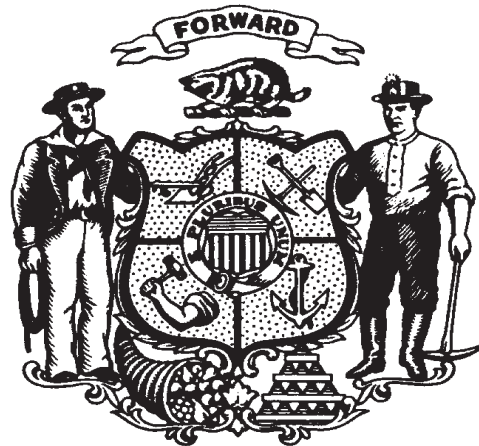


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Emergency Rules Now in Effect

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

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

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

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

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

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

Agriculture, Trade & Consumer Protection (2)

1. Rules adopted creating **ch. ATCP 112**, relating to credit report security freezes.

Finding of Emergency

(1) The Wisconsin department of agriculture, trade and consumer protection ("DATCP") will administer s. 100.54, Stats. as of January 1, 2007. DATCP is required under s. 100.54 (12), Stats. to adopt rules related to identification required of consumers requesting credit report security freezes.

(2) As of January 1, 2007, s. 100.54, Stats. will be in effect, however without an emergency rule the statute will be unclear regarding what constitutes proper identification for purposes of creating a security freeze, temporarily releasing a security freeze or permanently removing a security freeze from a consumer credit report.

(3) DATCP is adopting this emergency rule for the sole purpose of allowing consumers to clearly place a security freeze on their consumer credit report while the permanent rulemaking process is completed.

Publication Date: January 19, 2007
Effective Date: January 19, 2007
Expiration Date: June 18, 2007
Hearing Date: February 12, 2007

2. Rules adopted creating **s. ATCP 21.20**, relating to voluntary certification of firewood dealers.

Finding of Emergency

(1) The Wisconsin department of natural resources ("DNR") has adopted rules, under s. NR 45.04 (1) (g), to restrict the movement of firewood into Wisconsin state parks. The DNR rules are designed to prevent the spread of exotic pests, such as Emerald Ash Borer, that may inhabit firewood. The DNR rules prohibit the possession of firewood in a state park unless the firewood comes from within 50 miles from the park, or from a more distant source approved by the Department of Agriculture, Trade and Consumer Protection ("DATCP").

(2) The DNR rules effectively prohibit a firewood dealer located more than 50 miles from a state park from supplying firewood to that state park, except as authorized by DATCP. That prohibition may work a substantial hardship on firewood dealers who normally supply significant quantities of firewood to parks located more than 50 miles away.

(3) This rule creates a voluntary certification program for firewood dealers who obtain their wood from Wisconsin and agree to treat the wood for potential pests such as Emerald Ash Borer. Certified firewood dealers may supply firewood to Wisconsin state parks, even though they are located more than 50 miles from those parks.

(4) DATCP is adopting this rule as a temporary emergency rule, pending completion of "permanent" rulemaking proceedings. DATCP cannot complete permanent rules in time for the 2007 camping season. Without this emergency rule, certain firewood dealers may experience unnecessary financial hardship during the 2007 camping season, because they will be precluded from supplying firewood to state parks more than 50 miles away. This emergency rule allows those firewood dealers to continue supplying firewood to more distant state parks, subject to sourcing and treatment requirements that are reasonably designed to prevent the spread of serious exotic pests.

Publication Date: May 22, 2007
Effective Date: May 22, 2007
Expiration Date: September 19, 2007
Hearing Date: June 26, 2007

Commerce

(Licenses, Certifications, etc., Ch. Comm 5)

Rules adopted revising **ch. Comm 5**, relating to licensing of elevator contractors and installers.

Exemption From Finding of Emergency

Under the nonstatutory provisions of 2005 Wis. Act 456, the Department of Commerce was directed to issue emergency rules that implement provisions of the Act. The Act specifically states: "Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of commerce is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection."

The Act mandates the licensing of elevator contractors and installers. Under the Act no person may engage in the business of installing or servicing conveyances or working on

a conveyance unless licensed as of June 1, 2007. These emergency rules are being adopted in order to provide the elevator industry the ability to comply with licensing aspects of the Act and continue working until permanent rules are implemented.

Publication Date: June 1, 2007
Effective Date: June 1, 2007
Expiration Date: October 29, 2007
Hearing Date: June 27, 2007

Commerce (Financial Resources for Businesses and Communities, Chs. Comm 104–131)

Rules adopted creating **ch. Comm 135**, relating to tax credits and exemptions for internet equipment used in the broadband market.

Exemption From Finding of Emergency

These rules establish the criteria for administering a program that will (1) certify businesses as temporarily eligible for tax credits and exemptions for Internet equipment used in the broadband market, and (2) allocate up to \$7,500,000 to these businesses for these tax credits and exemptions.

Pursuant to section 227.24 of the statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper. In accordance with section 17 (1) (d) of 2005 Wisconsin Act 479, this rule will remain in effect until January 1, 2008, or until the Department reports its certifications and determinations under this rule to the Department of Revenue, whichever is sooner.

The rules specify who is eligible for the income and franchise tax credits and the sales and use tax exemptions in this program, for Internet equipment used in the broadband market. Eligible equipment is also specified, along with how to apply for the certifications and allocations. Parameters for allocating the authorized total of \$7,500,000 are likewise specified. These parameters emphasize (1) efficiently initiating broadband Internet service in areas of Wisconsin that otherwise are not expected to soon receive this service, and (2) encouraging economic or community development. The rule chapter also describes the time-specific legislative oversight that is established in 2005 Act 479 for these allocations, and describes the follow-up reports that the Act requires from every person who receives a sales or use tax exemption under this chapter.

Publication Date: February 20, 2007
Effective Date: February 20, 2007
Expiration Date: See section 17 (1) (d) 2005
 Wis. Act 479
Hearing Date: March 26, 2007

Elections Board

Rules adopted creating **s. ElBd 3.50**, relating to pricing of voter information available from the Statewide Voter Registration System.

Exemption From Finding of Emergency

The Elections Board finds that under Section 180 of the non-statutory provisions of 2005 Wisconsin Act 451, in

subsection (4), the Elections Board may promulgate emergency rules under s. 227.24, Stats., implementing s. 6.36 (6), Stats., as created by Wisconsin Act 451. Notwithstanding s. 227.24 (1) (c) and (2), Stats., emergency rules promulgated under subsection (4) remain in effect until the date on which permanent rules take effect. Notwithstanding s. 227.24 (1) (a) and (3), Stats., the Elections Board is not required to provide evidence that promulgating a rule under subsection (4) as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under subsection (4).

This amended rule interprets ss. 5.02 (14) and (17), 6.27, 6.275, 6.29, 6.33, 6.34, 6.35, 6.36, 6.40, 6.45, 6.46, 6.48, 6.50, 6.54, 6.55, 6.56, and 6.57, Stats. The rule requires that persons who request copies of information from the Statewide Voter registration System must pay, for each such copy, a charge calculated under the provisions of the rule.

At the present time, the Elections Board is limited, in the fee that it can charge for information provided by the Statewide Voter registration System, to the fee set by s. 19.35 (3), Stats.: “the actual, necessary, and direct cost of reproduction and transcription of the record.” In order to recover both the cost of reproduction and the cost of maintaining the list at the state and local level, rather than having its charge be limited to the amount currently provided under the public records law, the Board needs an immediate rule reflecting both cost components required by the new statute.

Publication Date: May 12, 2007
Effective Date: May 12, 2007
Expiration Date: See section 180 (4), 2005
 Wis. Act 451
Hearing Date: June 11, 2007

Health and Family Services (Community Services, Chs. HFS 30—)

Rules adopted revising **ch. HFS 51**, relating to the adoption of children to include preadoption training requirements that will apply to private adoptions, international adoption, and adoptions of children with special needs and affecting small businesses.

Finding of Emergency

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

On April 10, 2006, the Wisconsin State Legislature enacted 2005 Wisconsin Act 293, which amended s. 48.84, Stats., to require first-time adoptive parents to receive preadoption training before a child may be placed for adoption by a court pursuant to s. 48.833, Stats., or before a prospective adoptive parent may petition for placement of a child for adoption under s. 48.837, Stats., or before a proposed adoptive parent may bring a child into Wisconsin for an international adoption under s. 48.839, Stats. The Act further requires the Department to promulgate rules that establish the number of hours and topics covered in the training of first-time adoptive parents. The training must cover issues that may confront adoptive parents in general and that may confront adoptive parents of special needs or international children.

The Act requires the rules to be effective April 1, 2007. Because the rules apply not only to the Department which administers the special needs adoption program with the

assistance of private agencies under contract with the Department, and with the cooperation of county human and social service agencies, but also to private agencies that handle domestic adoptions and international adoptions, the Department has invested a significant amount of time gathering information from agencies regarding what training is currently provided to preadoptive parents. The Department conducted written and follow-up telephone surveys with private agencies to determine what content was currently being taught, and the format used for training. The Department's Adoption Services Committee met over several months to determine the curriculum for special needs adoption, the competencies that would be required for all training programs, the number of hours and the documentation that would be required in the training. In addition, the Department reviewed the proposed Hague Convention (federal) training requirements for proposed adoptive parents of international children to assure that Wisconsin's training requirements for first-time pre-adoptive parents would meet or exceed those requirements.

As a result of this extensive collaboration with stakeholders, development of the proposed training requirements has been unusually long and now requires the training requirements to be implemented as an emergency rule in order to meet the legislated date of April 1, 2007, the date adoptive parents must begin receiving preadoptive training.

This emergency rules are substantially similar to the proposed permanent rules except in the hours of training required. Under the emergency order, adoption agencies are required to provide adoptive parents with 2 hours of orientation and 10 hours of training. The proposed permanent rule requires adoption agencies to provide 2 hours of orientation and 16 hours of training. Stakeholder agencies have indicated that the additional 5 months under the emergency rule will allow them to prepare all proposed adoptive parents to meet the orientation and training requirements under the proposed permanent rules.

Publication Date: March 31, 2007
Effective Date: April 1, 2007
Expiration Date: August 29, 2007
Hearing Date: April 27, 2007

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

Rules adopted revising **ch. HFS 107**, relating to benefits covered by the Wisconsin Medical Assistance program, and affecting small businesses.

Finding of Emergency

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

A recent revision to s. HFS 107.07 (2), the prior authorization subsection of the dental services section of the Medicaid Administrative Code, caused a result which was not intended by the Department. To correct this error, the Department is promulgating rules to clarify that the Department's intent is to require prior authorization for orthodontia and other services provided under early and periodic screening, diagnosis and treatment (EPSDT)

services. The medical necessity of these services is determined by the Department based on information submitted by the provider. Thus, it is necessary to require prior authorization to determine the appropriateness of providing these services to an individual recipient.

In the previous rulemaking (Clearinghouse Rule 05-033) the prior authorization requirement was removed for most procedures that had high rates of approval (greater than 75%). The change was intended to reduce the staff time required for dental offices to process prior authorization requests. The Department did not intend to remove the requirement for prior authorization for orthodontia and other services. The Department specifically stated, in Clearinghouse Rule 05-033, that "Procedures where appropriate pricing requires a high degree of clinical knowledge (e.g., orthodontics and TMJ surgery), and procedures with strict time limitations (e.g., dentures) are also proposed to retain prior authorization."

The language that was adopted, however, has been interpreted by at least one dentist to mean that prior authorization is no longer required to provide orthodontia to recipients. This interpretation was upheld by an administrative law judge in an administrative hearing. The Department believes that the interpretation of the administrative law judge could open up the Department to being required to pay for procedures that are purely cosmetic. Because the intent of the Department and the language adopted, as recently interpreted, had opposite effects, the Department is promulgating rules to revise section s. HFS 107.07 to clarify the intent of the rule.

A basic concept of the Medicaid program is that services must be medically necessary to be reimbursable. Allowing the existing rule language to remain in its present form could require reimbursement for orthodontia that is not medically justified.

Publication Date: April 30, 2007
Effective Date: April 30, 2007
Expiration Date: September 27, 2007

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

1. Rules adopted amending **s. NR 1.21** and creating **s. NR 1.26**, relating to contracting for timber sale establishment services on state land.

Exemption From Finding of Emergency

As provided in section 13 of 2005 Wis. Act 166, "Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide a finding of emergency for a rule promulgated under this subsection."

Section 1 of the proposed rule distinguishes between timber sales related tasks that can be contracted and functions that Department staff must perform to protect the resource and assure compliance with regulations and property master plans. The purpose is to divide technical activities that are appropriate for contracting from administration of finance, policy and compliance issues. The rule defines bidding and payment procedures for the contracted services, including prequalification of bidders based on experience with timber sales and related forest inventory work. Section 2 makes technical corrections in the definition of educational requirements for cooperating foresters. The change would make educational requirements for cooperating foresters and department foresters identical, including the allowance of

training equivalent to that obtained at a college accredited by the Society of American Foresters.

Publication Date: February 6, 2007
Effective Date: February 6, 2007
Expiration Date: July 6, 2007
Hearing Date: March 21, 2007

2. Rules adopted creating **s. NR 45.075**, relating to declaring natural emergencies on forested lands owned by the state and under the jurisdiction of the department.

Exemption From Finding of Emergency

As provided in section 13 of 2005 Wis. Act 166, notwithstanding s. 227.24, Stats., the Department is not required to provide a finding of emergency for this rule and the emergency rule will remain in effect until a permanent rule is promulgated.

Rule FR-11-07(E) specifies those emergencies on forested land under the jurisdiction of the department over which the chief state forester shall have management authority. This rule describes causes of unforeseen damage or threat of damage to trees that could lead the chief state forester to declare an emergency and assume management authority. Included in the list of damaging agents that could lead to the declaration of an emergency are those required by the legislature: invasive species, pest infestation, disease, and damage to timber from fire, snow, hail, ice, or wind. The rule states that when declaring and responding to an emergency, the chief state forester shall consider the purpose of and management plan for the affected property in his or her decisions. This rule, however, would allow the chief state forester to take actions not described in the management plan for a property if that were the most appropriate response to the emergency. Finally, this rule describes the processes by which the declaration of the state of emergency shall be made effective, canceled or modified.

Publication Date: February 6, 2007
Effective Date: February 6, 2007
Expiration Date: July 6, 2007
Hearing Date: March 21, 2007

3. Rules adopted revising **chs. NR 19 and 20**, relating to the control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a "notifiable" disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where

infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

Publication Date: April 8, 2007
Effective Date: April 8, 2007
Expiration Date: September 5, 2007
Hearing Date: May 3, 10 and 17, 2007

4. Rules adopted revising **chs. NR 19 and 20**, relating to the control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a "notifiable" disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

This emergency rule clarifies and expands the emergency rules put into effect on April 8, 2007.

Publication Date: May 2, 2007
Effective Date: May 2, 2007
Expiration Date: September 5, 2007
Hearing Date: June 11, 2007

5. Rules adopted revising emergency rules affecting **chs. NR 19 and 20** relating to control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a "notifiable" disease, meaning that outbreaks must be reported immediately. On May 11, the Department received notice that freshwater drum collected from Little Lake Butte des Morts were infected with the VHS virus. Earlier VHS had been discovered in the Great Lakes, and was known to be moving from the lower lakes (Ontario and Erie), where it has already caused large-scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish disease to reach the Mississippi drainage basin. Twenty-seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS,

including most of our most important recreational and commercial species. The VHS virus can be transported from infected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in Wisconsin is therefore a threat to the public health or safety or to the environment.

Publication Date: May 27, 2007
Effective Date: May 27, 2007
Expiration Date: September 5, 2007
Hearing Date: July 11, 2007
 [See Notice this Register]

Natural Resources (Environmental Protection – Water Regulation, Chs. NR 300–)

Rules adopted revising **ch. NR 345**, relating to general permits for dredging in Great Lakes navigable waterways.

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 Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken under a general permit. There are no statutory general permits for dredging, including operation of a motor vehicle, on the beds of the Great Lakes to remove algae, mussels, dead fish and similar large plant and animal nuisance deposits. Without emergency rules to create general permits, all dredging, including operation of a motor vehicle, on the beds of the Great Lakes to remove plant and animal nuisance deposits require an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2007 summer season, with specific standards for operation of a motor vehicle, on the beds of the Great Lakes to remove plant and animal nuisance deposits.

Publication Date: June 10, 2007
Effective Date: June 10, 2007
Expiration Date: November 7, 2007
Hearing Date: July 10, 2007
 [See Notice this Register]

Workforce Development (2) (Workforce Solutions, Chs. DWD 11 to 59)

1. Rules adopted revising **s. DWD 56.06**, relating to child care rates and affecting small businesses.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The child care subsidy budget estimates that the child care subsidy program will have a tight budget by the end of fiscal year 06–07. This is due to flat federal funding, rising caseload, and increased provider costs. To begin to address the tight budget, the Department will not increase the child care subsidy maximum rates for 2007. This emergency rule will maintain the maximum rates at 2006 levels.

Publication Date: January 22, 2007
Effective Date: January 22, 2007
Expiration Date: June 21, 2007
Hearing Date: May 7, 2007

2. Rules adopted revising **ch. DWD 56**, relating to child care enrollment underutilization.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The child care subsidy budget is expected to have a substantial deficit by the end of state fiscal year 2006–07. While many factors will have an impact on the program's final fiscal balance, current spending patterns at current rates suggest that the program will exceed its 06–07 budget authorization by approximately \$46 million. This rule will provide for more efficient use of the program's limited funding.

Publication Date: April 1, 2007
Effective Date: April 1, 2007
Expiration Date: August 29, 2007

Scope Statements

Commerce

Subject

Relating to grants for rehabilitation and recycling of manufactured housing.

Description of the objective of the rule.

These rules would establish a grant program for rehabilitation and recycling of manufactured housing, as directed by SECTION 75 of 2005 Wisconsin Act 45.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

The Department does not have any existing policies for grants for rehabilitation and recycling of manufactured housing.

These rules are expected to address (1) contracting with one or more entities which are exempt from taxation under section 501 (a) of the Internal Revenue Code and which employ individuals with technical expertise concerning manufactured housing, for the administration of the grant program; (2) awarding grants to persons engaged in the disposal of abandoned manufactured homes and to municipalities, for the purpose of supporting environmentally sound disposal practices; (3) awarding grants to individuals who reside in manufactured homes that are in need of critical repairs, and who are otherwise unable to finance the critical repairs; (4) coordinating this grant program with the state housing strategy plan under section 560.9802 of the Statutes; and (5) any other administrative features that are needed to effectively implement and manage the grant program.

The only policy alternative would be to not promulgate the rules, which would conflict with the directive in 2005 Act 45.

Statutory authority for the rule.

Section 560.285 (3), as created by 2005 Wisconsin Act 45, and section 227.11 (2) (a).

Estimate of Time Needed to Develop the Rule

The staff time needed to develop the rules is expected to range from 100 to 300 hours, depending upon the associated complexity. This includes research, rule drafting, and processing the rules through public hearings, legislative review, and adoption. There are no other resources necessary to promulgate the rules.

Description of all of the entities that will be affected by the rule.

These rules may affect entities that desire financial assistance for rehabilitation or recycling of manufactured housing, and entities that may be interested in administering this grant program.

Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

An Internet-based search for “grants for manufactured housing” in the *Code of Federal Regulations* revealed regulations for rental rehabilitation grants in 24 CFR 511. These grants can be used for rehabilitation of manufactured

rental housing units that are on a permanent foundation, have permanent utility hook-ups, are designed for use as a permanent residence, and meet the Section 8 housing quality standards for manufactured homes in 24 CFR 882.109 (o). No other existing federal regulations for grant programs for rehabilitation or recycling of manufactured housing were revealed.

