date: July 1, 2002
Expiration Date: November 28, 2002

Natural Resources (5) (Fish, Game, etc., Chs. NR 1–)

1. Rules adopted revising **chs. NR 10 and 45**, relating to the control and management of chronic wasting disease.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has

delegated to the department rule–making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state’s deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Publication Date: July 3, 2002
Effective Date: July 3, 2002
Expiration Date: November 30, 2002
Hearing Date: August 12, 2002

2. Rules were adopted amending s. NR 25.06 (1) (a) 1. to 3., relating to commercial fishing in Lake Superior.

Finding of emergency

The waters of Lake Superior were not part of the extensive off–reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent negotiated amendments to the agreement between the State and the Red Cliff and Bad River Bands. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. Failure of the State to do so will not only deprive state fishers of increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

Publication Date: July 8, 2002
Effective Date: July 8, 2002
Expiration Date: December 5, 2002
Hearing Date: August 19, 2002

3. Rules adopted revising ch. NR 10, relating to the 2002 migratory game bird season.

Finding of emergency

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

Publication Date: August 30, 2002
Effective Date: August 30, 2002
Expiration Date: January 27, 2003
Hearing Date: September 26, 2002

4. Rules adopted repealing and recreating s. NR 20.20 (49) (d) and (61) (c), relating to the closure of carp fishing on Cedar Lake and connected waters in Polk and St. Croix counties.

Finding of emergency

The Department of Natural Resources finds that an emergency exists and that rules are necessary for the

immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Spring viremia of carp virus is of international animal health concern. The virus effects fishes in the minnow family in nature. Minnows are extremely important forage fish for many important sport fishes in Wisconsin and are also important to the bait and aquaculture industries. Assuring the health of minnow populations and preventing the spread to other waters is important in preserving the welfare of Wisconsin citizens by protecting popular and economically valuable sport and bait fisheries. Little is currently known about the extent of the virus and until we can increase our knowledge, this closure will limit the potential spread from transport of fish and/or their parts and fluids.

Publication Date: October 3, 2002
Effective Date: October 3, 2002
Expiration Date: March 2, 2003
Hearing Date: November 11, 2002

5. Rules adopted amending s. NR 25.06 (1) (a) 1. to 3., relating to commercial fishing in Lake Superior.

Finding of emergency

The waters of Lake Superior were not part of the extensive off–reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent negotiated amendments to the agreement between the State and the Red Cliff and Bad River Bands. These amendments incorporate the results of a new population estimate that was not available previously. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. Failure of the State to do so will not only deprive state fishers of increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

Publication Date: November 1, 2002
Effective Date: November 1, 2002
Expiration Date: March 31, 2003

Natural Resources

(Environmental Protection – General Chs. NR 100—)

Rules adopted creating ch. NR 173, relating to the administration of the brownfield green space and public facilities grant program.

Finding of emergency

This rule is being promulgated as an emergency rule in accordance with s. 227.24, Stats. This rule sets forth the procedures required to award grants that will be used to remediate environmental contamination in order to protect public health and restore the environment. It is necessary to follow the emergency rule procedures because if the standard procedures were followed the rule would not take effect in time to have the money awarded and encumbered within the 2003 fiscal year. As a result, the appropriation would lapse and funding would not be available to fund the environmental remediation of properties around the state.

Publication Date: August 29, 2002
Effective Date: August 29, 2002
Expiration Date: January 26, 2003
Hearing Date: October 11, 2002

procedures are not in place by November 2002, Wisconsin could lose more than \$130 million in federal Title I funds.

Publication Date: October 1, 2002
Effective Date: October 1, 2002
Expiration Date: February 28, 2003

Nursing

Rules adopted creating **s. N 4.10**, relating to malpractice insurance coverage for nurse–midwives.

Exemption from finding of emergency

Under Section 13 of 2001 Wisconsin Act 52, the Board of Nursing is directed to use the procedure under s. 227.24, Stats., in promulgating the rules required under s. 441.15 (5) (b) of the statutes. Under that procedure, the Board of Nursing may promulgate this rule for the period before permanent rules become effective. The Board of Nursing need not provide evidence of the necessity of preservation of the public peace, health, safety, or welfare in promulgating this rule.

Analysis prepared by the Department of Regulation

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and ss. 441.15 (2) (c), 441.15 (3) (a) 3. and 411.15 (5), as created by 2001 Wisconsin Act 52, and s. 441.15 (3) (bm), as amended by 2001 Wisconsin Act 52.

Statutes interpreted: s. 441.15 (2) (c), 441.15 (3) (a) 3., 441.15 (3) (bm) and 441.15 (5) (b), Stats.

2001 Wisconsin Act 52 makes a number of changes to the provisions affecting nurse–midwives, including that licensed nurse–midwives carry malpractice insurance in an amount determined by rules to be promulgated by the Board of Nursing. This rule establishes those requirements relating to malpractice coverage for nurse–midwives.

Using the procedure under s. 227.24, Stats., the Board of Nursing will promulgate the rules as created by 2001 Wisconsin Act 52, for the period before permanent rules become effective.

Publication Date: November 5, 2002

Effective Date: November 5, 2002

Expiration Date: April 4, 2003

Public Instruction

Rules were adopted repealing **chs. PI 13 and 16** and creating **ch. PI 13** relating to limited–English proficient pupils.

Finding of emergency

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

- School boards and charter schools will be administering the 4th, 8th, and 10th grade Wisconsin Knowledge and Concept Examinations (WKCE) under s. 118.30, Stats., in November 2002. In order for school boards to make a determination as to whether a limited–English proficient pupil should take a WKCE test or take an alternate assessment, rules need to be in place as soon as possible.

- The U. S. Department of Education has required the assessment procedures of LEP pupils be in place prior to administration of these tests. If the assessment/testing

State Treasurer

Rules adopted creating **ch. Treas 1** relating to the Wisconsin College Savings Program Board.

Exemption from finding of emergency

Section 15 (1), 2001 Wis. Act 7 provides an exemption from a finding of emergency for the adoption of ch. Treas 1.

Analysis prepared by the Office of the State Treasurer

Statutory authority: Section 14.64 (2) (e), Stats., and section 15, 2001 Wis. Act 7.

