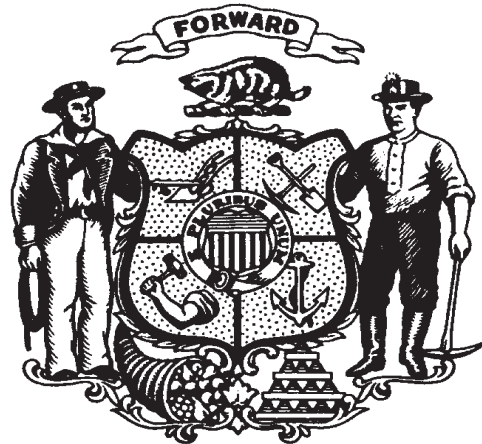


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Emergency rules now in effect

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.

Chiropractic Examining Board

Rules adopted revising **ch. Chir 2**, relating to passing and retaking the practical examination.

Finding of emergency

The Chiropractic Examining Board finds that preservation of the public peace, health, safety or welfare necessitates putting the rule amendments described into effect prior to the time the amendments would take effect if the agency complied with the notice, hearing and publication requirements established for rule-making in ch. 227, Stats. The facts warranting adoption of these rule amendments under s. 227.24, Stats., are as follows:

On December 19, 2002, the Chiropractic Examining Board adopted the national practical examination conducted by the National Board of Chiropractic Examiners as the board's practical examination for determining clinical competence in Wisconsin. The board has determined that the national practical examination is a better measure of competence than was the state examination previously administered by the board and that the public health, safety and welfare warrant that the national practical examination be instituted immediately. The rule changes herein conform the terminology used in the board's rule with the textual description of the national practical examination and resolve doubts about the examination grades issued to applicants who complete the national practical examination.

The national practical examination describes the examination parts in different terms than are used in s. Chir

3.02, although the national practical examination covers the practice areas described in the existing rule. The rule amendments to s. Chir 2.03 (2) (intro.) resolve this difference.

This order deletes the reference in the board's current rule to passing "each part" of the examination. The national practical examination has one part and an applicant receives one grade for the part. In utilizing the national examination, the board approves the grading and grading procedures of the National Board of Chiropractic Examiners. Grade review procedures in s. Chir 2.09 are superfluous and the rule is repealed. The rule requiring reexamination is modified to avoid confusion over examination parts. The board is proceeding with promulgating these rule changes through a proposed permanent rule-making order.

Publication Date: June 28, 2003
Effective Date: June 28, 2003
Expiration Date: November 25, 2003
Hearing Date: October 16, 2003
Extension Through: January 23, 2004

Employment Relations Commission

Rules adopted amending **ss. ERC 1.06 (1) to (3), 10.21 (1) to (5) and 20.21 (1) to (4)**, relating to increased filing fees.

Finding of emergency

The Employment Relations Commission 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:

1. The Employment Relations Commission has a statutory responsibility in the private, municipal and state sectors for timely and peaceful resolution of collective bargaining disputes and for serving as an expeditious and impartial labor relations tribunal.

2. Effective July 26, 2003, 2003 Wisconsin Act 33 reduced the Employment Relations Commission's annual budget by \$400,000 in General Program Revenue (GPR) and eliminated 4.0 GPR supported positions. These reductions lowered the Employment Relations Commission's annual base GPR funding level and the number of GPR supported positions by more than 16%.

Act 33 also abolished the Personnel Commission and transferred certain of the Personnel Commission's dispute resolution responsibilities to the Employment Relations Commission.

3. 2003 Wisconsin Act 33 increased the Employment Relations Commission's Program Revenue (PR) funding and positions by \$237,800 and 2.0 PR positions respectively. The revenue to support these increases will be provided by increasing existing filing fees for certain dispute resolution services.

4. Unless the emergency rule making procedures of s. 227.24, Stats., are utilized by the Employment Relations Commission to provide the increased filing fee revenue needed to support the 2.0 PR positions, the Commission's ability to provide timely and expeditious dispute resolution services will be significantly harmed.

The emergency rules increase existing filing fees for Commission dispute resolution services in amounts necessary to fund 2.0 Program Revenue positions as authorized by 2003 Wisconsin Act 33.

Sections 111.09, 111.71, 111.94, 227.11 and 227.24., Stats., authorize promulgation of these emergency rules.

Publication Date: August 25, 2003
Effective Date: September 15, 2003
Expiration Date: January 22, 2004
Hearing Date: November 20, 2003

Health and Family Services (Management, Technology, Chs. HFS 1—)

Rules adopted revising **ch. HFS 15**, relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF-MR).

Exemption from finding of emergency

The legislature by section 9124 (3) (b) of 2003 Wisconsin Act 33 provides an exemption from a finding of emergency for the adoption of the rule.

Analysis prepared by the Department of Health and Family Services

2003 Wisconsin Act 33 modified section 50.14 of the Wisconsin Statutes, relating to assessments on occupied, licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICF-MR.)

Under section 50.14 of the Wisconsin Statutes, nursing facilities (nursing homes and ICF-MRs) are assessed a monthly fee for each occupied bed. Facilities owned or operated by the state, federal government, or located out of state are exempt from the assessment. Beds occupied by a resident whose nursing home costs are paid by Medicare are also exempt. The rate, specified in section 50.14 (2) of the statutes, was \$32 per month per occupied bed for nursing homes and \$100 per month per occupied bed for ICF-MRs.

2003 Wisconsin Act 33 made the following changes to section 50.14:

1. It broadened the scope of which types of long-term care facilities must pay a monetary assessment to the Department by:

- eliminating exemptions from being subject to the assessments of facilities owned or operated by the state or federal government, and beds occupied by residents whose care is reimbursed in whole or in part by medicare under 42 USC 1395 to 1395ccc; and

- eliminating the exclusion of unoccupied facility beds from facility bed count calculations.

2. It increased the per bed fee limit the Department may charge subject ICF-MRs, from \$100 per bed to \$435 per bed in fiscal year 2003-04 and \$445 per bed in fiscal year 2004-05.

3. It increased the per bed fee limit the Department may charge subject nursing homes, from \$32 per bed to \$75 per bed.

4. It establishes the requirement that amounts collected in excess of \$14.3 million in fiscal year 2003-04, \$13.8 million in fiscal year 2004-05, and, beginning July 1, 2005, amounts in excess of 45% of the amount collected be deposited in the Medical Assistance Trust Fund.

5. It specifies that facility beds that have been delicensed under section 49.45 (6m) (ap) 1. of the statutes, but not deducted from the nursing home's licensed bed capacity under section 49.45 (6m) (ap) 4. a., are to be included in the number of beds subject to the assessment.

In response to these statutory changes, by this order, the Department is modifying chapter HFS 15 accordingly.

The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: July 28, 2003
Effective Date: July 28, 2003
Expiration Date: December 25, 2003
Hearing Date: October 15, 2003

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

Rules adopted revising **chs. HFS 101 to 107**, relating to the Medicaid Family Planning Demonstration Project.

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:

On June 25, 1999, the Department submitted a request for a waiver of federal law to the Centers for Medicare and Medicaid Services (CMS), the agency within the United States Department of Health and Human Services that controls states' use of Medicaid funds. On June 14, 2002, the Centers for Medicaid and Medicare granted the waiver, effective January 1, 2003. The waiver allows the state to expand Medicaid services by providing coverage of family planning services for females of child-bearing age who would not otherwise be eligible for Medicaid coverage. Under the waiver, a woman of child-bearing age whose income does not exceed 185% of the federal poverty line will be eligible for most of the family planning services currently available under Medicaid, as described in s. HFS 107.21. Through this expansion of coverage, the Department hopes to reduce the number of unwanted pregnancies in Wisconsin.

Department rules for the operation of the Family Planning Demonstration Project must be in effect before the program begins. The program statute, s. 49.45 (24r) of the statutes, became effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement the Family Planning Demonstration Project not later than July 1, 1998, or the effective date of the waiver, whichever date was later. After CMS granted the waiver, the Department determined that the Family Planning Demonstration Project could not be implemented prior to January 1, 2003, and CMS approved this starting date. Upon approval of the waiver, the Department began developing policies for the project and subsequently the rules, which are in this order. The Department is publishing the rules by emergency order so the rules take effect in February 2003, rather than at the later date required by promulgating permanent rules. In so doing, the Department can provide health care coverage already authorized by CMS as quickly as possible to women currently not receiving family planning services and unable to pay for them. The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: January 31, 2003
Effective Date: January 31, 2003*
Expiration Date: June 30, 2003
Hearing Dates: April 25 & 28, 2003

* The Joint Committee for Review of Administrative Rules suspended this emergency rule on April 30, 2003

Health and Family Services (Health, Chs. HFS 110—)

Rules were adopted revising **ch. HFS 144**, relating to immunization of students.

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 Department has a rulemaking order (CR03-033) containing a variety of relatively minor changes to over a dozen chapters of administrative rules administered by the Department. The Department had anticipated that CR03-033 would be in effect on or before September 1, 2003. One of the proposed changes in CR03-033 is a provision that changes school immunization standards. Clearinghouse Rule 03-033 has been delayed for reasons unrelated to the provisions in this order. Consequently, the identical provisions in CR03-033 will not be in effect on September 1, 2003. For reasons stated subsequently in this analysis, unless these changes to the minimum immunization requirements in chapter HFS 144, Immunization of Students, are in effect September 1, 2003, needless confusion and unintended effects will result.

In 2002, the Department's Wisconsin Immunization Program requested minor language changes to chapter HFS 144 as part of a planned "omnibus" rulemaking order containing a variety of proposed relatively minor changes. The HFS 144 proposed rule changes affect time sensitive vaccine requirements and were made so the Department's immunization requirements adhere to new vaccine recommendations made by the federal Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP.) For example, the current requirement for Measles-Mumps-Rubella vaccine (MMR) is two doses with the first dose received on or after the first birthday. New ACIP recommendations allow a 4-day grace period so children receiving doses four days before their first birthday would be compliant. The current requirements in chapter HFS 144 do not accept as valid a dose of MMR that was given even one day prior to the first birthday. Similar time sensitive changes impact the vaccine requirement for a dose of DTaP vaccine after the fourth birthday and a dose of Hib vaccine after the first birthday.

These changes need to be in place before the start of the new 2003-04 school year. Although the changes are minor in nature, they have a significant effect on the law's enforcement at the day care and school level. Again, using MMR as an example, without the change, the school will count the child that received the MMR one day before the first birthday as non-compliant. Non-compliance can, pursuant to s. 252.04 (5), Stats., result in exclusion from school or, pursuant to s. 252.04 (6), Stats., the name of the non-complaint student being turned over to the local district attorney's office for possible court action against the parents. Therefore, the child will either need to be re-immunized or the parent will need to

sign a waiver, pursuant to s. 252.04 (3), Stats. The re-immunization requirement puts the school at odds with the health care provider that is currently acting in accordance with the revised ACIP recommendations. The signing of a waiver is not a desirable option as the school reporting process to the Department counts that child as waiving all vaccine requirements and will yield misleading information as to the Immunization Law compliance level of Wisconsin day care and student populations. The Department's Immunization Program sends Immunization Law packets to the schools in mid-August. These packets include the information the schools need for enforcement of the law when school starts in September. It is imperative that the Department have the rule changes in place before the start of the school year and include the information in the school packets. Therefore, the Department is issuing this emergency order to allow school districts and health professionals to act in a timely manner.

Publication Date: August 15, 2003
Effective Date: August 15, 2003
Expiration Date: January 12, 2004
Hearing Date: September 12, 2003

Insurance

Rules adopted creating **s. Ins 8.49**, relating to Small Employer Uniform Employee Application.

Finding of emergency

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

The rule and the uniform small employer application are required by statute to be available by August 1, 2003. Due to implementation of 45 CFR 164 of HIPAA privacy provisions for covered entities, including health plans, and the commissioner's efforts to obtain clarification regarding authorization for release of personally identifiable health information provisions from the Office of Civil Rights a Division of Centers Medicare & Medicaid Services charged with enforcement of the privacy portions of HIPAA, it is not possible to complete the permanent rule process in time to meet the statutory requirement.

The commissioner intends to file the permanent rule corresponding to this emergency rule, clearinghouse No. 03-055, with the secretary of state within the next 150 days. Because the uniform application form is required to be available by August 1, 2003, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule was held on July 11, 2003, in accordance with s. 227.17, Wis. Stat., and the commissioner has had benefit of reviewing public comments and the clearinghouse report prior to issuing this emergency rule.

Publication Date: August 1, 2003
Effective Date: August 1, 2003
Expiration Date: December 29, 2003

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

Rules were adopted revising **ch. NR 10**, relating to Chronic Wasting Disease (CWD) in Wisconsin.

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, bovine tuberculosis and other forms of transmissible diseases pose 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. These restrictions on deer baiting and feeding need to be implemented through the emergency rule procedure to help control and prevent the spread of CWD, bovine tuberculosis and other forms of transmissible diseases in Wisconsin's deer herd.

Publication Date: September 11, 2003
Effective Date: September 11, 2003
Expiration Date: February 8, 2004
Hearing Date: October 13, 2003

Revenue

Rule adopted revising s. **Tax 18.07**, relating to the 2004 assessment of agricultural land.

Finding of emergency

The Wisconsin Department of Revenue finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

Pursuant to s. 70.32 (2r) (c), Stats., the assessment of agricultural land is assessed according to the income that could be generated from its rental for agricultural use. Wisconsin Chapter Tax 18 specifies the formula that is used to estimate the net rental income per acre. The formula estimates the net income per acre of land in corn production based on a 5-year average corn price per bushel, cost of corn production per bushel and corn yield per acre. The net income is divided by a capitalization rate that is based on a 5-year average interest rate for a medium-sized, 1-year adjustable rate mortgage and net tax rate for the property tax levy two years prior to the assessment year.

For reasons of data availability, there is a three-year lag in determining the 5-year average. Thus, the 2003 use value is based on the 5-year average corn price, cost and yield for the 1996–2000 period, and the capitalization rate is based on the 5-year average interest rate for the 1998–2002 period. The 2004 use value is to be based on the 5-year average corn price, cost and yield for the 1997–2001 period, and the capitalization rate is to be based on the 1999–2003 period.

The data for the 1997–2001 period yields negative net income per acre due to declining corn prices and increasing costs of corn production. As a result, reliance on data for the 1997–2001 period will result in negative use values.

The department is issuing this emergency rule in order to ensure positive and stable assessments of agricultural land for 2004.