An Internet-based search for “grants for manufactured housing” in the 2006 and 2007 volumes of the *Federal Register* did not identify any proposed federal regulation that addresses rehabilitation or recycling of manufactured housing.

Marriage and Family Therapy, Professional Counseling and Social Work Examining Board

Subject

This rule amendment affects the internship requirements as provided in Wis. Admin. Code s. MPSW 3.13 (3) (a). It also affects the application requirements for clinical social work licensure specifically related to obtaining 3,000 hours of supervised clinical social work practice as provided in s. MPSW 3.09 (3).

Policy Issues

Objective of the Rule

Proposed amendment to s. MPSW 3.13:

Section MPSW 3.13 (3) (a) specifies that a person preparing to qualify for degree equivalency in social work with an internship must either submit an internship which was part of his or her degree program or one that was completed while holding the training certificate. Currently, this provision does not require that the internship be affiliated with a college or university. This amendment would clarify that the human services internship was either completed as a part of a person's degree program or will be completed through an educational institution. In order to provide a meaningful internship, the Social Worker Section believes that educational institutions will appropriately place and supervise students to ensure that they undergo a legitimate social work training in preparation for obtaining their credential.

Proposed amendment to s. MPSW 3.09:

Section MPSW 3.09 (3) specifies that a person applying for clinical social work licensure must submit evidence of 3,000 hours of supervised clinical social work practice completed after receiving certification as an advanced practice social worker or independent social worker. Because the rules require that applicants must have achieved their 3,000 hours of supervised practice while holding a Wisconsin credential, the Section may not consider the supervised hours of those applicants who obtained them out-of-state and without a Wisconsin credential. The Section has determined that due to increased mobility, the rules should be amended to give the Section increased flexibility in considering clinical hours gained out-of-state if those hours are substantially equivalent to the clinical social work practice hours gained in state.

Statutory Authority

Sections 15.08 (5) (b) & (6), 227.11 (2) and 457.03 (3), Stats.

Existing or Proposed Federal Legislation

None.

Entities Affected by the Rule

Those applicants applying for certification through social worker degree equivalency. Applicants who have gained their supervised clinical social work experience out-of-state who apply for Wisconsin clinical social work licensure through examination.

Estimate of Time Needed to Develop the Rule

120 hours

Natural Resources**Subject**

Relating to Revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning Operations and Revisions to the NESHAP General Provisions

Objective of the Proposed Rule

This action will amend chs. NR 460 and 469 to incorporate federal amendments to the national emission standards for hazardous air pollutants (NESHAP) for halogenated solvent cleaning operations and the NESHAP general provisions into the Wisconsin Administrative Code. Other chapters may be amended, if germane and appropriate, to accomplish the actions described above.

Relevant Existing and New Policies and Analysis of Policy Alternatives

The USEPA published amendments to the NESHAP general provisions on April 20, 2006 (71 FR 20446) and on May 16, 2007 (72 FR 27437) and amendments to the NESHAP for halogenated solvent cleaning operations on May 3, 2007 (72 FR 25138). The proposed rules will incorporate all of these federal amendments into the Wisconsin Administrative Code. Since the amended regulations are already in effect at the national level, there are no policy issues to be resolved.

Section 285.27 (2), Stats., requires the Department to promulgate NESHAP by rule.

Statutory Authority

Sections 285.11(1), 285.27(2), and 227.11(2)(a), Stats.

Estimate of Time Needed to Develop the Rule

About 200 hours of Department staff time will be needed to amend these rules.

Description of All Entities Affected by the Rule

The amendments to the halogenated solvent cleaning rule (NR 469) could affect up to 42 facilities in Wisconsin. The amendments to the general provisions (NR 460) could affect hundreds of facilities statewide which are major sources of hazardous air pollutants. Both sets of amendments are designed to make compliance easier for affected facilities.

Summary and Preliminary Comparison With Existing or Proposed Federal Regulations

The federal amendments have already been incorporated into the federal rules. This action will incorporate the federal amendments into the state rules, which will make the state rules identical to the federal rules except for minor changes to

the federal language to accommodate state administrative rule language requirements and to improve clarity.

Contact Person

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Natural Resources**Subject**

Relating to chs. NR 809 and 811 and creating ch. NR 810 Federal groundwater rule affecting public drinking water systems.

Subject/Objective of the Proposed Rule

On November 8, 2006 the Environmental Protection Agency (EPA) published the Groundwater Rule (GWR); these changes impact all public drinking water systems (PWS) using groundwater as their water source. The rule addresses risks associated with viruses in drinking water systems that are supplied by groundwater. The rule's approach relies on four major components:

1. Sanitary surveys (inspections) of ground water systems that include the evaluation of eight required elements and the identification of significant deficiencies.

2. Source water monitoring to test for the presence of a fecal contamination indicator in the sample. There are two monitoring provisions:

- Triggered monitoring for water systems that have a total coliform-positive routine distribution system sample under Total Coliform Rule sampling and do not have treatment that provides at least 99.99 percent (4-log) inactivation or removal of viruses.

- Assessment monitoring – States have the option to require water systems, at any time, to conduct source water assessment monitoring to help identify high risk water systems.

3. Corrective actions for any water system with a significant deficiency or source water fecal contamination indicator. The water system must implement one or more of the following actions:

- correct all significant deficiencies,
- eliminate the source of contamination,
- provide an alternate source of water, or
- provide treatment which reliably achieves 99.99 percent (4-log) inactivation or removal of viruses.

4. Compliance monitoring to ensure that any treatment technology installed to treat drinking water reliably achieves at least 99.99 percent (4-log) inactivation or removal of viruses.

The GWR will require the addition of water treatment design, construction, and operation to ch. NR 811-Requirements for the Operation and Design of Community Water. These updates will include the standards needed to approve treatment system design and construction for community water systems to provide 4-log inactivation or removal of viruses for public water systems using

groundwater as their water source. The applicability of treatment and operational requirements under the GWR is required of all public water systems, including non-community public water systems; requiring that either an additional administrative code be written to deal with the operational and treatment monitoring requirements for non-community systems or that operation and monitoring of all treatment systems be split out in to a separate administrative code and cover all PWS.

Description of Policy Issues/Analysis of Policy Alternatives

To maintain primacy, Wisconsin must adopt all federal requirements under the Safe Drinking Water Act (SDWA) or have requirements that are equal to or more stringent than the SDWA. The EPA has provided the states with a choice of which fecal indicator can be used for compliance monitoring under the GWR (chosen from the following: *E. coli*, enterococci, or coliphage). The GWR provides the states with the option of requiring additional source water monitoring or targeting high risk systems for additional source water monitoring. Additionally, the treatment criteria for providing 4 log inactivation/removal of viruses are to be established by the states, with help provided by EPA in the form of guidance manuals.

In order to encompass operation and monitoring of treatment processes required under the GWR, for all public water systems, the Department proposes to restructure chs. NR 809 and NR 811 and create ch. NR 810.

- Ch. NR 809 – would be restructured to include only compliance monitoring requirements of the SDWA.
- Ch. NR 811– would be restructured to include only design and construction requirements for community water systems.
- Ch. NR 810 would be created to include the requirements for the operation and maintenance of all public water systems including the daily operation of water production, treatment and distribution.

Restructuring of the administrative codes will also allow corrections and updates that need to be added to ch. NR 811. By creating separate administrative codes for design/construction of community water systems and operation/maintenance of all public water systems the requirements will be less cumbersome and more straightforward to use.

The Department proposes to conduct a meeting for stakeholders to discuss the various options available for both the GWR and administrative code restructuring. Small work groups will be formed on issues identified at the stakeholder meeting as needing input.

Statutory Authority

Sections 280.11 and 281.17(8) Stats and the Department's primacy agreement with EPA require the Department to adopt rules at least as stringent as the federal regulations.

Estimate of Time Needed to Develop the Rule

2000 hours

Summary and Comparison With Existing or Proposed Federal Regulations

This rule change will allow the Department regulations to remain as stringent as the EPA regulations so that the Department will maintain primacy ("primary enforcement authority") for the affected regulation. States with primacy are eligible for federal funding from EPA. Failure to adopt these federal drinking water regulations into state regulation

could result in a decrease or withdrawal of federal funding to Wisconsin's Drinking Water State Revolving Loan Fund. There are no comparable federal standards on the design, construction, operation and maintenance of public water systems.

Contact Person

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Regulation and Licensing

Subject

Revisions to administrative rules relating to the regulation of licensed and certified real estate appraisers (chs. RL 80-87).

Policy Issues

Objective of the Rule

To clarify and update the administrative rules relating to the regulation of licensed and certified real estate appraisers. Recommended changes relate to:

Revisions to the application, examination, experience, qualifying education, continuing education and renewal requirements for licensed and certified real estate appraisers to reflect changes made to the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

Revisions to the experience audit requirements for licensed and certified real estate appraisers to reflect the changes to Statement 10 of the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* proposed by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Revisions relating to unprofessional conduct.

Clarity, grammar, punctuation, and use of plain language.

Existing Policies Relevant to the Rules, New Policies Proposed and Analysis of Policy Alternatives

Existing policies are contained in Chapters RL 80-87 and Appendix I, Wis. Admin. Code. The proposal would revise:

Definitions; application, examination, experience, qualifying education, continuing education and renewal requirements; rules of unprofessional conduct; and minor, technical and grammatical changes.

Statutory Authority

Sections 227.11 (2), 458.03 (1) (b), 458.06, 458.08 and 458.085, Stats.

Existing or Proposed Federal Legislation

(A) Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")

(1) In General

The Federal Institutions Reform, Recovery, and Enforcement Act ("FIRREA"), 12 U.S.C. 3331 et seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with "federally related transactions."

Under FIRREA, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council is required to monitor state appraiser certifying and licensing

agencies for the purpose of determining whether a state agency's policies, practices, and procedures are consistent with the federal law. The Appraisal Subcommittee may not recognize appraiser certifications and licenses from states whose appraisal policies, practices, or procedures are found to be inconsistent with FIRREA. Before refusing to recognize a state's appraiser certifications or licenses, the Appraisal Subcommittee must provide that state's certifying and licensing agency with a written notice of its intention not to recognize the state's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal. A decision of the Subcommittee to refuse to recognize a state's appraiser certifications or licenses is subject to judicial review. 12 U.S.C. 3331 et seq.

In 1997, the Appraisal Subcommittee adopted the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers*, which all states must comply with [The Appraisal Subcommittee's Policy Statements are available at <http://www.asc.gov>.]

(2) Appraiser Qualifications

Under FRREA, the state criteria for the qualifications of certified real estate appraisers must meet the minimum qualifications criteria for certification established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The minimum qualifications criteria established by the AQB are set forth in the *Real Property Appraiser Qualification Criteria and Interpretations of the Criteria* ("Criteria"). The AQB Criteria includes the minimum experience, examination, qualifying education and continuing education requirements that must be satisfied by an individual in order to obtain and maintain a certified appraiser credential. [The AQB Criteria is available on the Internet at: <http://www.appraisalfoundation.org>.]

Under FIRREA, the states may establish their own qualifications and requirements for licensed appraiser credentials. The states are not obligated to adopt the minimum experience, examination, education and continuing education requirements recommended by the AQB for the licensure of real estate appraisers. However, the Appraisal Subcommittee recommends that all states adopt the AQB Criteria established for the licensure of real estate appraisers.

Entities Affected by the Rule

Licensed and certified real estate appraisers, lenders, and owners of real estate.

Estimate of Time Needed to Develop the Rule

300 hours

Regulation and Licensing

Subject

Revisions to administrative rules relating to the regulation of licensed and certified appraisers (ch. RL 87, Appendix I).

Policy Issues

Objective of the Rule

The proposed rule will repeal and recreate ch. RL 87, Appendix I, to incorporate by reference the revisions to the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) that is published by the Appraisal Standards Board (ASB) of the Appraisal Foundation.

Existing Policies Relevant to the Rules, New Policies Proposed and Analysis of Policy Alternatives

Under s. RL 86.01 (2), all appraisals performed by licensed and certified appraisers must conform to the Uniform Standards of Professional Appraisal Practice that is in effect at the time the appraisals are prepared. These rules will incorporate, by reference, the most up-to-date version of USPAP.

Statutory Authority

The Department of Regulation and Licensing has the statutory authority under ss. 227.11 (2) and 458.24, Stats., to promulgate rules to reflect revisions to the Uniform Standards of Professional Appraisal Practice.

Existing or Proposed Federal Legislation

The Federal Institutions Reform, Recovery, and Enforcement Act ("FIRREA"), 12 U.S.C. 3331 et seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with "federally related transactions."

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is authorized under FIRREA to monitor the requirements established by states for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions. *12 USC 3333; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers*.

Under FIRREA, real estate appraisals performed in connection with federally related transaction are required to be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation. *21 USC 3339; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers, Statement 3*.

The appraisal standards promulgated by the ASB are contained in the Uniform Standards of Professional Appraisal Practice (USPAP) and is available on the Appraisal Foundation's website at: <http://www.appraisalfoundation.org>.

Entities Affected by the Rule

Licensed and certified appraisers, lenders, and owners of real estate.

Estimate of Time Needed to Develop the Rule

100 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 & Consumer Protection

On June 12, 2007 the Wisconsin Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends chs. ATCP 10 and 12, relating to animal health fees.

Agency Procedure for Promulgation

The department will hold public hearings on this rule after the Rules Clearinghouse completes its review. The department's Agricultural Resource Management Division is primarily responsible for this rule.

Contact Information

Anna Oehler
(608) 224-4875

Commerce

On June 15, 2007 the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Comm 133, relating to film production accreditation program.

Agency Procedure for Promulgation

The Business Development Division is responsible for promulgation of the rule. A public hearing is required.

Contact Information

Sam Rockweiler
Code Development Consultant
(608) 266-0797
srockweiler@commerce.state.wi.us

Employee Trust Funds

On June 14, 2007 the Department of Employee Trust Funds submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule repeals ss. ETF 20.14, 20.15, 20.16 and 20.18, amends ss. ETF 10.01 (7), 20.19 (2) (a), (b) (d), and (dm), 20.35 (3) (d) 2. and 50.50 (2) (b), repeals and recreates s. ETF 29.19 (2) (c) and creates s. ETF 20.17 regarding the purchase of retirement credit for service.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 12, 2007, at 9:00 AM in the downstairs Conference Room GB

at the offices of the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin.

The Department's Chief Council is primarily responsible for the promulgation of this rule, with assistance from the Division of Retirement Services and Division of Trust Finances and Employer Services.

Contact Information

Robert Weber, Chief Counsel
(608) 266-5804

Health and Family Services

On June 12, 2007 the Wisconsin Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. HFS 133, relating to Home Health Agencies.

Agency Procedure for Promulgation

A public hearing is required; however, a public hearing has not yet been scheduled for this proposed rule.

Contact Information

For substantive questions on rules, contact:

Pat Benesh
Division of Quality Assurance
1 West Wilson St., Room 1150
Madison, WI 53701
Phone: (608) 264-9896
Fax: (608) 267-7119
benespa@dhfs.state.wi.us

For small business considerations, contact:

Rosie Greer
(608) 266-1279
greerrj@dhfs.state.wi.us

For rules processing information, contact:

Rosie Greer
(608) 266-1279
greerrj@dhfs.state.wi.us

Natural Resources

On May 31, 2007, the Wisconsin Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 8, relating to Wildlife Violators Compact.

Agency Procedure for Promulgation

A public hearing has been scheduled for July 26, 2007.

Contact Information

Tom Van Haren
Bureau of Law Enforcement
(608) 266-3244

Natural Resources

On May 31, 2007 the Wisconsin Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. NR 10, relating to the 2007 Migratory game bird season.

Agency Procedure for Promulgation

Public hearings have been scheduled for August 6, 7, 8 and 9, 2007.

Contact Information

Kim Benton
Bureau of Wildlife Management
(608) 261-6458

Public Instruction

On June 4, 2007, the Wisconsin Department of Public Instruction submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. PI 8.01 (2) (t)2., relating to the identification of gifted and talented pupils.

Agency Procedure for Promulgation

Public hearings will be scheduled. The Division of Academic Excellence is primarily responsible for promulgation of this rule.

Contact Information

Chrystyna Mursky
Gifted and Talented Coordinator
(608) 267-9273

Public Instruction

On June 4, 2007, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. PI 11.36, relating to identification of children with specific learning disabilities and significant developmental delays.

Agency Procedure for Promulgation

Public hearings will be scheduled. The Division for Learning Support: Equity and Advocacy is primarily responsible for promulgation of this rule.

Contact Information

Stephanie Petska, Director
Special Education
(608) 266-1781

Rule-Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

(Reprinted from June 15, 2007 Wisconsin Administrative Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on its emergency rule, s. ATCP 21.20, Wis. Adm. Code, relating to voluntary certification of firewood dealers.

DATCP will hold one public hearing at the time and place shown below. DATCP invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until Tuesday, July 9, 2007 for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, to Robert.dahl@datcp.state.wi.us or at <https://apps4.dhfs.state.wi.us/admrules/public/home>.

You may obtain a free copy of this emergency rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4573 or emailing robert.dahl@datcp.state.wi.us. Copies will also be available at the hearing. To view the emergency rule online, go to:

<https://apps4.dhfs.state.wi.us/admrules/public/Home>.

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator, Keeley Moll, at the address above, by emailing to Keeley.Moll@datcp.state.wi.us or by telephone at (608) 224-5039.

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by June 25, 2007, by writing to Deb Bollig, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4584. Alternatively, you may contact the DATCP TDD at (608) 224-5058. The hearing facility is handicap accessible.

Hearing Date and Location

Tuesday, June 26, 2007

1:00 p.m. to 3:00 p.m.

Dept. of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive, Board Room (CR-106)

Madison, Wisconsin, 53718-6777

Analysis Prepared by Dept. of Agriculture, Trade and Consumer Protection

This emergency rule creates a voluntary certification program for firewood dealers. Under this rule, the Department of Agriculture, Trade and Consumer Protection ("DATCP") may certify firewood dealers who agree to treat firewood according to rule standards to eliminate potential infestations of Emerald Ash Borer and other pests. A firewood dealer is not required to be certified under this rule in order to sell firewood in this state.

DATCP is adopting this temporary emergency rule pending the adoption of "permanent" rules on the same subject. This emergency rule will take effect immediately upon publication in the official state newspaper, and will remain in effect for 150 days. The Legislature's Joint Committee for Review of Administrative Rules may extend the emergency rule for up to 120 additional days.

Statutory Authority: ss. 93.06 (1p), 93.07 (1), 93.07 (12) and 94.01 Stats.

Statutes Interpreted: ss. 93.06 (1p), 93.07(12) and 94.01, Stats.

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") has broad general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction. DATCP has broad general authority, under ss. 93.06(1p), 93.07(12) and 94.01, Stats., to adopt regulations to prevent and control plant pest infestations. The voluntary certification program created by this rule is part of an overall state strategy to prevent and control plant pest infestations, including Emerald Ash Borer infestations.

Background. Emerald Ash Borer and other major pests are carried by firewood. The Wisconsin Department of Natural Resources (DNR) has adopted rules, under NR 45, to restrict the entry of firewood into Wisconsin state parks. The DNR rules prohibit, in state parks, firewood originating from outside this state. The DNR rules also prohibit firewood originating more than 50 miles from the state park unless the firewood originates from a firewood dealer who is certified by DATCP.

This rule creates a DATCP program for certification of firewood dealers. Firewood dealers certified under this rule could supply firewood to Wisconsin state parks. The certification program would be open to all firewood dealers in the state, regardless of whether they supply firewood to Wisconsin state parks. Certified firewood dealers must comply with this rule. A firewood dealer is not required to be certified under this rule in order to sell firewood in this state.