Statutes interpreted: s. 14.64 *et seq.*, Stats.

The Wisconsin College Savings Program Board establishes a rule for the operation of the College Savings Program. The rule is designed to grant flexibility to program participants wherever possible, while enabling the State and its private–sector partners to administer the program in a manner that protects the program’s financial integrity and viability. Maintaining eligibility as a “qualified tuition program” pursuant to section 529 of the Internal Revenue Code [26 USC 529] is another primary objective. “529” programs are eligible for a number of federal tax benefits that are attractive to families saving for future college costs. Significant features of the rule are addressed below:

Sections Treas 1.03, 1.04 and 1.05 describe who may open an account and how to open an account. Section Treas 1.06 discusses designating a successor owner and describes how to change ownership of an account. Sections Treas 1.07 and 1.08 define the account beneficiary and how to change the beneficiary on an account.

Section Treas 1.09 details how to make contributions to an account, including minimum and maximum contribution limits, and how to “rollover” an account balance to another section 529 program. IRS requirements relating to investment direction are also detailed.

Sections Treas 1.11, 1.12 and 1.13 describe account withdrawals, distributions and refunds. Special circumstances are also provided for in these sections, such as the death or disability of the beneficiary or receipt of a scholarship by a beneficiary. Section Treas 1.14 sets forth conditions under which the Board may terminate an owner’s account. Sections Treas 1.15 and 1.16 address related fees and penalties.

Publication Date: January 7, 2002

Effective Date: January 7, 2002

Expiration Date: See Section 15, 2001 Wis. Act 7

Hearing Date: March 5, 2002

Veterans Affairs

Rules adopted amending **s. VA 12.02 (7) and (16)**, relating to the maximum loan amount under the personal loan program.

Finding of Emergency

The Department of Veterans Affairs finds that an emergency exists and that a rule is necessary for the

immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

The Department administers a personal loan program that may be used by veterans and their dependents for various statutory purposes. The purposes include debt consolidation, payment of delinquent child support, education expenses, and medical and funeral expenses, and the purchase of a mobile home or business property. The current maximum loan amount, set by the Department at sec. VA 12.02 (7), Wis. Adm. Code, is \$10,000. The permissible statutory maximum loan amount may be \$15,000, as set by the Department by administrative rule.

The Department proposes to raise the amount to the statutory maximum for several compelling reasons. Raising the maximum loan amount will help stimulate the economy by providing additional resources for veterans and their families. Due to the state of the economy, veterans and their families have a significant need for financial assistance in the form of below market interest rate loans. Additionally, the personal loan program is the primary source of revenue for the veterans trust fund. Immediate infusion of additional assets in the form of personal loans will provide significant financial support for the trust fund. It is expected that increasing the maximum loan amount will result in approximately \$4,000,000 of new loan assets over the 8–month period in which it would take to promulgate this rule change using the regular promulgation procedure.

Publication Date: August 5, 2002
Effective Date: August 5, 2002
Expiration Date: January 2, 2003
Hearing Date: December 6, 2002
 [See Notice this Register]

Workforce Development

(Unemployment Insurance, Chs. DWD 100–150)

Rules adopted amending s. DWD 129.01 (1), relating to extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

Exemption from finding of emergency

Pursuant to 2001 Wis. Act 35, s. 72 (2) (b), the Department is not required to provide evidence that promulgating this rule is necessary for the preservation of the public peace, health,

safety, or welfare and is not required to provide a finding of emergency for this rule.

Analysis Prepared by the Department of Workforce Development

Statutory authority: s. 108.08 (1), Stats. and 2001 Wis. Act 35, s. 72 (2) (b).

Statute interpreted: s. 108.08 (1), Stats.

Pursuant to s. 108.08 (1), Stats., a claimant must give notice to the department with respect to a week of unemployment “within such time and in such manner as the department may by rule prescribe” in order to receive benefits for that particular week.

Under the current s. DWD 129.01 (1), a claimant must file his or her initial claim for benefits no later than the close of the week in which the claimant intends the claim to start. For example, a claimant who files two weeks late cannot obtain unemployment benefits retroactively unless the department waives the time limit under the exceptional circumstances provision in s. DWD 129.01 (4). This emergency rule extends the time period for filing an initial claim by seven days beyond the end of the week for which the claimant expects to get the benefits.

Increasing the time frame within which a claimant may file a timely initial unemployment insurance benefit claim would reduce disparate treatment of claimants in like situations by removing the subjectivity of finding “exceptional circumstances” before allowing late claims and ease an increasing workload for the unemployment insurance division. The institution of this change would eliminate approximately 67% of untimely filing issues. This would translate into savings of 5 to 6 full–time employees (FTEs). These positions would then be able to turn attention and time to resolving other eligibility issues at a time when the unemployment insurance division is currently experiencing a sharp increase in workload and anticipates continued increase over the next three years.

The telephone initial claims system allows the department to be more lenient in proscribing filing deadlines due to its expanded accessibility and speed in identifying and resolving eligibility issues. Programming changes to the telephone initial claims system are estimated to require 50 hours at approximately \$50 to \$60 per hour for a total of \$2500 to \$3000.

Publication Date: April 14, 2002
Effective Date: April 14, 2002
Expiration Date: See 2001 Wis. Act 35, Section 72 (2) (b)
Hearing Dates: July 15, 16 & 17, 2002

Scope statements

Controlled Substances Board

Subject

Classify as a schedule III controlled substance under state law any FDA approved prescription drug product containing gamma–hydroxybutyric acid.

Objective of the rule. By final rule of the Drug Enforcement Administration (DEA), adopted effective March 3, 2000, gamma–hydroxybutyric acid (GHB) was classified as a schedule I and schedule III controlled substance under the federal Controlled Substances Act (CSA) pursuant to Public Law 106–172. GHB is currently only classified as a schedule I controlled substance under the Wisconsin Controlled Substances Act in ch. 961, Stats. The objective of the rule is to bring state classification of GHB into conformity with federal law.

