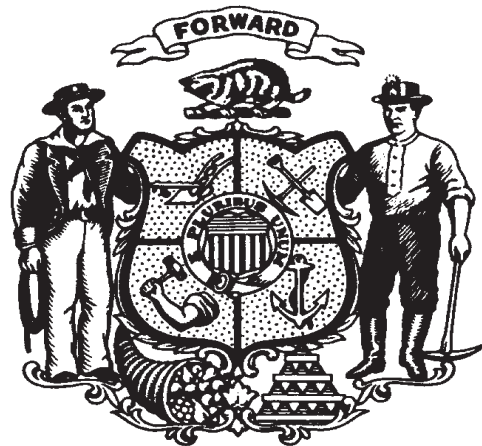


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Emergency rules now in effect

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.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

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 or a statement of exemption from a 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: January 23, 2003

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
Extension Through: March 10, 2003

Corrections

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 (3) (Health, Chs. HFS 110—)

1. 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
Hearing Date: December 17, 2002

2. Rules adopted amending **chs. HFS 110 to 113**, relating to licensing of EMT's and certification of first responders, incorporating responding to acts of terrorism as a training component.

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:

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

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

Publication Date: December 31, 2002
Effective Date: December 31, 2002
Expiration Date: May 30, 2003
Hearing Date: February 17, 2003
[See Notice This Register]

3. Rules adopted revising **ch. HFS 163**, relating to certification for the identification, removal and reduction of lead-based paint hazards.

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. A statement of the facts constituting the emergency is as follows:

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

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

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

In Wisconsin, the Department of Health and Family Services administers the lead training and certification

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

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

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

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

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

2. Prior to this order, section HFS 163.15 (2) specified that a lead hazard is present in soil when the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million. The EPA revised regulations state that a lead hazard is present in soil when bare soil in a

play area contains total lead content equal to or exceeding 400 parts per million or when bare soil in the rest of the yard contains an average of 1,200 parts per million of lead. To comply with the federal regulations, the Department is reducing the permissible threshold to that specified by the EPA.

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

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

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

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

Publication Date: January 3, 2003

Effective Date: January 3, 2003

Expiration Date: June 2, 2003

Insurance

Rules adopted amending s. **Ins 3.39**, relating to Medicare Supplement insurance policies.

Finding of emergency

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

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC model act implementing the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act ("BIPA"), by January 1, 2003. In order to provide more certainty and provide guaranteed issue to the appropriate persons in Wisconsin, it is necessary that the changes be put into effect as soon as possible. In addition, since insurers are required to be in compliance with the Federal law, implementing this rule effective on the same date will allow insurers to modify their policies one time rather than two.

The Commissioner is sending contemporaneously with this Emergency Rule, the permanent rule, Clearinghouse No. 02-118, to the Legislature for review. A hearing on the permanent rule, pursuant to published notice thereof, was held on November 7, 2002. The Office has received comment and revised the rule as necessary to incorporate comments from the public and as contained within the Clearinghouse Report.

Publication Date: December 16, 2002

Effective Date: December 16, 2002

Expiration Date: May 14, 2003

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
Extension Through: April 1, 2003

2. 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 affects 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

3. 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
Hearing Date: December 13, 2002

4. Rules adopted revising chs. NR 16 and 19 and creating ch. NR 14, relating to captive wildlife.

Finding of emergency

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

Publication Date: December 20, 2002
Effective Date: January 1, 2003
Expiration Date: May 31, 2003

5. Rules adopted revising ss. NR 10.07 (2), 12.06 and 19.60, 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. This rule is needed to reduce the deer herd in the CWD eradication zone further than accomplished through the hunting seasons to help prevent the spread of CWD.

Initial Applicability. This emergency rule repeals and recreates portions of the original CWD emergency rule order (WM-32-02 (E)) which was adopted by the Natural Resources Board in June 2002. The effective period of this emergency rule will coincide with the effective period of the original CWD emergency rule order which has been extended by the Legislative Joint Committee on the Review of Administrative Rules until April 1, 2003, pursuant to 2001, Wisconsin Act 108.

Publication Date: January 11, 2003
Effective Date: January 11, 2003
Expiration Date: April 1, 2003
Hearing Date: February 11, 2003
 [See Notice This Register]

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

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

Extension Through: March 2, 2003

Workforce Development (Public Works Const. Contracts, Chs. DWD 290–294)

Rules adopted amending s. DWD 290.155 (1), relating to the annual adjustment of thresholds for application of prevailing wage rates.

Finding of Emergency

The Department of Workforce Development 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 facts constituting the emergency is:

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was initially by emergency rule in January 2002 based on changes in the construction cost index in 2001. The Department uses the construction cost index in the December issue of the *Engineering News–Record*, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.7% increase in construction costs in 2002. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$36,000 to \$37,000 for single–trade projects and from \$175,000 to \$180,000 for multi–trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately 7 months, until the conclusion of the permanent rule–making process. Between January 1, 2003, and August 1, 2003, a single–trade project with a minimum estimated project cost of more than \$36,000 but less than \$37,000 or a multi–trade project with an estimated cost of more than \$175,000 but less than \$180,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be changed by the permanent rule–making process. The Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

Publication Date: December 27, 2002

Effective Date: January 1, 2003

Expiration Date: May 31, 2003

Scope statements

Health and Family Services

Subject

To amend selected provisions of ch. HFS 160 based on the Department's experiences certifying sanitarians since January 1, 1982.

Policy analysis

Chapter HFS 160 sets minimum qualifications for persons seeking the professional recognition conveyed by the credential "Registered Sanitarian." A Registered Sanitarian is a person trained and experienced in the field of sanitary science and technology. A sanitarian's role is to perform educational and inspection duties or enforce the law in the field of environmental health services. Local public health agencies may employ Registered Sanitarians to provide their needed environmental health duties. However, currently, Wisconsin statutes do not require persons working as sanitarians to be registered under ch. HFS 160.

Chapter HFS 160 specifies the minimum training and experience threshold in environmental health services for persons to be eligible to submit an application for examination and the need to pass a nationally recognized proficiency examination for persons to be issued a certificate of "Registered Sanitarian." The chapter also specifies that certificates issued and examinations administered by jurisdictions outside Wisconsin will be considered equivalent to one issued by the Department if the Department determines that the requirements for those certificates and examinations do not vary significantly from the requirements set forth in ch. HFS 160. The Department issues registration certificates if the Department finds the applicant meets the educational, employment and testing criteria identified in ch. HFS 160. Currently, Wisconsin has approximately 500 Registered Sanitarians.

The Department repealed and recreated ch. HFS 160 in 1982 and has not revised the chapter since. The Department proposes to revise ch. HFS 160 based on the Department's experience in administering the rule and based on comments received from the Sanitarian Registration Committee and Registered Sanitarians. Possible revisions may include the following:

1. Adding a continuing education requirement for the certificate renewal process.
2. Increasing the biennial renewal fee to support the additional costs of administering the training and testing associated with the continuing education requirement.
3. Revising the minimum qualifications for application and examination.
4. Clarifying the appeal process and records retention provisions currently expressed in s. HFS 160.07 (3).
5. Replacing the term "sanitarian" with the more commonly used title of "Environmental Health Specialist."
6. Amending the definition of "environmental health" to more closely reflect the definition of the term in ch. 254.01 (1), Stats.
7. Amending the rule to reflect the biennial renewal of certifications in s. 250.05 (6), Stats., instead of the annual renewal cycle currently expressed in s. HFS 160.08.

8. Improving the overall readability of the chapter.

While the Department anticipates these proposed changes would increase existing certificate holders' costs of retaining this credential, the Department also expects the changes would enhance certificate holders' ongoing professional education and marketability. Consequently, the Department anticipates that the proposed changes would be supported by the public, Registered Sanitarians and employers of Registered Sanitarians.