Emergency Rule. Under this emergency rule, DATCP may annually certify a firewood dealer. An annual certification expires on December 31 of each year. A firewood dealer is not required to be certified in order to sell or distribute firewood in this state. There is no charge for certification. Certification permits a firewood dealer to supply firewood to Wisconsin state parks, pursuant to NR 45.04 (1) (g).

DATCP may certify a firewood dealer if all of the following apply:

- The firewood dealer submits a complete application that complies with this rule.
- DATCP inspects all of the business premises identified in the certification application and determines, based on that inspection, that the firewood dealer is equipped to fulfill all of the representations included in the certification application.

A certification application must include all of the following:

- The correct legal name of the firewood dealer, and any trade names under which the firewood dealer sells or distributes firewood in this state.

The address of the firewood dealer's business headquarters.

The address of every business location from which the firewood dealer sells or distributes firewood in this state.

The approximate annual volume of firewood that the firewood dealer sells or distributes in this state, including the approximate annual volume sold or distributed from each business location.

The sources from which the firewood dealer obtains firewood for sale or distribution in this state. The application shall include the name and address of each person, if any, from whom the firewood dealer procures cut firewood.

A certification application must also include the following statement (the firewood dealer must notify DATCP if, at any time before or after the firewood dealer is certified, the statement is no longer accurate):

“All firewood that the applicant sells or distributes in this state is from trees grown and cut in this state. All of the firewood is treated in at least one of the following ways prior to sale or distribution in this state:

- 1. Each piece of firewood is heated to a temperature at least 160° F. (71.1° C.) at the center of the piece, and is maintained at that temperature for at least 75 minutes.**
- 2. All bark, and additional wood to a depth of at least ½ inch beneath the bark, is removed from each piece of firewood.**
- 3. The firewood is stored on the firewood dealer’s premises for at least 2 years before it is sold or distributed in this state.**
- 4. The firewood is fumigated with a registered fumigant pesticide, according to the pesticide label, to kill all insect pests that may inhabit the firewood.**
- 5. The firewood is treated in a manner approved, in writing, by the Wisconsin Department of Agriculture, Trade and Consumer Protection, to kill all insect pests that may inhabit the firewood.”**

DATCP must grant or deny a certification application within 60 business days after DATCP receives a complete application. DATCP may withdraw a certification if the applicant materially misrepresents any information in the application, or fails to honor any of the commitments made in the application. A certification does not constitute a warranty, by the department, that firewood is free of pests.

Fiscal Impact

The state fiscal impact of this rule depends on the number of firewood dealers who apply for certification. There are thousands of firewood dealers in Wisconsin, but few of them will have a strong incentive to be certified under this rule. DATCP assumes that, at least initially, certification will be attractive mainly for large firewood dealers who can afford to implement the firewood treatment regimen required for certification.

Certification may be especially attractive for large firewood dealers who wish to supply firewood to Wisconsin state parks. DNR rules prohibit a firewood dealer from supplying firewood to a state park located more than 50 miles away, unless the firewood dealer is certified under this rule.

DATCP projects approximately one day of staff time to process each certification application and to inspect the firewood dealer’s business premises. DATCP will incur inspector travel costs, but will attempt to minimize those costs by integrating inspections with other inspections. DATCP does not plan to do routine follow-up inspections, but may conduct occasional random inspections of certified firewood dealers.

DATCP assumes that approximately 30 firewood dealers will apply for certification under this emergency rule, for calendar year 2007. If that assumption is correct, DATCP will be able to absorb the projected workload and costs within DATCP’s current budget and with current staff. However, if many more firewood dealers apply for certification, DATCP will need additional budget and staff to process applications and conduct required inspections.

Business Impact

This rule will not have a significant impact on firewood dealers in this state. This rule does not require firewood dealers to be certified, nor does it restrict the sale or distribution of firewood by uncertified dealers. This rule creates a voluntary certification program, which may benefit some firewood dealers in this state.

DNR rules prohibit a firewood dealer from supplying firewood to a state park located more than 50 miles away, unless the firewood dealer is certified by DATCP. This rule will allow certified firewood dealers to supply firewood to state parks throughout the state, regardless of the firewood dealer’s distance from the park. This rule will primarily benefit large firewood dealers who can afford to implement the firewood treatment regimen required for certification.

This rule does not authorize or prohibit imports of firewood from outside this state. Current DATCP rules under ATCP 21.17 prohibit imports of firewood from areas which the U.S. department of agriculture has formally designated as being infested with certain wood pests, such as Emerald Ash Borer. DNR rules under NR 45.04(1)(g) prohibit imports of firewood to Wisconsin state parks from any location outside this state. This rule does not create an exemption to any of these existing rules. Certification under this rule is available only to firewood dealers who obtain all of their firewood from trees grown and cut in this state.

Environmental Impact

This rule will not have a significant impact on the environment. This rule does not restrict the sale or movement of firewood in this state. This rule will allow some firewood in state parks that would otherwise be prohibited by DNR rules, but only if the wood comes from a certified dealer who agrees to treat the wood to destroy plant pests such as Emerald Ash Borer. DATCP will inspect at least annually to verify that the firewood dealer has the necessary facilities and equipment to honor the agreement.

Federal Programs

Under the federal Plant Protection Act, the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA–APHIS) has responsibility for excluding, eradicating and controlling serious plant pests, including the Emerald Ash Borer. USDA–APHIS has instituted statewide quarantines on the movement of ash wood for Illinois, Indiana and Ohio, in addition to the Lower Peninsula of Michigan. These quarantines include restrictions on the interstate movement of any hardwood (non–coniferous) firewood, and are in addition to the regulations adopted by each state related to the movement of firewood. Firewood cannot be moved from a quarantined area unless it is accompanied by an APHIS certificate that shows the firewood to be free of infested wood.

Surrounding State Programs

Surrounding states where EAB has been identified (Illinois, Indiana, Ohio and Michigan) have state and federal quarantines that prohibit the movement of regulated articles, including all hardwood firewood, out of quarantined areas. Firewood can only move out of quarantined areas after it is certified by USDA. Other surrounding states, such as

Minnesota and Iowa, are conducting information and education campaigns about the danger of moving firewood and are considering regulatory options for dealing with firewood movement.

Notice of Hearing

Agriculture, Trade and Consumer Protection

[CR 07-061]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed rule affecting chs. ATCP 10 and 12, that increases some current animal health fees, and creates some new fees. Among other things, this rule affects license fees, voluntary herd certification fees, fees for veterinary certification forms, and fees for voluntary certification of animal health professionals. Some of the fee increases (veterinary certification forms, livestock market licenses, etc.) may affect several sectors of the livestock industry, while others are limited to specific livestock sectors.

DATCP will hold three public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until July 31, 2007, for additional written comments. Comments may be sent to the Division of Animal Health at the address below or by email to hearingcommentsAH@wisconsin.gov.

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 53708-8911. You can also obtain a copy by calling (608) 224-5132 or emailing linda.merrimanhitchman@wisconsin.gov. Copies will also be available at the hearings. To view the proposed rule online, go to: <https://apps4.dhfs.state.wi.us/admrules/public/Home>

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator Keeley Moll at the address above, by emailing to keeley.moll@wisconsin.gov or by telephone at (608) 224-5039.

Hearing-impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by July 2, 2007, by writing Anna Oehler, Division of Animal Health, P.O. Box 8911, Madison, WI 53708-8911, telephone 608-224-4875. Alternatively, you may contact the DATCP TDD at 608-224-5058. Handicap access is available at the hearings.

Hearing Dates and Locations

Thursday, July 12, 2007

7:00 p.m. to 9:00 p.m.

Fox Valley Technical College
1825 N. Bluemound Drive, Room C140
Appleton, WI 54912

Monday, July 16, 2007

7:00 pm to 9:00 pm

Dept. of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
First Floor – Room 106 (Boardroom)
Madison, Wisconsin 53718

Tuesday, July 17, 2007

7:00 p.m. to 9:00 p.m.

Dept. of Natural Resources West Central Region Hdqrs.
1300 W. Clairemont Avenue – Room 158
Eau Claire, WI 54701

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

The Department of Agriculture, Trade and Consumer Protection ("DATCP") administers Wisconsin's animal health and disease control program. The program is funded, in significant part, by animal health fees. This rule increases animal health fees in order to remedy a serious deficit in the animal health fee revenue account.

Statutory authority: 93.07 (1), 95.55 (3), 95.57 (2), 95.60 (5), 95.68 (4) and (8), 95.69 (4) and (8), 95.71 (5) and (8), and 95.715 (2) (d).

Statutes interpreted: 93.06 (1d), (1g), (1m), (1p), (1q), 95.55, 95.57 (2), 95.60 (5), 95.68 (4) and (8), 95.69 (4) and (8), 95.71 (5) and (8), and 95.715 (2) (d).

DATCP has broad authority, under s. 93.07 (1), Stats., to adopt rules needed to implement laws under its jurisdiction. DATCP also has authority, under the provisions cited above, to charge certain animal health fees and determine the amount of those fees.

Rule Content.

Fee changes. This rule increases some current animal health fees, and creates some new fees. Among other things, this rule affects license fees, voluntary herd certification fees, fees for veterinary certification forms, and fees for voluntary certification of animal health professionals. Some of the fee increases (veterinary certification forms, livestock market licenses, etc.) may affect several sectors of the livestock industry, while others are limited to specific livestock sectors.

Fee For:	Current Fee:	Proposed Fee:
Certificate of Veterinary Inspection (blank form used by private veterinarians)	\$3 per form (interstate or intrastate)	\$5.60 per form (interstate) \$0.60 per form (intrastate)
Cattle; Brucellosis-Free Herd Certification (Voluntary certification facilitates animal sale and movement)	No fee.	\$50 annual certification
Cattle and Other Bovines; TB-Free Herd Certification (Voluntary certification facilitates sale and movement)	No fee	\$50 annual certification
Johne's Disease Veterinarian; Certification (Voluntary 3-year certification)	No fee.	\$50 per 3-year certification

Fee For:	Current Fee:	Proposed Fee:
Cattle and Other Bovines: Approved Import Feedlot Permit (Voluntary permit facilitates certain imports)	\$75 annual permit	\$140 annual permit
Swine; Qualified Pseudorabies Negative Herd, Qualified Pseudo-Rabies Negative Grow-out Herd, or Feeder Swine Pseudorabies Monitored Herd (Voluntary certification facilitates sale and movement)	No fee	\$50 annual certification
Swine; Validated Brucellosis-Free Herd Certification (Voluntary certification facilitates swine sale and movement)	No fee	\$50 annual certification
Equine Imports; Quarantine Station Permit (station may receive certain horse imports)	No fee	\$100 annual permit and \$100 permit per quarantined animal
Poultry Tester; Training	No fee	\$25 training fee.
National Poultry Improvement Plan; Annual Flock Enrollment	Annual fee ranges from \$40 to \$200 based on flock type and size.	Annual fee ranges from \$80 to \$400 based on flock type and size.
Farm-raised Deer; Annual Herd Registration	Annual fee based on herd size: \$50 if < 15 deer \$100 if > 15 deer \$150 minimum one-time inspection fee for 2 nd herd at same site (not required for renewal). \$100 surcharge if found operating without registration	Annual fee based on herd size: \$162.50 if < 15 deer \$325 if > 15 deer \$200 minimum one-time inspection fee for 2 nd herd at same site (not required for renewal). \$250 surcharge if found operating without registration
Farm-raised Deer; Hunting Preserve Certificate	\$150 for 10-year certificate	\$500 for 10-year certificate
Farm-raised Deer; TB-Free Herd Certification (Voluntary certification facilitates deer sales and movement)	No fee.	\$50 per year of certification
Farm-raised Deer; Brucellosis-Free Herd Certification (Voluntary certification facilitates deer sales and movement)	No fee.	\$50 per year of certification
Fish Farm (Type 1); Annual Registration	\$25 annual fee covers any number of Type 1 fish farms	\$37.50 annual fee covers one Type 1 fish farm; \$50 annual fee covers any number of Type 1 fish farms
Fish Farm (Type 2); Annual Registration	\$50 annual fee covers any number of Type 2 fish farms	\$125 annual fee covers 1-5 Type 2 fish farms; \$150 annual fee covers 6-10 Type 2 fish farms; \$200 annual fee covers 11-20 Type 2 fish farms; \$300 annual fee covers 20 or more Type 2 fish farms.
Fish Import Permit (may cover multiple import shipments for up to one year)	\$50	\$90
Sheep; Brucella-Ovis Free Flock Certification (Voluntary certification facilitates animal sale and movement)	No fee	\$50 per year of certification
Goats; Brucellosis-Free Flock Certification (Voluntary certification facilitates animal sale and movement)	No fee	\$50 per year of certification

Fee For:	Current Fee:	Proposed Fee:
Goats; Tuberculosis Free Flock Certification (Voluntary certification facilitates animal sale and movement)	No fee	\$50 annual certification
Animal Market; Annual License	\$225 annual fee for Class A license \$115 annual fee for Class B license \$150 annual fee for Class C license	\$420 annual fee for Class A license \$220 annual fee for Class B license \$280 annual fee for Class C license
Animal Dealer; Annual License	\$115 annual fee	\$220 annual fee
Animal Trucker; Annual License	\$30 annual fee	\$60 annual fee
Animal Transport Vehicle; Annual Registration Sticker	\$10 annual fee per vehicle	\$20 annual fee per vehicle

Other Rule Changes. This rule eliminates current fish farm registration fee exemptions for research institutions and government agencies. Those entities will now have to pay the same registration fees as other fish farm operators.

Rule Effective Date. This rule will not take effect until calendar year 2008. There are different annual license cycles for different types of licensed entities, and license fee increases will not be implemented until the first annual license cycle beginning after the rule effective date.

Fiscal Estimate

State Fiscal Effect. Animal Health program operations are funded by a combination of general state tax dollars (79%), animal health fee revenues (19%) and federal funds (2%). This does *not* include federal funds that are passed through to program beneficiaries in the form of grants or other assistance.

Recent state budgets have done the following:

- Reduced annual GPR funding (general tax dollars) for animal health by nearly \$300,000.
- Lapsed approximately \$130,000 in animal health fee revenue (one-time lapse) to the state general fund.
- Assigned more staff to be paid from animal health fee revenues.

Program costs have gone up this year, as DATCP has filled critical animal health positions that had been held vacant. DATCP has only about 37 authorized permanent positions (field and office positions) for its *entire* animal health and disease control program, so it is important that key positions be filled.

As a result of these combined factors, the positive cash balance in the animal health fee revenue account is declining rapidly. DATCP collects about \$300,000 in animal health fees each year, and projects fee revenue expenditures approaching \$600,000 each year. DATCP projects a negative cash balance of \$131,500 in the animal health fee revenue account beginning in FY 2008. If nothing is done, the negative cash balance will go to \$371,400 in FY 2009, \$633,300 in FY 2010 and \$924,500 in FY 2011. DATCP is proposing a fee increase to remedy this funding deficit and maintain critical disease control programs.

This rule will increase animal health fee revenues by approximately \$375,150 per year when it is fully implemented beginning in FY 2008–09. DATCP projects that this fee increase will stabilize animal health program staffing and funding for the foreseeable future, without further fee increases.

Without this fee increase or other funding support, DATCP will need to reduce animal health staffing at a time when bio–security and disease threats have grown. DATCP has only about 37 permanent staff for *all* of its animal health and disease control programs (does not count temporary, federally–funded positions). Staff reductions will increase risks to Wisconsin’s major livestock industries, which rely on effective animal health and disease control programs. Staff reductions will also increase disease risks to humans and wildlife.

Local Fiscal Effect. This rule will have no fiscal impact on local units of government.

Business Impact. This rule affects animal markets, animal dealers, animal truckers, livestock farmers, deer farmers, fish farmers and veterinarians. Many of these businesses are “small businesses” as defined in s. 227.114 (1) (a), Stats.

This rule increases some current animal health fees, and creates some new fees. Some fee increases may affect several sectors of the livestock industry, while others are limited to specific livestock sectors.

This rule will increase overall industry costs by a combined total of approximately \$375,150 per year, once the rule is fully implemented. Fee increases for individual businesses are generally modest, and will depend on business size and type. Smaller businesses generally pay lower fees than large businesses. Fees are based, in part, on animal health costs related to each affected industry.

This rule does not change other animal health regulations. This rule requires no additional recordkeeping, and no added professional services to comply. For small businesses, the effective date of this rule is automatically delayed by 2 months, pursuant to s. 227.22(2)(e), Stats. The delayed effective date is not expected to have a significant impact on the timing or amount of fee collections under this rule.

Federal Regulation

DATCP administers animal disease control programs in cooperation with the United States Department of Agriculture, Animal and Plant Health Inspection Service (“the federal bureau”).

Federal grants pay for about 2% of Wisconsin’s animal health program operations. This does *not* include federal funds that are passed through to program beneficiaries in the form of grants or other assistance.

The federal bureau has well–established control programs for historically important diseases such as tuberculosis and brucellosis. The federal bureau has less well–developed programs for new or localized diseases, or emerging

animal-based industries. In those areas, states often play a leadership role. For example, Wisconsin is a recognized national leader in the regulation of farm-raised deer (chronic wasting disease) and aquaculture.

States have independent authority to regulate animal health and movement, including imports from other states. However, states strive for reasonable consistency, based on standards spelled out in federal regulations. States typically incorporate federal standards where they exist, and play a key role in implementing federal standards.

The federal bureau does not license animal businesses, or regulate state fees. This fee rule does not duplicate or conflict with any federal fees or standards.

Surrounding State Programs

Surrounding state animal health programs are broadly comparable to those in Wisconsin, but differ in a number of ways. State programs reflect differences in animal populations, animal-based industries, and disease threats. Programs for historically important diseases, such as tuberculosis and brucellosis, tend to be fairly similar between states and are based on well-established federal standards. Programs for newer diseases or newer forms of agriculture, such as farm-raised deer and aquaculture, tend to be more variable.

Animal health fees fund about 19% of Wisconsin's animal health program operations. In the surrounding states, by contrast, animal health program operations are funded almost entirely by state general fund appropriations. Some states charge almost no license fees. Other states charge fees but deposit them to the state general fund (so they do not have a direct impact on program appropriations).

Minnesota

The state-funded portion of Minnesota's animal health program is funded 98% by state general fund appropriations and 2% by industry fees. The farm-raised deer (chronic wasting disease control) program is the only program that charges fees. That fee is \$10 per farm-raised deer, up to maximum of \$100 per herd.

Iowa

The state-funded portion of Iowa's animal health program is funded 100% by state general fund appropriations. Iowa charges nominal industry fees that are deposited to the state general fund. The cost to collect the fees (which are set by statute) exceeds the amount of revenue produced. Fees include the following:

- \$50 for an annual animal market license, plus \$10 for each market agent.
- \$25 for an annual animal dealer license, plus \$10 for each dealer agent.
- \$5 for an annual pig dealer license, plus \$3 for each dealer agent.
- \$3 for an annual poultry buyer license.
- \$10 for an annual hatchery license.
- \$25 to register a livestock brand for 5 years.
- \$10 for an annual sheep dealer license.
- \$10 for an annual bull breeder license.

Michigan

The state-funded portion of Michigan's animal health program is funded 95% by state general fund appropriations, 2% by segregated fees from racing, and 3% by animal industry fees. Michigan fees include the following:

- \$400 for an annual livestock market (auction) license.

- \$250 for an annual livestock collection point (buy station) license.
- \$150 for an annual horse market (auction) license.
- \$50 for an annual livestock dealer license.
- \$100 for an annual fish farm license (\$75 for a renewal).