Policy Analysis

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. Health care providers are also subject to greater record keeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately, than do other drugs. The DEA administers the CSA. In doing so, it is empowered to schedule a drug as a controlled substance. Schedule III controlled substances are listed in 21 CFR 1308.13. Section 1308.13 (c) (5) lists GHB as included in that classification for any drug product containing GHB for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act. Public Law 106–172 authorized the DEA to classify GHB as a schedule I and schedule III controlled substance. This forms basis for the DEA action. The board has been requested to initiate rulemaking to create a GHB classification which mirrors federal law to enable citizens of this state to benefit from FDA approved prescription drug products containing GHB.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 961.11 and 961.18, Stats.

Staff time required

It is estimated that 100 hours will be needed to promulgate the rule.

Health and Family Services

Subject

The Department proposes to make relatively minor or technical changes to a variety of its administrative rules via a single rulemaking order. The “Omnibus” order will cover proposed changes to the following Department administrative rule chapters:

TCB 1, relating to the Tobacco Control Board;

HFS 56, relating to foster home care for children;

HFS 83, relating to community–based residential care facilities;

HFS 88, relating to licensed adult family homes;

HFS 90, relating to early intervention services for children from birth to age 3 with developmental needs;

HFS 101, relating to the introduction and definitions to the Medicaid rules;

HFS 103, relating to Medicaid eligibility;

HFS 104, relating to Medicaid recipient rights and duties;

HFS 105, relating to Medicaid provider certification;

HFS 106, relating to Medicaid provider rights and responsibilities;

HFS 107, relating to Medicaid covered services;

HFS 108, relating to the general administration of the Medicaid program;

HFS 111, relating to the licensing of emergency medical technicians–intermediate and approval of EMT–intermediate operational plans;

HFS 120, relating to health care information;

HFS 124, relating to hospitals;

HFS 131, relating to hospices;

HFS 132, relating to nursing homes;

HFS 133, relating to home health agencies;

HFS 134, relating to facilities for the developmentally disabled;

HFS 144, relating to immunization of students;

HFS 145, relating to control of communicable diseases;

HFS 155, relating to injury prevention grants.

Administrative rules have the full force and effect of law. Administrative rulemaking, also known as “rule promulgation,” is an agency function that has been delegated to the agency by the legislature. Agency rulemaking is governed by subchapter II of ch. 227, Stats. Given that agency–issued rules impose legal requirements on others or set legal conditions for others so the agency can administer programs authorized by statute, the process of permanent rulemaking by agencies is, by design, methodical and lengthy.

For a variety of reasons, the Department periodically needs to make minor revisions to its administrative rules. Often, the revisions have little or no substantive effect on those regulated by the rules. While such revisions may be made as part of larger, substantive modifications to a particular chapter of rules, the time and expense associated with a rule promulgation effort usually precludes such minor, individual chapter changes. Therefore, the Department plans to issue, as a single proposed rulemaking order, minor changes to a variety of chapters of its administrative rules. If, in the course of identifying the desired changes, the Department identifies more substantive needed changes, it may also aggregate, by program, collective substantive changes to rules in one or more separate rulemaking orders. Under the existing budgetary restrictions, doing so is a viable means of conserving precious agency resources while improving the Department’s body of administrative code.

Statutory authority

Section 227.11 (2), Stats.

Staff time required

The Department anticipates that about 50 hours of staff time will be required to draft, review and revise, as necessary, the proposed rulemaking order.

Insurance

Subject

Objective of the rule. To establish the annual fees which participating health care providers must pay to the patients compensation fund as required by statute for the fiscal year starting July 1, 2003.

Policy Analysis

Existing policies are as set forth in the statutes cited in the next section and in the rules themselves; no new or alternate policies are contemplated at this time.

Statutory authority

Sections 601.41 (3), 655.004, 655.27 (3) and 655.61, Stats.

Staff time required

40 hours estimated state employee time to promulgate these rules; other resources will include the review and recommendation of the board’s actuarial committee based on the analysis and recommendations of the fund’s actuaries and the director of state courts.

Natural Resources

Subject

Proposed hunting and trapping regulation changes to be included on the 2003 Spring Questionnaire.

Policy Analysis

The department is initiating the annual rule development cycle for the 2003 Spring Fish and Wildlife Hearings. The following rule proposals will come before the Board in January 2003 for approval to hold public hearings. These hearings will be held in conjunction with the Conservation Congress Spring Meetings held on April 7, 2003. The effective dates of these rules will vary depending upon urgency and program timelines. The following rule proposals are:

- 1) Allow the use of muzzleloading handguns for deer and bear hunting (ss. NR 10.001 (17) and 10.09 (1) (c) a.)
- 2) Modification of the Metro Deer Management Unit season framework to eliminate overlapping regulations and seasons (s. NR 10.01 (3) (e) 6. a., b. and (es) 1.)
- 3) Eliminates the South muskrat and mink zone and incorporates these areas into the Central zone (s. NR 0.01 (4) (a) 2. and 5.)
- 4) Modify the zone boundary where bear hunting with dogs is allowed (s. NR 10.10 (1) (b))
- 5) Authorize the use of dry land cable snares (s. NR 10.13 (1) (b) 8. and 13.)
- 6) Develops an elk hunting season framework, zones and agricultural damage language (ch. NR 10, 12 and 19)

Statutory authority

Section. 29.014, Stats.

Staff time required

Approximately 215 hours will be needed by the department to develop the rule prior to and following the hearings.

Natural Resources

Subject

Anticipated 2003 Hunting and Trapping Rule Revisions (Housekeeping). Proposed hunting and trapping regulation changes to be included in the 2003 Bureau of Wildlife Management Housekeeping Rule Order.

Policy Analysis

The department proposes the following housekeeping rule changes. These changes are minor in nature, non–controversial and can most effectively be handled through the housekeeping procedure.