Statutory authority

Section 250.05, Stats.

Staff time required

The Department estimates that it should take Bureau of Environmental Health staff about 200 hours over the course of about one year to develop the proposed rules. The Department will utilize its existing 7-member Sanitarian Registration Committee as an advisory body to develop the initial proposed rules. Five of the 7 members are Registered Sanitarians and represent the spectrum of sanitarians in both the private and public sectors. Two members of the committee are consumer advocates.

Natural Resources

Subject

Chapter NR 20 pertaining to fishing regulations on inland waters, particularly the proposed bass regulation change for the Lower Wisconsin River.

Policy analysis

A proposal to increase the minimum length limit from 14" to 18" for bass on the Lower Wisconsin River (LWR) downstream from the Prairie du Sac dam was presented and voted upon at the 2002 Spring Fish and Game Hearings. The proposal was supported statewide and in the South Central Region by the popular vote. However, the lower 4 counties that border the LWR (Iowa, Richland, Grant, Crawford) opposed the proposed change. The Bureau of Fisheries Management and Habitat Protection (FH) supported the proposal and recommended adoption at the May NRB meeting. The Wisconsin Conservation Congress opposed the proposal and recommended that the NRB not adopt the rule at the May NRB. The Board directed the Department to work out a compromise with the public and come back to the Board.

A public meeting has been scheduled for December 10 in Dodgeville to gather public input into alternative regulations for bass on the LWR. A revised proposal will likely be developed with input from that meeting and submitted to the FH Bureau.

These proposed fishing regulation changes would affect and be of interest to most anglers in the state, and could be of interest to those in the tourism industry involved in fishing.

Statutory authority

Sections 29.014, 29.041, and 227.11, Stats.

Staff time required

Approximately 100 hours will be needed by the Department.

Natural Resources

Subject

Annual adjustment of timber stumpage rates in s. NR 46.30; requiring a copy of recorded instruments of title; and additional language adjustments reflecting action taken by the Legislature in 2001 Wis. Act 109 regarding Forest Crop Law conversion to Managed Forest Law and a change to application fees and process for the Managed Forest Law.

Policy analysis

The Department is proposing changes to s. NR 46.30 covering the annual forest tax law stumpage rates. There is also the need to revise ch. NR 46 to incorporate and define changes to subch. VI of ch. 77, Stats., that were a part of 2001 Wis. Act 109, effective July 30, 2002. Changes included:

- The opportunity to convert existing Forest Crop Law contracts to new Managed Forest Law (MFL) orders;
- A \$100 application fee for MFL applications that are submitted without a complete and qualifying plan;
- A \$20 application fee for MFL applications submitted with a complete and qualifying plan;
- Recodifying the application fee set in s. NR 46.16 (1) (c) to the revised statute.

Chapter 77, Stats., requires an annual determination of the stumpage values used in calculating severance and yield taxes on timber cut from Forest Croplands and Managed Forest Lands. Changes proposed to incorporate other changes in ch. 77 are needed to ensure a consistent application and administration of the statutes across the state.

Statutory authority

Sections 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats.

Staff time required

Approximately 85 hours will be needed by the Department.

Natural Resources

Subject

The Department is proposing to amend ch. NR 168 pertaining to the Brownfield Site Assessment Grant program. This rule describes the requirements for this grant program which provides funds to local governments to conduct environmental site assessments, tank removal, and other preliminary activities at contaminated properties.

Policy analysis

These rule changes will make improvements to the requirements for this grant program. The Department plans to work with the Brownfields Study Group to determine what specific changes to the rule should be included. Specific areas that will be reviewed for changes include the share of the funding that must be allocated to small and large grants, improvements to the scoring system, and clarifying the requirements when communities seek more than one grant in different rounds for the same site. In addition, some sections of the rule need to be updated based on statutory changes that were made to s. 292.75, Stats., in the 2001–2003 budget (2001 Wisconsin Act 16).

Statutory authority

Sections 292.75 and 227.11, Stats.

Staff time required

Approximately 210 hours will be needed by the Department to promulgate and implement the proposed rule changes. The Department anticipates seeking authorization for hearings from the Board in April 2003 and seeking adoption of the rule in June of 2003.

Submittal of rules to legislative council clearinghouse

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

Administration

Rule Submittal Date

On January 7, 2003, the Department of Administration submitted proposed rule ch. Adm 19 to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) and 442.04 (5), Stats.

The proposed rule-making order relates to the grant application process for communities with the state. The proposed changes will further the goal of providing improved housing conditions for low-income households.

Agency Procedure for Promulgation

A public hearing will be held after the Legislative Council Rules Clearinghouse completes its review.

The Division of Housing and Intergovernmental Relations is primarily responsible for promulgation of this rule.

Contact Person

Donna Sorenson
(608) 266-2887

Pharmacy Examining Board

On January 15, 2003, the Pharmacy Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (d), Stats.

The proposed rule-making order relates to admission requirements for all required professional examinations.

Agency Procedure for Promulgation

A public hearing is required and will be held on February 12, 2003 at 9:30 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin, 53702.

Contact Person

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

Transportation

Rule Submittal Date

On January 15, 2003, the Department of Transportation submitted proposed rule ch. Trans 430 to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order relates to the scholarship and loan repayment incentive grant program.

Agency Procedure for Promulgation

A public hearing is scheduled for February 13, 2003.

The Division of Business Management, Bureau of Human Resource Services is primarily responsible for promulgation of this rule.

Contact Person

Julie A. Johnson, Paralegal
(608) 266-2887

Rule-making notices

Notice of Hearing

Health and Family Services (Health – Chs. HFS 110—) [CR 02–155]

Notice is hereby given that, pursuant to ss. 146.50 (6) (b) 2. and (13) (a), 227.11 (2) (a) and 250.04 (7), Stats., the Department of Health and Family Services will hold a public hearing to consider both the emergency rules and proposed permanent rules amending ss. HFS 110.07 (3) (c) 2. and (4) (a) and (b), 111.06 (1) (c) 1., 112.04 (5) (f) 2., 112.06 (1) (c) 1. and 113.04 (10) (b) 3., and creating s. HFS 113.04 (6) (a) 1m., relating to the licensing of emergency medical technicians and the certification of first responders to incorporate responding to acts of terrorism as a training component required for initial or renewed licensure or certification.

Hearing Information

The public hearing will be held:

<u>Date & Time</u>	<u>Location</u>
February 17, 2003	Conference Room
Monday	State Office Building
10 a.m. – 2:00 p.m.	1 West Wilson St.–Room B155 Madison, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

2001 Wisconsin Act 109 amended sections 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs–Basic IV (found in ch. HFS 110), EMTs– Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.) The permanent rules will replace an identical emergency rules that took effect on December 31, 2002.

Contact Person

The initial proposed rules upon which the Department is soliciting comments and which will be the subject of this hearing are posted at the Department's administrative rules website at:

http://www.dhfs.state.wi.us/News/Rules/Proposed_Final_Rules/Proposed_Rule_Index.htm.

To find out more about the hearing, or to comment on the proposed rule, please write or phone:

Nan Turner
Division of Public Health
P.O. Box 2659
Madison, WI 53701–2659
608–266–9781 or, if you are hearing impaired,
(608) 266–1511 (TDD)
turnena@dhfs.state.wi.us

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

Written comments on the proposed rule received at the above address no later than Wednesday, **February 24, 2003**, will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

Recent statutory changes through 2001 Wisconsin Act 109 require first responders and EMTs to receive training for response to acts of terrorism. These rule amendments revise the Department's training requirements for licensing first responders and emergency medical technicians (EMTs) at all levels to include language for awareness training for possible terrorism events.