Illinois

The state-funded portion of Illinois' animal health program is funded 100% by state general fund appropriations, except that part of its poultry program (eggs) is funded by industry fees. The state also charges some lab testing fees for non-traditional diseases. Illinois charges nominal license fees that are deposited to the state general fund. The cost to collect the fees (which are set by statute) exceeds the amount of revenue produced. Fees include the following:

- \$200 for an annual livestock market (auction) license.
- \$25 for an annual livestock dealer license (\$10 for a renewal license), plus \$10 for each additional business location and \$5 for each dealer agent.
- \$25 for an annual feeder swine dealer license (\$10 for a renewal license), plus \$5 for each dealer agent.

Notice of Hearing

Commerce

(Financial Assistance for Businesses and Communities)

[CR 07-063]

NOTICE IS HEREBY GIVEN that pursuant to s. 560.206, Stats., the Department of Commerce will hold a public hearing on proposed rules in ch. Comm 133, Wis. Adm. Code, relating to implementing a film production accreditation program.

The public hearing will be held as follows:

Date and Time:

July 17, 2007
(Tuesday)
Commencing
at 9:00 a.m.

Location:

Thompson Commerce Center
Third Floor, Room 3B
201 West Washington Ave.
Madison, Wisconsin

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing, via e-mail. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until July 20, 2007, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. All written comments should be submitted by e-mail to srockweiler@commerce.state.wi.us. If e-mail submittal is not possible, written comments may be mailed to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call Sam Rockweiler at (608) 266-0797 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

1. Statutes Interpreted. Sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), 71.47 (5f) and (5h), and 560.206

2. Statutory Authority. Sections 227.11 (2) (a) and 560.206 (1) and (4).

3. Explanation of Agency Authority. Sections 560.206 (1) and (4) of the Statutes require the Department to promulgate rules for implementing and administering a program to accredit film productions for the purposes of sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h) of the Statutes. Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department.

4. Related Statute or Rule. The Department has rules for several other programs associated with tax credits, but none of those programs relate to accrediting film productions or establishing film production companies.

5. Plain Language Analysis. The proposed rules specify (1) the eligibility requirements for film productions to become accredited; (2) the documentation that must be submitted to receive accreditation and to receive acceptance of incurred expenses that are related to tax credits for producing a film production in Wisconsin; (3) the documentation that must be submitted to receive acceptance of incurred expenses that are related to tax credits for establishing a film production company in Wisconsin; (4) the Department's response to the submitted documentation; and (5) use of the Department's response when filing claims with the Department of Revenue for the corresponding tax credits.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations. A federal tax incentive program for film and television productions is available under Section 181 of the Internal Revenue Code. Under the program, investors in qualifying film and television productions may elect to immediately deduct the cost of qualifying film expenditures in the year the expenditures occur. The program is in effect for qualifying productions commencing before January 1, 2009. The federal deduction applies to qualifying productions up to \$15 million, or up to \$20 million if the production occurs in a qualifying distressed area. The incentive can be used in conjunction with any state film incentive. The Web site reference for the section in the Code is http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000181----000-.html.

7. Comparison With Rules in Adjacent States.

Michigan. In Michigan, rebates range from 12 to 20 percent, depending on the amount of the production spending in the state. According to the Director of the Michigan Film Office, there are no administrative rules for the program, but guidelines are available through the Office's Web site at http://www.michigan.gov/hal/0,1607,7-160-17445_19275_37781---,00.html.

Minnesota. Minnesota offers exemptions from sales and lodging taxes, and a rebate of 15 percent for eligible production costs incurred in the state. An Internet based search did not reveal any administrative rules for the program, but guidelines are available through the following Web site: <http://www.mnfilmtv.org>.

Iowa. Iowa enacted legislation on May 17, 2007, that (1) offers producers a transferable income tax credit of 25 percent of qualified in-state expenditures, (2) offers investors the same credit, and (3) offers Iowa-based companies or Iowa residents a 100-percent income exclusion for monies earned from certified projects. No administrative rules have been developed yet for this program. Further information is available through the following Web site: <http://www.traveliowa.com/film/incentives.html>.

Illinois. In Illinois, rules for the Illinois Film Production Services Tax Credit Program are contained in Title 14, Chapter I, Part 528 of the Illinois Administrative Code, and can be viewed through the following Web site: <http://www.ilga.gov/commission/jcar/admincode/014/01400528sections.html>

Section 528.20 of the rules defines "Illinois resident" as "an individual who is domiciled in this State during the accredited production. Except in a case where the applicant has actual knowledge, as shown in its books and records, that an individual is not an Illinois resident, the possession by an individual of an driver's license or other identification issued by this State prior to the commencement of the accredited production shall be sufficient proof that the individual is an Illinois resident and the address on the license or identification shall be deemed correct." The proposed Wisconsin rules do not include a definition of resident, but require residents to meet Department of Revenue residency criteria.

Under section 528.30, an applicant must file a written statement or other documentation showing that receiving the tax credits was essential to the decision to locate the accredited production in Illinois. According to the rules, "The documentation must show that the applicant has multi-state or international location options and could reasonably locate outside the State, or can demonstrate that at least one other state or nation is being considered for the accredited production, or other documentation showing that the receipt of the credit is a major factor in the applicant's decision to locate the accredited production in Illinois." The proposed Wisconsin rules require that in order for a production to become accredited, the production would not occur in Wisconsin without the tax benefits.

Under section 528.40, an application must be submitted at least 24 hours prior to the start of principal filming or taping. The proposed Wisconsin rules do not specify a submittal deadline prior to filming or taping. Section 528.40 also clarifies whether one or more applications can be filed for television shows with two or more episodes. The proposed Wisconsin rules do not differentiate for television shows with multiple episodes.

Section 528.50 gives an applicant 30 days to correct any deficiencies in the application, and provides 30 days to amend and re-submit an application after a denial. There are no similar timing deadlines in the proposed Wisconsin rules. Also in Section 528.50, Illinois will consider, in its evaluation of the application, whether awarding the credit will result in an overall positive impact to Illinois. Under the general eligibility criteria in the proposed Wisconsin rules, an accredited production must enhance economic development in Wisconsin.

Section 528.62 requires an applicant to quarterly submit economic impact data on jobs created and retained, and production costs. There is no such reporting requirement in the proposed Wisconsin rules, other than the information and documentation that must be submitted following completion of the accredited production, for the Department's verification and release of the tax credits.

Section 528.65 describes issuance of an "accredited production certificate" upon approval of an application. Section 528.70 details the procedures for the applicant to request a "tax credit certificate," certifying the actual amount of the credit awarded to the applicant at any time following the completion of the accredited production, but in no event later than two years following the completion of the production. This process is similar to what is described in the proposed Wisconsin rules, other than the two-year restriction. The Illinois rules also require attestation by a certified public

accountant supporting the expenditures incurred by the applicant, which is not required in the Wisconsin rules.

Section 528.75 specifies the amount and duration of the tax credits. The amounts consist of (1) for productions commencing before May 1, 2006, a credit of 25 percent of the approved Illinois labor expenditures, plus an additional 10 percent for employees who earn more than \$1,000 on the production and who live in geographic areas of high poverty or high unemployment; and (2) for productions commencing on or after May 1, 2006, a credit of 20 percent of the approved Illinois labor expenditures, plus an additional 15 percent for employees who earn more than \$1,000 on the production and who live in geographic areas of high poverty or high unemployment. For tax years ending prior to July 11, 2005, the credit cannot be carried forward or back. For tax years ending on or after July 11, 2005, any excess credits may be carried forward for five years. The Wisconsin amounts differ by including (1) a credit of 25 percent of the salary or wages for all employees of the claimant – but capped at \$25,000 per employee, and not including the two highest paid employees; (2) a credit of 25 percent of the production expenditures; and (3) a credit of 100 percent of the sales or use taxes paid for tangible personal property and taxable services that are used directly in producing an accredited production. The Wisconsin duration differs by (1) not allowing any credits to be carried forward, but (2) allowing unlimited refund of any unused credits for production expenditures.

Section 528.85 provides details for the transfer of the tax credits. The Wisconsin rules and legislation do not allow any transfer of credits.

The Illinois rules do not include any requirement that is similar to the proposed Wisconsin requirement that the production must not conflict with a desired brand image of Wisconsin.

8. Summary of Factual Data and Analytical Methodologies. The data and methodology for developing these rules were derived from and consisted of (1) incorporating the criteria in 2005 Wisconsin Act 483; (2) incorporating applicable best practices the Department has developed in administering similar programs for economic development, business development, and tax-credit verification; (3) soliciting and utilizing input from the Department of Revenue, and from representatives of the stakeholders who are expected to participate in this program; and (4) reviewing Internet-based sources of related federal, state, and private-sector information. Particular attention was focused on input from producers of advertisement commercials that they need very quick responses to submitted estimates of expenses.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report. The primary document that was used to determine the effect of the proposed rules on small business was 2005 Wisconsin Act 483. This Act requires the Department to implement a program to accredit film productions for the purposes of sections 71.07 (5f) and (5h), 71.28 (5f) and (5h), and 71.47 (5f) and (5h) of the Statutes, and requires the Department to promulgate rules for administering the program. This Act applies its private-sector requirements only to film productions and to film production companies, for which a corresponding tax credit is desired.

10. Effect on Small Business. The proposed rules are not expected to impose significant costs or other impacts on small businesses because the rules address submittal of documentation only by businesses that choose to pursue tax

credits for producing film productions or for establishing film production companies.

Agency Contact Person

Steven Sabatke, Wisconsin Department of Commerce, Bureau of Business Development, P.O. Box 7970, Madison, WI, 53707-7970; telephone (608) 267-0762; e-mail ssabatke@commerce.state.wi.us.

Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to srockweiler@commerce.state.wi.us, no later than July 20, 2007. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

Copy of Rule

The proposed rules and an analysis of the rules are available on the internet, by entering "Comm 133" in the search engine at the following web site: <http://adminrules.wisconsin.gov>. Paper copies may be obtained without cost from Steven Sabatke at the Department of Commerce, Bureau of Business Development, P.O. Box 7970, Madison, WI, 53707-7970; or at telephone (608) 267-0762 or (608) 264-8777 (TTY); or at ssabatke@commerce.state.wi.us. Copies will also be available at the public hearing.

Environmental Assessment

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

Initial Regulatory Flexibility Analysis

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

Any entity which chooses to apply for the tax credits established by 2005 Wisconsin Act 483 – and which either (1) produces films, videos, electronic games, broadcast advertisement, or television productions; or (2) establishes a film production company in Wisconsin.

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

Applicants for tax credits relating to producing a Department-accredited production in Wisconsin must submit an application for accreditation that includes documentation of estimated, qualifying expenses – and must subsequently submit proof of incurring those expenses.

Applicants for tax credits relating to establishing a film production company in Wisconsin must submit documentation of estimated, qualifying expenses – and must subsequently submit proof of incurring those expenses.

3. Types of professional skills necessary for compliance with the rules. None.

4. Will the rules have a significant economic impact on small businesses? No.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be

contacted at telephone (608) 267-0297, or by e-mail at cdunn@commerce.state.wi.us.

Fiscal Estimate

Although the proposed rules would newly result in review and approval of documentation relating to tax credits for producing film productions or for establishing film production companies, the number of these reviews and approvals is expected to be too small to result in significant changes in the Department's costs for administering its business development programs. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The overall revenue impact on the state is uncertain and could be significant. The actual revenue impact will depend on the effectiveness of the tax credits in inducing new activity, the extent to which benefits accrue primarily to film productions and to film production companies that would not occur in Wisconsin without the credits, and the magnitude and nature of the expenditures associated with the new film productions.

The proposed rules are not expected to impose any significant costs on the private sector, because the rules address only voluntary submittal of documentation relating to tax credits for producing film productions or for establishing film production companies.

The long-range fiscal implications are not known at this time, because there is too much uncertainty about whether the tax benefits will actually accrue only to film productions and to film production companies that would not occur in Wisconsin without the benefits.

Notice of Hearing Dentistry Examining Board

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Dentistry Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 447.02 (2) (b), Stats., and interpreting s. 447.02 (2) (b), Stats., the Dentistry Examining Board will hold a public hearing at the time and place indicated below on emergency rules to amend the effective date of CR 04-095, relating to the requirements for administering the office facilities and equipment for safe and effective administration and the applicable standards of care, and to provide for reporting of adverse occurrences related to anesthesia administration.

Hearing Date, Time and Location

Date: **July 11, 2007**
Time: 9:00 a.m.
Location: 1400 East Washington Avenue
Room 121C
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 July 12, 2007, to be included in the record of rule-making proceedings. Analysis prepared by the Department of Regulation and Licensing.

Analysis

Statute interpreted: Section 447.02 (2) (b), Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) and 447.02 (2) (b), Stats.

Explanation of agency authority: The Dentistry Examining Board has the authority under s. 447.02, Stats., to establish the standards, conditions, and any educational requirements that must be met by a dentist in order to induce anesthesia in connection with the practice of dentistry. Presently, those standards are set forth in Ch. DE 11. The adopted rules better identify the different levels of anesthesia, including nitrous oxide, anxiolysis, conscious sedation-enteral, conscious sedation-parenteral, deep sedation, and general anesthesia, and the requirements for each level. The rule is intended to ensure that practitioners are adequately trained before they induce anesthesia and that the public is sufficiently protected.

Related statute or rule: There are no related statutes or rules other than those listed above.

Plain language analysis: The purpose of this rule is to delay the effective date of CR04-095, from July 1, 2007 to November 1, 2007, by amending the emergency rule that moved the effective date of CR04-095 from January 1, 2007, to July 1, 2007. CR04-095 rule establishes and modifies the training, certification and staffing requirements for administering sedation and anesthesia at all levels performed in the course of dental practice. A system of permits issued by the Department of Regulation and Licensing, which designates by class the various levels of sedation and anesthesia practice, was established. Office facility and equipment prerequisites for safe and effective administration are delineated, the applicable standards of care are specified, and the procedure necessary for reporting adverse occurrences related to anesthesia administration is described.

These requirements emerged from recent efforts by state licensing boards to regulate "oral conscious sedation." Oral conscious sedation drugs are being marketed to dentists for the purpose of managing patient anxiety surrounding dental work in patients that remain conscious throughout the procedure.

Federal Regulations

No proposed or existing federal regulation intended to address oral conscious sedation currently exists.

Comparison with Rules in Adjacent States

Illinois

The Illinois Dental Practice Act contains specific provisions governing anesthesia. Permits are required for the administration of conscious sedation. Dentists are required to have specialized training and office facilities must contain certain equipment. Adverse occurrences are also required to be reported. Permits must be renewed biennially. Additional information is available at the Illinois website: <http://www.ildpr.com/WHO/ARprospd/WEBdentrules.pdf>

Indiana

The Indiana State Board of Dentistry requires dentists to obtain a permit prior to administering general anesthesia, deep sedation, or light parenteral conscious sedation. Education and training are required to obtain such permits. Permits must be renewed biennially. Five hours of continuing education are required for permit renewal. Certain emergency equipment is also required. Additional information is available at Indiana's website: <http://www.ai.org/legislative/iac/T08280/A00030.PDF>

Iowa

The Iowa Board of Dental Examiners requires a permit for the administration of deep sedation, general anesthesia, and

conscious sedation. Dentists are required to have specialized training and office facilities must contain certain equipment. Adverse occurrences are also required to be reported Six hours of continuing education are required for permit renewals. Additional information is available at Iowa's website:

<http://www.legis.state.ia.us/Rules/Current/iac/650iac/65029/65029.pdf>http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33811101&Dpt=CH&RngHigh

Michigan

The Michigan Board of Dentistry has rules governing general anesthesia and intravenous conscious sedation. The Michigan Board is currently contemplating a rules' revision to include specific rules for conscious sedation. Additional information is available at Michigan's website:

Minnesota

The Minnesota Board of Dentistry has rules governing general anesthesia and conscious sedation. Education and training are required for both. However, no special permit is issued. Additional information is available at Minnesota's website:

<http://www.revisor.leg.state.mn.us/arule/3100/3600.html>

Summary of factual data and analytical methodologies

The Dentistry Examining Board gathered information from various entities involved in promoting oral conscious sedation and others experienced in regulating the practice. Dr. Joseph Best, Clinical Assistant Professor at Marquette University School of Dentistry, presented information to the board in March, 2003. Dr. Jason Goodchild, representing The Dental Organization for Conscious Sedation, delivered a presentation to the board in May, 2003. Initially, the board decided its focus in regulating oral conscious sedation should be on how it is advertised, how it is titrated so that overdosing is prevented, and how many hours of adequate training and what level of clinical experience should be required to administer it. The subject was further discussed at the American Association of Dental Examiners' 2003 annual meeting in San Francisco. The board held open session discussions as the rules process advanced, and legal counsel reviewed the rules of other states. Eventually the focus of the board broadened, resulting in revision of the board's anesthesia rule with sedation levels identified and a system of permits required for various levels of anesthesia.

Anticipated Costs incurred by Private Sector

The Department of Regulation and Licensing has determined that this rule has no significant fiscal effect on the private sector.

Fiscal Estimate

Implementing the provisions of these rule changes will cost the Department of Regulation and Licensing the value of salary and fringe for one time of \$18,611 and on-going annually \$10,100.

Develop Course List for Specialty Code

Forms development — 60 hours PA Time @ 17 hr including fringe	1,020
Database Update — 50 hrs (1 hr/wk)	850
Intake, correspondence — 600 hrs (1 hr per course)	10,200
Calls@10 min ea, 2/crse — 200 hrs	3,400

Office of Legal Council – Rules development

10 hr. paralegal @ 29 hr including fringe	290
5 hr. attorney @ 59 hr including fringe	295

Changes to IT systems for new permit

2 hours programmer @ \$48 per hour including overhead	96
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Credentialing—develop forms and applications

20 Credentialing program manger @ 36 hr including fringe	720
40 hours PA 3 @ \$17 including fringe	680
20 hours legal counsel @ \$53 including fringe	1,060

Total One Time 18,611

On-going Costs:

Increased Complaint Costs approx 10 additional complaints per year

All staff hourly amounts include fringe

2 complaints to full hearing

Screen	4 hrs prog asst @ 17 hr X 2	136
	1hr leg couns @ 53 X 2	106

Investigate	6 hrs invest @ 26 X 2	312
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Formal action	32 hrs pros @ 53 X 2	3,392
	40 rs alj @ 51 X 2	4,080

Close	1 hr pa3 @ 17 hr X 2	34
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8 other through invest

Screen	4 hrs prog asst @ 17 hr X 8	544
	1hr leg couns @ 53 X 8	424

Investigate	6 hrs invest @ 26 X 8	1,248
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Close	1 hr pa3 @ 17 hr X 8	136
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Total On-going 10,100

Effect on Small Business

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

Text of Rule

SECTION 1. This emergency rule amends the effective date of CR04-095 by amending the emergency rule currently in effect which amended the effective date of CR04-095 from January 1, 2007 to July 1, 2007. This emergency rule changes the effective date of CR04-095 from July 1, 2007, to November 1, 2007.

Notice of Proposed Rule
State Elections Board
[CR 07-059]

The Wisconsin Elections Board proposes an order to repeal and recreate ElBd 3.02 and to create ElBd 3.01, 3.03, 3.10 to 3.13, and 3.20, relating to voter registration.

Notice is hereby given that pursuant to ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting subchapter II of ch. 6, Stats., ss. 6.26 to 6.57, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Elections Board proposes an order to repeal and recreate s. ElBd 3.02 and to create ss. ElBd 3.01, 3.03, 3.10 to 3.13, and 3.20, relating to voter registration, as proposed in this notice without public hearing unless, within 30 days after publication of this notice, on **July 1, 2007**, the Elections Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

Analysis Prepared By State Elections Board

Statute(s) interpreted: subch. II of ch. 6, ss. 6.26 to 6.57, Stats.

Statutory authority: ss. 5.05(1)(f), 6.26(3), and 227.11(2)(a), Stats.