We are proposing changes that provide clarifications to current rules, updated definitions, increasing management efficiency and altering limitations on hunters. The following rule proposals are:

1	Replace the term “Snare” with “Cable restraints” in the Administrative Code & create a definition of a “Cable restraint”.	NR 10.001 (25e); 10.07 (1) (b) 1.; 10.07 (1) (b) 2.; 10.12 (5) (a); 10.13 (1) (b) 5; 10.13 (1) (b) 6.; 10.13 (1) (b) 8. a.; 10.13 (1) (b) 12.; 10.13 (1) (b) 13.
2	Remove reference to Unit 61B as a River block unit (no such unit).	NR 10.01 (3) (e) 2.
3	Clarify what the shot size restrictions are for hunting turkey with a muzzleloader.	NR 10.09 (1) (a) 3. b.
4	Update rule that provides exceptions for cross bow use to include disabled permit & over 65 exceptions.	NR 10.09 (1) (c) 1. d.
5	Clarify that the prohibition on rifles in shotgun zones applies to all deer hunts and seasons.	NR 10.09 (1) (c) 3.
6	Clarify which deer season(s) the 24 hour firearm rule applies to.	NR 10.09 (2) (d)
7	Update rule prohibiting cross bows to note the section with exceptions.	NR 10.09 (3) (b)
8	Replaces “overwinter” with “pre–harvest” in code relating to Fisher, Bobcat and Otter population goals.	NR 10.145 (2)
9	Clarify if Deer hunting is allowed in certain refuges during the Zone–T deer seasons.	NR 15.022 & 15.024

Statutory authority

s. 29.014, Stats.

Staff time required

Approximately 174 hours will be needed by the department to develop the rule prior to and following the hearings.

Natural Resources

Subject

Sections NR 20.20 and 20.41 pertaining to fishing regulations and experimental waters of the Northern Highlands Fisheries Research Area.

Policy Analysis

The proposed fishing regulation change on Escanaba Lake, Vilas County would affect and be of interest to walleye

anglers statewide. Anglers in the Vilas and adjacent counties may be more affected but Escanaba Lake receives anglers from all areas of Wisconsin. This proposal is part of a 10–year research project that would study the effects of a 28–inch minimum length limit and a daily walleye bag of one at Escanaba Lake, Vilas County. Escanaba Lake is one of five designated research lakes in the Northern Highlands Fisheries Research Area. The Wisconsin Conservation Commission established the NHFRA in 1946 for the express purpose of providing lakes for fish research. Escanaba is the only lake in the research area that has walleyes. The lake’s walleye population has been unregulated by size, bag, and season restrictions since 1946. The primary objective of this proposal is to reduce walleye harvest at Escanaba Lake to near zero so that Escanaba Lake can be used as a control in an ongoing walleye harvest study currently being conducted at private lakes in Vilas County. Knowledge of the characteristics of a limited harvest population will allow for better interpretation of the effects of harvest on other walleye populations in study lakes. An additional objective is to increase the number of bigger walleye caught. This proposal is expected to reduce harvest of walleye but still provide a fishing opportunity for the anglers. With this regulation, we expect to increase the angling catch rates of walleye 20” or longer as well as make a number of fish over 28” available to the angler. In the future these larger fish will provide some memorable fishing opportunities in Escanaba Lake. While the current data collection efforts are important, the proposed manipulation will give new information on factors that regulate walleye populations throughout northern Wisconsin that will not be available without the proposed regulation change. This proposal was part of the Spring Hearings fishing regulation changes where this proposal received strong local support with a vote of 89 in favor and 29 opposed in Vilas County. This proposal was also supported statewide and had a favorable vote in five of the six counties in Northern Wisconsin.

Statutory authority

Sections 29.014 (1) and 227.11, Stats.

Staff time required

Approximately 80 hours will be needed by the Department.

Pharmacy Examining Board

Subject

Amending s. Phar 2.02 (1) to reduce from 45 to 30 the number of days that a completed application must be on file prior to an examination date.

Policy Analysis

The objective in amending s. Phar 2.01 (1) is to allow an otherwise qualified applicant more time to file a completed application in advance of taking necessary examinations required for licensure.

Current s. Phar 2.02 (1) requires that a completed application be on file at least 45 days prior to taking any required examinations for licensure. It has come to the board’s attention that students graduating from pharmacy

schools in the spring semester have difficulty assembling or having submitted required proofs in a timely manner from their respective schools. Such delays may result in a student not being able to take the first available examinations following graduation. To remedy this problem, the board will amend s. Phar 2.02 (1) to change the application cut–off to 30 days. Such a change will not materially affect the board’s or the department’s ability to process applications but will increase the ability for newly graduated students to file completed applications in a timely manner.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 450.03 (2) and 450.04 (3), Stats.

Staff time required

It is estimated that 80 hours will be needed to amend the rules.

Public Instruction

Subject

Unsafe school choice.

Policy Analysis

Objective of the rule. The rules will:

1. Define the terms
 - persistently dangerous school
 - victim
 - violent criminal offense
2. Establish guidelines for public schools.
3. Establish a system for DPI to collect data from school districts and monitor compliance.

Public Law 107110 section 9532 reauthorizing the Elementary and Secondary Education Act (ESEA), requires each state receiving ESEA funds to establish and implement a statewide policy that allows students who attend persistently dangerous public schools to attend safe public schools. This provision also allows students who become victims of a violent criminal offense while in or on the grounds of a public school they attend to attend safe public schools. Each state must certify to the U.S. Department of Education that it has developed an unsafe school policy.

Proposed rule development is necessary to ensure Wisconsin complies with the ESEA and remains eligible to receive more than \$250 million in federal funds. Also, the rules will allow the WI Department of Public Instruction to implement its unsafe school policy.

Statutory authority

Sections 115.28 (9) and 227.11 (2) (a), Stats.

Staff time required

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

Submittal of rules to legislative council clearinghouse

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

Commerce

Rule Submittal Date

On October 28, 2002, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m) and 227.17, Stats.

The proposed rule-making order revises chs. Comm 81–87 and relates to private onsite wastewater treatment systems and sanitation.

Agency Procedure for Promulgation

A public hearing will be held on December 4, 2002.

Contact Person

Roman Kaminski
(715) 345–5334

Commerce

Rule Submittal Date

On October 23, 2002, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m) and 227.17, Stats.

The proposed rule-making order revises ch. Comm 34 and relates to amusement rides and attractions.

Agency Procedure for Promulgation

A public hearing will be held on December 3, 2002.

Contact Person

Ronald Acker
(608) 267–7907

Financial Institutions–Credit Unions

Rule Submittal Date

On October 31, 2002, the Department of Financial Institutions–Credit Unions submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule-making order relates to certain loan participation contracts.