Publication Date: October 3, 2003
Effective Date: October 3, 2003
Expiration Date: March 1, 2004
Hearing Date: December 16, 2003

**Workforce Development
(Workforce Solutions, Chs. DWD 11—59)**

Rules adopted revising **ch. DWD 59**, relating to the child care local pass-through program.

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:

2003 Wisconsin Act 33 allocated federal child care funds in a manner that assumes an increase in the match rate paid by local governments and tribes receiving grants under the child care local pass-through program. Budget documents prepared by the Legislative Fiscal Bureau specify that the budget option chosen requires that local governments and tribes contribute matching funds at a rate of 52% in 2003–2004, and slightly higher in 2004–2005. Chapter DWD 59 currently requires a minimum match rate of the state's federal medical assistance percentage rate, which is approximately 42%. The match rate for the pass-through program must be increased immediately so Wisconsin does not lose valuable federal child care dollars. These dollars help preserve the welfare of the state by ensuring that low-income families have access to quality affordable child care.

2003 Wisconsin Act 33 also reduced funding to the child care local pass-through program by 86%. Chapter DWD 59 requires a 2-step grant process wherein current grantees receive up to 75% of the funds under a noncompetitive process for 2 years following the receipt of the initial grant, and can apply, along with any eligible jurisdiction in the state, for the remaining 25% as initial grantees. The dramatically reduced funding for the pass-through program renders the current Chapter DWD 59 requirement to fund continuing grants while reserving funds for a new statewide request for proposals unwieldy, wasteful, and obsolescent. If the current process remains in place, it would not only waste state and local staff resources on extremely low-value administrative processes, it would waste public funds at a time when they are in short supply. This could further undermine state and local efforts to ensure a reasonable supply of reliable and quality child care for families who depend on this service in order to work. This emergency rule allows all available dollars to be used for continuing grants if there is insufficient funding to provide continuing grants of at least 50% of the eligible grantees' initial grant levels from the previous 2 grant cycles.

These changes are ordered as an emergency rule so they are effective before the new grant cycle begins on October 1, 2003. Delaying the next grant cycle until the permanent rule is effective is not a viable option because local governments need to know whether they will receive continued funding or will be forced to dismantle ongoing programs and lay-off staff when the current grant cycle ends on September 30. Also, federal law requires that the federal funds be matched and spent within the federal fiscal year of October 1 to September 30.

Publication Date: October 7, 2003
Effective Date: October 7, 2003
Expiration Date: March 5, 2004
Hearing Date: November 12, 2003

Workforce Development (Civil Rights, Chs. DWD 218–225)

Rules adopted repealing **chs. PC 1, 2, 4, 5 and 7** and revising **chs. DWD 218 and 225** and creating **ch. DWD 224**, relating to the transfer of personnel commission responsibilities to the equal rights division.

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:

2003 Wisconsin Act 33 transfers the responsibility for processing certain employment–related complaints against state respondents from the Personnel Commission (PC) to the Equal Rights Division (ERD) effective upon publication of 2003 Wisconsin Act 33. The ERD needs rules governing the procedures for processing these complaints effective immediately to ensure that service is not seriously delayed by this administrative change. The PC expects to transfer approximately 200 pending cases to ERD immediately.

2003 Wisconsin Act 33 transfers responsibility from the PC to ERD for 9 different types of employment–related complaints against state respondents. The ERD has had responsibility for processing complaints against nonstate

respondents for 8 of the 9 types of complaints. This order makes minor amendments to existing rules to include state respondents and creates a new rule chapter on whistleblower protection for state employees, which is the one issue that ERD has not previously handled because the law does not apply to nonstate respondents. The newly–created whistleblower rules are similar to the existing fair employment rules.

A nonstatutory provision of 2003 Wisconsin Act 33 transfers existing PC rules to ERD. This order repeals those rules. Adopting the PC rules would result in different procedures for cases against state respondents and nonstate respondents for no logical reason. The dual system would be difficult to administer and confusing to complainants, many of whom are pro se. Even if ERD adopted the PC rules, an emergency rule would be necessary to remove confusing irrelevant and obsolete information.

This order repeals the PC rules and revises ERD rules by emergency rule to ensure that a clear, logical, and fair process is in place for handling the newly–transferred responsibilities for protecting Wisconsin’s workforce from discrimination and retaliation.

Publication Date:	August 5, 2003
Effective Date:	August 5, 2003
Expiration Date:	January 2, 2004
Hearing Date:	October 27, 2003

Scope statements

Agriculture, Trade and Consumer Protection

Subject

The Department of Agriculture, Trade and Consumer Protection gives notice, pursuant to s. 227.135, Stats., that it proposes to modify an administrative rule as follows: Pesticide Product Restrictions; Atrazine Pesticides.

Objective of the rule. Regulate the use of atrazine pesticides to protect groundwater and assure compliance with Wisconsin's Groundwater Law. Update current rule to reflect groundwater-sampling results obtained during the past year. Renumber and reorganize the current rule, as necessary.

Policy analysis

DATCP must regulate the use of pesticides to assure compliance with groundwater standards under ch. 160, Stats. Groundwater standards are established by the Department of Natural Resources under ch. NR 140, Wis. Adm. Code. DNR has established a groundwater enforcement standard of 3 µg/liter for atrazine and its chlorinated metabolites.

DATCP must prohibit atrazine uses that result in groundwater contamination levels that exceed the DNR enforcement standard under s. 160.25, Stats. DATCP must prohibit atrazine use in the area where the groundwater contamination has occurred unless DATCP determines to a reasonable certainty, based on the greater weight of credible evidence, that alternative measures will achieve compliance with the DNR enforcement standard.

Currently, under ch. ATCP 30, Wis. Adm. Code, the use of atrazine is prohibited in 102 designated areas (approximately 1,200,000 acres), including large portions of the Lower Wisconsin River Valley, Dane County and Columbia County. The current rules also restrict atrazine use rates and handling practices, including the timing of applications on a statewide basis. The statewide restrictions are designed to minimize the potential for groundwater contamination, as required under s. 160.25, Stats.

Over the next year, DATCP may identify additional wells containing atrazine and its chlorinated metabolites at and above the current DNR enforcement standard. In order to comply with ch. 160, Stats., DATCP must take further action to prohibit or regulate atrazine use in the areas where these wells are located. DATCP proposes to amend ch. ATCP 30, Wis. Adm. Code to add or remove prohibition areas or take other appropriate regulatory action in response to any new groundwater findings.

Policy alternatives

No Change. If DATCP takes no action, current rules will remain in effect. However, DATCP would take no new regulatory action in response to new groundwater findings obtained this year. This would not adequately protect groundwater in the newly discovered contaminated areas, nor would it meet DATCP's statutory obligations. Conversely, DATCP would be unable to repeal the current restrictions on atrazine use where indicated by groundwater findings.

Statutory authority

DATCP proposes to revise ch. ATCP 30, Wis. Adm. Code, under authority of ss. 93.07, 94.69, and 160.19 through 160.25, Stats.

Staff time required

DATCP estimates that it will use approximately 0.6 FTE staff to develop this rule. This includes investigation, drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Financial Institutions – Banking

Subject

Chapter DFI—Bkg 17 relating to the process for the organization of interim banks under ch. 221, Stats.

Policy analysis

The objective of the rule is to create ch. DFI—Bkg 17. The purpose of the rule is to set forth the process for the organization of interim banks under ch. 221, Stats. The rule establishes documentation to be submitted to and issued by the division, and requirements regarding dissenters rights, capital structure and shareholders notices.

Statutory authority

Sections 221.0704 and 227.11 (2), Stats.

Staff time required

80 hours.

Natural Resources

Subject

Revisions to ch. NR 326, relating to piers, boat shelters and swim rafts in navigable waterways.

Policy analysis

The Department proposes to revise the Pier Standards of NR 326, to codify common law and existing guidelines regarding pier width and number of boats allowed. The Department also proposes to develop standards and definitions for public marinas and municipalities, in order to provide flexibility on pier dimensions and density for those facilities that serve a public purpose and/or provide public access.

The legislature has expressed interest in this issue in recent years, and proposed legislation to grandfather existing piers and require the Department to do rulemaking. Groups impacted will include waterfront property owners and developers, pier manufacturers and dealers, municipalities with waterfront development, marina operations, and citizens who use public waters for navigation, hunting and fishing.

Section 30.13, Stats. provides that a riparian proprietor may place a pier without a permit, as long as the pier does not interfere with public rights or those of other riparians, does not

extend beyond a pierhead line or violate a local ordinance, and does not obstruct free movement of water. NR 326, Adm. Code contains standards for determining whether a pier will meet the 30.13 requirements, including pier length. A waterfront property owner's shoreline development is also limited by the common law concept of "reasonable use". Since NR 326 was adopted in 1981, the Bureau has issued Program Guidance to assist staff in evaluating whether a pier may interfere with public rights, and whether it constitutes a "reasonable use" of public waters. Guidelines for reasonable use were developed for pier width and allowable number of moored boats, and these guidelines have been in regular use for 12 years.

We propose to put these guidelines into NR326 as standards, in order to codify our continuing practice, simplify program implementation and enforcement, and provide fairness and clarity to waterfront owners who wish to place piers in public waters. As part of this effort, we will need to develop a mechanism to address existing structures, and create separate standards for public marinas and municipalities to allow some flexibility for facilities that provide public access.

Statutory authority

Sections 30.12 and 30.13, Stats.

Staff time required

Department staff will need approximately 180 hours for this rule revision, not including time and travel for 6 proposed public hearings.

Natural Resources

Subject

Chapter NR 542 pertaining to the Recycling Grants to Responsible Units.

Policy analysis

The revisions to ch. NR 542, Recycling Grants to Responsible Units, will make the rule consistent with changes in Section 287.23, Wis. Stats. Chapter NR 542 contains rules for administering recycling grants to Responsible Units. Responsible Units are comprised of one or more local units of government and can receive grants to offset eligible costs associated with the administration and operation of their approved recycling programs.

As now envisioned, ch. NR 542 revisions will update the following rule sections: applicability; distribution of grant assistance; grant assistance application; grant payments; and dispute resolution and arbitration.

Statutory Authority

s. 287.23, Stats.

Staff time required

350 hours.

Psychology Examining Board

Subject

Objective of the rule. To clarify existing interpretations of rules and to provide more information to the profession in rule form. Because the Department of Regulation and Licensing is adopting a system of periodic rule submissions, this Scope Statement will serve as an umbrella for other relatively minor rule changes that may be identified and appropriately included for administrative efficiency.

Policy analysis

No important or controversial policies would be affected by these rule changes. At the time this Scope Statement is drafted, the topics include a note regarding the length of time to retain records, a clarification of the purposes for which a student should be considered a "client", a clarification of the residency requirement for an educational program, and the removal of confusing language regarding continuing education courses.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2), 455.065 and 455.08, Stats.

Staff time required

Rule development: 12 hours of staff time and 8 hours of section member time.

Changes to application forms and procedures: 4 hours of staff time.

Communication to the profession through publications and web page information:

8 hours of staff time.

Communication to the profession via responses to phone calls and e-mails:

12 hours of staff time.

Total: 44 hours.

Regulation and Licensing

Subject

Uniform reexamination restrictions and other penalties for applicants who cheat on examinations.

Objective of the rule. This rule creates uniform policies and procedures concerning cheating on credentialing examinations, and clarifies offenses and penalties for cheating. This uniform rule would apply to all applicants seeking a credential from the department, and examining board or an affiliated credentialing board.

Policy analysis

Cheating on credentialing examinations is an ongoing and significant problem. There are a growing number of new and alternative ways to cheat available to applicants through new technology. Current rules vary in specificity and are not updated to deal with current technology. In order to provide better monitoring of individuals who are required to take credentialing examinations and to avoid confusion in testing and reexamination procedures, the Department of Regulation and Licensing finds it necessary to create a uniform standard for testing. Promulgation of a single rule would combine best practices into one regulation and would, in addition, avoid the need to update and promulgate separate identical rules for each credentialing authority.

Statutory Authority

Sections 227.11 (2), 440.06 and 440.07, Stats.

Staff time required

100 hours.

Workforce Development

Subject

The adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

Policy analysis

When a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate

determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Sections 66.0903 (5) and 103.49, Stats., set initial estimated project cost thresholds for application of prevailing wage rates and require that DWD adjust the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. Pursuant to s. DWD 290.15, the threshold adjustment is based on changes in the construction cost index published in the *Engineering News-Record*, a construction trade publication. The thresholds for application of the prevailing wage rate laws will be adjusted based on a 3.3% increase in the construction cost index since the thresholds were last adjusted.

Section 779.14, Stats., sets payment and performance assurance requirements that apply to contracts for the

performance of labor or furnishing materials for a public improvement or public work. Section 779.14 (1s), Stats., requires the department to adjust the thresholds for application of various requirements in proportion to any change in construction costs since the last adjustment. These threshold adjustments will also be based on changes in the construction cost index published in the *Engineering News-Record*. The thresholds for the performance assurance requirements in s. 779.14, Stats., will be adjusted based on a 6.13% increase in the construction cost index since the thresholds were last adjusted.

Statutory authority

Sections 66.0903 (5), 103.49 (3g), 779.14 (1s), and 227.11, Stats.

Staff time required

Less than 20 hours.

Submittal of rules to legislative council clearinghouse

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

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On December 11, 2003, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends chs. ATCP 10, 11 and 12, relating to captive wildlife.

Agency Procedure for Promulgation

Public hearings on the proposed rule will be held on January 29, February 3 and 5, 2003.

Contact

Melissa Mace
Animal Health Division
608-224-4883

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On December 11, 2003, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. ATCP 35, relating to the Agricultural Chemical Cleanup Program.

Agency Procedure for Promulgation

Public hearings on the proposed rule will be held on January 22, 2004.

Contact

Duane Klein
Agricultural Resource Division
608-224-4519

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On December 11, 2003, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. ATCP 40, relating to fertilizer tonnage fees – agricultural chemical cleanup surcharge.

Agency Procedure for Promulgation

Public hearings on the proposed rule will be held on January 22, 2004.

Contact

Duane Klein
Agricultural Resource Division
608-224-4519

Corrections

Rule Submittal Date

On December 12, 2003, the Department of Corrections submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. DOC 346, relating to juvenile detention facilities in juvenile portions of county jails.

Agency Procedure for Promulgation

Public hearing is required under s. 227.16 (1), Stats., and will be scheduled at a later date.

The organizational unit that is primarily responsible for promulgation of the rules is Office of Detention Facilities, Office of the Secretary.

Contact

Kathryn Anderson
Assistant Legal Counsel
608 240-5049

Natural Resources

Rule Submittal Date

On December 5, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends chs. NR 405, 408 and 484, relating to incorporation of federal changes to the air permitting program.