Explanation of agency authority: This new rule interprets and implements subchapter II of ch.6 of the Wisconsin Statutes, ss. 6.26 – 6.57, Stats. Subsection (3) of s. 6.26, Stats., provides that the Elections Board “shall, by rule, prescribe procedures for appointment of special registration deputies, for revocation of appointments of special registration deputies, and for training of special registration deputies by municipal clerks and boards of election commissioners.” The rule implements that statute and also sets forth the procedures for voter registration and for the conduct of voter registration drives to implement the legislature’s directive in s. 6.26, Stats., that the board shall, by rule, prescribe procedures “to promote increased registration of electors consistent with the needs of municipal clerks and boards of election commissioners to efficiently administer the registration process.”

Related statute(s) or rule(s): s. 19.35, Stats.

Plain language analysis. The rule provides the methods by which voter registration is conducted in Wisconsin, including registration through the appointment of special registration deputies and the conduct of voter registration drives. The rule also provides the contents of the voter registration application.

Summary of, and comparison with, existing or proposed federal regulations: The federal government does not have a voter registration system, but to implement the requirements of the Help America Vote Act and the plan adopted by the State Elections Board to implement the Help America Vote Act, Wisconsin is required to establish a system of statewide voter registration. This rule facilitates and clarifies the implementation of that system.

Comparison with rules in adjacent states: Illinois, Iowa, Michigan and Minnesota all have statewide voter registration systems to bring them into compliance with the Help America Vote Act.

Summary of factual data and analytical methodologies: The Elections Board did not employ any factual data or analytical methodologies in the development of the rule.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: The rule will have no effect on small business or economic impact.

Effect on Small Business

The rule has no effect on business.

Agency Contact Person

George A. Dunst
 Legal Counsel, State Elections Board
 17 West Main Street, P.O. Box 2973
 Madison, Wisconsin 53701-2973
 Phone 266-0136
 (george.dunst@seb.state.wi.us)

Place where comments are to be submitted and deadline for submission:

State Elections Board
 17 West Main Street
 P.O. Box 2973
 Madison, Wisconsin 53701-2973
 Phone 266-0136
 (elections.state.wi.us)

Deadline for submission: June 4, 2007

Text of Rule

Pursuant to the authority vested in the State of Wisconsin Elections Board by ss. 5.05(1)(f) and 227.(11)(2)(a), Stats., the Elections Board hereby repeals and recreates ElBd 3.02 and creates ElBd 3.01, 3.03, 3.10 to 3.13, and 3.20, relating to voter registration, and interpreting subchapter II of ch.6 and ss. 6.26 to 6.57, Stats.:

SECTION 1. Chapter ElBd 3 is created to read:

3.01 Voter registration. (1) In this chapter:

- (a) “Applicant” has the meaning given in s. 6.02 (2)(a), Stats.
- (b) “Appointing authority” means the state elections board, a municipal clerk or board of election commissioners.
- (c) “Board” means the state elections board.
- (d) “By mail” means the completing and signing of a voter registration application form other than in the presence of a special registration deputy, county clerk, deputy clerk or municipal clerk.
- (e) “Close of registration” has the meaning given in s. 6.28 (1), Stats.
- (f) “Election cycle” means the period beginning on January 1 of an odd-numbered year and continuing through December 31 of an even-numbered year.
- (g) “In person” means the completing and signing of a voter registration application form in the presence of a special registration deputy, county clerk, deputy clerk or municipal clerk.
- (h) “Municipal clerk” has the meaning given in s. 5.02(10), Stats., and includes the Milwaukee city board of election commissioners.
- (i) “Provider” means a municipality or county that provides election administration services in conjunction with the Statewide Voter Registration System for a relier municipality.
- (j) “Qualified elector” has the meaning given in s. 6.02, Stats.
- (k) “Registration” means registration to vote under subchapter II of ch.6, Stats.

(l) “Registration period” means the time period occurring between the date of a special registration deputy’s appointment and the close of registration for the election immediately following the appointment. For purposes of this subsection, the term “election” includes any primary that precedes the election.

(m) “Relier” means a municipality that enters into an agreement with another

municipality or county to provide election administration services in conjunction with the Statewide Voter Registration System.

(n) “Self-provider” means a municipality that provides its own election administration

services in conjunction with the Statewide Voter Registration System.

(o) “Special registration deputy” has the meaning given in s. 6.26 (2) (a), Stats.

(p) “Statewide Voter Registration System” is the election administration software

application provided by the board to enable local election officials to register voters, track absentee voting and administer elections.

(q) “Voter registration application form” means the board-prescribed form (EB-131) on which voter registration information is recorded before entry in the Statewide Voter Registration System.

3.02 Content of the voter registration form. (1) An elector shall provide the following information on the voter registration application form:

(a) The elector’s full name, including first and last name;

(b) The elector’s complete address, including street, number and municipality;

(c) The elector’s date of birth;

(d) The elector’s driver’s license number; or, if the elector has not been issued a valid and current driver’s license but has a department of transportation issued identification card, the transportation identification card number or the last four digits of the elector’s social security number. If the elector has not been issued a valid and current driver’s license and does not have a social security number, the elector shall indicate that the elector has neither of those documents.

(e) An indication of the elector’s age;

(f) An indication of the elector’s citizenship;

(g) An indication that the elector is not disqualified from voting because the elector has not completed the terms of a sentence resulting from a felony conviction;

(h) If the elector was registered at a different location, the complete address including street, number and municipality of the previous address;

(i) If the elector was registered under a different name; the elector’s former name, including first and last name;

(j) The signature of the elector certifying that the elector is qualified to vote in Wisconsin.

3.03 Treatment of voter registration applications. (1) If an applicant for voter registration fails to check either or both of the boxes indicating that the elector is a U.S. citizen and that the elector is at least 18 years old, the municipal clerk may process the voter registration application if the elector has signed the certification on the application form indicating that the voter meets the applicable requirements to vote in Wisconsin.

(2) If information is missing from a voter registration application form, the municipal clerk shall contact the applicant by any means feasible, including: in person, email, facsimile or telephone, to obtain the missing information.

3.10 Special registration deputies. (1) A qualified elector of the State of Wisconsin may apply to any municipal clerk or board of election commissioners to be appointed a special registration deputy, under s. 6.26, Stats., for the purpose of registering electors of that municipality before the close of registration.

(2) A qualified elector of this state may apply to the board to be appointed a special registration deputy for the purpose of registering electors of any municipality before the close of registration.

(3) Application to be appointed a special registration deputy shall be made by completion of the application form prescribed by the board and submission of the form to the appointing authority.

(4) Appointment shall be consummated by issuance of the special registration deputy’s oath of office, on a form prescribed by the board.

(5) The term of an appointment under this chapter continues through the registration periods remaining in the election cycle at the time of application, and expires at the end of the election cycle.

3.11 Special registration deputy application form. (1) An application to be appointed a special registration deputy shall require the applicant to provide the applicant’s name, address, and contact information.

(2) The application shall contain a certification that the applicant is a qualified elector of the state who is not disqualified from voting.

(3) The applicant shall agree to follow the procedures established by the board and the municipal clerk.

(4) The applicant shall attend a training session conducted by the appointing authority before being appointed a special registration deputy.

(5) The applicant shall be issued, by the appointing authority, a unique number that the applicant shall list on all voter registration forms collected by the applicant.

3.12 Special registration deputy training.

(1) The content and curriculum of the training session required of each special registration deputy shall be prescribed by the board.

(2) The training shall include the following elements:

(a) A discussion of Wisconsin voter eligibility requirements;

(b) Directions on the completion of the voter registration application form, including a direction that the special registration deputy shall affix to the form his or her printed name, signature and identification number, and a direction that the information on the form shall be legible;

(c) Review of the applicable statutory deadlines for submitting an application to register to vote;

(d) Directions on the treatment of confidential voter information and on the handling of proof of residence documents received from an applicant;

(e) Review of the deadlines and procedures for delivering the completed voter registration form to the appointing authority;

(f) Information on the consequences of failing to follow the prescribed procedures for registering voters;

(g) Information on the provisions of s. 12.13 (3) (ze), Stats., prohibiting compensation of special registration deputies according to the number of registration forms collected;

(h) Information on the criminal sanctions applicable to the misuse of appointment of special registration deputies;

(i) Any other information prescribed by the board.

3.13 Revocation of special registration deputy appointment. (1) Under s. 6.26 (2) (b), Stats., an appointing authority may, for cause, decline to appoint an applicant as a special registration deputy, or may revoke the appointment of an existing special registration deputy.

(2) Cause to deny or to revoke an appointment means that one or more of the following circumstances applies to the applicant or special registration deputy:

(a) The applicant or special registration deputy lacks the qualifications of an election official as set forth in s. 7.30 (2), Stats.;

(b) The applicant or special registration deputy fails to attend training sessions scheduled by the appointing authority;

(c) The applicant or special registration deputy has previously had an appointment revoked for cause;

(d) The applicant or special registration deputy fails to adhere to procedures established by the appointing authority, including submission of completed voter registration application forms in the time and manner prescribed by the appointing authority;

(e) The applicant or special registration deputy falsifies, fails to submit, or wrongfully suppresses, a voter registration application form or otherwise commits official misconduct.

3.20 Voter registration drives. (1) Individuals or organizations conducting voter registration drives shall use the voter registration application form (EB-131) prescribed by the board.

(2) Individuals or organizations conducting voter registration drives may not retain the following voter registration information: the date of birth, driver's license number, department of transportation identification number, or last four digits of the social security number of an individual completing a voter registration application form.

(3) Individuals or organizations conducting voter registration drives may utilize special registration deputies to assist in the collection of voter registration application forms.

(4) Individuals or organizations conducting voter registration drives that do not utilize special registration deputies to assist in the collection of voter registration application forms shall collect a copy of the required forms of proof of residence for first-time voters and submit the copy to the appointing authority with the completed voter registration application form.

(5) Individuals or organizations conducting voter registration drives may not retain a copy of any form of proof of residence collected from an individual.

(6) Individuals or organizations conducting voter registration drives may not pay any individual collecting voter registration application forms compensation based on the number of registration forms collected as proscribed in s. 12.13 (3)(ze), Stats.

Initial Regulatory Flexibility Analysis

The creation of this rule does not affect business.

Fiscal Estimate

The creation of this rule has no fiscal effect.

Contact Person

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Notice of Hearing Employee Trust Funds [CR 07-062]

A public hearing on this proposed rule will be held on **July 12, 2007**, at 9:00 AM in Conference Room GB at the offices of the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin. Attendees should come to the reception desk up the stairs (or the elevator) from the main building entrance for escort to the conference room.

Analysis Prepared by the Department of Employee Trust Funds

1. Statute interpreted: Section 40.285, Stats.
2. Statutory authority: Sections 40.03 (2) (i), 40.285 (2) (a) 3., and (b) 1. d. and 5., (4) (c) and (5) (c), and 227.11 (2) (a), Stats.
3. Explanation of agency authority: By statute, the DETF Secretary is expressly authorized, with Board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin Statutes. Each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute. The Legislature has expressly required the Department to specify, by rule, how the purchase of service credit for previously forfeited service will be prorated when more than one category of employment is involved and credit for less than all the previously forfeited service is purchased. In addition, the Legislature has mandated that the Department shall establish by rule different rates for different categories of participants who purchase credit for other governmental service, based upon factors recommended by the actuary.
4. Related statute or rule: Section 40.285, Stats.
5. Plain language analysis:

Introduction.

This rule-making supplements and interprets the re-codification of the statutes governing the purchase of creditable service under the Wisconsin Retirement System (WRS). The law governing the WRS allows participating employees to purchase credit under the WRS for six different kinds of service: previously forfeited service, other governmental service, previous executive service not credited because of over-62 age restrictions, a 6-month uncredited qualifying period, teacher improvement leave and uncredited junior teaching service. Existing Administrative Code provisions apply to service purchases generally (Wis. ADMIN. CODE § ETF 20.14), the purchase of forfeited service (§ ETF 20.15), qualifying service (§ ETF 20.16) and other governmental service (§ ETF 20.18). All of these existing administrative rules are repealed by this rule-making.

In July 2003, 2003 Wis. Act 33 created a new s. 40.285, Stats., that revised and combined all the former statutes concerning the purchase of service credits. In the process, the former ss. 40.02 (17) (b), (e), (i), and (k) and 40.25 (5) and (6), Stats., were eliminated, either by renumbering or repeal. Subsequently, in April 2006, 2005 Wis. Act 154 amended

Wis. STAT. § 40.285 (4) (d) regarding the role of funds received for the purchase of other governmental service in calculating WRS death benefits and money purchase retirement benefits.

Wis. ADMIN. CODE § ETF 20.14 was created effective January 1, 1997, and § ETF 20.18 was created effective July 1, 1995. Neither has been amended by the Department since then. Wis. ADMIN. CODE § ETF 20.15 and 20.16 were both created during 1982 and were most recently amended effective January 1, 1997.

This rulemaking deletes language and policies incorporated in these rules that have been superseded by subsequent legislation or which have otherwise become obsolete due to changes in the applicable law. In their place, the rule-making creates a new Wis. ADMIN. CODE § ETF 20.17 uniting the rules covering all purchases of creditable service into one code provision.

Service Credit Purchases; Generally.

Under Wis. STAT. § 40.285, a participating employee may purchase credit in the WRS for six different kinds of service. Such service credit purchases both increase the creditable service used to calculate a formula annuity and also increase the account balance in the employee's required contribution account. Except for amounts received to purchase other governmental service, these additional funds increase the value of the participating employee's money purchase pension benefit.

(a) Defining terms.

In § ETF 20.17 (2), the proposed rule defines key terms. All definitions are based on the present Wis. ADMIN. CODE § ETF 20.18 (2) (a), (b), (c), (d) and (e). The phrases "At the time of application" and "date of application" are defined consistent with § ETF 10.82 (1), to which reference is added. The definitions of the remaining terms, "current earnings," "military service," "money purchase balance," and "other governmental service," are substantially similar to the current definitions, except for necessary cross-reference corrections and some minor clarifications.

The rule-making also makes technical amendments to the existing definition of the term "three continuous years of creditable service" in Wis. ADMIN. CODE § ETF 10.01 (7). This is a statutory pre-requisite to eligibility for purchasing credit for either forfeited service or other governmental service.

(b) Estimates, applications and final calculations.

As provided by this rule, the Department will upon request prepare a combination estimate and application form to be used to make the purchase. After the completed application and actual payment is received, the DETF will audit the transaction and, if necessary, recalculate the amount due. Such adjustments may be necessary, for example, if an estimate was prepared during one year and the employee submits the application later, after a change in the employee's compensation has occurred. \

This rule-making eliminates the limits on how much may be paid into the retirement system found in the current Wis. ADMIN. CODE § ETF 20.14 (1) and (2) (a) 1. The limits were based on now obsolete provisions of § 415(c) of the Internal Revenue Code. The sources of permissible funds to use to make the service credit purchase are also expanded from current rules, in accord with the latest federal tax laws.

(c) Deadline for applying.

Because only a "participating employee" may buy credit for service under Wis. STAT. § 40.285, the completed application must be received at the DETF before the

employee terminates participating employment. A special provision establishes the deadline for a retired employee who holds a second participating position as a part-time elected official and "opts out" of WRS coverage with respect to that part-time position as permitted under Wis. STAT. § 40.23 (1) (am) 2. The treatment under the rule is consistent with that statute and establishing when the person ceases to be a participating employee.

(d) Rejection of ineligible, unpaid and incomplete applications.

An application for service credits the applicant is not entitled to buy must be rejected. Late applications must be rejected. Generally, applications not accompanied by payment-in-full must also be rejected. However, there are some exceptions. The applicant may use voluntary additional contributions already in the participant's WRS account, including §403(b) funds, as part of the payment. Alternatively, the applicant may pay a required 10% down-payment and arrange to transfer the remainder from another qualifying benefit plan, as permitted by federal tax laws, within 90 days. An application that remains incomplete for more than 90 days may be rejected, at the Department's discretion. If the Department underestimated the actual final cost of the service purchase, the applicant may cancel the transaction, or pay the balance due. The Department allows participants in this situation who have already begun to receive their WRS pensions to pay the balance due out of one of the next monthly annuity payments. At present, that option exists only for purchases of credit for forfeited or other governmental service. This rule will expand that option to all types of service purchase and also allow the balance to be deducted from a lump sum paid in lieu of a retirement annuity.

(e) Effects of buying service credit.

This rule-making clarifies the long-standing DETF policy that buying credit for service simply adds the amount of service credit purchased to the person's total creditable service, going forward, for the sole purpose of calculating a formula annuity benefit under Wis. STAT. § 40.23 (2) (b) or (2m) (e), or making other formula annuity calculations in that manner such as for disability annuity benefits or special death benefits under Wis. STAT. § 40.63 (8) or 40.73 (1) (c), respectively. Buying creditable service has no retroactive effect and therefore does not do any of the following:

- Undo any effects of the requirement of Wis. STAT. § 40.25 (3) that a person who takes a separation benefit must thereafter be treated as a new employee for all ch. 40 purposes upon subsequent employment by a participating employer.
- Establish an earlier date of participation or restore an account as though it had never been closed.
- Restore or entitle the purchaser to any benefits or rights associated with being a participant in the WRS or a member of any predecessor retirement system, at the time the services for which credit is being purchased were actually performed.
- Establish any creditable service in, or for, any particular year.
- Circumvent the statutory limit of 1.0 years of creditable service for any annual earnings period.

Under s. 40.23 (2m) (e) 1. to 4., Stats., higher multipliers are used to calculate formula annuity benefits based on pre-2000 creditable service. In s. ETF 20.17 (1) (j), this rule-making cross-references the treatment of purchased service credits for that purpose, as provided by Wis. ADMIN. CODE § ETF 20.19 (2). In addition, Wis. STAT. § 40.23 (2m) (em) 1. a. provides that any service forfeited by taking a separation benefit prior to January 1, 2000, will be treated as pre-2000 service if a service credit is purchased under Wis. STAT. § 40.285 (2) (a). This rule-making amends the existing

Wis. ADMIN. CODE § ETF 20.19 (2) (c) to clarify this treatment and expands the existing rule that covers situations in which a participant purchases service credit for forfeited service, forfeits that and other creditable service by taking a separation benefit, then again purchases credit for the forfeited service.

For added clarity and to remove unnecessary cross-references to the former Wis. STAT. § 40.25 (6), which was repealed by 2003 Wis. Act 33, this rule-making also amends Wis. ADMIN. CODE § ETF 20.19 (2) (a) through (d), concerning the pre-2000 or post-1999 treatment of purchased service credits for forfeited service. The existing protection of the employee by applying partial payments to pre-2000 service credit first is retained and expressly cross-referenced in the new § ETF 20.17 (3) (d).

A new s. ETF 20.19 (2) (dm) is created to provide that the purchased service credit for other governmental service will be treated as post-1999 or pre-2000 service for formula benefit purposes, depending on when the services were actually rendered to the non-WRS governmental entity. This is in accord with the provision of Wis. STAT. § 40.23 (2m) (em) 1. b. that purchased service credit for other governmental service will be treated as pre-2000 service for calculating a formula annuity benefit under Wis. STAT. § 40.23 (2m) (e), if the purchase was based on services considered to have been performed before January 1, 2000.

Wis. Admin. Code § ETF 20.19 (2) (e), (h), (i) and (f) already provide that purchased service credit for a qualifying period, teacher improvement leave, and previously uncredited service as a junior teacher or executive participating employee will be treated as pre-2000 service in calculating formula benefits under Wis. Stat. § 40.23 (2m) (e). This rule-making does not affect those provisions.

(f) Treatment of payments.