Agency Procedure for Promulgation

A public hearing is required and scheduled for December 10, 2002.

The organizational unit primarily responsible for the promulgation of this rule is the Office of Credit Unions.

Contact Person

Mark Schlei
(608) 267–1705

Financial Institutions–Credit Unions

Rule Submittal Date

On October 31, 2002, the Department of Financial Institutions–Credit Unions submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule-making order creates ch. DFI–CU 73, relating to annual audits and verification of member accounts by state-chartered credit unions.

Agency Procedure for Promulgation

A public hearing is required and scheduled for December 10, 2002.

The organizational unit primarily responsible for the promulgation of this rule is the Office of Credit Unions.

Contact Person

Mark Schlei
(608) 267–1705

Revenue

Rule Submittal Date

On October 22, 2002, the Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to sales and use tax definitions, direct pay, exemption certificates and aircraft.

Agency Procedure for Promulgation

A public hearing is not required. The proposed rule will be published under the 30-day notice procedure, pursuant to s. 227.16 (2) (e), Stats.

The office of the secretary is primarily responsible for the promulgation of the proposed rule.

Contact Person

If you have any questions, please contact:
Mark Wipperfurth
Income, Sales and Excise Tax Division
(608) 266–8253
e-mail: mwipperf@dor.state.wi.us

Transportation

Rule Submittal Date

On October 30, 2002, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule-making order revises ch. Trans 102 and relates to customer identifying information.

Agency Procedure for Promulgation

A public hearing will not be held.

Contact Person

Julie A. Johnson
(608) 266–8810

Veterans Affairs**Rule Submittal Date**

On October 25, 2002, the Wisconsin Department of Veterans Affairs submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse amending ss. VA 12.02 (7) and (16) and 12.04 (1) of the Wis. Adm. Code. The proposed rules relates to the personal loan program authorized under s. 45.356, Stats.

Analysis

The amendment of s. VA 12.02 (7) and (16) will enable the Department to make a loan up to the statutory

maximum of \$15,000 for each eligible veteran. The loans will be underwritten using current underwriting standards so that creditworthiness can be assured.

The amendment of s. VA 12.04 (1) will enable the department to adjust interest rates by taking into account more relevant factors than is currently permissible. It will enable the department to react more quickly in offering a competitive interest rate and provides a sounder marketing strategy for the personal loan program.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 6, 2002. The Office of the Secretary is primarily responsible for preparing the rule.

Contact Person

John Rosinski
Chief Legal Counsel
(608) 266–7916

Rule–making notices

Notice of Hearing

Commerce Amusement Rides, Ch. Comm 34 [CR 02–127]

NOTICE IS HEREBY GIVEN that pursuant to s. 101.02 (15) (h) to (j), 101.12 (1) (e), 101.17, and 101.19 (1) (b), Stats., the Department of Commerce will hold a public hearing on proposed rules relating to amusement rides and attractions.

The public hearing will be held as follows:

Hearing Date, Time and Location

Tuesday, **December 3, 2002** at 10:00 a.m.
Room 3C, Thompson Commerce Center
201 West Washington Avenue
Madison, WI

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **December 13, 2002**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, Department of Commerce, P.O. Box 2689, Madison, WI 53701–2689, Email racker@commerce.state.wi.us.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266–8741 or (608) 264–8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Analysis Prepared by the Department of Commerce

Statutory Authority: s. 101.02 (15) (h) to (j), 101.12 (1) (e), 101.17, and 101.19 (1) (b).

Statutes Interpreted: s. 101.02 (15) (h) to (j), 101.12 (1) (e), 101.17, and 101.19 (1) (b).

The Division of Safety and Buildings within the Department of Commerce is responsible for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Chapter Comm 34 contains minimum safety standards for the design, construction, installation, operation and inspection of amusement rides and attractions.

The proposed rules consist of a revision of ch. Comm 34 in order to bring the chapter up–to–date with current administrative procedures and nationally recognized designs and practices. The application of ch. Comm 34 is being revised by deleting the reference to employees and by clarifying that the chapter covers amusement rides that are open to the public. The proposed rules also delete all references to amusement attractions and amusement structures. The Department does not inspect amusement attractions, and the new Commercial Building Code covers all types of structures.

The proposed rules revise the registration requirements by clarifying that class 3 rides are not registered, only class 1 and

2 rides are registered. The load–testing requirements for class 3 rides and modified rides are being deleted, retaining the requirement for an engineering analysis or non–destructive tests. The requirement for prevention of automatic restart after power failure is being revised by applying the rule to all rides with passenger–carrying devices, regardless of the date of construction.

The proposed rules include new requirements for the design and construction of fences, with a 3–year compliance time. These new requirements follow nationally recognized standards for amusement ride fences. The current rules for go–karts and similar rider–controlled vehicles are being revised by adding a requirement that vehicles cannot be operated with more than one person per seat. The bungee jumping rules are being amended by clarifying that catapulting is allowed where there is no overhead obstruction which a person may impact.

The proposed rules have been developed with the assistance of the Amusement Ride Code Advisory Council. The members of that citizen advisory council are as follows:

Name	Representing
Robert Dillenburg	WI Association of Fairs
Steve Elliott	Amusement Industry Manufacturers & Suppliers
Bill Fischer	Green Bay Parks and Recreation
Darrell Klompmaker	Little A–Merrick–A
David Larkee	Outdoor Amusement Business Assn.
Gilbert Toslek, Jr.	Wisconsin State AFL–CIO
Charles Waterman	Outdoor Amusement Business Assn.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.

The rules will affect any business involved with the ownership or operation of an amusement ride.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

There are no reporting, bookkeeping or other procedures required for compliance with the rules.

3. Types of professional skills necessary for compliance with the rules.

There are no types of professional skills necessary for compliance with the rules.

Environmental Assessment

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with ch. Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Fiscal Impact

The Safety and Buildings Division is responsible for administering and enforcing ch. Comm 34. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing ch. Comm 34. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Copies of Rule and Contact Person

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division web site at:

www.commerce.state.wi.us/SB/SB–HomePage.html. Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689, Email rward@commerce.state.wi.us, telephone (608) 266–8741 or (608) 264–8777 (TTY). Copies will also be available at the public hearing.