The Department is integrating the additional training into existing EMT courses starting January 2003. Those persons trained between July, 2002 and January, 2003, however, will need to complete a supplementary 4–hour training module. Department staff will have some additional workload developing the training, including a possible internet–based training option. However, the Department does not anticipate that this training will result in either significant new expenditures or revenues of state or local governments. The acquisition of a supplementary 4–hour training module may require additional, albeit, minor expenditures.

Initial Regulatory Flexibility Analysis

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

Notice of Hearing

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.033, 29.335, 29.885, 227.11 and 227.24, Stats., interpreting ss. 29.033, 29.177 and 29.335, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM–15–03(E) pertaining to the use of baiting to control and

management of chronic wasting disease. This emergency order took effect on January 11, 2003. The emergency order authorizes the Department to allow landowners within the CWD eradication zone to hunt deer over bait by permit. The rule will help the Department meet deer herd reduction goals in the CWD eradication zone. Without the use of additional management tools, herd reduction may not be sufficient to reduce the spread of CWD from the infected area in western Dane and eastern Iowa counties. Shooting deer over bait in winter is a very effective deer culling method.

Hearing Information

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

Tuesday, **February 11, 2003** at 1:00 p.m.
 Room 027, GEF #2
 101 South Webster Street
 Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill VanderZouwen at (608) 266-8840 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

Department costs will be incurred as a result of assisting in the establishment of bait sites for landowners and issuing permits to landowners who choose to utilize bait and allow the DNR to access their property to eradicate deer in the CWD Eradication Zone the costs are detailed below:

16,000 lbs of bait (40 lbs of corn per landowner x 400 participating landowners) x \$3 / 40 lbs of corn.....	\$1,200
Vehicle mileage – 10,000 miles @ \$0.30/mile.....	\$3,000
Salary & Fringe – 4 FTEs x \$21.63/hr. in salary and fringe x 8 weeks x 20 hours / week.....	\$13,843
TOTAL.....	\$18,043

Contact Person

Written comments on the emergency rule may be submitted to Mr. Bill VanderZouwen, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than February 14, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [Wm-15-02(E)] may be obtained from Mr. VanderZouwen.

Notice of Hearing
Natural Resources
[CR 02-146]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a) and 285.11 (1), Stats., interpreting s. 285.11 (6), Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 400, 409, 410, 415, 419, 420, 422, 423, 431, 439, 447, 448, 449 and 484, Wis. Adm. Code, relating to clarification of compliance language for air management regulations. Air Management staff have been compiling information on the current ch. NR 400 series, with regard to changes to compliance language, where the applicability of the rules or their provisions weren't clear in certain situations. This proposed rule is intended to add clarity with regard to these rule applicability situations. There are also miscellaneous changes that are being proposed.

Additionally, test methods were updated to be consistent with U.S. EPA test methods and sections in the regulations incorporated by reference will be made current.

Some of the changes being proposed include:

1. Section NR 431.05 (1) allows for an opacity limit exceedance when a boiler is being cleaned or upon start up. The exceedance time was changed from 5 to 6 minutes, as 6 minutes is the averaging time used when reading opacity, both visually and by a continuous monitor.
2. Section NR 439.07 (8) is being recreated to delineate specific paragraphs for testing requirements for each pollutant listed (particulate emissions, sulfur dioxide, nitrogen oxides, organic compound emissions and visible emissions) in addition to a paragraph that contains general provisions for testing. Previously there were no titles to the paragraphs, and cross references of the general provisions between the paragraphs caused confusion.
3. Section NR 439.075 (4) (a) 4. is being created to allow for an extension to perform a compliance stack test. This change is being proposed, as testing is normally required at or near capacity and it was sometimes difficult for a facility to perform the stack test based on the time limitation in the permit.
4. Section 439.085 (3) (a) 1. is being amended to include q sampling time frame for fuels in storage tanks. Previously, no testing frequency was listed. By listing a testing frequency, there will be consistency in the application of this section by Department staff.
5. Section NR 439.10 defines the term "circumvention", and is being amended so it reads the same as the federal definition.

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

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

Hearing Information

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

Monday, **February 24, 2003** at 1:00 p.m.
 CS 3rd Floor Conference Room
 125 S. Webster Street
 GEF #3
 Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Joe Brehm at (608) 267-7541 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There is no fiscal impact anticipated.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Joe Brehm, Bureau of Air Management, P.O. Box 7921,

Madison, WI 53707 no later than March 7, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing.

A copy of the proposed rule AM-11-03 and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707
Phone: (608) 266-7718
FAX: (608) 267-0560

Notice of Hearing

Pharmacy Examining Board [CR 02-150]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3), Stats., and interpreting ss. 450.03 (2) and 450.04 (3), Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. Phar 2.01 (1) (c), relating to notarized photographs.

Hearing Date, Time and Location

Date: **February 12, 2003**
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by February 14, 2003 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 and 450.02 (3), Stats.

Statutes interpreted: ss. 450.03 (2) and 450.04 (3), Stats.

Current federal and state law and policy restrict the circumstances, if any, whereby an applicant for a license issued by a governmental entity may be required to submit a personal photograph as part of the application process. Lacking a demonstrated and sufficient reason to continue to require applicants to submit a photograph, it is the board's intent to repeal s. Phar 2.02 (1) (c).

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing

Pharmacy Examining Board [CR 03-005]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (d), Stats., and interpreting ss. 450.03 (2) and 450.04 (3), Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. Phar 2.03 (4), relating to admission requirements for all required professional examinations.

Hearing Date, Time and Location

Date: **February 12, 2003**
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by February 14, 2003 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (d), Stats.

Statutes interpreted: ss. 450.03 (2) and 450.04 (3), Stats.

The objective of this amendment is to make admission requirements for all required professional examinations consistent to simplify and streamline the application process. Section Phar 2.03 (4) currently prohibits an applicant from being admitted to the practical examination prior to completion of the applicant's internship in the practice of pharmacy. Admission to the NAPLEX and multi-state pharmacy jurisprudence examination is permitted if the applicant has obtained certification by the Foreign Pharmacy Graduate Examination Committee and being within 360 credit hours of completing an internship in the practice of pharmacy or 60 days before graduation from a school or college of pharmacy approved by the board. The different requirement for admission to the practical examination potentially penalize applicants who are otherwise professionally prepared to take the practical examination under the same requirements for the other two required professional examinations.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing**Public Service Commission
[CR 03-003]**

The Public Service Commission of Wisconsin proposes an order to repeal s. PSC 113.0207 and create ch. PSC 119, relating to interconnecting distributed generation facilities to the electric utility system.

NOTICE IS GIVEN that a hearing will be held beginning on Monday, March 3, 2003, at 9:00 a.m. in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding Administrative Law Judge.

Hearing Date, Time and Location

Date: Monday, **March 3, 2003** – 9:00 a.m.
Location: Public Service Commission
610 North Whitney Way
Madison, WI

This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the docket coordinator listed below.

Written Comments

Comments Due: Tuesday, February 25, 2003 – Noon
FAX Due: Monday, February 24, 2003 – Noon
Address Comments To:
Lynda L. Dorr, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854
FAX (608) 266-3957

The Commission requests comments on the above issues. Any party who desires to file comments should submit an original and 15 copies as indicated above. Members of the public need only file an original. These comments must be received by noon on Tuesday, February 25, 2003. Comments by fax are due one day earlier. Fax filing cover sheets must state "Official Filing" and include the docket number and the number of pages (limit of 20 pages). File by one mode only.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.496 (2) and 227.11 (2), Stats.

Statute interpreted: s. 196.496, Stats.