Amounts received for the purchase of service credit will be effectively deposited into the participant's required contribution account, described in Wis. STAT. § 40.04 (4) (a) 1. However, as provided in § ETF 20.17 (4) (f), funds received for the purchase of other governmental service will also be accounted for so that they are not matched by funds from employer required contributions when calculating a money purchase or a death benefit, as provided by Wis. STAT. §§ 40.23 (3) and 40.73 (1) (am) and (c).

Generally, the purchase amount will be treated as amounts received during the year in which the DETF actually receives the payment, meaning the funds will not be credited with interest for that calendar year. Generally, if the participant participates in the variable retirement investment trust, the amounts received will be divided between the core and variable retirement investment trusts just like the participant's current contributions.

There are exceptions to those general rules, however. An employee may use accumulated after-tax additional contributions, including those under Wis. STAT. § 40.05 (1) (a) 5., which are already in the Public Employee Trust Fund to make the service purchase. In order to protect the employee from losing year-end interest crediting on such funds, the rule creates an exception in § ETF 20.17 (1) (g) 3. that treats such funds as being in the Trust Fund throughout the year, as they were in fact. For similar reasons, the same exception also preserves the source of such funds in the core retirement investment trust and variable retirement investment trust.

(g) Refunds.

Wis. Stat. § 40.285 (7) prohibits any refund of \$25 or less. Above that threshold, § ETF 20.17 (1) (f) in this rule provides that excess amounts received shall be refunded to the participant. An exception exists if the source of the purchase

funds was a plan-to-plan transfer from another qualifying benefit plan. In those cases, in order to avoid tax liabilities for the employee, the refund must be paid back to the appropriate plan, as determined by the DETF.

Regarding the payment of interest on a refund, this rule-making cross-references the applicable statute. Wis. STAT. § 40.08 (6) (e) prohibits the payment of interest on a refund.

(h) Payment shortfalls.

By statute, the DETF will not undertake collection actions against the applicant if the payment shortfall is under \$25. In ETF § 20.17 (1) (h), the rule anticipates that payment shortfalls might occur in different ways, separately or in combination. The applicant might include the full estimated amount with the application, but the subsequent audit and final calculation determines that the actual amount due is higher. Or, the applicant arranges for a plan-to-plan transfer to partly fund the service purchase, and the amount transferred from the other plan is insufficient, perhaps because the anticipated value of the account dropped in the interim.

When a plan-to-plan transfer is involved, the employee will be given 30 days to pay the shortfall. If not timely paid in full, the DETF will prorate the amount of service credit purchased to match the amount received in conformity with Wis. STAT. § 40.285 (5) (c). This is the only circumstance in which a person may purchase less than all of the available credit for a qualifying period, teacher improvement leave, and previously uncredited service as a junior teacher or executive participating employee.

If the shortfall is the result of a low estimate by the Department, and a plan-to-plan transfer was involved, the DETF will proceed in the same manner as for an insufficient transfer. Otherwise, the employee will be given 30 days to pay the difference due or withdraw the application. If the balance due is not timely received or the employee withdraws the application, the amounts received will be refunded. This is the only circumstance under which an applicant may withdraw or cancel an application to purchase service after any payment has been received by the DETF.

This rulemaking creates one other alternative payment option. It applies only when the estimate was too low, and the applicant has a WRS retirement benefit payable. In this case, the applicant may ask that the Department deduct the balance due from a subsequent monthly annuity payment or from a lump sum payable in lieu of an annuity. The current Wis. ADMIN. CODE §§ ETF 20.15 (2) (em) and 20.16 (4m), allow such a deduction in connection with shortfalls in payments for the purchase of credit for forfeited service and qualifying service, respectively. This rule-making will expand the option to all service purchases.

A shortfall might occur if the applicant deliberately pays less than the full amount due. This is permissible only for a purchase connected with forfeited service or other governmental service. In those cases, the applicant will be given notice of the shortfall and an opportunity to pay the difference. If the difference is not received within 30 days after notice is sent to the participant, the department shall complete the purchase, reducing the amount of service credit purchased to the prorated credit equaling the payment actually received. This permits the applicant to decide to buy less than the full amount of service credit available, but only for service credit purchases under Wis. STAT. § 40.285 (2) (a) and (b), and accords with long-standing Department practice and policy.

(i) Effect of Qualified Domestic Relations Orders.

This rule-making clarifies the treatment of purchased credit for service when a court orders a division of a WRS

account by a qualified domestic relations order (QDRO). By amending the existing §ETF 20.25 (3) (d) 2., this rule-making provides that credit for service purchased under WIS. STAT. § 40.285 will be divided by a qualified domestic relations like all other creditable service in the participant's account, provided the application for the purchase was actually received by the department prior to the first day of the month in which the marriage was terminated. This date is defined by WIS. STAT. § 40.02 (18f) as the "decree date" and is the effective date of a QDRO. If the application to purchase credit for service is received after the decree date, then any service purchased under the application will not be affected by the QDRO, regardless of the source of the funds for the purchase or when the services in question were actually rendered. The amendment also provides that the Department will send any bill for payment shortfalls and any refund due in connection with the application to purchase service only to the participant, regardless of whether there is a QDRO or when the application was received. Nothing in this rule-making will prevent the parties to a divorce, or the court, from making arrangements between the parties for the participant to share refunds with the ex-spouse or for the ex-spouse to contribute, through the participant, to the payment of a shortfall. But the Department will not be required to split bills or refunds or deal with the ex-spouse concerning the participant's application to purchase service credits.

(j) Number of service credit purchases per year.

Wis. Stat. § 40.285 (2) (a) 3. and (b) 5. allow the Department the option to allow, by rule, more than two service credit purchases of forfeited service or two purchases of other governmental service per year. This proposed rule-making does not expand the default limit of two such service purchases per year and applies that limit across the board to all service credit purchases. This is necessary because of a payment option created by Wis. Stat. § 40.285 (5).

The purchase of the service for the qualifying period, teacher improvement leave, and previously uncredited service as a junior teacher or executive participating employee are all intended to be one-time purchases of the entire available credit with payment-in-full accompanying the application. Applications without full payment would generally be rejected. However, under WIS. STAT. § 40.285 (5), a plan-to-plan transfer is an available payment option for all forms of creditable service purchase. The possibility exists that there will be a payment shortfall resulting in prorating the service purchased as provided by WIS. STAT. § 40.285 (5) (c). To address that possibility, this rule-making permits an additional creditable service purchase of the same type during the same calendar year, provided the participating employee remains otherwise eligible. So, § ETF 20.17 (1) (e) limits all types of creditable service purchase to two per year, maximum.

Rule-making for particular kinds of service purchase.

(a) Rules specific to purchase of credit for forfeited service.

This rule-making provides that the Department will prepare an estimate for purchase of forfeited service based upon all the years and fractions of a year of forfeited service for which credit may then be purchased, unless the employee specifies a lesser amount. Purchases of credit for forfeited service are limited by the accumulated creditable service of the employee at the time of the purchase, no matter how much previous service was actually forfeited.

Unlike purchases of credit for service during a qualifying period, teacher improvement leave, and previously uncredited service as a junior teacher or executive

participating employee, these rules allow an employee to decide (after receiving the estimate and application form) to buy credit for less than the full amount of service credit available for forfeited service.

The rule-making also codifies in § ETF 20.17 (3) (f) the Department's long-standing and actuarially sound policy that credit for service forfeited by taking a separation benefit or otherwise withdrawing funds is not available for purchase as forfeited service if the individual was paid both the contributions required from an employee, including those "picked up" by the employer, and the deposits or contributions required from the state or the employer.

Wis. Stat. § 40.285 (4) (c) and (5) (c) require the Department to specify, by rule, how a purchase of forfeited service, by a participant who forfeited service under more than one category of employment, will be prorated in the event of different kinds of payment shortfalls. In this rule-making, §ETF 20.17 (3) (d) provides that, unless the applicant specifies otherwise, the amount received will be applied until exhausted to buy all the available creditable service under each of the employee's different employment categories listed in the order of the highest to lowest multipliers in Wis. Stat. § 40.23 (2m) (e) 1. through 4. In addition, credit for service as a protective occupation participant with Social Security coverage is listed ahead of service as an elected official or executive participating employee, and service as a teacher credited separately and ahead of other service in the general category under Wis. Stat. § 40.23 (2m) (e) 1. In the event that the treatment of Wis. Stat. §§ 40.02 (17) (intro.) and (33), 40.22 (2) (a), (2m) (intro.), (a) and (3) (b) by 2007 Senate Bill 40, sections 750, 758, 772, 773, 774, 775 and 9314, becomes law, then service as an educational support personnel employee would be listed just ahead of service as a teacher.

(b) Rules specific to purchase of credit for other governmental service.

This rule-making requires that the actuary review and update the method for calculating the cost of other governmental service in accord with the actuary's general investigation of assumptions and experience. The actuary may also revise the calculation at any time if there are changes in the benefit structure changes, valuation assumptions or other factors the actuary finds significant.

This rule-making describes in § ETF 20.17 (4) (b) 3. and (c) the proof necessary to establish that service for which credit is sought was performed and meets the definition of "other governmental service." The specified proof is carried over from the existing § ETF 20.18 (4) with minimal changes for clarity.

A new rule requirement, based upon WIS. STAT. § 40.285 (2) (b) 4., is for a certification that the other governmental service is not being used to establish entitlement to or the amount of other pension, retirement or similar federal, state or local government benefits, except for Social Security, disability or benefits for service in the national guard or reserves. The new rule clarifies that the statutory prohibition bars buying credit only to service being used for other pension and retirement benefits from federal, state or local governmental plans.

A provision of the existing § ETF 20.18 (4) (c) states that the department's determination as to the sufficiency of the evidence is conclusive. This is not carried over to the new rule. Rather than being conclusive, this rule-making specifies that the determination, like virtually all determinations made by the Department, is subject to timely appeal to the Board.

The provision of the current § ETF 20.18 (6) (a) limiting the amount of credit for other governmental service that may be purchased is carried over to this new rule-making, in part.

The participating employee may not purchase more credit than he or she has already earned under the WRS. However, the present absolute cap on purchasing more than 10 years of other governmental service is removed.

The current § ETF 20.18 (3) (b) allowing a participant to submit an application 90 days after terminating all participating employment is not carried over. Instead, the application must submit an application while still a participating employee, but then has up to 90 days to submit the supporting documentation.

The current provision in § ETF 20.18 (7) (f) allowing the Department to reject an application for the purchase of other governmental service that is incomplete after 6 months is not carried over. Rather, any application for purchasing any type of service credit may be rejected by the Department if still incomplete after 90 days.

These rules allow an employee to decide (after receiving the estimate and application form) to buy credit for less than the full amount of service credit available for other governmental service. This treatment is unlike purchases of credit for service during a qualifying period, teacher improvement leave, and previously uncredited service as a junior teacher or executive participating employee,

As is currently provided in § ETF 20.18 (6), the amount of service credit will be determined by applying the 1,904 hour test applicable to full-time employment for non-teachers, regardless of the nature of the services rendered for the other government. Also, service credit purchased for other governmental service may not be applied for purposes of satisfying any of the following:

- The vesting requirement of former WIS. STAT. § 40.23 (1) (a) 3., 1995 Stats.
- The minimum recent service criteria for disability benefits
- The service requirements to be eligible to continue insurance after termination.

Neither may the service credit purchased for other governmental service be considered as part of the participant's accumulated creditable service for determining the maximum amount of service credit that may be purchased for forfeited service or other governmental service.

One kind of other governmental service for which credit may be purchased is employment by an employer that joined the WRS after the services in question were rendered, and did not recognize 100% of the employee's prior service for WRS purposes. Since WIS. STAT. § 40.21 (6) (b) allows a WRS participating employer to later recognize such prior service, this rule contains in § ETF 20.17 (4) (e) 5. f. a protection for the employee who already bought service credits for prior service, which is later recognized by the employer. The purchase payment and associated interest will be transferred to the employee's voluntary additional contribution account and the service credit will be recognized as ordinary service, not subject to the restrictions noted above for other governmental service credits.

Wis. Stat. § 40.285 (2) (b) 1. d. provides that an applicant to buy creditable service under the WRS for so-called other governmental service must pay the cost of the purchase in a lump sum equal to the present value of the creditable service. The actuary is to determine rates that will be actuarially sufficient to fund the costs of the increased benefit resulting from the purchase of this service. The department is required to establish, by rule, different rates for different categories of participants, based on factors recommended by the actuary. At present the rule meeting this requirement is Wis. Admin. Code § ETF 20.18 (5), the language of which is incorporated

into this rulemaking with only minor editorial changes and clarifications.

The part of current § ETF 20.18 (5) (c) requiring Department pre-approval of the actuary's calculation for setting the cost of purchasing credit for other governmental service is not carried over. Neither is the portion of § ETF 20.18 (5) (d) that allows the Department to prescribe when the actuary's revised calculation method will be applied. The rule requires that the actuary's new method of calculation be applied as of the effective date recommended by the actuary. However, the new calculation method will not be applied to applications received before the actuary's effective date.

Factors to be considered by the actuary in setting the rate for purchasing other governmental service currently stated in § ETF 20.18 (5) (b) are carried over into the new rulemaking, except for an obsolete reference to differing interest crediting on participant accounts in WIS. ADMIN. CODE § ETF 20.18 (5) (b) 2. c. The actuarial assumptions described in the current § ETF 20.18 (5) (b) 2. f. and g. appear in combined and revised form in the new rule. A new factor has been added so that the actuary will assume that any participating employee who has reached eligibility for an unreduced formula annuity benefit will retire after completing the transaction.

(c) Rules specific to purchase of credit for qualifying period.

A pre-requisite for purchasing credit for a qualifying period is to first purchase service credit for any subsequently forfeited service. This rule carries over into § ETF 20.17 (5) (c) this requirement, which is currently found in WIS. ADMIN. CODE § ETF 20.16 (1). The applicant to purchase service credit for a qualifying period must first purchase all service credit the applicant is currently eligible to buy for forfeited service.

An applicant must purchase all available qualifying period service credit, up to the 6-month statutory maximum. The sole exception is that prorating may occur due to a shortfall in a plan-to-plan transfer to pay for the benefit, as required under WIS. STAT. § 40.285 (5) (c).

The cost of the service credit is based on the employee's highest earnings in a single annual earnings period. For an application received, for example, in March, the annual earnings for the current period are unknown. The Department will look back to the highest completed annual earnings period in its records. If the applicant was part-time during that annual earnings period, then the earnings will be extrapolated upwards to reflect a full-time amount to be used in calculating the purchase price for the service credit.

The service credit purchased for qualifying service will be in the category of employment in which it would have been granted if the services had been creditable at the time they were performed.

(d) Rules specific to purchase of credit for teacher improvement leave.

The only service credit available for teacher improvement leave under WIS. STAT. § 40.285 (2) (e) is for a leave occurring between January 1, 1964 and August 21, 1967. The rule provides that an employee wishing to purchase service credit for such leave must first obtain the certification from the University of Wisconsin Board of Regents that is required by the statute. The Department will then provide an estimate and application form based on the period of leave certified.

An applicant must purchase all available teacher improvement leave service credit. The sole exception is that a prorating may occur due to a shortfall in a plan-to-plan transfer to pay for the benefit, as required under WIS. STAT. § 40.285 (5) (c).

(e) Rules specific to purchase of credit for uncredited junior teaching service.

This rule clarifies that to be eligible to purchase service credit for “junior teacher” service, the applicant must have been employed as a teacher in the public schools covered by the former State Teacher Retirement System. This excludes City of Milwaukee teachers. In addition, the teaching service in question must have occurred prior to the 1957–58 school year, and during a school year when the teacher had not attained age by the July 1 before the start of the school year. The eligibility criteria in § ETF 20.17 (7) (b) is based on the statutory definition of “junior teacher” in former WIS. STAT. § 42.20 (6). Junior teachers were effectively excluded from coverage under the State Teachers Retirement System until former WIS. STAT. § 40.40, 1955 Stats., was amended by Chapter 12, § 10, Laws of 1957, effective July 1, 1957.

An applicant must purchase all available junior teacher service credit. The sole exception is that prorating may occur due to a shortfall in a plan-to-plan transfer to pay for the benefit, as required under WIS. STAT. § 40.285 (5) (c).

(f) Rules specific to purchase of credit for uncredited service as an executive official.

In § ETF 20.17 (8) this rule-making describes the eligibility criteria for purchasing credit under WIS. STAT. § 40.285 (2) (c) which are not readily apparent from the statutory references to uncredited service due to age restrictions. It is not impossible that participating employees eligible for this benefit remain, but it is not likely. The rule clarifies that a participating employee who, on or after May 3, 1988, held a position as an executive participating employee. In addition, the person must have held a position between July 1, 1974 and May 3, 1988, while the position was listed in one of the executive salary groups under WIS. STAT. § 20.923 (4), or certain specified deputy and executive assistant positions under WIS. STAT. § 20.923 (8) or (9), respectively. The applicable restrictions on age concerned barring creditable service after a person reached age 62. The effective date of this bar was not the 62nd birthday. From mid-1974 through 1981, the effective date of the bar was the end of the calendar quarter in which the person reached age 62. From 1982 until the bar was eliminated in May 1988, the effective date was the first day of the fourth month that began after the individual reached 62. No person born after January 31, 1926 would have been affected by these age restrictions, so an eligible participating employee would be at least 81 years old today.

The rule also interprets the statutory language of WIS. STAT. § 40.285 (2) (c), based on the history of that language, to mean that:

- All participating employees purchasing service under that paragraph, will pay the same rate for such service regardless of whether the participating employee is a present or former elected official or an appointee of such an official;
- No one who purchased service under former WIS. STAT. § 40.02 (17) (e), which was in effect from May 3, 1988 through August 14, 1991, is entitled to buy credit under WIS. STAT. § 40.285 (2) (c); and,
- No present or former elected official, or an appointee of such an official, who purchased service under that former WIS. STAT. § 40.02 (17) (e) is entitled to any refund or additional benefit based upon the amendment of that statute by 1991 Wisconsin Act 39 or by the renumbering and subsequent amendment of that statute by 2003 Wisconsin Act 33.

In the event that a person does qualify to purchase credit under WIS. STAT. § 40.285 (2) (c), then all such credit available

must be purchased, unless a plan-to-plan transfer method of payment is used, and there is a shortfall.

Other rule-making. Eligibility for long-term disability insurance benefits.

This rule amends WIS. ADMIN. CODE § ETF 50.50 (2) concerning the minimum recent service requirement to qualify for long-term disability insurance benefits. An applicant for benefits must have at least one-third of a year of creditable service in at least 5 years out of the 7 years preceding the application and the year of the application itself.

At present, “repurchased service” may be counted towards this requirement only if the service itself was rendered during the calendar year in which the application was received or one of the 7 preceding years. This rulemaking clarifies that in this context, the only purchased service credits which may potentially be counted are those under WIS. STAT. § 40.286 (2) (a) pertaining to purchased credit for forfeited service.

Non-substantive, technical rule-making.

A technical, non-substantive, clarification is also added to WIS. ADMIN. CODE § ETF 50.50 (2) by this rulemaking to identify another type of service that counts towards the minimum service requirement. Veterans who left WRS covered employment to go into the armed forces, then returned to their previous employment afterwards, may qualify for “creditable military service” under WIS. STAT. § 40.02 (15) (a). Similarly, returning members of the uniformed services may also qualify for WRS creditable service under the federal Uniformed Services Employment and Reemployment Rights Act which supercedes state law. This rule-making clarifies that such creditable service will be counted towards satisfying the minimum prior service requirement for long-term disability insurance eligibility, in accord with federal requirements. The rulemaking preserves the present exclusion of creditable military service under WIS. STAT. § 40.15 (c), which is awarded to employees based on longevity.

The rule amends WIS. ADMIN. CODE § ETF 10.01 (7) to make the cross-reference changes necessary because of the repeal of WIS. STAT. § 40.25 (6) and (7) by 2003 Wis. Act 33, effective July 26, 2003.