Notice of Hearing

Commerce Plumbing, Chs. Comm 81 to 87 [CR 02–129]

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1), 145.02 (3) and (4), 145.045, 145.13, 145.135, 145.19 and 145.20, Stats., the Department of Commerce will hold a public hearing on proposed rules relating to private onsite wastewater treatment systems and sanitation.

The public hearing will be held as follows:

Hearing Date, Time and Location

Wednesday, **December 4, 2002** at 1:00 p.m.
Room 3B, Thompson Commerce Center
201 West Washington Avenue
Madison, WI

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **December 18, 2002**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, Department of Commerce, P.O. Box 2689, Madison, WI 53701–2689.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266–8741 or (608) 264–8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Analysis Prepared by the Department of Commerce

Statutory authority: ss. 101.02 (1) and 145.02 (3) and (4), Stats.

Statutes interpreted: s. 145.02 (4), 145.045, 145.13, 145.135, 145.19, 145.20, Stats.

Under s. 145.02, Stats., the Department of Commerce has the responsibility of safeguarding public health and the waters of the state relative to the construction, installation and maintenance of plumbing. One mechanism of the Department to fulfill this responsibility has been the promulgation of rules under ch. Comm 83 establishing standards for the design, installation, inspection and maintenance of private onsite wastewater treatment systems, POWTS.

The current ch. Comm 83 was implemented on July 1, 2000. Since implementation, a number of issues have been brought to the attention of the department regarding inconsistencies in the current code language, requests for clarification of current code language, and requests for additional code language to address issues not covered.

The following summarizes by chapter the more significant revisions proposed in this rule package.

Chapter Comm 2 Fee Schedule; The revision clarifies how fees are calculated for larger systems and sets registration fees for privies that serve state–owned facilities.

Chapter Comm 81 Definitions and Standards; The revision adds two definitions to clarify ch. Comm 83 code language.

Chapter Comm 82 Design, Construction, Installation, Supervision and Inspection of Plumbing; The change revises the manhole opening for a grease interceptor to be consistent with POWTS treatment and holding tanks.

Chapter Comm 83 Private Onsite Wastewater Treatment Systems; The most significant revisions include:

- Clarification that the code is a uniform code statewide.
- Clarification that municipalities generally cannot enact plumbing ordinances that are more or less restrictive than this chapter.

–Allows governmental units to review POWTS designs that are intended to serve not more than two one– or 2–family dwellings and their accessory buildings.

–Modification of language that addresses large system plan review to clarify that DNR concurrence is required and how the designation of a large system is determined.

–Clarification that the department must respond with one or more actions delineated under Table 83.29.

–Addition of Public Water Main horizontal setbacks to Table 83.43–1.

–Clarification that existing, non–pressurized components can be rehabilitated using higher quality effluent without using pressure distribution piping.

–Table 83.44–2 is revised to provide more soil related information and adjustments to soil application rates for effluent.

–Table 83.44–3 is revised to reflect additional treatment information and requirements for coarse sandy soils.

–Horizontal and vertical distance information for the purpose of servicing of tanks has been added for inclusion in management plans.

–Clarification that inspection, maintenance and servicing events must be reported to governmental units.

–Modification of the time period for filing of reports from 10 business days to 30 calendar days.

–Clarification that the governmental units must maintain records related to inspection, maintenance and servicing events.

Chapter Comm 84 Plumbing Products; The revisions involve:

–Clarification relative to minimum size access openings and their locations.

–Clarification regarding labeling requirements for tanks.

Chapter Comm 85 Soil and Site Evaluations; The revisions involve:

–Clarification of how abrupt soil texture changes are to be evaluated and reported.

–Clarification on reporting seasonal soil saturation that occurs at shallow depths.

–Modification of report filing deadlines from 60 days to 180 days.

–Clarifications relative to the hydrograph procedure.

Chapter Comm 91 Sanitation; The revisions involve:

–Addition of language that addresses the registration of vault and pit privies that are designed to serve state–owned facilities.

The proposed rules have been developed with the assistance of the POWTS Advisory Code Council. The members of that citizen advisory council are as follows:

Name	Representing
James C. Converse	UW Madison Biological Systems Engineering
Steven Crosby	Wisconsin Builders Association
Thomas A. Gilbert	WI Department of Natural Resources
Duane Greuel	WI County Code Administrators
Dave Jones	WI Assn. of Plumbing, Heating, Cooling Contractors
Wayne Mink	WI Precast Concrete Association
Don Murphy	WI Liquid Waste Carriers Association
Sue Schambureck	WI Onsite Waste Disposal Association
Todd Stair	WI Onsite Waste Disposal Association
CeCe Tesky	WI County Code Administrators
E. Jerry Tyler	UW Madison Biological Systems Engineering

Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.

The rules will affect any business that owns, designs or installs a private onsite wastewater treatment system. The rules will also affect any business that performs soil and site evaluations related to the installation of a private onsite wastewater treatment system.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

There are no new reporting, bookkeeping or other procedures required for compliance with the rules. However, the rules contain clarifications and modifications of current requirements relating to reporting and recordkeeping for private onsite wastewater treatment systems and soil and site evaluations.

3. Types of professional skills necessary for compliance with the rules.

There are no types of professional skills necessary for compliance with the rules.

Environmental Assessment

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearings. Requests for the EA and comments on the EA should be directed to:

Roman Kaminski
Division of Safety and Buildings
Department of Commerce
2715 Post Road
Stevens Point, Wisconsin 54481
Telephone (715) 345–5334
or TTY (608) 264–8777

Written comments will be accepted until December 18, 2002. The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division web site at:

www.commerce.state.wi.us/SB/SB–HomePage.html.

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing rules relating to private onsite wastewater treatment systems and sanitation. Although the proposed rules contain a new fee for the registration of privies that serve state–owned facilities, the Division anticipates the revenue generated will be insignificant. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Copies of Rule and Contact Person

Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689, Email rward@commerce.state.wi.us, telephone (608) 266–8741 or (608) 264–8777 (TTY). Copies will also be available at the public hearing.