The objective of this rulemaking is to establish requirements for interconnection of distributed generation facilities that are, to the extent technically feasible and cost effective, uniform for all regulated electric utilities in Wisconsin. The rules define an application process, an application form, an interconnection agreement, requirements for grounding, metering, use of certified or non-certified equipment, safety equipment, power quality and testing, and compliance with applicable national, state, and local codes. The rules include a streamlined application process for facilities that have a capacity of less than 20 kilowatts. Section 196.496, Stats., provides:

To the extent technically feasible and cost effective, the standards shall be uniform and shall promote the development of distributed generation facilities. The standards shall address engineering, electric reliability, safety concerns and the methods for determining charges for interconnection.

These rules are adopted to implement s. 196.496 (2), Stats.

SECTION 1 Section PSC 113.0207 is repealed.

SECTION 2 Chapter PSC 119 is created to read:

PSC 119.0503 Additional tests.

PSC 119.01 Scope. This chapter implements s. 196.496, Stats., and applies to all electric public utilities, whether privately or municipally owned, and to all interconnected, customer-sited, non-utility DG facilities operating in parallel with the public utility, with a capacity of 15 MW or less. These rules establish uniform statewide standards for the interconnection of DG facilities to an electric distribution system.

PSC 119.012 Definitions. In this chapter:

- (1) "ANSI" means American National Standards Institute.
- (2) "Applicant" means the legally responsible person applying to a public utility to interconnect a DG facility to the public utility's distribution system.
- (3) "Application review" means a review by the public utility of the completed standard application form for interconnection, to determine if an engineering review or distribution system study is needed.
- (4) "Category 1" means a DG facility of 20 kW or less.
- (5) "Category 2" means a DG facility of greater than 20 kW to 200 kW.
- (6) "Category 3" means a DG facility of greater than 200 kW to 1 MW.
- (7) "Category 4" means a DG facility of greater than 1 MW to 15 MW.
- (8) "Certified equipment" means a generating, control or protective system that has been certified by a nationally recognized testing laboratory as meeting acceptable safety and reliability standards.
- (9) "Commission" means the Public Service Commission of Wisconsin.
- (10) "Commissioning test" means the process of documenting and verifying the performance of a DG facility so that it operates in conformity with the design specifications.
- (11) "Customer" means any person who is receiving electric service from a public utility's distribution system.
- (12) "DG" means distributed generation.
- (13) "Distribution feeder" means an electric line from a public utility substation or other supply point to customers

that is operated at 50 kV or less, or as determined by the Commission.

(14) "DG facility" means a facility for the generation of electricity with a total nameplate capacity of 15 MW or less that is located on the customer side of a point of common coupling.

(15) "Distribution system" means all electrical wires, equipment, and other facilities owned or provided by a public utility that are normally operated at 50 kV or less.

(16) "Distribution system study" means a study to determine if a distribution system upgrade is needed to accommodate the proposed DG facility and to determine the cost of any such upgrade.

(17) "Engineering review" means a study or studies that may be undertaken by a public utility, in response to its receipt of a completed standard application form for interconnection, to determine the suitability of the installation and the need for a distribution system study.

(18) "Fault" means an equipment failure, conductor failure, short circuit, or other condition resulting from abnormally high amounts of current from the power source.

(19) "Guidelines" means the "Wisconsin Distributed Generation Interconnection Guidelines" of the Commission.

(20) "IEEE" means Institute of Electrical and Electronics Engineers.

(21) "Interconnection" means the physical connection of a DG facility to the distribution system so that parallel operation can occur.

(22) "Interconnection disconnect switch" means a mechanical device used to disconnect a DG facility from a distribution system.

(23) "Inverter" means a machine, device, or system that converts direct current power to alternating current power.

(24) "Islanding" means a condition on the distribution system in which a DG facility delivers power to customers using a portion of the distribution system that is electrically isolated from the remainder of the distribution system.

(25) "kV" means kilovolt.

(26) "kW" means kilowatt.

(27) "Material modification" means any modification that changes the maximum electrical output of a DG facility or changes the interconnection equipment, including:

(a) Changing from certified to non-certified devices.

(b) Replacing a component with a component of different functionality or UL listing.

(28) "MW" means megawatt.

(29) "Nationally recognized testing laboratory" means any testing laboratory recognized by the U.S. Department of Labor Occupational Safety and Health Administration's accreditation program.

(30) "Network service" means two or more primary distribution feeders electrically connected on the low voltage side of two or more transformers, to form a single power source for any customer.

(31) "Parallel operation" means the operation, for longer than 100 milliseconds, of an on-site DG facility while the facility is connected to the energized distribution system.

(32) "Paralleling equipment" means the generating and protective equipment system that interfaces and synchronizes a DG facility with the distribution system.

(33) "Point of common coupling" means the point where the electrical conductors of the distribution system are connected to the customer's conductors and where any

transfer of electric power between the customer and the distribution system takes place.

(34) "Point of interconnection" means the point where a DG facility is electrically connected to a customer's electrical system.

(35) "Public utility" has the meaning given in s. 196.01 (5) (a), Stats.

(36) "Standard application form" means PSC Form 6027 for Category 1 DG facilities or PSC Form 6028 for Category 2 to 4 DG facilities.

(37) "Standard interconnection agreement" means PSC Form 6029 for Category 1 facilities or PSC Form 6030 for Category 2 to 4 DG facilities.

NOTE: a copy of PSC 6027 to 6030 can be obtained at no charge from your local electric utility or from the Public Service Commission, PO Box 7854, Madison, WI 54707-7854.

(38) "Telemetry" means transmission of DG operating data using telecommunications techniques.

(39) "UL" means Underwriters Laboratory.

(40) "Working day" has the meaning specified in s. 227.01(14), Stats.

Subchapter II — General Requirements

PSC 119.0201 Designated point of contact. Each public utility shall designate one point of contact for all customer inquiries related to DG facilities and from which interested parties can obtain a copy of the guidelines and the appropriate standard Commission application and interconnection agreement forms. Each public utility shall have current contact information concerning its DG representative on file with the Commission.

PSC 119.0202 Application process for interconnecting DG facilities. Public utilities and applicants shall complete the following steps regarding interconnection applications for all classes of DG facilities, in the order listed:

(1) The public utility shall respond to each DG inquiry within 5 working days and, on request, furnish the appropriate standard application form and a copy of the guidelines.

(2) The applicant shall complete and submit the standard application form to its public utility.

(3) Within 10 working days of receiving a new or revised application, the public utility shall notify the applicant whether the application is complete.

(4) Once the public utility determines that the application is complete, within 10 working days the public utility shall complete its application review and notify the applicant if an engineering review is needed and the cost of such review. For Categories 2 and 3, the cost estimate shall be valid for one year. For Category 4, the time period shall be negotiated but may not exceed one year. If the application review shows that an engineering review is not needed, the applicant may install the DG facility and need not complete the steps described in subs. (5) to (9).

(5) If the application review indicates that an engineering review is needed, the public utility, upon written notification to proceed and receipt of applicable payment from the applicant, shall complete an engineering review and notify the applicant of the results within the following times:

(a) Category 1 DG application, 10 working days.

(b) Category 2 DG application, 15 working days.

(c) Category 3 DG application, 20 working days.

(d) Category 4 DG application, 40 working days.

(6) If the engineering review indicates that a distribution system study is necessary, the public utility shall include, in

writing, a cost estimate in its engineering review. The cost estimate shall be valid for one year and the applicant shall have one year from receipt of the cost estimate in which to notify the public utility to proceed, except for a Category 4 DG application, in which case the time period shall be negotiated, but may not extend beyond one year. Upon receiving written notification to proceed and payment of the applicable fee, the public utility shall conduct the distribution system study.