This rule reflects the terminology changes resulting from changing the name of the “fixed” retirement investment trust to the “core” retirement investment trust in 2005 Wis. Act 153, effective April 5, 2006.

Comparison with Federal Regulations

Federal regulations do not require that a governmental retirement plan allow the purchase of permissive service credit. However, 26 U.S.C. § 415(n), a provision of the tax code, provides special rules relating to the purchase of permissive service credits, if allowed by a pension plan. Also, 26 U.S.C. § 457(e)(17) concerns trustee-to-trustee transfers from governmental deferred compensation plans to purchase permissive service credit and 26 C.F.R. § 1.457-10 (b) provides U.S. Treasury regulations pertaining to such plan-to-plan transfers. An exclusion from gross income for plan-to-plan transfer to purchase permissive service credits using another tax sheltered annuity funds is found in 26 U.S.C. § 403(b)(13)(A). The proposed rule is in accord with the federal tax code and regulations in order to preserve both the qualified status of the Wisconsin Retirement System and the tax benefits for employees as required by WIS. STAT. § 40.015.

Comparison with Rules in Adjacent States

Although there are a number of governmental retirement plans in Illinois, Iowa, Minnesota and Michigan, their administrative rules are not directly relevant to interpreting

the Wisconsin statutes governing the Wisconsin Retirement System because the governmental retirement plans in the different states are designed differently. All of the following are plan design issues reflected in the differing laws governing the different plans:

- Whether the plan is a defined benefit plan in which creditable service affects the calculation of benefits.
- If so, whether the plan allows any purchase of service credits.
- If so, exactly what service credits may be purchased and how the cost of the purchase is determined.

Also, governmental plans differ in the degree to which the terms of the plan are established by enabling legislation or left to subsequent administrative rulemaking. Consequently, the administrative rules, if any, for purchasing service credit will necessarily vary between each retirement plan, making a meaningful comparison difficult or impossible.

Illinois. The eligibility to purchase service under the Illinois State Employees' Retirement System is discussed in 80 Illinois Administrative Code § 1540.50 a) 1). As in the Wisconsin Retirement System, purchasing service does not change the effective date of coverage under the plan. See 80 IL ADC § 1540.210 a). After-tax and payroll deduction methods to pay for forfeited service and purchases of permissive service credits are covered in 80 IL ADC § 1540.255. The ISERS defines "permissive service" in 80 IL ADC § 1540.350 a) 8) as including credit purchased by the member for military service, leaves of absence, early retirement incentives, contractual service, federal or out-of-state service, visually handicapped service, legislative staff intern service and unused sick and vacation time.

Under 80 IL ADC § 1600.50, participants in the Illinois State Universities Retirement System may pay contributions for periods of employment predating their being certified as a plan participant. Estimated annuity payments from SURS do not, pursuant to 80 IL ADC § 1600.140 c), include additional service credits purchased after the retirement annuity application was received.

For the Teachers Retirement System of the State of Illinois, 80 IL ADC § 1650.310 c) pertains to calculating cost of buying credit for military service and private school teaching. Eligibility for purchase of credit for leaves of absence is established in 80 IL ADC 1650.3 h). The minimum payment amount for purchase of optional service is covered by 80 IL ADC § 1650.3. Refunds for purchasing duplicate service or for service in excess of what was needed to reach the maximum formula pension benefit are provided for by 80 IL ADC § 1650.410. Amount rolled-over into the TRS may be used to buy service credits, as authorized by 80 IL ADC 1650.480. The rule 80 IL ADC § 1650.1202 d) concerns extending payroll deduction agreements to complete a purchase of service. By 80 IL ADC § 1650.1205, a limit of payment per year is set on employer payments towards an employee's purchase of optional service.

The State of Illinois Employees' Deferred Compensation Plan allows transfers from the plan to a defined benefit plan for the purpose of purchasing permissive service credits. See 80 IL ADC 2700.750.

Iowa. The Iowa Public Employee Retirement System describes the service that may be purchased in § 495-8.1 of the Iowa Administrative Code, including the purchase of "prior service" associated with having taken a refund of contributions, credit for other public employment, credit for active service in the U.S. armed forces, service in the state legislature, post-7/1/1989 leaves of absence, credit for

employment where coverage under the retirement system could have been elected, but was not, credit for employment for which optional coverage under the retirement system was not available, such as substitute teaching or temporary employment, credit for federal Peace Corps service, and purchase of credit for employment by certain Canadian governmental entities. Revocations of service purchase applications and refunds are covered by IA-ADC § 495.8.2. Issues of service purchase and compliance with Internal Revenue Code §415(c) and (n) limitations on defined contributions are addressed in IA-ADC § 495-8.3. A requirement for four calendar quarters of wages as a pre-requisite to make service purchases is waived for seasonal or limited term employees by IA-ADC § 495-8.4. The information required in order to quote a cost for a service purchase is listed in IA-ADC § 495-8.5. Limitations on service credit purchases are found in IA-ADC § 495-8.5(3). Terminated employees who take a refund and are later reinstated as the remedy for an employment dispute may buy back their service credit under IA-ADC § 495-9.5. Under IA-ADC 495-11.7(4), a member of the retirement system who takes a refund, but violates the required severance period, and who fails to pay back the refund within 30 days, may buy service credit for the period covered by the refund, but only at its actuarial cost. Service purchases completed after the first month of retirement benefit entitlement do not count towards determining a pre-7/1/1990 retiree's minimum benefit under IA-ADC § 495-12.3(2). The waiver of rules concerning service purchase costs is prohibited by IA-ADC §495-33.10.

An active member of the Iowa Peace Officer's Retirement, Accident and Disability System may, under IA-ADC §661-402.300, for a one year period ending July 2, 2007, make contributions to purchase up to the maximum amount of permissive service credit to be counted towards eligible qualified service. See also IA-ADC § 661-402.301(2) on permissive service credit and adopting §415(n) of the Internal Revenue Code as well as IA-ADC § 661-402.302 on determining the cost to the member and providing a cost quote. The application process is covered in IA-ADC § 661-402.303. An exception allowing refunds of service credit purchase amounts in order to comply with the Internal Revenue Code is authorized by IA-ADC § 661-402.304. Provision for review and appeal of a rejected service purchase application is found in IA-ADC § 661-402.305(2). Finally, IA-ADC § 661-402.306(1) contains a reporting requirement intended to prevent a member from receiving credit under more than one retirement plan for the same period of service.

Michigan. The State Employee Retirement System does not yet have administrative rules.

Michigan Administrative Code R. 38.112 gives the Public School Employees' Retirement Board authority to set the rate of interest to be applied to repay a refund, purchase out-of-system educational service and other creditable service. Eligibility criteria and application procedures for purchasing out-of-system educational service are found in MN-ADC R. 38.1120 and 38.1122.

Minnesota. The Minnesota Teachers Retirement Association has no formal administrative rules.

Under MN-ADC § 7905.2560, the deferred compensation plan of the Minnesota State Retirement System allows amounts to be transferred to purchase service credits in an eligible plan, in accord with §457 of the Internal Revenue Code.

Summary of Data and Analytical Methodologies

The proposed rule is based on logical analysis of the situations that can arise under the plan-to-plan transfers newly permitted by Wis. STAT. § 40.285 as well as many years

of experience in administering purchases of service credits. The rule generally carries over the policies and practices codified in prior administrative rules on the subject of purchasing credit for a qualifying period or other governmental service, except when those policies or practices have become obsolete due to applicable changes in state or federal law. With respect to establishing the cost for purchasing credit for other governmental service the Department has weighted the practical limitations on the information known to the Department at the time of the purchase and specified relevant factors identified by the actuary in order to approximate, insofar as reasonably possible, the actuarial cost of the increased benefit resulting from the purchase, which the employee must pay. In regard to prorating service, when the employee is able to purchase credit for more than one category of employment, the rule provides that payment will first be applied to purchase credit for the category of employment which is of the most benefit to the employee in calculating a formula annuity, and within each category, pre-2000 service will be credited ahead of post-1999 service for the same reason.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report

The rule cannot affect small businesses because it pertains to the purchase of service credit under the Wisconsin Retirement System created by Wis. STAT. § 40.20. The WRS is a governmental pension plan open only to state agencies, counties, cities, towns, school districts, and other governmental units and their qualifying employees. See Wis. STAT. §§ 40.02 (28), 40.21 and 40.22. No small businesses participate in the Wisconsin Retirement System. Indeed, any participation by any private, non-governmental employer would potentially jeopardize the qualified plan status of the WRS, in violation of Wis. STAT. § 40.015 (1).

There are no costs anticipated for the private sector.

Agency Contact Person

Please direct any questions about the proposed rule to Robert Weber, Chief Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707. Telephone: (608) 266-5804. E-mail address: rob.weber@etf.state.wi.us.

Place where Comments are to be Submitted and Deadline for Submission

Written comments on the proposed rule may be submitted to Robert Weber, Department of Employee Trust Funds, 801 W. Badger Road, P.O. Box 7931, Madison, WI 53707-7931. Written comments must be received at the Department of Employee Trust Funds no later than 4:30 PM on Friday, July 13, 2007.

Initial Regulatory Flexibility Analysis:

The proposed rule has no effect on small businesses.

Fiscal Estimate

The rule has no fiscal effect upon the fiscal liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district, with one possible exception. Certain school districts and educational institutions may incur minor additional administrative costs to authorize the transfer of funds that are part of their § 403(b) plans. Although these funds, to be used for the employee's purchase of service credits under the Wisconsin Retirement System, are already deposited in the Public Employee Trust Fund, the transfer must nevertheless be authorized by the employer operating the §403(b) plan. See § ETF 20.17 (1) (c) 3. a. of the proposed rule. The Department of Employee Trust

Funds does not itself operate a plan under § 403(b) of the Internal Revenue Code, but accepts deposits from qualifying school districts or other educational institutions that operate such plans as additional contributions under Wis. STAT. § 40.05 (1) (a) 5.

Copies of Proposed Rule

Copies of the proposed rule are available without cost from the Office of the Secretary, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707-7931, telephone (608) 266-1071.

Notice of Hearings Health and Family Services [CR 07-060]

Notice is hereby given that pursuant to Sections 50.49 (2) (a) and (b) and 227.11 (2) (a), Stats., and interpreting Section 50.49, Stats., the Wisconsin Department of Health and Family Services proposes **to renumber** HFS 133.02 (1); **to amend** HFS 133.02 (4) and (11), 133.03 (3) (Note), (5), and (8) (Note), 133.03 (4) (b) 3., 133.05 (2) (b) 1., 133.06 (4) (d) 1. and 3., 133.08 (2) (a), 133.09 (1), (3) (a) 1. 2. and 3. b. and c., and (b), 133.13, 133.14 (2) (c) and (g), 133.15 (1), 133.16, 133.17 (1) and (3), 133.20 (title), (1), (3), and (4) and (title), 133.21 (5) (d), (e), (h) and (i); **to repeal and recreate** HFS 133.06 (4) (d) 2., 133.08 (2) (intro.), 133.09 (2), 133.18; and **to create** HFS 133.02 (1), (1e), (1s), and (10m), 133.03 (3) (i), 133.06 (4) (d) Note, (g) and (5), 133.08 (2) (i) and (j), rules relating to home health care agencies and affecting small businesses.

Hearing Information

July 18, 2007
11:00 am. to
1:00 p.m.

Western Regional Office
610 Gibson St., Rm. 123
Eau Claire, WI 54701-3687

July 19, 2007
10:00 a.m. to
12:00 p.m.

Waukesha State Office Bldg.
141 N.W. Barstow St., Rm 325
Waukesha, WI 53188

The hearing site is fully accessible to people with disabilities. If you are hearing impaired, do not speak English or have circumstances that might make communication at a hearing difficult; you require an interpreter or a non-English large print or taped version of the proposed rules, contact the person at the address or telephone number given below at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Place Where Written Comments May be Submitted

Written comments may be submitted at the public hearing or submitted to the contact person listed below. Comments may also be made using the Wisconsin Administrative Rule Website at <http://adminrules.wisconsin.gov>.

Deadline for Comment Submission

The deadline for submitting comments to the Department is 4:30 p.m. on July 26, 2007.

Analysis Prepared by the Department of Health and Family Services

The Department regulates home health agencies under ch. HFS 133, s. 50.49, Stats., and 42 CFR 484 to enforce standards for the care, treatment, health, safety, welfare and comfort of patients by home health agencies and for the maintenance and operation of home health agencies. Through this rulemaking initiative, the Department proposes to amend ch. HFS 133 by eliminating or modifying rules that are overly

prescriptive or inconsistent with federal certification regulations under 42 CFR 484. The Department proposes to update ch. HFS 133 by doing the following:

1. Clarifying provisions under s. HFS 133.08 (2) relating to patient rights and charges for services.
2. Requiring registered nurse (RN) supervisory visits to the homes of patients who receive skilled nursing care to be made every 2 weeks instead of every 2 months. The existing requirement relating to supervisory visits to patients who do not receive skilled nursing care or skilled services is unchanged.
3. Stating the criteria that the Department will use when determining, under s. 50.49 (6) (a), Stats., whether an applicant or home health agency licensee is fit and qualified to hold a home health agency license.
4. Codifying, in rule, the home health agency's responsibilities under s. 50.065, Stats., and ch. HFS 13 relating to caregiver background checks and abuse reporting and investigation.
5. Requiring home health agencies to provide staff training and proper equipment to minimize the risk of infection and to monitor for compliance.
6. Making the time to complete a discharge summary under s. HFS 133.21 (5) (i) consistent with the time to complete a discharge summary under s. HFS 133.09 (3) (b). Currently s. HFS 133.09 (3) (b) requires agencies to complete a discharge summary within 30 days after a patient is discharged and s. HFS 133.21 (5) (i), requires agencies to complete a discharge summary within 15 days after a patient is discharged.
7. Increasing the time within which home health agencies are required to obtain a physician's signature (or under proposed rules an advanced nurse prescriber's signature) on an order for treatment or drugs from 20 calendar days to 20 working days.
8. Recognizing advanced nurse prescribers' authority under s. 50.49 (1) (b), Stats., to admit and discharge patients, develop and review plans of care and to order drugs or treatment for patients.
9. Creating and updating definitions to reflect currently used terminology.
10. Making minor, technical changes to rule provisions.

Initial Regulatory Flexibility Analysis

Home health agencies, both publicly and privately owned, are regulated by the Department under ch. HFS 133 and ch. 50, Stats. These agencies are commonly referred to as state-only licensed home health agencies. If a home health agency participates as a provider in the Medicaid and Medicare programs, the home health agency is also regulated by the Department under 42 CFR 484 and commonly referred to as a state licensed and federally certified home health agency. Of the 172 licensed home health agencies operating in Wisconsin as of April 2007, approximately 162 agencies are state licensed and federally certified and 10 hold state-only licensure. At least 75% of all licensed agencies may be considered small businesses with estimated average gross annual revenues of \$1.8 million per agency.

Home health agencies primarily provide services and care to patients in the homes of their patients. These services include skilled nursing services, therapy services, medical social services and home health aide services. Through this rulemaking, the Department proposes to amend ch. HFS 133 to repeal or revise provisions that may be overly prescriptive, and inconsistent with federal regulations governing home health agencies. Home health care providers, particularly

those who are both state licensed and federally certified have expressed concern about the ambiguity between the state and federal regulations. The Department anticipates that revising the rules as specified in the "Plain Language Analysis" section of this rulemaking order will make the rules more consistent with federal regulations.

Most of the proposed changes are non-substantive and technical in nature. The proposed rules, however, makes two substantive revisions that may affect costs of home health agencies.

The first such revision requires agencies to provide staff training and proper supplies to minimize the risk of infection and monitor for compliance. This requirement is expected to affect a minimal number of agencies because most agencies already meet this standard. Any agency that does not have a training program may establish one using the Centers for Disease Control guidelines that are downloadable from the Internet or accessed through the mails. Costs for sundry supplies (e.g., gloves, masks, etc.) are also expected to be minimal as it is likely that most agencies also already have such supplies.

The second substantive revision would require agencies to decrease the intervals within which a registered nurse (RN) makes supervisory visits to patients who receive skilled care from every 2 months to every 2 weeks. This proposed requirement is consistent with the provisions under 45 CFR 484.36 (d) (2), the RN supervisory requirements under which federally certified agencies operate, and would only affect the 10 state-only licensed agencies (and any newly licensed agency that chooses state-only licensure). Requiring all agencies to conduct RN supervisory visits under the same standards is expected to create continuity and consistency among state-only licensed, and state and federally licensed agencies. In addition, the increased visits will help to ensure the health, safety, and welfare of patients who increasingly need skilled care for conditions such as open wounds or skin lesions, chronic pain, cognitive or behavioral disabilities, or terminal care.

The costs that the proposed increase in RN supervisory visits would have on state-only licensed facilities are difficult to estimate because of the multiple variables that would need to be considered. These variables include the number of patients in an agency receiving skilled care; the span of time over which each patient receives skilled care; the actual number of visits per patient conducted previous to the proposed rules; the number of visits that would need to increase over those currently being conducted; and the actual schedule each agency uses to conduct the visits. Consequently, the costs for this requirement will continually fluctuate due to these variables. Therefore, we can assume that an agency may see no change in costs or that at any given time an agency may see an increase or decrease in costs.

Because detailed data for the state-only licensed agencies is not yet available, the Department used the 2005 annual survey data for the four state-only licensed agencies that responded to the survey and would have been impacted by proposed increase in RN supervisory visits. Using this data, the Department was able to estimate costs on a per patient basis. Assuming a rate of \$26.46 per RN supervisory visit, and accounting for variables previously noted, the Department estimates the proposed increase in RN visits would be \$91 per skilled nursing patient for a total of \$5,849 per year (or \$1,462 per year, per agency) for the four sample agencies. It is likely that any increased costs relating to this requirement would be passed from the agency to the patient or private insurance for subsequent reimbursement.

The 10 state-only agencies affected by the increase in the RN supervisory visits would represent only about 5.8% of all

agencies licensed in Wisconsin and if we accept that the estimated \$1,462 cost increase for the 2005 state-only sample agencies would be representative of the cost increases for the 10 state-only agencies, such increase would be 0.001 percent of the average, annual gross revenue of \$1.8 million for home health agencies.

Despite the possible fluctuations in costs, the Department believes that the proposed requirement would not increase annual costs above the 2006 CPI rate of 3.2% or decrease revenues more than that rate. Consequently, the proposed RN supervisory requirement would not have a significant economic impact on home health agencies.

Overall, the proposed revisions are expected to lower costs for home health agencies in Wisconsin.

Small Business Regulatory Coordinator

Rosie Greer
Greerri@dhs.state.wi.us
(608) 266-1279

Fiscal Estimate

Home health agencies (HHAs) provide services and care to patients in their homes. Services include skilled nursing care, home health aide services, therapies, personal care and other supportive services. At a minimum, HHAs are licensed by the State of Wisconsin, Department of Health and Family Services, under ch. HFS 133 and s. 50.49, Stats. These agencies are referred to as state-only licensed HHA providers. In addition, many HHAs participate as providers in the Medicare and Medicaid programs. Therefore, they must operate under federal regulations 42 CFR 484 governing the operations of HHAs. These providers are known as federally certified HHA providers. As of April 2007, there are 172 licensed HHAs in Wisconsin. This total includes both in-state and out-of-state providers who operate in Wisconsin.