Notice of Hearing

Financial Institutions–Credit Unions [CR 02–132]

Pursuant to s. 227.17, Stats., notice is hereby given that the Office of Credit Unions will hold a public hearing at the time and place indicated below to consider creating a rule relating to certain loan participation contracts.

Date, Time and Place of Hearing

Tuesday, **December 10, 2002** at 1:00 p.m.

Tommy G. Thompson Conference Room, 5th Floor
Department of Financial Institutions
345 West Washington Avenue
Madison, WI 53703

This facility is accessible to individuals with disabilities through levels A, B or the first floor lobby. If you require reasonable accommodation to access any meeting, please call Mark Schlei at (608) 267–1705 or TTY (608) 266–8818 for the hearing impaired at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided by the Americans with Disabilities Act.

Written comments in lieu of public hearing testimony must be received not later than the hearing date and should be addressed to Ginger Larson, Office of Credit Unions, P.O. Box 14137, Madison, WI 53714–0137.

Analysis Prepared by the Office of Credit Unions

An order to amend ch. DFI–CU 70 (“title”); amend ss. DFI–CU 70.01 and 70.05 (2); and repeal ss. DFI–CU 70.02 and 70.06 (3) relating to certain loan participation contracts.

Statutes interpreted: ss. 186.115 (1) and (2), and 186.235 (8), Stats.

The objective of the rule is to amend ss. DFI–CU 70.01 by removing parity provisions and 70.05 (2) by modifying an originating lender requirement; and to repeal ss. 70.02 to remove parity provisions and 70.06 (3) to remove a participation lender requirement. The rule facilitates state–chartered credit unions to engage in certain loan participation contracts. The promulgation of this rule has been approved by the Credit Union Review Board.

Statutory Authority: Sections 186.115 (1) and (2), 186.235 (8) and 227.11 (2), Stats.

Fiscal Estimate

There is no state fiscal effect, and there are no local government costs. No funding sources or ch. 20, Stats., appropriations are affected. There are no long–range fiscal implications.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses.

Contact Person

A copy of the full text of the proposed rules and fiscal estimate may be obtained through the following:

Mark Schlei, Deputy General Counsel
Department of Financial Institutions
Office of the Secretary
P.O. Box 8861
Madison, WI 53708–8861
Tel. (608) 267–1705

TTY (608) 266–8818

A copy of the full text of the proposed rule may also be obtained at the Department of Financial Institutions' website, www.wdfi.org.

Notice of Hearing

Financial Institutions–Credit Unions [CR 02–133]

Pursuant to s. 227.17, Stats., notice is hereby given that the Office of Credit Unions will hold a public hearing at the time and place indicated below to consider creating a rule relating to annual audits and verification of member accounts by state–chartered credit unions.

Date, Time and Place of Hearing

Tuesday, **December 10, 2002** at 1:00 p.m.

Tommy G. Thompson Conference Room, 5th Floor

Department of Financial Institutions

345 West Washington Avenue

Madison, WI 53703

This facility is accessible to individuals with disabilities through levels A, B or the first floor lobby. If you require reasonable accommodation to access any meeting, please call Mark Schlei at (608) 267–1705 or TTY (608) 266–8818 for the hearing impaired at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided by the Americans with Disabilities Act.

Written comments in lieu of public hearing testimony must be received not later than the hearing date and should be addressed to Ginger Larson, Office of Credit Unions, P.O. Box 14137, Madison, WI 53714–0137.

Analysis Prepared by the Office of Credit Unions

An order to create ch. DFI–CU 73 relating to annual audits and verification of member accounts by state–chartered credit unions.

Statutes interpreted: ss. 186.115 (1) and (2), and 186.235 (8), Stats. The objective of the rule is to create ch. DFI–CU 73. The purpose of the rule is to prescribe certain responsibilities of state–chartered credit unions regarding audits and accounts. The rule provides general responsibilities for boards of directors for financial reporting; sets forth criteria for audit requirements, certain auditors and audit reports; provides financial statement audit alternatives; and establishes procedures for verification of accounts and passbooks. The promulgation of this rule has been approved by the Credit Union Review Board.

Statutory Authority: Sections 186.115 (1) and (2), 186.235 (8) and 227.11 (2), Stats.

Fiscal Estimate

There is no state fiscal effect, and there are no local government costs. No funding sources or ch. 20, Stats., appropriations are affected. There are no long–range fiscal implications.

Initial Regulatory Flexibility Analysis:

The proposed rule will not have an effect on small businesses.

Contact Person

A copy of the full text of the proposed rules and fiscal estimate may be obtained through the following:

Mark Schlei, Deputy General Counsel

Department of Financial Institutions

Office of the Secretary

P.O. Box 8861

Madison, WI 53708–8861

Tel. (608) 267–1705

TTY (608) 266–8818

A copy of the full text of the proposed rule may also be obtained at the Department of Financial Institutions' website, www.wdfi.org.

Notice of Proposed Rule

Transportation [CR 02–131]

NOTICE IS HEREBY GIVEN that pursuant to the authority of ss. 85.16 (1), 110.06, 227.11, 343.05, 343.06, 343.14, 343.15, 343.17 and 343.20, Stats., interpreting ss. 341.08 (2) (a) and (am), 342.06 (1) (a), 343.02, 343.03, 343.05, 343.06, 343.07, 343.08, 343.10, 343.11, 343.12, 343.135, 343.14, 343.16, 343.17, 343.18, 343.19, 343.20, 343.21, 343.22, 343.25, 343.265 and 343.50, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 102, relating to customer identifying information, without public hearing unless, within 30 days after publication of this notice [**November 15, 2002**], the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Contact Person

Questions about this rule may be addressed to Carson Frazier, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7911, Madison, Wisconsin 53707–7911, telephone (608) 266–7857.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 85.16 (1), 110.06, 227.11, 343.05, 343.06, 343.14, 343.15, 343.17 and 343.20, Stats.

Statutes Interpreted: ss. 341.08 (2) (a) and (am), 342.06 (1) (a), 343.02, 343.03, 343.05, 343.06, 343.07, 343.08, 343.10, 343.11, 343.12, 343.135, 343.14, 343.16, 343.17, 343.18, 343.19, 343.20, 343.21, 343.22, 343.25, 343.265 and 343.50, Stats.