(7) The public utility shall within the following time periods complete the distribution system study and provide study results to the applicant:

- (a) Category 1 DG application, 10 working days.
- (b) Category 2 DG application, 15 working days.
- (c) Category 3 DG application, 20 working days.

(d) Category 4 DG application, 60 working days unless a different time period is mutually agreed upon.

(8) The public utility shall perform a distribution system study of the local distribution system and notify the applicant of findings along with any distribution system construction or modification costs to be borne by the applicant.

(9) If the applicant agrees, in writing, to pay for any required distribution system construction and modifications, the public utility shall complete the distribution system upgrades and the applicant shall install the DG facility within a time frame that is mutually agreed upon. The applicant shall notify the public utility when project construction is complete.

(10) (a) The applicant shall give the public utility the opportunity to witness or verify the system testing, as required in s. PSC 119.0501 or PSC 119.0502. Upon receiving notification that an installation is complete, the public utility has 10 working days, for a Category 1 or 2 DG project, or 20 working days, for a Category 3 or 4 DG project, to complete the following:

- 1. Witness commissioning tests.
- 2. Perform an anti-islanding test or verify the protective equipment settings at its expense.
- 3. Waive its right, in writing, to witness or verify the commissioning tests.

(b) The applicant shall provide the public utility with the results of any required tests.

(11) The public utility may review the results of the on-site tests and shall notify the applicant within 5 working days, for a Category 1 DG project, or within 10 working days, for a Category 2 to 4 DG project, of its approval or disapproval of the interconnection. If approved, the public utility shall provide a written statement of final acceptance and cost reconciliation. Any applicant for a DG system that passes the commissioning test may sign a standard interconnection agreement and interconnect. If the public utility does not approve the interconnection, the applicant may take corrective action and request the public utility to reexamine its interconnection request.

(12) A standard interconnection agreement shall be signed by the applicant and public utility before parallel operation commences.

PSC 119.0203 Insurance and indemnification. (1) An applicant seeking to interconnect a DG facility to the distribution system of a public utility shall maintain liability insurance equal to or greater than the amounts stipulated in the following table, per occurrence, or prove financial responsibility by another means mutually agreeable to the applicant and the public utility:

Category	Generation Capacity	Minimum Liability Insurance Coverage
1	20 kW or less	\$ 300,000
2	Greater than 20 kW to 200 kW	\$ 1,000,000
3	Greater than 200 kW to 1 MW	\$ 2,000,000
4	Greater than 1 MW to 15 MW	Negotiated

For a DG facility in Category 2 to 4, the applicant shall name the public utility as an additional insured party in the liability insurance policy.

(2) Each party to the standard interconnection agreement shall indemnify hold harmless and defend the other party, its officers, directors, employees and agents from and against any and all claims, suits, liabilities, damages, costs and expenses. The liability of each party shall be limited to direct actual damages, and all other damages at law or in equity shall be waived.

PSC 119.0204 Modifications to the DG facility. The applicant shall notify the public utility of plans for any material modification to the DG facility by providing at least 20 working days of advance notice for a Category 1 DG facility, 40 working days for Category 2 DG facility, and 60 working days for a Category 3 or 4 DG facility. The applicant shall provide this notification by submitting a revised standard application form and such supporting materials as may be reasonably requested by the public utility. The applicant may not commence any material modification to the DG facility until the public utility has approved the revised application, including any necessary engineering review or distribution system study. The public utility shall indicate its written approval or rejection of a revised application within the number of working days shown in the table below. Upon completion of the application process, a new standard interconnection agreement shall be signed by both parties prior to parallel operation. If the public utility fails to respond in the time specified in the following table, the completed application is deemed approved:

Category	Generation Capacity after Modification	Working Days for Utility's Response to Proposed Modifications
1	20 kW or less	20
2	Greater than 20 kW to 200 kW	40
3	Greater than 200 kW to 1 MW	60
4	Greater than 1 MW to 15 MW	80

PSC 119.0205 Easements and rights-of-way. If a public utility line extension is required to accommodate a DG interconnection, the applicant shall (at its expense) provide, or obtain from others, suitable easements or rights-of-way.

PSC 119.0206 Fees and distribution system costs. (1) The need for any engineering review or distribution system study is determined during the public utility's application review. The public utility's response to the standard application form

shall include the cost of any interconnection or distribution system study fee. Application fees shall be credited toward the cost of any engineering review or distribution system study. The applicant shall pay the following application and interconnection study fees, unless the public utility chooses to waive the fees in whole or in part:

(a) Category 1: No application review, engineering review, or distribution system study fees.

(b) Category 2: An application review fee of \$250 and a maximum engineering review fee of \$500, if a distribution upgrade is required.

(c) Category 3: An application fee of \$500 and an engineering review fee based on cost.

(d) Category 4: An application fee of \$1,000 and an engineering review fee based on cost.

(2) The public utility may recover from the applicant an amount up to the actual cost, for labor and parts, of any distribution system upgrades required. No public utility may charge a commissioning test fee for initial start-up of the DG facility. The utility may charge for retesting an installation that does not conform to the requirements set forth in these rules.

(3) Costs for any necessary line extension shall be accessed pursuant to s. PSC 113.1005.

PSC 119.0207 Disconnection and reconnection. A public utility may refuse to connect or may disconnect a DG facility from the distribution system only under the following conditions:

(1) Lack of approved standard application form or standard interconnection agreement.

(2) Termination of interconnection by mutual agreement.

(3) Non-compliance with the technical or contractual requirements.

(4) Distribution system emergency.

(5) Routine maintenance, repairs, and modifications, but only for a reasonable length of time necessary to perform the required work.

PSC 119.0208 DG installation requirements. A public utility may require that the installation of a DG facility be supervised by a licensed electrical contractor, professional engineer (practicing electrical engineering) licensed in Wisconsin, electrical code inspector registered with the Wisconsin Department of Commerce, or an installer certified by a nationally recognized certifying body.

Subchapter III — Design Requirements

PSC 119.0301 General design requirements. The applicant shall install protection devices to ensure that the current supplied by the DG facility is interrupted if a fault or other potentially dangerous event occurs on the distribution system. If such an event occurs and the public utility's distribution system is de-energized, any DG facility that is connected to this distribution system shall automatically disconnect. All DG facilities shall utilize protection devices that prevent closing a DG facility that is out of synchronization with the distribution system.

PSC 119.0302 Equipment circuit breakers. All installations shall include equipment circuit breakers, on the DG facility side of the point of interconnection, capable of interrupting the maximum available fault current. Equipment circuit breakers shall meet all applicable UL, ANSI, and IEEE standards.

PSC 119.0303 Interconnection disconnect switch. The public utility may require that the applicant furnish and install an interconnection disconnect switch that opens, with a visual break, all ungrounded poles of the interconnection circuit.

The interconnection disconnect switch shall be rated for the voltage and fault current requirements of the DG facility, and shall meet all applicable UL, ANSI, and IEEE standards, as well as applicable requirements of the Wisconsin Electrical Safety Code, Volume 2, ch. Comm 16. The switch enclosure shall be properly grounded. The interconnection disconnect switch shall be accessible at all times, located for ease of access to public utility personnel, and shall be capable of being locked in the open position. The applicant shall follow the public utility's recommended switching, clearance, tagging, and locking procedures.

PSC 119.0304 Labeling requirements. The applicant shall label the interconnection disconnect switch "Interconnection Disconnect Switch" by means of a permanently attached sign with clearly visible and permanent letters. The applicant shall provide and post its procedure for disconnecting the DG facility next to the switch.