Agency Procedure for Promulgation

Public hearings on the proposed rule are required and will be held January 22, 23, 28 and 29, 2004.

Contact

Jeff Hanson
Bureau of Air Management
608-266-6876

Transportation**Rule Submittal Date**

On December 12, 2003, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends chs. Trans 149 and 305, relating to titling and registration of homemade reconstructed or repaired salvage vehicles.

Agency Procedure for Promulgation

A public hearing is not required.

The Division of State Patrol is the organizational unit responsible for promulgation of the proposed rule.

Contact

Julie Johnson
Paralegal
608-266-8810

Transportation**Rule Submittal Date**

On December 12, 2003, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

A public hearing is required and schedule for January 20, 2004.

The Division of Transportation Infrastructure Development, Bureau of Highway Operations is the organizational unit responsible for promulgation of the proposed rule.

Contact

Julie Johnson
Paralegal
608-266-8810

Workforce Development**Rule Submittal Date**

On December 15, 2003, the Department of Workforce Development submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. DWD 80, relating to worker's compensation.

Agency Procedure for Promulgation

A public hearing is required and will be held on January 16, 2004.

The DWD's Worker's Compensation Division is the organizational unit responsible for promulgation of the proposed rule.

Contact

Elaine Pridgen
608-267-9403
Email: elaine.pridgen@dwd.state.wi.us

Rule-making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 03– 121]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule related to captive wildlife and animal health. The department will hold three hearings at the time and places shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearing, the hearing record will remain open until **February 13, 2004**, for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Animal Health, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224–4883. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by **January 20, 2004**, by writing to Melissa Mace, Division of Animal Health, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4883. Alternatively, you may contact the Department TDD at (608) 224–5058. Handicap access is available at the hearings.

Hearings are scheduled:

Thursday, January 29, 2004, 5:00 p.m. until 7:00 p.m.

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

Tuesday, February 3, 2004, 5:00 p.m. until 7:00 p.m.

Agriculture, Trade and Consumer Protection
Second Floor Conference Room 266
2811 Agriculture Drive
Madison, WI 53718
Handicapped accessible

Thursday, February 5, 2004, 2:00 p.m. until 4:00 p.m.

Green Bay State Office Building
200 North Jefferson Street
Room152–B
Green Bay, WI 54301
Handicapped accessible

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

Statutory Authority: ss. 93.07 (1), 93.07 (10) and (10m), 95.20, 95.22 (2), 95.45 (4) (c) and (5), 95.55 (5) (a) and (6), 95.57, 100.20 (2) and 169.01 (7), Stats.

Statutes Interpreted: ss. 93.06 (1m) and (1p), 93.07 (10), 93.07 (10m), 95.22, 95.45, 95.55, 95.57, 100.20 and 169.01 (7), Stats.

This rule does all the following:

- Implements Wisconsin's Captive Wildlife Law (2001 Wis. Act 56), which took effect on January 1, 2003.
- Modifies related animal health rules administered by the Department of Agriculture, Trade and Consumer Protection (DATCP).
- Coordinates animal disease control activities of DATCP and the Department of Natural Resources (DNR).

Background

The Captive Wildlife Law (2001 Wis. Act 56) strengthens and clarifies DNR regulation of captive wildlife operations. It also harmonizes DNR regulations with general animal health laws administered by DATCP. DNR's authority under the Captive Wildlife Law does not extend to "domestic animals" identified by DATCP rule.

DATCP administers Wisconsin animal health and disease control laws under chs. 93 and 95, Stats. DATCP also administers food safety laws under ch. 97, Stats., including dairy farm license requirements under s. 97.22. DATCP regulates to protect the health of humans, domestic animals and wild animals. DATCP currently does the following things, among others:

- Regulates animal imports and movement. DATCP may regulate animal imports and movement by rule, or by serving quarantine orders on the owners or custodians of affected animals. The Captive Wildlife Law clarifies that DATCP may regulate animal imports and movement to protect the health of humans, domestic animals or wild animals (not just domestic livestock).
- Licenses and inspects animal operations. DATCP licenses animal markets, animal dealers, animal truckers, dairy farms (food safety), fish farms and deer farms. Under the Captive Wildlife Law:
 - DATCP now registers all deer farms, including approximately 600 captive white-tail herds previously licensed by DNR. Captive white-tail deer, like other captive deer and elk, are now classified as "farm-raised deer." DATCP is responsible for regulating deer farms. But DNR retains its authority to prescribe and enforce fencing requirements for captive white-tail deer herds.
 - DATCP now licenses all animal dealers (not just livestock dealers), all animal markets (not just livestock markets) and all animal truckers (not just livestock truckers). Licensing is required for entities that handle livestock *or wild animals*.
 - DATCP may regulate operators of game-bird farms.
 - DATCP may regulate deer hunting preserves. Only deer farms registered by DATCP may operate hunting preserves. Hunting preserves must cover at least 80 acres.
 - Performs animal health inspections and tests. DATCP may inspect and test animals, including but not limited to domestic livestock. This authority pre-dates the Captive Wildlife Law, and is not altered by that law.
 - Examines animal health documentation. DATCP is Wisconsin's central clearinghouse for all interstate health certificates (certificates of veterinary inspection). DATCP rules require health certificates for animal imports and, in some cases, for movement of animals within Wisconsin. DATCP may require certificates for captive wild animals as well as domestic animals. Veterinarians issuing health

certificates must file copies with DATCP. Under the Captive Wildlife Law, DNR may also require health certificates for wild animal imports. But the veterinarians who issue those certificates must file copies with DATCP (not DNR). DATCP then provides copies to DNR.

- Receives disease reports. Veterinarians and diagnostic laboratories that find evidence of certain animal diseases must report those findings to DATCP. DATCP rules currently specify the diseases that are reportable. DNR may ask DATCP to add wildlife diseases to the reportable disease list. Under the Captive Wildlife Law, DATCP will continue to receive all domestic and wild animal disease reports (veterinarians need not file duplicate reports with DNR). But DATCP must notify DNR of disease reports that may affect wild animals. DNR must notify DATCP whenever DNR finds evidence of a reportable disease.

- Condemns diseased animals. DATCP may condemn exposed or infected animals (including captive wild animals, as well as domestic animals) to control the spread of diseases. The Captive Wildlife Law clarifies that DATCP may condemn animals to control diseases that affect domestic animals, wild animals or humans (not just diseases affecting domestic animals). A separate legislative enactment (2001 Act 108) authorizes DATCP to order the killing of farm-raised deer for chronic wasting disease testing, if DATCP has reason to believe that the deer have been exposed to the disease (there is no valid live test at this time).

- Pays indemnities for condemned livestock. DATCP is currently authorized to pay indemnities for condemned livestock. The Captive Wildlife Law does not change this indemnity authority (which is generally limited to livestock or food animals, including farm-raised deer). But by expanding the current definition of “farm-raised deer” to include captive white-tails, it permits indemnity payments for condemned captive white-tails. A separate legislative enactment (2001 Act 108) also authorizes DATCP to pay indemnities for captive deer killed for chronic wasting disease testing.

Rule Contents

Official Individual Identification

Under current rules, certain animals must be identified with *official individual identification*. Official individual identification is often required for health certificates, disease testing and animal movement. Current rules specify acceptable forms of official individual identification. This rule authorizes the following *additional* forms:

- A microchip containing a unique individual identification number (the animal custodian must have a microchip reader).
- A livestock premises identification issued by DATCP, provided that the animal also bears a unique individual identification number assigned by the premises owner.

Health Certificates; Identification of Animals

Under current rules, a health certificate (certificate of veterinary inspection) is often required for the import or movement of animals. The veterinarian who issues the health certificate must identify the animals covered by the certificate. If a veterinarian issues a health certificate for bovine animals, swine, equine animals, sheep at least 6 months old, goats, ratices or cervids, the veterinarian must identify the animals by means of their *official individual identification numbers* (see above).

Under this rule, health certificates for alpacas, llamas and sheep under 6 months old must also include official individual identification numbers. Health certificates for other animals do not require official individual identification, but must

identify the shipment source, the shipment destination, and the number and types of animals included in the shipment.

Disease Reporting

DATCP rules currently list a number of serious “reportable” diseases. Under current rules, a veterinarian or diagnostic laboratory that finds evidence of a “reportable” disease must report that disease to DATCP. This rule also requires government agencies, such as DNR, to report. Under this rule, DATCP must notify DNR if DATCP finds that a reported disease may threaten wildlife in this state, or may threaten fish in waters of the state.

Domestic Animals

DNR’s authority to regulate captive wildlife does not ordinarily extend to “domestic animals” that DATCP identifies by rule. This rule defines “domestic animal” to include all of the following:

- Livestock (farm animals including bovine animals, sheep, goats, swine, farm-raised deer and equine animals).
- Farm-raised game birds, except birds that have been released to the wild.
- Farm-raised fish, except fish that have been released to waters of the state.
- Foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit or caracul that are raised in captivity.
- Animal species (including pet species) that have been domesticated by humans.
- Pet birds.

Releasing Diseased Wild Animals

Under the Captive Wildlife Law, no person may release a temporarily possessed wild animal that has been infected with or exposed to a contagious or infectious disease unless a veterinarian first certifies to DATCP that the animal is free of the disease. This rule prohibits any person from releasing *any* captive wild animal that has been infected with or exposed to a contagious or infectious disease unless a veterinarian first certifies to DATCP that the animal is free of the disease.

Poultry and Farm-Raised Game Birds

- Under current DATCP rules, no poultry or poultry eggs may be sold or used for breeding or hatching purposes unless they meet certain requirements (among other things, the flock of origin must be classified as “U.S. pullorum-typhoid clean” under the National Poultry Improvement Plan). This rule applies the same requirements to farm-raised game birds and their eggs.

- Current rules spell out DATCP test procedures for determining the disease status of a poultry flock. This rule applies the same procedures to farm-raised game bird flocks.

- Under current DATCP rules, persons who keep or test poultry must report to DATCP whenever they find evidence of pullorum, fowl typhoid or other serotypes of Salmonella. This rule extends the same reporting requirement to persons who keep or test farm-raised game birds. DATCP may investigate the report.

- Under current rules, DATCP must quarantine every poultry flock that is classified as a reactor flock, infected flock or suspect flock under the National Poultry Improvement Plan. This rule extends the same quarantine requirement to flocks of farm-raised game birds.

- Current DATCP rules restrict the commingling of poultry species. This rule expands the restrictions to include farm-raised game birds.

- Under current DATCP rules, imported poultry and eggs must originate from flocks that are classified as “U.S. pullorum-typhoid clean.” This rule applies the same requirement to farm-raised game birds and their eggs.

- Under current DATCP rules, imported poultry and hatching eggs must originate from flocks that comply with the National Poultry Improvement Plan (there is an exemption for poultry imported directly to slaughter). This rule applies the same requirements to farm-raised game birds and eggs.

- Under current DATCP rules, poultry exhibited at fairs and public exhibitions must originate from flocks that are “U.S. pullorum-typhoid clean,” or must test negative for pullorum-typhoid. This rule applies the same requirements to farm-raised game birds and swap meets.

National Poultry Improvement Plan; Flock Enrollment

This rule establishes standards for enrolling flocks of poultry and farm-raised game birds in the National Poultry Improvement Plan. Enrollment is voluntary, but rules limit the sale and movement of birds from flocks that are not enrolled. Enrollment facilitates sales and movement within the state, and between states.

Under this rule, a flock owner may annually enroll a flock in the National Poultry Improvement Plan. Enrollment expires on June 30 of each year. The flock owner must complete an annual enrollment application that includes all the following:

- Proof that the flock has been tested for salmonella pullorum-typhoid, according to test standards set forth in the National Poultry Improvement Plan. DATCP will request permission from the Attorney General and the Revisor of Statutes to incorporate these test standards by reference in this rule.

- An annual enrollment fee. A flock owner must pay the following applicable fee:

- Fanciers. \$20 if the flock consists solely of specialty breeds other than meat-type or egg-type birds, and are raised primarily for show or exhibition.

- Non-Breeders; No Game Birds. \$20 if the flock owner does not handle farm-raised game birds, does not hatch or collect eggs, and buys all poultry stock from National Poultry Improvement Plan sources.

- Non-Breeders With Game Birds. \$30 if the flock owner handles farm-raised game birds (with or without poultry), does not hatch or collect eggs, and buys all stock from National Poultry Improvement Plan sources.

- Breeders (With or Without Game Birds). The following applicable fee for a breeder flock (poultry or farm-raised game birds):

- * \$40 fee for 1 to 1,000 breeders.
- * \$50 fee for 1,001 to 5,000 breeders.
- * \$100 fee for 5,001 to 10,000 breeders.
- * \$200 fee for more than 10,000 breeders.

Deer Farm Registration Certificate

Under current law, a deer farm operator must hold an annual deer farm registration certificate from DATCP. Under this rule, a deer farm operator must obtain a separate certificate from DATCP to operate a hunting preserve at the registered premises (see below). This rule also clarifies that a registered deer farm operator may not operate as an animal dealer without an animal dealer license.

Deer Farms; Chronic Wasting Disease Testing

This rule clarifies current chronic wasting disease testing requirements for farm-raised deer. Under this rule, a deer farm operator must have a chronic wasting disease test performed on each of the following farm-raised deer that is at least 16 months old:

- A farm-raised deer that dies or is killed while kept by that person.

- A farm-raised deer that the person ships to slaughter.

Under current rules and this rule, the person who collects a test sample for a required chronic wasting disease test must be a certified veterinarian, a DATCP or federal employee, or a person that DATCP pre-approves in writing. The person must also complete training approved by DATCP. The person must collect the sample from the brain of the dead animal, according to standard veterinary procedures, and must submit the sample to a testing laboratory approved by DATCP and the United States department of agriculture (USDA-APHIS).

The person must normally collect the test sample before any part of the farm-raised deer carcass leaves the premises where the farm-raised deer died, or was killed or slaughtered. But a deer farm operator may separate the head from the carcass, and may ship the head to the person who collects the test sample from the brain, if the deer farm operator first identifies both the head and the carcass with official individual identification or a “dead tag” (see below).

Farm-Raised Deer; Carcass Identification

Under this rule, no person may remove any farm-raised deer carcass from a deer farm unless that carcass is identified with official individual identification, or with a “dead tag” issued by DATCP. A registered deer farm operator may purchase “dead tags” from DATCP at cost.

Under this rule, no *part* of a carcass may leave the premises unless *every* part of the carcass bears official individual identification or a dead tag, and the farm-raised deer keeper records and correlates all of the official individual identification and dead tag numbers assigned to that animal.