General Summary of Proposed Rule

Integral to the Department of Transportation Division of Motor Vehicle's (DMV) redesigned data processing system is a combined vehicle and driver database. The database will be organized to link an individual person or entity (customer) with all vehicles which that customer owns. In order to effect this single customer database, DMV needs to have consistent "processing rules" related to customer identifying information. This rule making will establish consistent processing rules with respect to the customer name. Currently, s. 343.14 (2) (a), driver license statute, requires a person to supply his or her "full name," while ss. 341.08 (2) (a) and 342.06 (1) (a), vehicle statutes, merely require the "name" of the applicant. This rule making will define the "name" in vehicle statutes as meaning the "full name" as defined in driver license statutes.

The Scope Statement for this rule making was published in the 10–1–02 Administrative Register with the intention of creating a new chapter, ch. Trans 109. Following the publication of the Scope Statement, the Department decided this amendment would be better placed in ch. Trans 102.

Text of Proposed Rule

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16 (1), 110.06, 227.11, 343.05, 343.06, 343.14, 343.15, 343.17 and 343.20, Stats., the department of transportation hereby proposes to amend rules interpreting ss. 341.08 (2) (a) and (am), 342.06 (1) (a), 343.02, 343.03, 343.05, 343.06, 343.07, 343.08, 343.10, 343.11,

343.12, 343.135, 343.14, 343.16, 343.17, 343.18, 343.19, 343.20, 343.21, 343.22, 343.25, 343.265 and 343.50, Stats., relating to customer identifying information.

SECTION 1. Trans 102.01 (1) and (2) are amended to read:

Trans 102.01 (1) As authorized by ss. 85.16 (1), 110.06, 227.11, 343.05, 343.06, 343.14, 343.15, 343.17 and 343.20, Stats., the purpose of this chapter is to administratively interpret ss. 341.08 (2) (a) and (am), 342.06 (1) (a), 343.02, 343.03, 343.05, 343.06, 343.07, 343.08, 343.10, 343.11, 343.12, 343.135, 343.14, 343.16, 343.17, 343.18, 343.19, 343.20, 343.21, 343.22, 343.25, 343.265 and 343.50, Stats., relating to issuance of operator's licenses and identification cards, and vehicle title and registration.

(2) This chapter pertains to any person applying for a Wisconsin original, reissue, reinstatement, renewal, or duplicate operator's license or identification card, and vehicle title or registration.

SECTION 2. Trans 102.02 (6r) is created to read:

Trans 102.02 (6r) "Name" as used in ss. 341.08 (2) (a) and (am) and 342.06 (1) (a), Stats., has the same meaning as "full name" given in s. 343.14 (2) (a), Stats.

Fiscal Impact

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule

Copies of this proposed rule can be obtained, without cost, by writing to Carson Frazier, Division of Motor Vehicles, Bureau of Vehicle Services, 4802 Sheboygan Avenue, Room 253, P. O. Box 7911, Madison, WI 53707–7911, or by calling (608) 266–7857. Alternate formats of the proposed rule will be available to individuals upon request.

Notice of Hearing

Veterans Affairs [CR 02–130]

Notice is hereby given that the Department of Veterans Affairs will hold a public hearing on the **6th day of December, 2002**, at 9:30 a.m., in the 8th floor board room at 30 West Mifflin Street in Madison, Wisconsin.

Analysis Prepared by the Department of Veterans Affairs

Statutory authority: ss. 45.356 (2), (3) and (7) (c), Stats.
Statute interpreted: ss. 45.356 (2) and (3), Stats.

The amendment of s. VA 12.02 (7) and (16) will raise the permissible personal loan amount to the statutory maximum of \$15,000 for each eligible veteran. This should enable the Department to increase the income–producing assets of the veterans' trust fund as a result of the increased loan activity.

The amendment of s. VA 12.04 (1) will enable the Department to adjust program interest rates by taking into account a broader array of relevant factors. It will allow the Department to fashion more marketable loan conditions than available under the current limited criteria.

Initial Regulatory Flexibility Analysis

This rule is not expected to have any adverse impact upon small businesses.

Fiscal Impact

It is estimated that the Department will be able to make additional loans of \$6,000,000 on an annual basis.

Copies of Rule and Contact Person

A copy of the proposed rules and the full fiscal estimate may be obtained by contacting:

John Rosinski
Wisconsin Department of Veterans Affairs
PO Box 7843
Madison, WI 53707–7843
(608) 266–7916

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 gary.poulson@legis.state.wi.us or (608) 266–7275 for updated information on the effective dates for the listed rule orders.

**Accounting Examining Board
(CR 02–052)**

An order affecting ch. Accy 1, relating to the definition of “ownership interest” for the purpose of determining eligibility of firms for a license as a certified public accounting firm.

Effective 1–1–03.

**Accounting Examining Board
(CR 01–047)**

An order affecting ch. Accy 5, relating to experience in public practice.

Effective 1–1–03.

**Agriculture, Trade and Consumer Protection
(CR 02–036)**

An order affecting ch. ATCP 127, relating to telemarketing “No Call” list.

Effective 12–1–02.

**Employee Trust Funds
(CR 02–057)**

An order affecting ch. ETF 50, relating to employer medical certification requirements under the Long–Term Disability Insurance (LTDI) program.

Effective 12–1–02.

**Health and Family Services
(CR 02–083)**

An order affecting ch. HFS 119, relating to operation of the health insurance risk–sharing plan (HIRSP).

Effective 12–1–02.

**Health and Family Services
(CR 02–101)**

An order affecting ch. HFS 50, relating to adoption assistance and the use of the state adoption information exchange to find adoptive families for children.

Effective 12–1–02.

**Public Instruction
(CR 01–069)**

An order affecting chs. PI 13 and 16, relating to limited–English proficient pupils.

Effective 12–1–02.

**Public Instruction
(CR 02–107)**

An order affecting ch. PI 25, relating to the children at risk program.

Effective 12–1–02.

**Revenue
(CR 99–101)**

An order affecting ch. Tax 11, relating to communication services.

Effective 12–1–02.

**Revenue
(CR 02–053)**

An order affecting chs. Tax 6, 11 and 12, relating to waste treatment facilities.

Effective 12–1–02.

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