PSC 119.0305 Grounding. (1) The applicant shall install an equipment grounding conductor, in addition to the ungrounded conductors, between the DG facility and the distribution system. This conductor shall provide an adequate fault current path and shall be available, permanent, and electrically continuous. The conductor and grounding systems shall be capable of safely carrying the maximum fault likely to be imposed on them by the systems to which they are connected, and shall have sufficiently low impedance to facilitate the operation of overcurrent protection devices under fault conditions. All DG transformations shall be multi-grounded. The DG facility may not be designed or implemented such that the earth becomes the sole fault current path.

(2) Grounding practices shall conform to Wisconsin Electrical Safety Code Volumes 1 and 2, as found in chs. Comm 16 and PSC 114.

PSC 119.0306 Operating limits. (1) Certified paralleling equipment shall conform to UL 1741 (January 17, 2001 Revision) or an equivalent standard from a nationally recognized testing laboratory.

(2) Non-certified paralleling equipment shall conform to the requirements of IEEE P1547, Draft 9.

Note: These UL and IEEE standards may be obtained from the PSCW Library, 610 N. Whitney Way, Madison, WI.

PSC 119.0307 Power factor. (1) All Category 1 and 2 DG facilities shall be operated at a power factor greater than 0.9.

(2) All Category 3 and 4 DG facilities shall be operated at unity power factor or as mutually agreed between the public utility and applicant.

PSC 119.0308 Power quality. The DG facility shall not create system voltage or current disturbances that exceed the standards listed in ch. PSC 113, Subchapter VII.

PSC 119.0309 Synchronizing DG facilities. The applicant is solely responsible for properly protecting and synchronizing its DG facility with the distribution system.

PSC 119.0310 Automatic interrupting device. Each DG facility shall include an automatic interrupting device that is listed with a nationally recognized testing laboratory and is rated to interrupt available fault current. The interrupting device shall be tripped by any of the required protective functions.

PSC 119.0311 Minimum protection requirements for non-certified distributed generation. (1) Each DG facility shall include protection and anti-islanding equipment to prevent the facility from adversely affecting the reliability or capability of the distribution system. The applicant shall contact the public utility to determine any specific protection requirements.

(2) The following protective system functions, which may be met with microprocessor-based multifunction protection systems or discrete relays, are required:

(a) Protective relay activation shall not only alarm but shall also trip the generator breaker/contact.

(b) If a relay failure alarms, but does not trip the generator breaker, the DG facility shall include additional relaying that meets the requirements stated herein for each category.

(3) In addition to anti-islanding protection, a DG facility shall meet the following minimum protection requirements:

(a) A Category 1 DG facility shall include:

1. Over/under frequency function.
2. Over/under voltage function.
3. Overcurrent function.
4. Ground fault protection.

(b) A Category 2, 3, or 4 DG facility shall include:

1. Over/under frequency function.
2. Over/under voltage function.
3. Overcurrent function.
4. Ground fault protection.
5. Synchronism check function.

6. Other equipment, such as other protective devices, supervisory control and alarms, telemetry and associated communications channel, that the public utility determines to be necessary. The public utility shall advise the applicant of any communications requirements after a preliminary review of the proposed installation.

PSC 119.0312 Test switches for a Category 3 or 4 DG facility. The applicant shall provide test switches as specified by the public utility, to allow testing the operation of the protective functions without unwiring or disassembling the equipment.

PSC 119.0313 One-line schematic diagram. (1) The applicant shall include a one-line schematic diagram with the completed standard application form. ANSI symbols shall be used in the one-line schematic diagram to show the following:

- (a) Generator or inverter.
- (b) Point of interconnection.
- (c) Point of common coupling.
- (d) Lockable interconnection disconnect switch.
- (e) Method of grounding, including generator and transformer ground connections.
- (f) Protection functions and systems.

(2) The applicant shall provide technical specifications of the point of interconnection, including all anti-islanding and power quality protective systems. The specifications regarding the anti-islanding protective systems shall describe all automatic features provided to disconnect the DG facility from the distribution system in case of loss of grid power, including the functions for over/under voltage, over/under frequency, overcurrent, and loss of synchronism. The applicant shall also provide technical specifications for the generator, lockable interconnection disconnect switch, and grounding and shall attach the technical specification sheets for any certified equipment. The applicant shall include, with the one-line schematic, a statement by the manufacturer that its equipment meets or exceeds the type tested requirements for certification in these guidelines.

PSC 119.0314 Control schematics. As part of the application, the applicant shall provide a complete set of control schematics, when non-certified equipment is

proposed, showing all protective functions and controls for generator protection and distribution system protection.

PSC 119.0315 Site plan. For all categories, the applicant shall provide a site plan that shows the location of the interconnection disconnect switch, adjoining street name, and the street address of the DG facility. For Category 2, 3, or 4 DG facilities, the site plan shall show the location of major equipment, electric service entrance, electric meter, interconnection disconnect switch, and interface equipment.

PSC 119.0316 Transformers. The public utility may require a DG facility to be isolated from other customers by installation of a separate power transformer. When a separate transformer is required, the utility may include its actual cost in the distribution system upgrade costs. The applicant is responsible for supplying and paying for any custom transformer. This requirement may not be required for an induction-type generator with a capacity of 5 kW or less, or for other generating units of 10 kW or less that utilize a line-commutated inverter.

PSC 119.0317 Secondary or spot networks. The owner of a DG facility designed to operate in parallel with a spot or secondary network service shall provide relaying or control equipment that is rated and listed for the application and is acceptable to the public utility.

PSC 119.0318 Telemetry. For a Category 3 DG facility, the public utility may require that the facility owner provide telemetry equipment whose monitoring functions include transfer-trip functionality, voltage, current, real power (watts), reactive power (vars), and breaker status. The public utility may waive this requirement. The owner of a Category 4 DG facility shall provide telemetry equipment with transfer-trip functionality in addition to readout of voltage, current, real power (watts), reactive power (vars), and breaker status.

Subchapter IV— Equipment Certification

PSC 119.0401 Certified paralleling equipment. DG paralleling equipment that a nationally recognized testing laboratory certifies as meeting the applicable type testing requirements of UL 1741 (January 17, 2001 revision) is acceptable for interconnection, without additional protection systems, to the distribution system. The applicant may use certified paralleling equipment for interconnection to a distribution system without further review or testing of the equipment design by the public utility, but the use of this paralleling equipment does not automatically qualify the applicant to be interconnected to the distribution system at any point in the distribution system. The public utility may still require an engineering review to determine the compatibility of the distributed generation system with the distribution system capabilities at the selected point of common coupling.

PSC 119.0402 Non-certified paralleling equipment. (1) Any DG facility that is not certified under s. PSC 119.0401 shall be equipped with protective hardware or software to prevent islanding and to maintain power quality. The applicant shall provide the final design of this protective equipment. The public utility may review and approve the design, types of protective functions, and the implementation of the installation. The applicant shall own the protective equipment installed at its facility.

(2) The applicant shall calibrate any protective system approved under sub. (1) to the specifications of the public utility. The applicant shall obtain prior written approval from the public utility for any revisions to specified protection system calibrations.

Subchapter V — Testing of DG Facility Installations

PSC 119.0501 Anti-islanding test. The public utility may perform an anti-islanding test or observe the automatic

shutdown before giving final written approval for interconnection of the DG facility. The anti-islanding test requires that the DG facility shut down upon sensing the loss of power on the distribution system. Output voltage shall reduce to zero within two seconds of separation from the distribution system.

PSC 119.0502 Commissioning tests for paralleling equipment in Categories 2 to 4. The public utility shall provide the acceptable range of settings for the paralleling equipment of a Category 2, 3, or 4 DG facility. The applicant shall program protective equipment settings into this paralleling equipment. The public utility may verify the protective equipment settings prior to allowing the DG facility to interconnect to the distribution system.