Deer Farm Records

This rule expands current record keeping requirements for deer farm operators. Under this rule:

- A deer farm operator must keep the following records related to each live farm-raised deer that leaves the herd other than for slaughter, or that enters the herd from another herd:

- The official individual identification of the farm-raised deer.

- The species, age and sex of the farm-raised deer.

- The date on which the farm-raised deer entered or left the herd.

- The name and address of the person from whom the person received, or to whom the person shipped, the farm-raised deer. The record shall also identify the person who had custody of the farm-raised deer during shipment.

- The address of the herd from which the farm-raised deer originated, or to which it was shipped.

- A copy of any certificate of veterinary inspection that accompanied the farm-raised deer.

- A deer farm operator must keep the following records related to each farm-raised deer that the operator ships live to slaughter:

- The official individual identification of the farm-raised deer.

- The species, age and sex of the farm-raised deer.

- The date on which the operator shipped the farm-raised deer to slaughter.

- The name and address of the slaughter facility.

- The name and address of the person who transported the farm-raised deer to slaughter.

- A copy of the slaughter movement document required under current rules (form VS-127 or equivalent).

- Chronic wasting disease test results if required (testing is currently required, unless the animal is less than 16 months old).

- A deer farm operator must keep the following records related to every farm-raised deer that dies, or is killed or slaughtered, on the deer farm premises:

- The species, age and sex of the farm-raised deer.
- Any identification attached to the farm-raised deer.

- The date on which the farm-raised deer died or was killed. If the farm-raised deer was found dead on the premises, the operator must record the date on which the farm-raised deer was found dead.

- The disposition of the carcass, regardless of whether the carcass leaves the premises. If the carcass leaves the herd premises, the operator must record the official individual identification or “dead tag” number, the disposition date, and the name and address of the carcass recipient.

- Chronic wasting disease test results if testing is required under current rules (testing is currently required, unless the animal is less than 16 months old).

- A deer farm operator must retain these records for at least 5 years, and must make the records available to DATCP for inspection and copying upon request.

Deer Imports and Movement; Tuberculosis Status

Current rules regulate imports of cervids (including farm-raised deer) to this state. This rule strengthens current import restrictions related to tuberculosis. Under this rule, no person may import a cervid except from a “tuberculosis free” or “tuberculosis qualified” herd (there are limited exemptions). Under current rules and this rule, cervids imported from “tuberculosis modified accredited states” must also be confined for tuberculosis testing following import.

Current rules also regulate the movement of farm-raised deer from deer farms in this state. This rule makes minor adjustments to current rules (timing of tuberculosis tests to determine source herd status), and exempts movements between locations that are part of the same registered deer farm.

Hunting Preserves; General

Under this rule, no person may sell or offer the opportunity to hunt farm-raised deer on any premises unless all of the following apply:

- The person holds, for those premises, both a deer farm registration certificate (see above) and a hunting preserve certificate (see below) from DATCP.

- Farm-raised deer, when hunted, have unimpeded access to at least 80 acres of land.

- The person complies with applicable requirements under this rule.

Hunting Preserve Certificate

Under this rule, DATCP may issue a hunting preserve certificate for a registered deer farm. A hunting preserve certificate expires 10 years after it is issued (the deer farm registration must be renewed annually). A hunting preserve certificate is not transferable between persons or premises. A hunting preserve certificate is not valid unless the holder also holds a current annual deer farm registration certificate.

A person must apply for a hunting preserve certificate on a form provided DATCP. The application must include all of the following:

- The applicant’s name, address, and deer farm registration number.

- The address of the deer farm premises for which the applicant seeks a hunting preserve certificate.

- Documentation showing that farm-raised deer hunted on the premises will have unimpeded access to at least 80 acres of land.

- A nonrefundable fee of \$150.

DATCP must grant or deny an application within 90 business days after DATCP receives a complete application. DATCP must inspect the premises before issuing a hunting preserve certificate, and may inspect relevant records as necessary.

Hunting Preserves; Chronic Wasting Disease Testing

Under this rule, a hunting preserve operator must have a chronic wasting disease test performed on every farm-raised deer at least 16 months old that is killed on the hunting preserve (see deer farm testing requirements above). The hunting preserve operator must inform the hunter of the test results.

Hunting Preserves; Animal Identification

Hunting preserves, like other deer farms, must comply with animal identification requirements (see above). Current rules prohibit any person from removing, altering or tampering with an animal’s official individual identification. Under this rule, no portion of a farm-raised deer carcass may leave a hunting preserve unless it bears official individual identification or a “dead tag” issued by DATCP (see above).

Hunting Preserves; Recordkeeping

This rule requires a hunting preserve operator to do all the following:

- Keep records required of other deer farm operators.

- Keep the following records related to each farm-raised deer that is killed on the hunting preserve:

- The name and address of the person who killed the farm-raised deer.

- The date and time when the farm-raised deer was killed, and the location of the premises where it was killed.

- The name and address of the person who collected the chronic wasting disease test sample from the farm-raised deer carcass.

- The laboratory test reports from the chronic wasting disease test.

- The disposition of the carcass.

- The official individual identification or “dead tag” number attached to the carcass. If the carcass has both an official individual identification and a “dead tag,” the record must include both numbers.

- Keep copies of all advertising and promotional materials used to promote the hunting preserve.

- Record the name and address of every person who pays for the opportunity to hunt farm-raised deer at the hunting preserve.

- Retain the required records for at least 5 years, and make them available to DATCP for inspection and copying upon request.

Hunting Preserves; Prohibited Conduct

Under this rule, no person operating a farm-raised deer hunting preserve may do any of the following:

- Violate or allow others to violate laws prohibiting “shining” of animals.

- Violate or assist any violation of DATCP animal health rules.

- Make any false, deceptive or misleading representation to a customer or potential customer.

- Misrepresent that DATCP or any other person has approved, endorsed or recommended a hunting preserve.

- Misrepresent the weight of a killed farm-raised deer.
- Misrepresent, to a hunter, that any portion of a carcass delivered to the hunter is that of the farm-raised deer killed by the hunter.

Animal Disease Quarantines

Under current rules, DATCP may quarantine animals to prevent or control diseases that may affect domestic or exotic animals. Under this rule, DATCP may quarantine animals to prevent or control diseases that may affect *any* animals (not just domestic or exotic animals), or to prevent or control diseases that may be transmitted from animals to humans.

Animal Imports; Health Certificate

Current rules prohibit a person from importing any of the following animals without a health certificate (certificate of veterinary inspection):

- Bovine animals (there are limited exemptions).
- Swine (there are limited exemptions).
- Equine animals (there are limited exemptions).
- Poultry.
- Sheep (except sheep imported to slaughter).
- Goats.
- Dogs or domestic cats.
- Circus, rodeo, racing or menagerie animals.
- Exotic ruminants and South American camelids (alpacas and llamas).
- Cervids (including deer and elk).
- Ratites (except ratites imported from a federal quarantine facility).

This rule extends the current health certificate requirement to animal species that are not covered by current rules. This rule prohibits a person from importing *any* animal without a health certificate. This rule continues current limited exemptions for domestic livestock, including exemptions for livestock imported directly to slaughter (farm-raised deer imported directly to slaughter must be tested for chronic wasting disease if they are at least 16 months old). This rule also exempts invertebrates that are imported in compliance with DATCP pest control rules.

Alpacas and Llamas; Imports

Under current rules, a person must obtain a DATCP permit before importing an alpaca or llama. The person must have the animal tested for tuberculosis and brucellosis. A health certificate (certificate of veterinary inspection) must accompany the imported animal. This rule eliminates the permit, tuberculosis testing and brucellosis testing requirements, but retains the health certificate requirement.

Wild Animal Imports

This rule prohibits a person from importing a wild animal to this state unless all of the following apply:

- DATCP issues an import permit for that import. DATCP may not issue an import permit for an animal that DNR has designated as a "harmful wild animal" unless DNR also approves the import.
- A valid health certificate (certificate of veterinary inspection) accompanies the imported animal.

These wild animal import requirements do not apply to invertebrates imported in compliance with DATCP pest control laws. Nor do they apply to domestic animals (see list above). However, domestic animals are subject to other import regulations under current rules and this rule.

This rule prohibits imports of prairie dogs and certain African rodents that have been implicated in the spread of

"monkey pox." However, DATCP may issue an import permit if one of the following applies:

- The animal is imported directly to an accredited zoo.
- The animal is imported directly to a bona fide research facility.
- The animal is imported directly to a veterinary facility for treatment, or is returning directly from treatment at a veterinary facility.

Animal Dealers

Before the Captive Wildlife Law was enacted, DATCP licensed "livestock dealers" ("livestock" includes bovine animals, sheep, goats, swine, farm-raised deer, equines and other farm animals). The Captive Wildlife Law changed the "livestock dealer" license to an "animal dealer" license.

DATCP now licenses "animal dealers" who deal in livestock *or wild animals*. Captive white-tail deer are now considered "livestock" (farm-raised deer). This rule modifies current rules to reflect this expanded coverage. This rule also clarifies and reorganizes current licensing requirements. Under this rule:

- A person must be annually licensed by DATCP, as an animal dealer, if the person does any of the following (see exemptions below):
 - Engages in the business of buying livestock or wild animals for resale, slaughter or exchange.
 - Engages in the business of selling or exchanging livestock or wild animals.
 - Engages in the business of leasing out livestock or wild animals to others.
- The following persons are *exempt* from licensing as animal dealers:
 - An employee of a licensed animal dealer who acts solely on behalf of that licensed animal dealer.
 - A farm operator who buys or exchanges livestock solely for dairy, breeding or feeding operations on that farm, or who sells only livestock produced on that farm.
 - An animal market operator licensed by DATCP.
 - The operator of a licensed meat establishment who buys livestock solely for slaughter at that meat establishment.
 - The holder of a DNR captive wildlife license who buys, sells or exchanges wild animals pursuant to the license, solely for purposes of the licensed operation.
- A person must do all the following to obtain an animal dealer license (no change from current rules):
 - Submit a complete license application.
 - Pay an annual license fee of \$115 (no change from current rules).
 - Obtain an animal trucker license, if the person also operates as an animal trucker (see below).
 - Register all vehicles that the person uses to transport animals.
 - Pass a test administered by DATCP. No test is required for the renewal of an existing license.
- DATCP must grant or deny a license application within 30 business days after the applicant submits a complete application and takes any required test (no change from current rules).
- DATCP may deny, suspend or revoke a license, including violation of animal health or humane laws (no change from current rules).
- An animal dealer must do all of the following (this rule reorganizes, but does not change, current rules):
 - Maintain the animal dealer premises in a clean and sanitary condition.

- Provide adequate food, water, shelter, bedding and pen space for all animals held more than 12 hours.
- Properly identify animals.
- Keep proper records.
- Handle animals in a humane manner.
- Comply with applicable requirements related to animal transport vehicles (see below).
- Refrain from commingling animals of different species within the same vehicle or enclosure.

• This rule prohibits an animal dealer from accepting delivery of animals from an unlicensed animal trucker, or shipping animals via an unlicensed animal trucker.

Animal Market Operators

Before the Captive Wildlife Law was enacted, DATCP licensed “livestock market operators” (“livestock” includes bovine animals, sheep, goats, swine, farm-raised deer, equines and other farm animals). The Captive Wildlife Law changed the “livestock market operator” license to an “animal market operator” license.

DATCP now licenses “animal market operators” who operate market facilities that are open to the public for the purpose of trading in livestock *or wild animals*. Captive white-tail deer are now considered “livestock” (farm-raised deer). This rule modifies current rules to reflect this expanded coverage. This rule also clarifies and reorganizes current licensing requirements. Under this rule:

• No person may operate an animal market without an annual license from DATCP. A separate license is required for each animal market (no change from current rules).

• An animal market operator may apply for a Class A, Class B or Class E animal market license (no change from current rules):

– At a *class A animal market*, an operator may conduct livestock and wild animal sales on any number of days during the license year.

– At a *class B animal market*, an operator may conduct livestock sales on no more than 4 days during the license year. An operator may not conduct wildlife sales at a class B animal market.

– At a *class E animal market*, an operator may conduct sales of equine animals on any number of days during the license year. An operator may not conduct sales of any other livestock or any wild animals at a class E animal market.

• A person must do all the following to obtain an animal market license (no change from current rules):

- Submit a complete license application.
- Pay an annual license fee. The fee is \$225 for a class A market, \$115 for a class B market, and \$150 for a class E market (no change from current rules).
- Obtain an animal trucker license, if the person also operates as an animal trucker (see below).
- Register all vehicles that the person uses to transport animals.
- Pass a test administered by DATCP. No test is required for the renewal of an existing license.

• DATCP must act on a license application within 30 business days after the applicant submits a complete application and takes any required test (no change from current rules). DATCP must inspect a class A market before licensing that market for the first time. If an inspection is required, DATCP has an additional 60 days to act on the license application.

– DATCP may deny, suspend or revoke a license for cause, including violation of animal health or humane laws (no change from current rules).

• An animal market operator must do all the following (this rule reorganizes, but does not change, current rules):

- Comply with animal market construction standards.
- Keep the animal market in a clean and sanitary condition.
- Provide adequate food, water, shelter, bedding and pen space for all animals held more than 12 hours.
- Properly identify animals.
- Keep proper records.
- Handle animals in a humane manner.
- Remove animals from the animal market premises within 4 days after they enter the market (some special provisions apply).
- Comply with applicable requirements related to animal transport vehicles (see below).

– Refrain from commingling animals of different species in the same enclosure.

• This rule prohibits an animal dealer from accepting delivery of animals from an unlicensed animal trucker, or shipping animals via an unlicensed animal trucker.

Animal Truckers

Before the Captive Wildlife Law was enacted, DATCP licensed “livestock truckers” (“livestock” included bovine animals, sheep, goats, swine, farm-raised deer, equines and other farm animals). The Captive Wildlife Law changed the “livestock trucker” license to an “animal trucker” license.

DATCP now licenses “animal truckers” who transport livestock *or wild animals* for hire.

Captive white-tail deer are now considered “livestock” (farm-raised deer). This rule modifies current rules to reflect this expanded coverage. This rule also clarifies and reorganizes current license requirements. Under this rule:

• A person must be annually licensed by DATCP, as an animal trucker, if the person transports livestock or wild animals *for hire*. The following persons are exempt from licensing as animal truckers:

– An employee of a licensed animal trucker who transports animals solely on behalf of the license holder, in vehicles registered by the license holder.

– Persons who are solely engaged in transporting their own animals.

– Persons who are solely engaged in the following activities:

* Hauling animals on an occasional basis for persons participating in a livestock exhibition, fair, trail ride, youth livestock event or similar activity.

* Hauling animals on an incidental basis in connection with another business, such as a veterinary practice or a stable operation, does not ordinarily involve the sale of animals.

* Hauling animals for other persons fewer than 6 times per year.

• A person must do all the following to obtain a license (no change from current rules):

- Submit a complete license application.
- Pay license fees. There is a basic annual fee of \$30, plus a \$10 fee for each vehicle used to transport livestock or wild animals (no fee change from current rules).
- Register all vehicles used to transport livestock or wild animals.
- Pass a test administered by DATCP. No test is required for the renewal of an existing license.

- DATCP must act on a license application within 30 business days after the applicant submits a complete application and takes any required test (no change from current rules).

- DATCP may deny, suspend or revoke a license for cause, including violation of animal health or humane laws (no change from current rules).

- An animal trucker must do all of the following (this rule reorganizes, but does not change, current rules):

- Maintain properly equipped vehicles.
- Properly identify animals.
- Keep proper records.
- Transport and handle animals in a safe and humane manner.

- An animal trucker may not:

- Commingle different animal species on the same transport vehicle.
- Transport diseased or downer animals with healthy animals on the same transport vehicle (there is a limited exception for slaughter shipments).

Animal Transport Vehicles

Under current rules and this rule, an animal dealer, animal market operator or animal trucker must register every vehicle that the person uses to transport livestock or wild animals. The operator must register annually and pay an annual fee of \$10 per vehicle. DATCP must grant or deny a registration application within 30 business days after the person submits a complete application.

Under current rules and this rule, the following requirements apply to every vehicle that an animal dealer, animal market operator or animal trucker uses to transport livestock or wild animals:

- The vehicle must be properly identified with the operator's name and business address, the operator's DATCP license number(s), and the DATCP vehicle registration number.
- The vehicle must be properly constructed and equipped to handle each type of animal transported.
- The vehicle must be kept in a clean and sanitary condition.

Fiscal Estimate

The rule will not have a major impact on State or Local government resources. This rule;

- 1) Implements Wisconsin's Captive Wildlife Law (2001 Wis. Act 56), which took effect on January 1, 2003.
- 2) Modifies related animal health rules administered by the Department of Agriculture, Trade and Consumer Protection (DATCP).
- 3) Coordinates animal disease control activities of DATCP and the Department of Natural Resources (DNR).

Some of these changes will increase the workload in the department, however it is anticipated that the workload generated can be absorbed.

Initial Regulatory Flexibility Analysis

This rule affects the following businesses, among others:

- Deer farmers.
- Deer hunting preserve operators.
- Persons raising poultry and farm-raised game birds.
- Persons importing animals to this state.
- Wild animal dealers, truckers and market operators.

Many of those affected are "small businesses" as defined in s. 227.114 (1) (a), Stats.

Effects on Small Business

This rule adds regulatory requirements for some businesses, but these requirements are necessary for animal disease control and not expected to impose an undue burden. The new Captive Wildlife Law mandates some of the requirements.

In some cases, this rule gives affected businesses wider latitude to choose a preferred method of compliance. This rule will benefit affected businesses by clarifying regulatory requirements, and coordinating DATCP and DNR regulation.

This rule imposes new fees related to deer hunting preserves. The new fee (\$150 for a 10-year hunting preserve certificate) is modest, and is needed to defray costs of providing inspections newly mandated by the Legislature. This rule requires deer farm operators, including hunting preserve operators, to identify dead animals with "dead tags" purchased at cost from DATCP. The "dead tags" are needed for disease control and traceback, including chronic wasting disease control.

This rule codifies, but does not increase, current fees for poultry and farm-raised game bird operators that wish to participate in the National Poultry Improvement Plan. The fees are modest (\$20-200, depending on flock size and type), and merely cover DATCP's cost to provide inspections and services required under the National Poultry Improvement Plan.

The rule expands current regulation of livestock truckers, dealers and markets to include entities that handle wild animals. This change was mandated by the Legislature. The change could have a substantial impact on wild animal markets, dealers and truckers, which will now have to comply with the same regulations that apply to livestock markets, dealers and truckers. However, DATCP does not believe that many "small businesses" will be affected.

This rule will require health certificates (certificates of veterinary inspection) for the import of certain animals that can now be imported without a certificate. This rule also requires persons importing wild animals to obtain a permit for DATCP (there is no charge for the permit). The new import requirements are consistent with current requirements for livestock, are needed to control serious diseases that may be spread by these animals, and which are not adequately addressed by current import controls.

This rule will add some record keeping requirements, especially for deer hunting preserves, wild animal markets, and wild animal dealers and truckers.

Steps to Assist Small Business

In some cases, this rule gives affected businesses wider latitude to choose a preferred method of compliance. For example, this rule:

- Authorizes alternative forms of "official individual identification" of animals.
- Provides more flexibility related to the timing of required tuberculosis tests.
- Makes it easier and cheaper for deer farm operators to have test samples collected for chronic wasting disease tests. Under current rules, a veterinarian must collect the samples at the herd premises. Under this rule, the deer farm operator may send the deer head to the veterinarian who collects the test sample from the brain.

This rule will benefit affected businesses by clarifying regulatory requirements, and coordinating DATCP and DNR regulation. This rule provides a "one stop" clearinghouse for animal disease reporting and health certificate filing.

Conclusion

This rule will have an impact on small business. In most cases, this rule will not have a significant adverse impact. And in some cases, it will have a positive impact. DATCP has attempted to minimize adverse effects on small business. Effects, if any, are necessary to ensure more effective control of serious animal diseases that may affect humans, domestic animals and wild animals.

Notice of Hearing

Agriculture, Trade and Consumer Protection

[CR 03–119]

[CR 03–120]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on 2 proposed rules that do the following:

- Amend ch. ATCP 35, Wis. Adm. Code, relating to the agricultural chemical cleanup program.
- Amend ch. ATCP 40, Wis. Adm. Code, relating to fertilizer tonnage fee surcharges used to fund the agricultural chemical cleanup program.

The department will hold one hearing, covering both rules, at the time and place shown below. The department invites the public to attend the hearing and comment on the proposed rules. Following the public hearing, the hearing record will remain open until January 31, 2004, for additional written comments.

You may obtain free copies of the rules by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224–4523. Copies will also be available at the hearing.

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by **January 19, 2004**, by writing to Judy Testolin, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4523. Alternatively, you may contact the Department TDD at (608) 224–5058. Handicap access is available at the hearing.

The hearing is scheduled :

Thursday, January 22, 2004, 2:00 p.m. until 5:00 p.m.

Alliant Energy Center

1919 Alliant Energy Center Way

Monona – Wingra Room (Second Floor)

Madison, WI 53713

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

Agricultural Chemical Cleanup Program (ATCP 35).

Statutory Authority: ss. 93.07 (1) and 94.73 (11), Stats.

Statute Interpreted: s. 94.73, Stats.

The Department of Agriculture, Trade and Consumer Protection (DATCP) currently administers an agricultural chemical cleanup program under s. 94.73, Stats. This program is designed to clean up spills of agricultural chemicals and minimize environmental contamination. Under this program, DATCP may reimburse a portion of the eligible cleanup cost.

DATCP has adopted rules, under ch. ATCP 35, Wis. Adm. Code, to govern this program. This rule modifies current

rules. Among other things, this rule implements statutory changes enacted in 2003 Wis. Act 33 (biennial budget act).

Landspreading Soil from Cleanup Sites

In appropriate cases under current rules, a cleanup operation may include landspreading of soils contaminated with spilled fertilizers or pesticides. Landspreading may reduce the concentration of the fertilizer or pesticide, and may provide an economical and potentially useful disposal option.

This rule clarifies that a person who landspreads soil contaminated with a pesticide is, for purposes of pesticide applicator licensing and certification, engaged in the application of that pesticide. The person must be licensed and certified to spread the pesticide–contaminated soil, to the same extent as if the person were applying the pesticide.

Costs to Remove Existing Structures

In some cases, it may be necessary to remove existing structures in order to clean up a spill site. Current rules generally prohibit DATCP from reimbursing costs incurred for the removal of existing structures. But DATCP may reimburse costs to remove certain concrete or asphalt structures (containment structures, parking areas, roadways, curbs and sidewalks) if DATCP pre–approves the removal after finding that the removal is less expensive than other cleanup alternatives.

Under current rules, DATCP may also reimburse costs to remove and reinstall certain movable structures or equipment, or to replace certain fixtures (such as fences and utility lines) that were in good operating condition when removed for the cleanup.

This rule changes and clarifies the current rules. Under this rule, DATCP may reimburse all the following:

- Costs to remove *any* concrete or asphalt (not just the concrete or asphalt structures identified in the current rules) if DATCP pre–approves that removal after finding that it is less expensive than other cleanup alternatives. Under this rule, as under current rules, DATCP may reimburse the depreciated value of the concrete or asphalt, as well as the costs of removal and disposal. However, DATCP may not reimburse the cost of replacing the concrete or asphalt.

- Costs to install engineered barriers, to limit infiltration of existing contamination. The responsible person must agree to maintain the barrier at his or her expense.

- Temporary removal and installation of a surface, structure, fixture or equipment item that is removed *intact*, and returned *intact* to its original use and approximate original location.

- The following corrective measures related to fixtures (such as fences and utility lines) that are in good condition and operating adequately when the corrective measure occurs:

- * Temporary or permanent relocation.

- * Removal and replacement with a new fixture of the same size and quality, including any upgrade required by law.

- * Protection during a spill cleanup, through shoring or other methods.

Repeat Spills

This rule authorizes DATCP, in consultation with the agricultural chemical cleanup council, to reduce the reimbursement rate for cleanups of repeat spills. Under this rule, DATCP may reduce the reimbursement rate for a spill cleanup if DATCP has received or paid a reimbursement claim related to a prior spill at the same site.

The presumptive reimbursement rate (reduced rate) is 50%, unless DATCP finds that a larger or smaller reduction is appropriate. In determining the amount of the reduction, DATCP may consider all of the following in consultation with the agricultural chemical cleanup council:

- The type of agricultural chemical discharged.
- The nature, size and location of discharge.
- The similarity between the discharge and prior discharges.
- The number of prior discharges, and the number of prior discharges for which the department has reimbursed corrective action costs.
- The responsible person's apparent negligence, if any.
- Whether the discharge was caused by a law violation.
- Other factors that the department or the agricultural chemical cleanup council consider relevant.

Alternative Sources of Drinking Water

In some cases, spills of agricultural chemicals may impair drinking water supplies. Current rules prohibit DATCP from reimbursing well replacement costs, except that DATCP may reimburse up to \$20,000 in well replacement costs if DATCP or the Department of Natural Resources (DNR) orders the well replacement.

This rule expands DATCP's authority to reimburse well replacement costs, consistent with legislative changes enacted in 2001 Wisconsin Act 16. Under this rule, DATCP may reimburse up to \$50,000 in costs incurred for any of the following actions ordered by DATCP or DNR:

- Replacement or restoration of private wells.
- Connection to alternative water sources, whether public or private.

Contractor to Disclose Identity of Landspreading Subcontractor

Current rules require contractors to disclose certain information in bids for cleanup services. This rule requires a contractor to disclose, in every bid that includes landspreading services, the name of the subcontractor (if any) who will provide those services.

Noncompetitive Bids

Under current rules, if DATCP finds that a bid for cleanup services is unreasonable, or that the cleanup service is unnecessary, DATCP may disapprove the bid, require additional bids or reimburse a lesser amount. This rule authorizes DATCP to take the same actions if DATCP finds that bids appear to be noncompetitive.

Payment Schedule

Under current rules, DATCP must pay cleanup reimbursement claims in installments if the cleanup fund balance is less than \$1 million. DATCP may pay an initial installment of up to \$50,000. DATCP may not make any additional payment to a claimant in any fiscal year until DATCP has paid initial installments to all eligible claimants in that year. This may delay full reimbursement to some claimants, even when adequate funds are available to pay all eligible claimants. DATCP must pay interest on any delayed payments. This rule changes the current method of payment. Under this rule, DATCP may pay the full amount of reimbursement claims on a first-come, first-served basis (there is no \$50,000 installment limit). This will allow DATCP to pay claims more quickly, and limit interest costs to the agricultural chemical cleanup fund.

Reimbursement Rate

Under current rules, DATCP reimburses 80% of eligible cleanup costs. There is a minimum cleanup cost "deductible" of \$3,000 or \$7,500 (depending upon the type of business doing the cleanup), and DATCP does not reimburse costs to the extent that they exceed \$400,000. The maximum allowed payment per cleanup, including interest on delayed payments,

is \$317,600 or \$314,000 (depending on the applicable "deductible").

This rule reduces the current reimbursement rate, consistent with legislation enacted in 2003 Wisconsin Act 33. Under this rule, DATCP will reimburse 75% of eligible cleanup costs incurred on or after January 1, 2004. There will still be a minimum cleanup cost "deductible" of \$3,000 or \$7,500 (depending upon the type of business doing the cleanup). DATCP will still not reimburse costs to the extent that they exceed \$400,000. The maximum allowed payment per cleanup will be \$297,750 or \$294,375 (depending on the applicable "deductible").

Repeal of Obsolete Provisions

This rule repeals obsolete retroactivity provisions contained related to reimbursement claims filed with the department prior to November 1, 2000.

Fiscal Estimate

DATCP estimates that this rule will save \$180,000 for the agricultural chemical cleanup fund each year. This includes the following projected savings:

- By lowering the cleanup cost reimbursement rate from 80% to 75% (as required by current law), DATCP will save approximately \$160,000 each year.
- By paying reimbursement claims on a first-come, first-served basis instead of installments, DATCP will save approximately \$20,000 in interest costs each year.

DATCP estimates that it will save an additional \$50,000 each year by reducing the reimbursement rate for repeat spills. But DATCP estimates that these savings will be offset, each year, by \$50,000 in additional reimbursement payments related to concrete structure removal and private well replacement.

Initial Regulatory Flexibility Analysis

This rule affects businesses that clean up spills of fertilizers and pesticides in Wisconsin. Currently more than 360 businesses are involved in fertilizer or pesticide cleanups. Most of the cleanups occur at farm centers, agricultural dealerships and agricultural cooperatives. Many of these businesses are "small businesses" as defined in s. 227.114 (1) (a), Stats.