PSC 119.0503 Additional tests. The public utility or applicant may, upon reasonable notice, re-test the DG facility installation. The party requesting additional testing shall bear the cost of these tests.

Initial Regulatory Flexibility Analysis

The proposed rules would apply to electric public utilities. The proposed rules do not affect small businesses as defined in s. 227.114.

Fiscal Estimate

These rules establish uniform statewide standards for interconnection of Distributed Generation facilities to an Electric distribution system. The rules are being created at the direction of Legislation in Wis. Act 16. These rules govern the relationship between a distributed generation facility and a utility and as such, do not have a fiscal impact on either state or local government.

Copies of Rule and Contact Person

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed below.

Paul Helgeson
(608) 266-3905

Notice of Hearing

Transportation

[CR 03-004]

NOTICE IS HEREBY GIVEN that pursuant to s. 85.107, Stats., amended by 2001 Wis. Act 16 (the 2001-03 biennial budget act), Stats., and interpreting s. 85.107, Stats., the Department of Transportation will hold a public hearing in Room 410 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **13th day of February, 2003**, at 9:00 AM, to consider the amendment of ch. Trans 403, Wisconsin Administrative Code, relating to the Loan Repayment Incentive Grant Program.

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

The public record on this proposed rule making will be held open until close of business on February 13, 2003, to permit

the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Randy Sarver, Department of Transportation, Bureau of Human Resource Services, Room 410, P. O. Box 7915, Madison, WI 53707-7915.

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

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: s. 85.107, Stats., amended by 2001 Wis. Act 16 (the 2001-03 biennial budget act).

Statutes Interpreted: s. 85.107, Stats.

General Summary of Proposed Rule

This rule making will amend ch. Trans 403, relating to the Scholarship and Loan Repayment Incentive Grant Program, to conform to the statutory changes of s. 85.107, amended by 2001 Wis. Act 16 (the 2001-03 biennial budget act). The changes will allow the Department to recruit and select from an expanded class of targeted group members for program inclusion under any job classification, not just the Civil Engineering classification.

Section 85.107, Stats., relating to the Scholarship and Loan Payment Incentive Grant Program, allows for the assistance in improving the representation of targeted group members within job classifications in which targeted group members are underutilized in the Department.

Ch. Trans 403 currently exists to allow minorities to participate in the Loan Repayment Incentive Grant Program as civil engineers. Expanding the class of recipients and the job classifications consistent with recent changes to s. 85.107, Stats., will allow the Department to expand the recruitment search for program inclusion to place targeted group members in any underutilized position in the Department.

This proposed rule also eliminates some administrative requirements regarding the timing of program applications and payments, and of program management within the Department.

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, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis

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

Copies of Rule

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Randy Sarver, Department of Transportation, Bureau of Human Resource Services, Room 410, P. O. Box 7915, Madison, WI 53707-7915, or by calling (608) 266-7892. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

Submittal of proposed rules to the legislature

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

**Agriculture, Trade and Consumer Protection
(CR 02-078)**

Chs. ATCP 10 to 11, relating to chronic wasting disease.

**Employee Trust Funds
(CR 02-126)**

Ch. ETF 10, relating to participation in the variable division of the trust fund.

**Natural Resources
(CR 02-061)**

Ch. NR 109, relating to aquatic plant management.

**Natural Resources
(CR 02-096)**

Ch. NR 25, relating to commercial fishing in Lake Superior.

**Natural Resources
(CR 02-098)**

Chs. NR 50 and 64, relating to ATV, snowmobile and water safety patrols.

**Public Service Commission
(CR 01-077)**

Ch. PSC 130, relating to municipal regulation of municipal rights-of-way.

**Transportation
(CR 02-131)**

Ch. Trans 102, relating to customer identifying information.

**Transportation
(CR 02-080)**

Ch. Trans 327, relating to motor carrier safety requirements

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the January 31, 2003, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

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

Administration (CR 02-100)

An order repealing chs. Adm 25 and 41, relating to information technology development projects and energy development and demonstration projects. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

The repeal of these rules will not have any effect on small businesses.

Summary of Comments of Legislative Standing Committees

No comments received.

Marriage and Family Therapy, Professional Counseling and Social Workers (CR 01-152)

An order affecting ch. MPSW 1, relating to a rules committee. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments received.

Natural Resources (CR 01-144)

An order affecting ch. NR 150, relating to wetland conservation activities. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not regulate small businesses. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

The proposed rules were reviewed by the Assembly Committee on Environment and the Senate Committee on Environmental Resources. The Assembly Committee on Environment held a public hearing on October 22, 2002. No modifications were requested as a result of this hearing.

Natural Resources (CR 02-015)

An order affecting chs. NR 299, 300, 351 and 352, relating to permit and water quality certification time limits, exempt activities in nonfederal wetlands and the identification and delineation of nonfederal wetlands. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not regulate small businesses. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

The proposed rules were reviewed by the Senate Committee on Environmental Resources and the Assembly Committee on Natural Resources. The Assembly Committee on Natural Resources held a public hearing on July 17, 2002. Following the public hearing, the department was asked to consider modification to the proposed rule. The department did not propose any modifications to the proposed rule, and the Committee did not object.

Natural Resources (CR 02-016)

An order affecting ch. NR 20, relating to trout fishing on the inland waters of Wisconsin. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

The department has determined that, pursuant to s. 227.11 (8) (b), Stats., an analysis of the effect on small business is not required because the proposed rule is not likely to affect small businesses and is a voluntary option for counties or municipalities to administer.

Summary of Comments of Legislative Standing Committees

The proposed rules were reviewed by the Senate Committee on Environmental and the Senate Committee on Environmental Resources. The Assembly Committee on Environment held a public hearing on October 22, 2002. No modifications were requested as a result of this hearing.

Natural Resources (CR 02-062)

An order affecting ch. NR 544, relating to a pilot program for alternative method of compliance with solid waste recycling requirements. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

The department has determined that, pursuant to s. 227.11 (8) (b), Stats., an analysis of the effect on small business is not required because the proposed rule is not likely to affect small businesses and is a voluntary option for counties or municipalities to administer.

Summary of Comments of Legislative Standing Committees

The proposed rule was reviewed by the Assembly Committee on Environment and the Senate Committee on Environmental Resources. The Assembly Committee on Environment held a public hearing on October 22, 2002. No modifications were requested as a result of this hearing.

**Natural Resources
(CR 02-073)**

An order affecting ch. NR 20, relating to fishing on the inland and outlying waters of Wisconsin. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

These rules will not directly affect small business; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. The Assembly Committee on Natural Resources held a public hearing on October 9, 2002 and requested the department to consider modifications. On November 1, 2002, the department informed the committee that it was not proposing any modifications to the proposed rule. The committee did not object to the department's decision.

**Treasurer
(CR 02-009)**

An order creating Treas 1, relating to the college savings program. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Workforce Development
(CR 02-050)**

An order affecting ch. DWD 56, relating to the

administration of child care funds. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments of Legislative Standing Committees

No comments were received.

**Workforce Development
(CR 02-104)**

An order affecting chs. DWD 12, 17 and 23, relating to the Wisconsin Works. Effective 2-1-03.

Summary of Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses. The rule affects child care providers, some of which are small businesses as defined in s. 227.114, Stats. There is no significant change in the procedures they must follow to participate in the program beyond what is in the statute.