This rule will affect the reimbursement of spill cleanup costs. But this rule will not, by itself, have a major impact on small business. This rule merely implements a reimbursement rate reduction that the Legislature has already mandated. The rule changes expedite reimbursement payments, and increase reimbursement eligibility for certain cleanup costs. Small businesses will not need additional professional services to comply with this rule.

This rule will reduce reimbursement rates for repeat spills. However, businesses handling agricultural chemicals can participate in the department's Environmental Partners program to minimize their risk of repeat spills.

Environmental Assessment

DATCP has prepared an environmental assessment on this rule. You may obtain a free copy of the environmental assessment by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4523. Copies will also be available at the hearing.

Fertilizer Tonnage Fees Used to Fund the Agricultural Chemical Cleanup Program (ATCP 40)

Statutory authority: ss. 93.07 (1), Stats.

Statutes interpreted: ss. 94.64 (4) (a) 1., 5. and 6., Stats.

The department of agriculture, trade and consumer protection (DATCP) currently administers an agricultural

chemical cleanup program under s. 94.73, Stats. The program is partly funded by fertilizer tonnage fee surcharges.

Fertilizer manufacturers and distributors currently pay tonnage fees and surcharges, based on their annual gross sales of fertilizer in this state. Under current rules, manufacturers pay a surcharge of 38 cents per ton to fund the agricultural chemical cleanup program. This rule increases the surcharge to 86 cents per ton, as authorized by 2003 Wis. Act 33. The new surcharge will apply to fertilizer distributed after July 1, 2004, with initial payment due in August 2005.

This rule also updates current rules to reflect fee changes made by 1999 Wisconsin Act 9 (DATCP has already changed its fee collections according to reflect the statutory changes). The statutory changes decreased the basic fertilizer inspection fee by 2 cents per ton, and added a fertilizer weights and measures inspection fee of 2 cent per ton.

Fiscal Estimate

This rule will increase fertilizer tonnage fee revenues deposited to the agricultural chemical cleanup fund. The increased fee revenues will help finance the reimbursement of agricultural chemical spill cleanup costs, and reduce a projected deficit in the fund. In recent years, the fund has expended from \$3.6 to \$3.9 million per year in reimbursement payments, whole generating only \$2,614,000 in annual revenues.

The fund had a substantial reserve until recently, but that reserve dropped below \$200,000 at the end of FY 2002–03. Fiscal year 2003–04 is expected to end with unreimbursed claims (a deficit) of \$784,000. Those claims (and associated interest expenses) must be reimbursed in subsequent years.

DATCP projects a reimbursement backlog (deficit) of \$1,400,000 by the end of FY 2004–05. DATCP estimates that the fertilizer tonnage fees proposed in this rule will generate approximately \$624,000 per year beginning in FY 2005–06. Those additional fee revenues will gradually reduce the reimbursement backlog (fund deficit).

Initial Regulatory Flexibility Analysis

This rule affects tonnage fees paid by businesses (approximately 500) that are licensed to manufacture or distribute fertilizer in Wisconsin. This rule may indirectly affect farmers, landscape businesses and other persons who purchase and use fertilizer, to the extent that tonnage fee costs are passed on to those purchasers. Some of the affected businesses are “small businesses” as defined in s. 227.114 (1) (a), Stats.

This rule will not have a major adverse impact on small business. The rule will generate an additional \$624,000 in fees on the 1,300,000 tons of fertilizer sold annually in Wisconsin. These fertilizers have an average price of more than \$150 per ton. The fee increase represents a price increase of about 0.3% on an agricultural input that typically has annual price fluctuations of several percent. This rule does not add any new record keeping or reporting requirements for affected businesses.

By increasing revenues for the agricultural chemical cleanup fund, this rule will benefit businesses (including fertilizer manufacturers and distributors) who rely on the fund for reimbursement of spill cleanup costs. Cleanups often cost more than \$30,000, and sometimes more than \$100,000. This rule will assist small businesses by assuring adequate funding to cover up to 75% of cleanup costs (subject to a \$3,000 deductible).

It will also help ensure faster payment of cleanup reimbursement claims.

Notice of Hearing

Marriage and Family Therapy, Professional Counseling and Social Worker Examining Board [CR 03–090]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Worker Examining Board in Wis. Stats. ss. 15.08 (5) (b), 227.11 (2), and 457.03 (1), and interpreting s. 457.08, Stats., the Marriage and Family Therapy, Professional Counseling and Social Worker Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend ss. MPSW 3.01 (2), 3.05 (2), 3.07 (2), 3.09 (2), 11.01 (1) (b), and 16.01 (1) (a) 3., relating to a foreign degree to be equivalent to a degree from an accredited school in the United States.

Hearing Date, Time and Location

Date: **January 13, 2004**
Time: 1:45 P.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 January 23, 2004 to be included in the record of rule-making proceedings.

PROPOSED ORDER

An order of the Marriage and Family Therapy, Professional Counseling and Social Worker Examining Board to amend ss. MPSW 3.01 (2), 3.05 (2), 3.07 (2), 3.09 (2), 11.01 (1) (b), and 16.01 (1) (a) 3., relating to the determination of the equivalency of a foreign degree to a degree from an institution accredited in the United States, and to require some candidates to demonstrate English proficiency.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.085 (5) (b), 227.11 (2) and 457.03 (1), Stats.

Statutes interpreted: ss. 457.08, 457.10, and 457.13, Stats.

SECTION 1. Under current requirements, applicants for social worker certification or licensure must have earned a social work degree from a school accredited by the Council on Social Work Education. Applicants otherwise qualified are prevented from obtaining Wisconsin certification or licensure if the applicant obtained a degree in another country. The Council on Social Work Education has a process for determining equivalency of degrees, and in fairness to graduates of foreign schools, the Social Worker Section wishes to rely on that process for accepting equivalent degrees. This section amends the rules to permit the Social Worker Section to accept from applicants for social worker certification or licensure a foreign degree determined by a national accrediting organization to be equivalent to a degree from an accredited school. The amendment would require candidates to demonstrate proficiency in English. This section specifies the new process and requirement.

SECTION 2. Under current requirements, licensure as a professional counselor requires that candidates be graduates

of programs accredited by the Commission for Accreditation of Counseling (CACREP) and Related Educational Programs or the Council on Rehabilitation Education. The National Board of Certified Counselors provides a service to evaluate whether foreign degrees are equivalent to a degree program accredited by CACREP. The amendment would require candidates to demonstrate proficiency in English. This section specifies the new process and requirement.

SECTION 3. Under current requirements, licensure as a marriage and family therapist requires that candidates be graduates of programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) of the American Association of Marriage and Family Therapy. This amendment permits an individual who is a graduate of a program from a foreign institution to seek licensure when an organization approved by the Marriage and Family Section determines that the program is equivalent to a program accredited by COAMFTE. The amendment would require candidates to demonstrate proficiency in English. This section specifies the new process and requirement.

TEXT OF RULE

SECTION 1. MPSW 3.01 (2), 3.05 (2), 3.07 (2) and 3.09 (2) are amended to read:

MPSW 3.01 (2) Verification that the school or program which awarded the social work degree was accredited by, or a pre-accreditation program, of the ~~council on social work education~~ Council on Social Work Education (CSWE) at the time the applicant graduated from the program or school, or that a degree awarded by a foreign institution of higher learning has been determined by the CSWE to be equivalent to a program accredited by the CSWE. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent exam.

MPSW 3.05 (2) Verification that the school or program which awarded the social work degree was accredited by, or a pre-accreditation program, of the ~~council on social work education~~ Council on Social Work Education (CSWE) at the time the applicant graduated from the program or school, or that a degree awarded by a foreign institution of higher learning has been determined by the CSWE to be equivalent to a program accredited by the CSWE. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent exam.

MPSW 3.07 (2) Verification that the school or program which awarded the social work degree was accredited by, or a pre-accreditation program, of the ~~council on social work education~~ Council on Social Work Education (CSWE) at the time the applicant graduated from the program or school, or that a degree awarded by a foreign institution of higher learning has been determined by the CSWE to be equivalent to a program accredited by the CSWE. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent exam.

MPSW 3.09 (2) Verification that the school or program which awarded the social work degree was accredited by, or a pre-accreditation program, of the ~~council on social work education~~ Council on Social Work Education (CSWE) at the time the applicant graduated from the program or school, or that a degree awarded by a foreign institution of higher

learning has been determined by the CSWE to be equivalent to a program accredited by the CSWE. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent exam.

SECTION 2. MPSW 11.01 (1) (b) is amended to read:

MPSW 11.01 (1) (b) Verification that the institution which awarded the degree was a regionally accredited college or university, or accredited by the commission for accreditation of counseling and related educational programs (CACREP), or the council on rehabilitation education at the time the applicant graduated from the school, or that a degree awarded by a foreign institution of higher learning has been determined by the National Board for Certified Counselors (NBCC) or by another organization approved by the section to be equivalent to a degree from a program accredited by CACREP. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent exam.

SECTION 3. MPSW 11.01 (1) (b) is amended to read:

MPSW 16.01 (1) (a) 3. An applicant who has a master's or doctoral degree in marriage and family therapy from a program which was not accredited by the commission on accreditation for marriage and family therapy education (COAMFTE) of the American association for marriage and family therapy must submit satisfactory evidence of having completed education equivalent to a master's or doctoral degree in marriage and family therapy from a program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy, pursuant to s. MPSW 16.02, or that a degree awarded by a foreign institution of higher learning has been determined by an organization approved by the section to be equivalent to a degree from a program accredited by COAMFTE. If the applicant's education was not received in English, the applicant must demonstrate proficiency in English by achieving a score of 550 (or 213 on the computer-based exam) or above on the Test Of English as a Foreign Language (TOEFL) or an equivalent score on an equivalent exam.

Fiscal Estimate

There will be no additional cost to the Department of Regulation and Licensing to certify these applicant social workers than for current applicants with degrees from schools in the United States that are accredited by the Council.

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.

Notice of Hearings

Natural Resources (Environmental Protection – Air Pollution Control, Chs. NR 400—)

[CR 03–118]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a), 285.11 (1), (16) and (17) and 285.65 (14), Stats., interpreting ss. 285.11 (6), 285.60 and 285.61, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 405, 408 and 484, Wis. Adm. Code,

relating to incorporation of federal changes to the air permitting program. On December 31, 2002, the U.S. EPA promulgated federal rules which significantly changed the federal new source review (NSR) program for major emission sources located in both attainment and nonattainment areas. The major elements of the Department's proposed implementation are:

1. Baseline actual emissions – The Department is proposing that facilities be able to use any 2 years in the past 10 years for establishing baseline emissions, as in the federal rule. However, the proposed rule provides that the same baseline period must be used for all pollutants, unless the Department approves an alternative time period. The Department is also proposing that replacement units be treated as new units, as they are under the existing program. Additionally, the Department is proposing that any new units installed after the baseline period that have at least a 24-month actual emission history be required to use their actual emissions in the baseline.

2. Methodology for calculating emission increases – The Department is proposing that the federal applicability test, including a demand growth factor, be adopted. However, the Department is looking for input as to how this factor should be calculated. Without clear standards for estimating demand growth, it will be difficult for the Department to include a demand provision in the final rule.

3. Plantwide applicability limitations (PALs) – The Department is proposing that the federal PAL proposal be accepted in Wisconsin with the option to exclude any emission unit that is designated a “clean unit” from the PAL. The emission would be calculated the same as baseline actual emissions. Additionally, the Department is proposing that PAL facilities which are located in a nonattainment area be subject to a declining emission cap for the nonattainment pollutants. Essentially this would require that facilities achieve a best available control technology (BACT) level of control on all significant emission units prior to the expiration of the PAL.

4. Clean unit applicability test – The Department is proposing to accept the federal clean unit provisions with the proviso that retroactive determinations will only be made back as far as 2001. The Department is also adding a provision to cover situations where an area is redesignated from attainment to nonattainment. The Department is requesting comments on three proposed options on these provisions.

5. Pollution control project (PCP) exclusion – The Department is proposing a rule which is essentially identical to that required under the federal rule.

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

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

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

January 22, 2004

Thursday at 1:00 p.m.

Room 158/185, DNR Region Headquarters
1300 W. Clairemont
Eau Claire

January 23, 2004

Friday at 10:00 a.m.

Room 027, GEF #2 Building
101 South Webster St.
Madison

January 28, 2004

Wednesday at 1:00 p.m.

Auditorium, Bay Beach Wildlife Sanctuary
1660 E. Shore Drive
Green Bay

January 29, 2004

Thursday at 1:00 p.m.

Room 141, DNR Region Hdqrs.
2300 N. Dr. Martin L. King Jr., Dr.
Milwaukee

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 Robert Park at (608) 266-1054 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Jeffrey Hansen, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than January 30, 2004. Written comments will have the same weight and effect as oral statements presented at the hearings.

Fiscal Estimate

Because these rule revisions will reduce the number of PSD/NSR permits that the department will process annually, revenues from the completion of these permits will be lost. Based upon 2002 permitting efforts, the department estimates this lost revenue to be \$480,000 annually. Increasing minor source permitting efforts may result due to less regulatory burden, the department estimates that this increasing level would equal \$140,000.

The department estimates that although these revisions will reduce the number of projects that would be subject to permitting under the PSD/NSR program, the department will be required to spend resources conducting complex applicability determinations and preparing exclusions from the PSD/NSR program under the options provided for in the rule revisions. These exclusions will be labor intensive on the front end in order to ultimately provide regulatory relief. It is estimated that any time that would have been available as a result of the reduced number of PSD/NSR permit applications will be spent responding to requests for applicability determinations or in preparing exclusionary documents for sources taking advantage of the exclusionary options. The department estimates that the costs to prepare these exclusionary documents will equal or exceed the costs of preparing PSD/NSR permits, and may be possible to absorb within the agency's budget.

Copies of Rule and Contact Person

A copy of proposed rule AM-06-04 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 Proposed Rule
Transportation
[CR 03-122]

The Wisconsin Department of Transportation proposes an order to amend ch. Trans 149 (title), 149.01 (2), 149.02 (6) (m), 149.05 (5) (a) 2., 149.07 (1) (a) 2., 149.08 (1) and Trans 305.065 (1) and (2) (b), Wis. Adm. Code, relating to titling and registration of homemade, reconstructed or repaired salvage vehicles.

NOTICE IS HEREBY GIVEN that pursuant to the authority of ss. 85.16 (1), 227.11 (2) (b) and 342.07 (2), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending chs. Trans 149 and 305 without public hearing unless, within 30 days after publication of this notice **January 1, 2004**, the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule and any petition for public hearing may be addressed to Patricia Hansen, Division of State Patrol, Room 551, P. O. Box 7912, Madison, Wisconsin 53707-7912, telephone (608) 267-0325.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 85.16 (1), 342.07 (2) and 227.11 (2) (b), Stats.