Summary of Comments of Legislative Standing Committees

The Senate Committee on Human Services and Aging requested the department to modify the rule by deleting the section giving the department authority to adjust various policies if child care funds were insufficient to meet the needs of all eligible families and the section in which the department proposed that a provider would not be eligible to receive a subsidy if any of the care were done by a legally responsible parent. In addition, the committee requested a review and explanation of the provisions of the rule relating to monitoring of child care funds. The department complied with all of these requests.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **January 2003**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Administration:

Ch. Adm 25 (Entire chapter)

Ch. Adm 41 (Entire chapter)

Marriage & Family Therapy, Counseling and Social Worker Examining Board:

Ch. MPSW 1

S. MPSW 1.03 (2)

Natural Resources:

Ch. NR 20

S. NR 20.05 (5) and (6)

S. NR 20.09 (2)

S. NR 20.11 (1) (a)

S. NR 20.16 (1) (a)

S. NR 20.20 (1) (g), (2) (f), (3) (e), (4) (h), (5) (e), (6) (e), (7) (g), (9) (c) and (f), (12) (f), (13) (c), (e), (g) and (h), (15) (c), (16) (g), (17) (a) and (f), (18) (g), (19) (d), (21) (g), (22) (f), (23) (e), (24) (a), (25) (g), (26) (f), (31) (b), (32) (f), (33) (c) and (f), (34) (d), (35) (c) and (f), (36) (b), (37) (h), (38) (e), (39) (f), (42) (e), (43) (e), (44) (f), (47) (g), (48) (b), (49) (e), (50) (g), (51) (f), (53) (f), (54) (e), (55) (bm) and (d), (56) (i), (57) (f) and (h), (60) (d), (61) (c), (62) (c), (63) (c), (64) (g), (66) (f), (68) (f), (69) (f), (70) (f) and (72) (g)

S. NR 20.36 (3) (b)

Ch. NR 150

S. NR 150.03 (8) (a)

Ch. NR 299

S. NR 299.03 (2) and (3)

S. NR 299.04 (1) (intro.)

S. NR 299.05 (1)

Ch. NR 300

S. NR 300.01

S. NR 300.02

S. NR 300.03 (2) and (9)

S. NR 300.04

S. NR 300.05 (3) (intro.), (4), (5) and (6)

S. NR 300.06 (2) (intro.), (3) and (4)

Chs. NR 351 to 353 (Entire chapters)

Ch. NR 544

Ss. NR 544.20 to 544.27

Treasurer:

Ch. Treas 1 (Entire chapter)

Workforce Development:

Ch. DWD 12

S. DWD 12.03 (intro.), (11) to (13), (14m), (19), (31h), and (32m)

S. DWD 12.05 (1)

S. DWD 12.09 (2) (c), (e), (n) and (3) (b)

S. DWD 12.15 (2) and (3)

S. DWD 12.16 (3) (b), (4) (c) and (d)

S. DWD 12.22 (3)

Ch. DWD 17

S. DWD 17.01

S. DWD 17.02 (4) to (17)

S. DWD 17.03

S. DWD 17.04 (1) (intro.) to (c) and (2)

S. DWD 17.06

S. DWD 17.07

Ch. DWD 23 (Entire chapter)

Ch. DWD 56

S. DWD 56.01

S. DWD 56.02 (3), (4), (7), (11) to (15), (20) to (25)

S. DWD 56.04

S. DWD 56.045

S. DWD 56.05 (1), (2), (4) and (5)

S. DWD 56.06 (1) (b) and (c), (2) (a), (b) and (d)

S. DWD 56.07

S. DWD 56.08 (3) (a)

Editorial corrections

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

Health and Social Services:

Chs. HSS 211 & 230 (Entire chapters)

Health and Family Services:

Chs. HFS 250 to 253 (Entire chapters)

Natural Resources:

Ch. NR 150

S. NR 150.22 (2) (d)

S. NR 150.25 (2) (c)

Ch. NR 544

S. NR 544.03 (17)

Workforce Development:

Ch. DWD 12

S. DWD 12.03 (11)

Ch. DWD 14

Ch. DWD 19

Ch. DWD 40

S. DWD 40.01 (1)

S. DWD 40.03 (7)

Ch. DWD 41

S. DWD 41.01 (2)

S. DWD 41.02 (4) and (16)

Ch. DWD 43

S. DWD 43.06 (5) (c)

S. DWD 43.11 (10) (a)

Ch. DWD 56

S. DWD 56.02 (10)

Ch. DWD 58

S. DWD 58.01 (1)

S. DWD 58.04 (1) and (3) (f)

Errata

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

Marriage & Family Therapy, etc.

Ch. MPSW 3 (dropped copy)

Natural Resources

Ch. NR 15 (dropped copy)

Personnel Commission:

Ch. PC 2

S. PC 2.01 (correct address)

Ch. PC 3

S. PC 3.01 (correct address)

Ch. PC 4 (spelling)

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
ATCP 60.08 (2)	Comm 82.41 (1) (j)	Comm 82.41
ATCP 60.14 (6) (b)	ss. Comm 52.50 to 52.64, Comm 54.12 and NR 112	chs. Comm 62 and NR 812
ATCP 60.15 (4)	ATCP 10.20 (2) or 60.30	ATCP 60.30
DFI-Sec 5.07 (2) (b)	DFI-Sec 4.01 (10)	DFI-Sec 4.01 (9)
HA 3.12	DWD 12.22 (2) (b), (c) or (3)	DWD 12.22 (2) (b) or (c)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 60. Relating to a proclamation that the flags of the United States and the State of Wisconsin be flown at half-staff as a mark of respect for the honorable Joseph Andrea, former Wisconsin State Legislator.

Public notice

Health and Family Services (Medical Assistance Reimbursement for Family Planning Services)

The State of Wisconsin reimburses providers of family planning services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Family Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Department submitted a request for a waiver of federal law to the Centers for Medicare and Medicaid Services (CMS), an agency within the United States Department of Health and Human Services, and CMS granted the Department's request. The waiver request provides coverage for females of child-bearing age for family planning services. The waiver allows for the expansion of Medicaid services for a limited array of services to specific individuals who would not otherwise be eligible for Medicaid coverage. Through this expansion of coverage, the Department hopes to reduce the number of unwanted pregnancies in Wisconsin. The Department has determined that the proposed rate increase will be beneficial to assist in implementing the waiver program.

Section 49.46 (2) (a) 4. f. of the Wisconsin Statutes allows the Department to develop, implement and periodically update methods for reimbursing or paying family planning providers for allowable services. Under current law, non-institutional MA providers, including those providing family planning services, are paid the lesser of: (a) their usual and customary charges; or (b) maximum fees established by the Department for each procedure. The Department modifies the maximum fee schedules to implement MA rate changes authorized by the Legislature.

The estimated increase in annual expenditures from this rate increase for family planning providers is approximately \$2,500,000 all funds, (\$2,250,000 FFP).

Proposed Change

The proposed change is to increase office visit rates provided to Provider Type 71, family planning clinics to be more equitable with nurse midwives.

The Department's proposal involves no change in the benefits provided under the family planning services benefit under the Medicaid program.

Reasons for the Rate Increase

The reasons for the rate increase include the following:

1. To assure parity between family planning providers and nurse mid-wives.
2. To ensure access to family planning services for recipients and provider participation in the waiver program.

Copies of the Proposed Change

A copy of the proposed change may be obtained free of charge by calling or writing as follows:

Regular Mail

Dani Maculan
Budget and Children and Family Services Section Chief
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701-0309

Phone

(608) 261-7833

FAX

(608) 266-1096

Attention: Dani Maculan

E-Mail

maculdl@dhfs.state.wi.us

Written Comments

Written comments are welcome. Written comments on the proposed changes may be sent by FAX, e-mail, or regular mail to the Division of Health Care Financing. The FAX number is (608) 266-1096. The e-mail address is maculdl@dhfs.state.wi.us. Regular mail can be sent to the above address. All written comments will be reviewed and considered.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin.

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