Statutes Interpreted: ss. 341.268, as amended by 2001 Wis. Act 109, and 342.07, Stats.

General Summary of Proposed Rule. Prior to passage of 2001 Wis. Act 109, motorcycles built by non-licensed manufacturers were titled as "replica" vehicles. 2001 Wisconsin Act 109 amended s. 341.268, Wis. Stats., to exclude motorcycles from the definition of replica vehicle. After October 1, 2002, the definition of homemade vehicle is expanded to include motorcycles that reproduce a vehicle originally made by another manufacturer.

Current policies of the Department of Transportation require that all homemade and reconstructed vehicles be inspected before a title and registration plates may be issued. This policy is expressed in s. Trans 305.065, Wis. Admin. Code. The proposed rule will amend chs. Trans 149 and 305 to clarify that inspections of homemade vehicles, including motorcycles, are to be conducted in the same manner as inspections of repaired salvage vehicles. The proposed rule further amends ch. Trans 149 to provide that the requirement for receipts for motorcycle parts be raised from the current \$50 to \$150 in order to capture information on major part purchases and to eliminate receipts for minor, non-essential motorcycle parts. The inspections for homemade and reconstructed vehicles do not require a fee since there is no statutory provision for charging a fee. The proposed rule will amend ch. Trans 149 to clarify that the fee provisions of that rule apply only to inspections of repaired salvage vehicles.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16 (1), 227.11 (2) (b) and 342.07 (2), Stats., the department of transportation hereby proposes to amend rules interpreting ss. 341.268 and 342.07, Stats., relating to titling and registration of homemade, reconstructed or repaired salvage vehicles.

SECTION 1. Ch. Trans 149 (title) is amended to read:

INSPECTION OF A HOMEMADE, RECONSTRUCTED OR REPAIRED SALVAGE VEHICLE

SECTION 2. Trans 149.01 (2) is amended to read:

Trans 149.01 (2) This chapter applies to any person seeking to obtain a certificate of title on a homemade vehicle, reconstructed vehicle, repaired salvage vehicle or on a vehicle identified in another jurisdiction as a repaired salvage or salvage vehicle.

SECTION 3. Trans 149.02 (6) (m) is amended to read:

Trans 149.02 (6) (m) Any motorcycle part not listed under this subsection which has a value exceeding \$50 \$150.

SECTION 4. Trans 149.05 (5) (a) 2. is amended to read:

Trans 149.05 (5) (a) 2. The Wisconsin salvage certificate of title evidencing the applicant's ownership of the vehicle, which may be a salvage certificate of title in the name of the applicant, or a Wisconsin salvage certificate of title in the name of another person who has properly assigned the title to the applicant in the space provided on the certificate. This paragraph does not apply to homemade or reconstructed vehicles.

SECTION 5. Trans 149.07 (1) (a) 2. is amended to read:

Trans 149.07 (1) (a) 2. The applicant's current salvage certificate of title. This paragraph does not apply to homemade or reconstructed vehicles.

SECTION 6. Trans 149.08 (1) is amended to read:

Trans 149.08 (1) The applicant shall pay an inspection fee for each inspection performed, except that there is no additional fee for the reinspection described in s. Trans 149.07 (2) (b). There is no fee for the inspection of a homemade or reconstructed vehicle.

SECTION 7. Trans 305.065 (1) and (2) (b) are amended to read:

Trans 305.065 (1) **INSPECTION.** Upon completion of assembly or reconstruction, every homemade or reconstructed vehicle shall be inspected prior to being registered or titled for compliance with this chapter, ch. Trans 149 and ch. 347, Stats. The inspection shall be performed by an inspector authorized by the department to perform inspections of salvage vehicles under s. 342.07, Stats. This subsection does not apply to trailers or semitrailers.

(2) (b) *Replica and street modified vehicles.* The department shall issue a title indicating that a vehicle, except a motorcycle, is a replica or street modified vehicle and the make and model year shown on the title shall be the original make and model year of the street modified vehicle or the make and model year of the vehicle being replicated. The installation of reproduction body parts on a previously manufactured and titled vehicle body and frame is not considered by the department to constitute a replica vehicle for purposes of identifying the vehicle on its title. A vehicle shall be considered a replica or a street modified vehicle if it has been certified by the owner to be a replica or a street modified vehicle for purposes of registration under s. 341.268, Stats. A vehicle shall also be considered a street modified vehicle if the vehicle's engine has been replaced with one which required adaptation beyond ordinary replacement.

Fiscal Effect

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

The amendments of these rules have no direct affect on small businesses.

Copies of Proposed Rule

Copies of the rule may be obtained upon request, without cost, by writing to Patricia Hansen, Division of State Patrol, P. O. Box 7912, Room 551, Madison, WI 53707-7912, or by calling (608) 267-0325. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearing
Transportation
[CR 03-123]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1) and 348.07 (4), Stats., interpreting s. 348.07 (4), Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of chapter Trans 276, Wis. Admin. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways:

January 20, 2004 at 11:00 a.m.

Transportation District 3

2733 Ridge Road

Conference Room 2

Green Bay, WI

(Parking is available for persons with disabilities)

The public record on this proposed rule making will be held open until close of business on the date of the hearing 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 written comments should be submitted to Ashwani K. Sharma, Traffic Operations Engineer, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, Wisconsin, 53707-7986.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 85.16 (1) and 348.07 (4), Stats.

Statute Interpreted: s. 348.07 (4), Stats.

General Summary of Proposed Rule. This proposed rule amends Trans 276.07 (10), (10m), (11) and (17); and create Trans 276.07 (34w), Wis. Adm. Code, to add five segments of highway to the designated highway system established under s. 348.07 (4), Stats. The actual highway segments that this proposed rule adds to the designated highway system are:

Hwy.	From	To
STH 47	STH 29	USH 45
STH 55	STH 64 at Langlade	STH 29 at Shawano
CTH "M"	STH 32 W. of Suring	STH 55
STH 49	STH 29	STH 66 E. of Rosholt
STH 83	IH 94	STH 59 at Genesee

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the

vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet, a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07 (2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

The effect of this proposed rule will be to extend the provisions of s. 348.07 (2) (f), (fm), (gm) and (gr), and s. 348.08 (1) (e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semi-trailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semi-trailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semi-trailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semi-trailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semi-trailers, including semi-trailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

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, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7986, Room 501, Madison, Wisconsin, 53707-7986, telephone (608) 266-1273. For questions about this rule making, please call Ashwani Sharma, Traffic Operations Engineer at (608) 266-1273. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearings
Workforce Development
[CR 03-125]

NOTICE IS HEREBY GIVEN that pursuant to ss. 102.15 (1) and 227.11, Stats., the Department of Workforce Development proposes to hold a public hearing to consider changes to chapter DWD 80, relating to worker's compensation.

Hearing Information

Friday, **January 16, 2004** at 10 a.m.

GEF 1 Building, Room B105

201 E. Washington Avenue

Madison

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances that may make communication or accessibility difficult at the hearings, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 102.15 (1) and 227.11, Stats.

Statutes interpreted: Sections 102.16 (2), 102.16 (2m), 102.31 (2) (a), 102.32 (6), 102.35 (1), 102.37, 102.38, and 102.82, Stats.

The proposed rules make the following changes, as agreed to by the Worker's Compensation Advisory Council:

Supplementary reports by employers and insurance companies. Under the current rule self-insured employers and insurance companies are required to submit supplemental reports only if the reported injury meets the definition of lost time under DWD 80.02 (1) (a). The proposed amendment to s. DWD 80.02 (2) (b) will require self-insured employers and insurance companies to submit supplemental reports for all claims reported whether or not they meet the lost-time definition. The amendment will not require the reporting of no lost time or denied claims but will require the filing of supplemental reports for all claims that are reported.

Written notice by employers and insurance companies. The proposed amendment to s. DWD 80.02 (2) (g) 2. will require self-insured employers and insurance companies to provide notice of denial to the department and employees for claims that are initially reported and paid but later denied. The current rule is inconsistent with the requirement to report only compensable claims.

Written notice by employers and insurance companies. The proposed rules repeal s. DWD 80.02 (2) (h). Under the current rule, self-insured employers and insurance companies are required to provide the department with written notice related to denial or continued investigation of claims with copies of the report provided to employees. This provision is repealed because the requirement for self-insured employers and insurance companies to submit reports about the denial or investigation of claims to the department is eliminated. The newly-created DWD 80.02 (2m) replaces this provision and requires self-insured employers and insurance companies to provide notice of denial or investigation of claims to employees only and not to the department.

Notice by employers and insurance companies to employees. The proposed rules amend s. DWD 80.02 (2m) to clarify that a notice of denial or investigation of claims is to be sent to the employee along with a statement advising the employee of the right to a hearing before the department. The notice of investigation will specify if additional medical or

other information is needed to complete the investigation. This notice must be sent to the employee and is not required to be sent to the department.

Electronic reporting. The proposed amendment to s. DWD 80.02 (3m) will permit the department to require self-insured employers and insurance companies to submit all or selected information in reports or amendments to reports to be filed via electronic, magnetic, or other media satisfactory to the department. Under the current rule self-insured employers and insurance companies may request to submit required reports electronically but are not required to do so. This amendment will allow the department discretion to require electronic reporting to help the self-insured employer or insurance company to meet reporting requirements. This amendment also permits the department to grant waivers from the requirement to submit reports by electronic means if the employer, self-insured employer or insurer can establish good cause.

Payment of permanent disability. A new section is created at s. DWD 80.52 to establish when payment for compensation for permanent disability must begin in cases in which the self-insured employer or insurance company concedes liability but disputes the extent of permanent disability. Under this rule payment is to begin (1) within 30 days after the self-insured employer or insurance company receives a report that provides a permanent disability rating or (2) within 30 days after receiving a report from an examination performed under s. 102.13 (1) (a), Stats., in the amount of permanent disability found as a result of the examination. If no examination was previously performed, the self-insured employer or insurance company may give notice of a request for an examination within 30 days of receiving a report that establishes permanent disability. If the examining practitioner's report is not available within 90 days of the request for an examination, payment must begin by that date.

Uninsured employers fund. Section DWD 80.62 (7) (a) 3. is amended to allow the department to seek reimbursement from uninsured employers for payments made by the Uninsured Employers Fund for claims administration expenses.

Notice of cancellation or termination. The proposed rules amend s. DWD 80.65 to permit insurance companies to give notice of cancellation or termination of insurance policies to the Wisconsin Compensation Rating Bureau by facsimile machine transmission, electronic mail, or any electronic, magnetic, or other medium approved by the department. The current rule permits notice only by certified mail or personal service. The rule is amended to authorize notice by different means to comply with a recent amendment to s. 102.31 (2) (a), Stats.

Reasonableness of fee disputes. Section DWD 80.72 (3) (a) is amended to require self-insured employers and insurance companies to raise disputes over liability or the extent of disability of the underlying claim and give notice within 30 days after receiving a completed bill from a healthcare provider, unless there is good cause for the delay in providing this notice.

Necessity of treatment. Section DWD 80.73 (3) (a) is amended to require self-insured employers and insurance companies to raise disputes over liability or the extent of liability of the underlying claim and give notice within 60 days after receiving a bill from the healthcare provider, unless there is good cause for the delay in providing this notice.

Initial Regulatory Flexibility Analysis

The proposed rule changes may affect small business as defined in s. 227.114, Stats., but the changes would not have a significant economic impact.

Fiscal Impact

The proposed rule changes do not have a fiscal effect on state or local government.

Contact Information

The proposed rules are available on the DWD web site at <http://www.dwd.state.wi.us/dwd/hearings.htm>. A paper copy may be obtained at no charge by contacting:

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development

201 E. Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
elaine.pridgen@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than January 20, 2004, will be given the same consideration as testimony presented at the hearing.

Submittal of proposed rules to the legislature

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

**Elections Board
(CR 03–100)**

Ch. EIBd 2, relating to sufficiency of nomination papers and petitions.

**Natural Resources
(CR 03–074)**

Ch. NR 6, relating to waiver of the slow–no–wake restriction on Elkhorn Lake, Walworth County.

**Public Instruction
(CR 03–103)**

Ch. PI 25, relating to the children at risk program.

**Transportation
(CR 03–109)**

Ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Rule orders filed with the revisor of statutes bureau

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

Controlled Substances Board (CR 03-056)

An order affecting ch. CSB 2, relating to rescheduling buprenorphine from a schedule V controlled substance to a schedule III controlled substance under federal law.
Effective 2-1-04.

Controlled Substances Board (CR 03-057)

An order affecting ch. CSB 2, relating to the scheduling of a schedule III controlled substance under federal law.
Effective 2-1-04.

Employee Trust Funds (CR 03-062)

An order affecting ch. ETF 20, relating to the annuity dividend effective date
Effective 2-1-04.

Health and Family Services (CR 03-010)

An order affecting ch. HFS 39, relating to voluntarily relinquishing custody of a newborn who is 72 hours old or younger.
Effective 2-1-04.

Hearing and Speech Examining Board (CR 03-025)

An order affecting chs. HAS 1 to 6, relating to definitions, grounds for discipline and minor and technical changes.
Effective 2-1-04.

Public Service Commission (CR 03-003)

An order affecting chs. PSC 113 and 119, relating to interconnection of distributed generation to electric distribution systems.
Effective 2-1-04.

Transportation (CR 99-135)

An order affecting chs. Trans 138 and 139, relating to dealer facilities, records and licenses; and motor vehicle trade practices.
Effective 3-1-04.

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **December 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.

Athletic Trainers Affiliated Credentialing Board (CR 02-152)

An order affecting chs. AT 1, 3 and 4, relating to consulting physicians and changing "athletic trainer" with "licensee." Effective 1-1-04.

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 by Legislative Review Committees

No comments were received.

Commerce (CR 03-011)

An order affecting ch. Comm 48, relating to petroleum products. Effective 1-1-04.

Summary of Final Regulatory Flexibility Analysis

Sections 168.04, 168.07 (2) and 168.16 (4), Stats., authorize the Department to promulgate rules prescribing minimum product grade specifications for petroleum products that come into the state of Wisconsin. The proposed rules of Clearinghouse Rule No. 03-011 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments by Legislative Review Committees

No comments were received.

Dentistry Examining Board (CR 02-139)

An order affecting ch. DE 2, relating to faculty licenses. Effective 1-1-04.

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 by Legislative Review Committees

No comments were received.

Ethics Board (CR 03-061)

An order affecting ch. Eth 1, relating to the identification of a topic of a lobbying communication that relates to an attempt to influence administrative action. Effective 1-1-04.

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 by Legislative Review Committees

No comments were received.

Health and Family Services (CR 03-033)

An order affecting various chapters, making minor revisions to the department's body of administrative code. Effective 1-1-04.

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 by Legislative Review Committees

No comments were received.

Natural Resources (CR 02-145)

An order affecting ch. NR 520, relating to adjusting solid waste licensing and plan review fees. Effective 1-1-04.

Summary of Final Regulatory Flexibility Analysis

The department does not believe that the proposed revisions will have a significant economic impact on a substantial number of small businesses. In general, these revisions affect municipalities and larger businesses. The small businesses that would most likely be impacted by the fee increases would be solid waste collection and transportation facilities. The proposed 10% increase in annual license fees would apply to these businesses. These fees have not been raised for six years.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On September 16, 2003, the Assembly Committee on Natural Resources held a public hearing. On September 18, the Senate Committee on Environment and Natural Resources held a public hearing. No modifications were recommended to the department.

Natural Resources (CR 03-029)

An order affecting ch. NR 19, relating to wildlife rehabilitation licenses and activities. Effective 1-1-04.

Summary of Final Regulatory Flexibility Analysis

The revisions to chs. NR 12 and 19 pertain to rules relating to the rehabilitation of wildlife. These rules are applicable to individual persons and organizations and impose no compliance or reporting requirements for small businesses. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On September 16, 2003, the Assembly Committee on Natural Resources held a public hearing. No modifications were recommended to the department.

**Natural Resources
(CR 03-035)**

An order affecting ch. NR 45, relating to use regulations on department properties. Effective 1-1-04 and 3-1-04.

Summary of Final Regulatory Flexibility Analysis

A potential impact on small business will come with the creation of the department commercial use permit. This permit would allow the department to place reasonable restrictions on commercial activities on certain department properties and to collect fees when deemed appropriate. In many cases, commercial activities have a more consumptive impact on department lands than do individual users due to their more intensive use and regular scheduling.

Examples of businesses affected include commercial photographers, ski schools, climbing schools, horse trip guides and scuba diving schools. These groups will be subject to a \$30 annual commercial use permit.

Summary of Comments by Legislative Review Committees

The rule was referred to the Assembly Committee on Tourism and the Senate Committee on Environment and Natural Resources. On September 18, 2003, the Senate Committee on Environment and Natural Resources held a public hearing. No modifications were recommended to the department.

**Natural Resources
(CR 03-044)**

An order affecting ch. NR 64, relating to reimbursement of eligible expenses on all-terrain vehicle trails. Effective 1-1-04.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The rule was referred to the Assembly Committee on Tourism and the Senate Committee on Environment and Natural Resources. On September 18, 2003, the Senate Committee on Environment and Natural Resources held a public hearing. No modifications were recommended to the department.

**Natural Resources
(CR 03-049)**

An order affecting ch. NR 428, relating to the control of emissions of nitrogen oxides. Effective 1-1-04.

Summary of Final Regulatory Flexibility Analysis

Small businesses may be able to utilize more efficient and less costly options for providing energy at lower emission levels than was previously available.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On October 15, 2003, the Assembly Committee on Natural Resources held a public hearing. No modifications were recommended to the department.

**Transportation
(CR 03-059)**

An order affecting ch. Trans 327, relating to motor carrier safety requirements. Effective 1-4-04.

Summary of Final Regulatory Flexibility Analysis

This proposed rule will have minimal adverse impact on small businesses.

Summary of Comments by Legislative Review Committees

The Legislative Council report contained only one comment. Due to modifications made as a result of testimony at the hearing, the provision has been omitted from the rule as originally proposed.

**Transportation
(CR 03-060)**

An order affecting chs. Trans 325 and 326, relating to motor carrier safety regulations. Effective 1-4-04.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 03-022)**

An order affecting ch. DWD 40, relating to the child support guidelines. Effective 1-1-04.

Summary of Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis is not required because the rule does not affect small business as defined in s. 227.114, Stats.

Summary of Comments by Legislative Review Committees

On July 22, 2003, the Senate Committee on Health, Children, Families, Aging and Long Term Care requested that the department modify the proposed rule to provide for a realistic payment amount for low-income payers and review the high-income section of the proposed rule to determine if the level of support required is justified.

The proposed low-income section originally submitted to the legislature provided that when determining earning capacity the court may impute income that a person may earn by working 30 hours per week at the minimum wage if evidence is presented that the parent's ability to earn is limited because the parent has less than a high school education, has been employed less than 6 months in the past 12 months, and there is limited availability for work in or near the parent's community.

The department submitted a modification on August 28, 2003, that provides a schedule with reduced percentage rates

to be used to determine the child support obligation for payers with an income below approximately 125% of the federal poverty guidelines if the court determines that the payer's total economic circumstances limit his or her ability to pay support at the level determined using the full percentage rates. The modified rule also provides that when income is imputed based on earning capacity the court shall consider a parent's history of child care responsibilities as the parent with primary placement in addition to other factors.

The department reviewed the high-income provision and concluded that the proposed rule did accurately reflect research on the cost of raising children and no modification of the high-income provision was submitted. The Senate Committee did not object to the department's response.

On September 10, 2003, the Assembly Committee on Children and Families requested that the department consider the following issues:

- Reduction of high-income payer threshold.
- Mandatory application of the high-income formula.

- Appropriateness of application of new shared-placement provision to existing cases in which parents have substantially equal placement resulting in significantly higher support orders in some circumstances.

- Requiring courts to consider a parent's recent education, training and work experience and the parent's current physical and mental health, in addition to other factors, when imputing income based on earning capacity.

On September 23, 2003, the department submitted the following modifications:

- The threshold for application of the high-income payer formula was decreased from \$102,000 to \$84,000.

- In determining income imputed based on earning capacity, the court shall consider "recent work experience" and "current physical and mental health," in addition to other factors.

The department considered the other issues raised and no changes were made. The Assembly Committee did not object to the department's response.

Sections affected by rule revisions and corrections

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

Athletic Trainers Affiliated Credentialing Board

Ch. AT 1

S. AT 1.07

Ch. AT 3

S. AT 3.02

Ch. AT 4

S. AT 4.02 (4)

Commerce

Ch. Comm 48

S. Comm 48.02 (5)

SS. Comm 48.03 and 48.035

S. Comm 48.04 (1) (b), (e) and (2)

SS. Comm 48.05 and 48.06

S. Comm 48.07 (2) to (4)

S. Comm 48.08

S. Comm 48.09 (1) (a) and (3) (b)

S. Comm 48.10 (1) (a), (b) and (3)

S. Comm 48.11 (1) (b) to (d), (3)

Dentistry Examining Board

Ch. DE 2

S. DE 2.015

Ethics Board

Ch. Eth 1

SS. Eth 1.03 and 1.04

Health and Family Services

Ch. HFS 56

S. HFS 56.02 (2) (a)

Ch. HFS 83

S. HFS 83.05 (1) (c)

Ch. HFS 90

S. HFS 90.05 (4) (a) and (c)

S. HFS 90.06 (2) (m)

S. HFS 90.08 (3) (b)

S. HFS 90.10 (2) (b)

S. HFS 90.11 (1) (b), (3) (b), (6) (a)

S. HFS 90.12 (6) (e)

Ch. HFS 101

S. HFS 101.03 (49)

Ch. HFS 105

S. HFS 105.01 (3)

S. HFS 105.39 (4) (b)

S. HFS 105.41

S. HFS 105.52 (1) (L) and (2) (a)

S. HFS 105.53 (3) (a), (c) and (6) (b)

Ch. HFS 107

S. HFS 107.02 (2m) (a) and (c)

S. HFS 107.10 (1), (2) (a), (d), (3) (b) to (d), (h), (i), (4) (L) and (5) (a)

S. HFS 107.11 (6) (b)

S. HFS 107.12 (1) (e)

S. HFS 107.24 (2) (a), (3) (h) and (5) (j)

S. HFS 107.36 (1) and (2)

Ch. HFS 111

S. HFS 111.03 (36)

Ch. HFS 120

S. HFS 120.02

S. HFS 120.03 (7), (13), (20) and (34)

S. HFS 120.05 (2)

S. HFS 120.11 (3) (c), (d), (f), (4) (e)

S. HFS 120.12 (2) (b), (3) (b), (c), (5) (b), (5m) (a), (b), (6) (a) and (c)

S. HFS 120.13 (2) (a)

S. HFS 120.14 (1) (b), (c), (e)

S. HFS 120.20 (3) (b)

S. HFS 120.21 (1) (a)

S. HFS 120.22 (1) (a)

Ch. HFS 124

S. HFS 124.05 (3) (h)

Ch. HFS 132

S. HFS 132.42 (3) (a), (4)

S. HFS 132.44 (1) (b)

S. HFS 132.51 (2) (b)

S. HFS 132.52 (2) (c)

S. HFS 132.66 (1) (d)

Ch. HFS 133

S. HFS 133.03 (8) (b)

Ch. HFS 134

S. HFS 134.11

S. HFS 134.12 (1)

S. HFS 134.13 (7), (10) (a), (12), (13), (17) and (39) (intro.)

S. HFS 134.14 (1), (2) (a), (5m)

S. HFS 134.815 (1) and (2) (a)

Ch. HFS 144

S. HFS 144.03 (2) (b), (c) and (e)

Ch. HFS 145

S. HFS 145.05 (2) and (3)

Ch. HFS 155 (Entire chapter)**Natural Resources****Ch. NR 12**

S. NR 12.001 (5), (8)
 S. NR 12.10 (1) (a), (b), (2) (b)
 S. NR 12.15 (11) (c)
 SS. NR 12.30 to NR 12.41

Ch. NR 19

SS. NR 19.70 to NR 19.85

Ch. NR 45

S. NR 45.03 (2m), (9f), (9m), (15), (18m) and (26)
 S. NR 45.04 (1) (f), (2) (c), (3) (f), (n) and (p)
 S. NR 45.05 (4)
 S. NR 45.06 (1) and (6) (a)
 S. NR 45.09 (4)
 S. NR 45.10 (1) (k), (n) and (4) (am)
 S. NR 45.11 (6) (g)
 S. NR 45.12 (1) (a), (b) to (d), (2) (a) to (d), (3) (b) and (c), (4) (a) and (k)
 S. NR 45.13 (1) (d) and (2) (e), (2m), (17) (a), (b), (18), (24) to (26)

Ch. NR 64

S. NR 64.14 (2) (a) and (b)

Ch. NR 428

S. NR 428.02 (1)
 S. NR 428.04 (2) (g)
 S. NR 428.06 (2) (a)

Ch. NR 520

S. NR 520.04 (1) (d) and (5)
 S. NR 520.15 (3)

Transportation**Ch. Trans 325**

S. Trans 325.02 (intro.) and (8)

Ch. Trans 326

S. Trans 326.01 (intro.) and (8)

Ch. Trans 327

S. Trans 327.03
 S. Trans 327.09 (8) (intro.) and (b)

Workforce Development**Ch. DWD 40**

S. DWD 40.01 (3)
 S. DWD 40.02 (2) to (10), (13) to (20) and (22) to (31)
 S. DWD 40.03 (1) (intro.) and (2) to (11)
 S. DWD 40.04 (1) (b) and (2) to (5)
 S. DWD 40.05

Editorial corrections

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

Employment Relations**Ch. ER 1**

S. ER 1.02 (43)

Ch. ER 4

S. ER 4.02 (2)
 S. ER 4.03 (note)

Ch. ER 29

S. ER 29.03 (7) (f)

Ch. ER 46

S. ER 46.03 (2) (a) and (note)
 S. ER 46.07
 S. ER 46.08 (3)

Employment Relations—Merit Recruitment and Selection**Ch. ER—MRS 16**

S. ER—MRS 16.03 (3)

Ch. ER—MRS 30

S. ER—MRS 30.10 (2)

Health and Family Services**Ch. HFS 13**

S. HFS 13.03 (5) and (16)

Ch. HFS 56

S. 56.07 (4) (g)

Ch. HFS 83

S. HFS 83.03 (2) (e)

S. HFS 83.04 (15), (32) and (63)

S. HFS 83.41 (1) (d)

S. HFS 83.42 (15)

S. HFS 83.45 Table

S. HFS 83.51 (3) (b)

S. HFS 83.52 (2) (d)

S. HFS 83.53 (1) (a) to (c)

S. HFS 83.56 (1)

Ch. HFS 88

S. HFS 88.02 (4) (a)

Ch. HFS 94

S. 94.19 (1)

Ch. HFS 105

S. HFS 105.44

Ch. HFS 107

S. HFS 107.11 (6) (b)

S. HFS 107.12 (1) (b)

Ch. HFS 120

S. HFS 120.04 (2) (c)

Ch. HFS 131

S. HFS 131.53 (4) (a) and (b) and (19)

Ch. HFS 132

S. HFS 132.13 (17)

S. HFS 132.65 (6) (d)

S. HFS 132.812 (1)

Ch. HFS 134

S. HFS 134.15 (3) (c)

S. HFS 134.51 (1) (c)

S. HFS 134.812 (1)

S. NR 19.80 (2) and (6)
S. NR 19.84 (2) (b)

Natural Resources

Ch. NR 12

S. NR 12.001 (2) (a)
S. NR 12.16 (2) (a)
S. NR 12.31 (4) and (4e)
S. NR 12.35 (3)
S. NR 12.36 (3) (b)
S. NR 12.37 (6)
S. NR 12.41 (2) (b)

Ch. NR 19

S. NR 19.79 (3)
S. NR 19.795 (3) (b) and (3) (b)

Public Service Commission

Ch. PSC 136

S. PSC 136.04 (3) (h) and (4) (d)
S. PSC 136.05 (3) (d)
S. PSC 136.10

Transportation

Ch. Trans 327

S. Trans 327.07
S. Trans 327.09 (2) (intro.), (3) and (13) (a)

Errata

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

Health and Family Services

Ch. HFS 88

S. HFS 88.06 (1) (c) and (d)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 30. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for 2nd Lieutenant Jeremy L. Wolfe of the United States Army who lost his life during Operation Iraqi Freedom.

Executive Order 31. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Spc. Eugene A. Uhl III of the United States Army who lost his life during Operation Iraqi Freedom.

Executive Order 32. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Sergeant Warren S. Hansen of the United States Army who lost his life during Operation Iraqi Freedom.

Executive Order 33. Relating to a special election for the Seventeenth Assembly District.

Executive Order 34. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Firefighter Jeffrey Tiegs of the Amherst Fire District.

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