The Department proposes to amend ch. HFS 133 to repeal or revise provisions that may be overly prescriptive, and inconsistent with the federal regulations governing HHAs. Most of the proposed rule changes are non-substantive and technical in nature. The proposed rule, however, makes two substantive revisions that may affect the costs of HHAs:

Minimize Risk of Infection

The first substantive revision requires agencies to provide staff training and proper supplies to minimize the risk of infection and to monitor for compliance. This requirement is expected to result in minimal costs to agencies because most of the 172 HHAs operating in Wisconsin already provide staff training and monitoring to meet current standards of practice and Centers for Disease Control (CDC) guidelines. Any agency that does not meet this standard is able to access information from CDC's web site to train their staff and start their monitoring program. Additional costs for sundry supplies (e.g., gloves, masks, etc.) is expected to be minimal.

Two Week RN Supervisory Visits

The second substantive revision to ch. HFS 133 would require state only licensed HHAs to decrease the minimum interval for a registered nurse (RN) to make a supervisory visit to a patient who receives skilled nursing care from once every two months (i.e. every eight weeks) to once every two weeks. This time period is consistent with the requirements of 42 CFR 484.36 (d) (2) and will help to ensure the health, safety, and welfare of patients who need skilled nursing care.

State Fiscal Effect

Most HHAs in Wisconsin are both state-licensed and federally certified. Those with the latter designation already operate under the two week interval for a RN supervisory visit as a condition of being a provider for the Medicaid and/or Medicare programs. For federally certified HHAs, there would be no increased costs to these providers or the Medicaid or Medicare programs resulting from this proposed revision to ch. HFS 133.

Local Government Fiscal Effect

All of the HHAs operated by local government are state-certified and federally licensed and are presumed to follow the two week interval proscribed in 42 CFR 484.36 (d) (2). There would be no increased costs to HHAs operated by local governments.

Effect on the Private Sector (small businesses only)

Of the 172 HHAs currently operating in Wisconsin, the majority may be considered small businesses as that term is defined in s. 227.114 Stats. All would be affected by the proposed rules. The Department has determined, however, that the provisions relating to the RN supervisory visits will affect only about 10 state-only licensed HHAs. Costs for these HHAs would fluctuate depending on a number of variables which could result in no change in costs or, at any given time, costs may increase or decrease. Because detailed data for the state-only licensed agencies is not yet available, the Department used the 2005 annual survey data for the four state-only licensed agencies that responded to the survey and would have been impacted by proposed increase in RN supervisory visits. Using this data, the Department was able to estimate costs on a per patient basis. Assuming a rate of \$26.46 per RN supervisory visit, and accounting for variables previously noted, the Department estimates the proposed increase in RN visits would be \$91 per skilled nursing patient for a total of \$5,849 per year (or \$1,462 per year, per agency) for the four sample agencies. It is likely that any increased costs relating to this requirement would be passed from the agency to the patient or private insurance for subsequent reimbursement.

The 10 state-only agencies affected by the increase in the RN supervisory visits would represent only about 5.8% of all agencies licensed in Wisconsin and if we accept that the estimated \$1,462 cost increase for the 2005 state-only sample agencies would be representative of the cost increases for the 10 state-only agencies, such increase would be 0.001 percent of the average, annual gross revenue of \$1.8 million for home health agencies.

Despite the possible fluctuations in costs, the Department believes that the proposed requirement would not increase annual costs above the 2006 CPI rate of 3.2% or decrease revenues more than that rate. Consequently, the proposed RN supervisory requirement would not have a significant economic impact on home health agencies.

Overall, the proposed revisions are expected to lower costs for home health agencies in Wisconsin.

Obtaining Copies of Rules and Fiscal Estimate

A copy of the full text of the rules and the fiscal estimate can be obtained at no charge from the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> or by contacting the person listed below.

Contact Person

Pat Benesh
 Department of Health and Family Services
 Division of Quality Assurance
 1 West Wilson St., Rm. 1150
 Madison, WI 53701-7185
 Phone (608) 264-9896
 Fax (608) 267-0352
 e-mail Benespa@dhsf.state.wi.us

Notice of Hearing

**Marriage and Family Therapy, Professional
 Counseling and Social Work
 Examining Board
 [CR 07-048]**

Notice is hereby given that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 457.03, Stats., and interpreting s. 457.13, Stats., the Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal MPSW 10.01 (2) and (3); and to repeal and recreate MPSW 11.015, relating to training licenses for professional counselors.

Hearing Date, Time and Location

July 31, 2007
 1:15 p.m.
 1400 East Washington Ave.
 (Enter at 55 N. Dickinson St.)
 Room 121A
 Madison, WI

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 Legal Counsel, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by August 1, 2007, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes interpreted: s. 457.13, Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) and 457.03, Stats.

Explanation of Agency Authority

Section 457.13, Stats., was recently amended by 2005 Wisconsin Act 422. This section previously required a 24 month training certificate, which was non-renewable and also required that the certificate holder be employed full-time or have an offer of full-time employment. The new law changed the requirement for a training certificate to a training license and increased the duration of the license to 48 months, with the possibility for an extension. It also eliminated the requirement for employment and instead requires that an individual have a position on or an offer for a position as a professional counselor.

Related Statute or Rule

There are no other related statutes or rules other than those identified above.

Plain language analysis

Training certificates are required in order to obtain 3000 hours of supervised professional counseling practice before being eligible to receive a professional counselor license. Section MPSW 11.015 sets forth the current requirements for obtaining a training certificate, including a provision that an applicant have an offer of full-time employment. The present certificates are issued for 24 months and are non-renewable. With the enactment of 2005 Wisconsin Act 422, the term "training certificate" is changed to "training license." Additionally, the employment requirement has been eliminated and the amount of time for the credential expanded. Under the proposed new rule, training licenses will be issued for 48 months, with the possibility for an extension. Supervised hours may also be accumulated in an unpaid position.

SECTION 1 repeals the definitions of "employed full-time" and "offer of full-time employment."

SECTION 2 requires applicants to submit a signed application and to pay the required fee. Applicants must also submit evidence that they have a position or an offer for a position in a supervised clinical professional counseling practice or its approved equivalent. In addition, the training license is valid for 48 months and may be renewed at the discretion of the professional counselor section.

Summary of, and Comparison with, Existing or Proposed Federal Regulation

There is no existing or pending federal regulation relating to training licenses for professional counselors.

Comparison with Rules in Adjacent States**Illinois:**

Illinois does not appear to require a training certificate; rather, the applicant must have received counseling experience under a licensed professional counselor prior to licensure.

Michigan:

Michigan does not offer a training license; rather, appears to offer limited professional counselor licenses under the supervision of a full licensed professional counselor to get the requisite practice experience.

Minnesota:

Minnesota does not appear to offer a training certificate for professional counseling; rather, as per their statutes, 148B.53 Requirements for licensure, licensed professional counselors must get supervision affidavits after receiving their full licensure.

Iowa:

Iowa does not offer a training certificate/level license for professional counseling.

Summary of Factual Data and Analytical Methodologies

The primary methodology for the development of the proposed changes is based upon the requirements set forth in 2005 Wisconsin Act 422. Previously, licensing law governing the professional counselor training certificate required a full-time position to obtain, the certificate lasted a maximum of 24 months, and was non-renewable. 2005 Wisconsin Act 422 changed the training certificate to a training license, removed the requirement for full-time employment and increased the maximum duration of the license to 48 months with the possibility for an extension.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report:

The proposed rules do not increase restrictions or barriers to licensure, affect practice within clinics, or have any provisions related to costs (no additional fees, educational or operational costs are imposed.) The rules primarily eliminates several provisions within the licensing law which applicants and training certificate holders found to be unduly burdensome or difficult to comply with. This proposed rule change should have no negative effect on small business, and in effect may have a positive effect by increasing the availability of qualified training license holders available for employment.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule—making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated Costs Incurred by Private Sector

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal Estimate

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on Small Business

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266–8608.

Agency Contact Person

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708–8935. Telephone: (608) 266–0495. Email: pamela.haack@drl.state.wi.us.

Place where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708–8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before August 1, 2007 to be included in the record of rule–making proceedings.

Text of Rule

SECTION 1. MPSW 10.01 (2) and (3) are repealed.

SECTION 2. MPSW 11.015 is repealed and recreated to read:

MPSW 11.015 Application for a professional counselor training license. (1) The professional counselor section shall grant a professional counselor training license to any individual who does all of the following:

- (a) Submits a completed, signed application form.
- (b) Pays the fee specified in s. 440.05 (6), Stats.
- (c) Satisfies the requirements in s. 457.12 (2), Stats.
- (d) Submits evidence satisfactory to the professional counselor section of one of the following:

1. The applicant is in a position or has an offer for a position as a professional counselor in a supervised clinical professional counseling practice.

2. The applicant is in a position or has an offer for a position in which the applicant will, in the opinion of the professional counselor section, receive training and supervision equivalent to the training and supervision received in a supervised clinical professional counseling practice.

(2) A professional counselor training license is valid for 48 months and may be renewed at the discretion of the professional counselor section.

Notice of Hearing Marriage and Family Therapy, Professional Counseling and Social Work Examining Board [CR 07–047]

Notice is hereby given that pursuant to authority vested in the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board in ss. 15.08 (5) (b), 227.11 (2), 440.035 (1) and 457.11, Stats., and interpreting s. 457.11 (1) and (2), Stats., the Marriage and Family Therapist Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber and amend MPSW 17.03 (1) (d); to amend MPSW 17.03 (title), (1) (intro.) and (2); to repeal and recreate MPSW 17.03 (1) (c); and to create MPSW 17.03 (1) (d) 1. and 2., relating to training licenses for marriage and family therapists.

Hearing Date, Time and Location

July 30, 2007
9:15 a.m.
1400 East Washington Avenue
(Enter at 55 N. Dickinson St.)
Room 121A
Madison, WI

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 Legal Counsel, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by August 1, 2007, to be included in the record of rule–making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes interpreted: s. 457.11 (1), (2), Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2), 440.035 (1) and 457.11, Stats.

Explanation of agency authority:

The Marriage and Family Therapist Section has the authority under s. 457.11, Stats., to grant training licenses.

Related Statute or Rule

There are no other rules or statutes than listed above.

Plain Language Analysis

Training certificates are required in order to obtain 3,000 hours of supervised marriage and family practice before being

eligible to receive a marriage and family therapist license. Section MPSW 17.03 sets forth the current requirements for obtaining a training certificate, including a provision that an applicant have an offer of full-time employment. The present certificates are issued for 24 months and are non-renewable. With the enactment of 2005 Wisconsin Act 422, the term “training certificate” is changed to “training license.” Additionally, the employment requirement has been eliminated and the amount of time for the credential expanded. Under the proposed new rule, a training license would allow applicants to complete their supervised training hours within 48 months, with the possibility for an extension, and would also permit them to complete those hours in an unpaid position. The new rule would also allow applicants who have a master’s degree in a related field and who are enrolled in a COAMFTE accredited or a marriage and family therapist section approved master’s or post-degree marriage and family therapy program, for example, to also be eligible for a training license.

SECTION 1 amends the title and introduction to reflect the change from a training license to a training certificate.

SECTION 2 identifies the information that must be submitted with the training license application. Applicants must either submit evidence that they have completed an appropriate master’s or doctoral degree, or are or will be enrolled in an approved post-graduate training program.

SECTION 3 eliminates the requirement of either having to be employed or having an offer of employment in order to obtain a training certificate, both of which were stricken under the new legislation.

SECTION 4 creates two provisions that permit marriage and family therapist training license holders to submit evidence that they have positions in which they may acquire their supervised hours of training, rather than having to be employed in a position, which was previously required.

SECTION 5 extends the validity of the training license from 24 to 48 months, with the possibility for a renewal.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or pending federal regulation relating to training licenses for marriage and family therapists.

Comparison with Rules in Adjacent States

Illinois:

Illinois requires an associate marriage and family therapy license to accumulate hours for licensure as a licensed marriage and family therapist.

Michigan:

Michigan does not offer a training license, rather appears to offer limited marriage and family therapist licenses under the supervision of a full licensed marriage and family therapist to get the requisite practice experience.

Minnesota:

5300.0175 LICENSURE PROCESS FOR LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPISTS.

Licensed associate marriage and family therapists must practice under the supervision of a board qualified supervisor as specified in parts [5300.0160](#) and [5300.0170](#). Licensed associate marriage and family therapists must observe the same laws and rules that govern the practice of licensed marriage and family therapists. Licensed associate marriage and family therapist status shall be granted for one year upon completion of the board’s application form and payment of the required fee. Licensed associate marriage and family

therapist status may be renewed on a yearly basis for up to four additional years.

Iowa:

Iowa does not offer a training certificate/level license for marriage and family therapists.

Summary of Factual Data and Analytical Methodologies

The primary methodology for the development of the proposed changes is based upon the requirements set forth in 2005 Wisconsin Act 22. Previously, licensing law governing the marriage and family therapist training certificate required a full-time position to obtain, the certificate lasted a maximum of 24 months, and was non-renewable. 2005 Wisconsin Act 22 changed the training certificate to a training license, removed the requirement for full-time employment, and increased the maximum duration of the license to 48 months with the possibility for an extension.

The methodology for determination to expand which educational programs qualify for the training license to include those programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or master’s or post-degree marriage and family therapy programs approved by the Marriage and Family Therapist Section, was primarily determined through the deliberative process, judgment and decision of the Marriage and Family Therapist Section.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report

The proposed rules do not increase restrictions or barriers to licensure, affect practice within clinics or have any provisions related to costs (no additional fees, educational or operational costs are imposed). The rules primarily eliminate several provisions within the licensing law which applicants and training certificate holders found to be unduly burdensome or difficult to comply with. This proposed rule change should have no negative effect on small business, and in effect may have a positive effect by increasing the availability of qualified training license holders available for employment.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated Costs Incurred by Private Sector

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal Estimate

The department finds that the proposed rule will have no significant fiscal impact.

Effect on Small Business

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency Contact Person

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before August 1, 2007 to be included in the record of rule-making proceedings.

Text of Rule

SECTION 1. MPSW 17.03 (title) and (1) (intro.) are amended to read:

MPSW 17.03 (title) ~~Training certificate~~ Application for a marriage and family therapist training license. (1) (intro.) The marriage and family therapist section shall grant a marriage and family therapist training ~~certificate~~ license to any individual who does all of the following:

SECTION 2. MPSW 17.03 (1) (c) is repealed and recreated to read:

MPSW 17.03 (1) (c) Submits evidence satisfactory to the marriage and family therapist section that he or she has done one of the following:

1. Satisfies the requirements in s. 457.10 (2), Stats.
2. Is enrolled or will be enrolled in an institute for marriage and family therapy that is approved by the commission on accreditation for marriage and family therapy education of the American Association for Marriage and Family Therapy or by the marriage and family therapist section.

3. Holds a graduate degree in a mental health field approved by the marriage and family therapist section and is enrolled or will be enrolled in a master's or doctoral degree program in marriage and family therapy accredited by the commission on accreditation for marriage and family therapy education or approved by the marriage and family therapist section.

SECTION 3. MPSW 17.03 (1) (d) is renumbered MPSW 17.03 (1) (d) (intro.) and is amended to read:

MPSW 17.03 (1) (d) (intro.) Submits evidence satisfactory to the marriage and family therapist section ~~that he or she is employed full-time, or has an offer of full-time employment, as a marriage and family therapist in a supervised marriage and family therapist practice or in a position in which the applicant will, in the opinion of the marriage and family therapist section, receive training and supervision equivalent to the training and supervision received in a full-time supervised marriage and family therapist practice.~~ of one of the following:

SECTION 4. MPSW 17.03 (1) (d) 1. and 2. are created to read:

MPSW 17.03 (1) (d) 1. The applicant is in a position or has an offer for a position as a marriage and family therapist in a supervised marriage and family therapist practice.

2. The applicant is in a position or has an offer for a position in which the applicant will, in the opinion of the marriage and family therapist section, receive training and supervision equivalent to the training and supervision received in a supervised marriage and family therapist practice.

SECTION 5. MPSW 17.03 (2) is amended to read:

MPSW 17.03 (2) A marriage and family therapist training ~~certificate~~ license is valid for ~~24~~ 48 months ~~or until the date on which the holder of the certificate ceases to be employed in a position specified in sub. (1) (d), whichever occurs first,~~ and may ~~not~~ be renewed ~~by~~ at the discretion of the marriage

~~and family therapist section. -A marriage and family therapist training certificate authorizes the holder to use any title specified in s. 457.04 (5), Stats., and to practice marriage and family therapy within the scope of his or her training or supervision during the period in which the certificate is valid.~~

Notice of Hearing Natural Resources (Fish, Game, etc., Chs. NR 1-) [CR 07-056]

Notice is hereby given that pursuant to ss. 29.03 and 29.972, Stats., interpreting ss. 29.03 and 29.972, Stats., the Department of Natural Resources will hold a public hearing on the creation of NR 8, subch. II, Wis. Adm. Code, relating to implementation of the Wildlife Violators Compact. 2005 Wisconsin Act 282 authorized the Department to enter into a Wildlife Violator Compact with other states. Under the compact, convictions of wildlife law and revocation of license privileges and approvals that authorize the pursuing, taking or possession of wildlife that occur in any member state are treated as if they occurred in all member states. Before the Department can formally become a member state, rules need to be promulgated which establish procedures to:

1. Assure all violators receive notification when their license privileges and approvals have been revoked by this state or any other member state.

2. Assure the exchange of information between the department, the district attorney and the clerk of courts.

3. Provide an administrative appeal process by which the department can establish if sufficient grounds exist to deny a person's application for an approval or the revocation of their existing approvals.

The proposed rules require the department to revoke all issued hunting, fishing or trapping license privileges and approvals or deny new applications for approvals, for any person who fails to respond to a summons or warrant, fails to appear on their court date without having made a deposit, or fails to appear before the court and is subject to a bench warrant. These rules are also required to ensure that due process is accorded to individuals subject to revocation in this state or who are revoked in another member state. These rules are also necessary to assure records and information on revocations is shared with the clerks of court in the counties where the violation occurs.

Once the new rules and procedures are in place, the department will apply to become a member state.

Initial Regulatory Flexibility Analysis

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. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Analysis

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

Hearing Information

Notice is hereby further given that the hearing will be held on:

July 26, 2007
 Thursday
 at 2:00 p.m.
 Room 405, GEF #2
 101 S. Webster Street
 Madison, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Thomas Van Haren at (608) 266-3244 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Thomas Van Haren, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until July 27, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Van Haren.

Notice of Hearings
Natural Resources
(Fish, Game, etc., Chs. NR 1-)
[CR 07-055]

Notice is hereby given that pursuant to ss. 29.014, 29.041, 29.197, 29.885 and 227.11(2)(a), Stats., interpreting ss. 29.014, 29.041 and 29.885, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to the 2007 migratory game bird seasons. Season dates and bag limits will be set for ducks and Canada geese. The daily bag limit is expected to be 6 ducks, including no more than 4 mallards, of which only one may be a hen, one black duck, one pintail, 2 wood ducks, 2 redheads and 3 scaup. The season lengths for Canada geese are expected to be: Collins Zone - 62 days; Horicon Zone - 62 days; Exterior Zone - 85 days; and Mississippi River Subzone - 70 days.

The Department is also proposing to:

Require the use of non-toxic shot for rail, snipe and moorhen statewide.

Require the use of non-toxic shot for mourning doves on department-managed lands only beginning in 2008.

Allow the placement of decoys and shooting at birds that are within a 75-yard area around the boundary of the Horizon National Wildlife Refuge as long as the hunter is more than 75 yards from the boundary.

Relax Canada goose nuisance control requirements for airports.

Initial Regulatory Flexibility Analysis

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. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Analysis

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.

Fiscal Impact

The proposed changes will not result in any significant changes in spending or revenue. There are no government costs anticipated due to the provisions of this rule.

Hearing Information

Notice is hereby further given that the hearings will be held on:

August 6, 2007
 Monday
 at 7:00 p.m.
 Rooms B-19 and B-20
 State Office Bldg.
 3550 Mormon Coulee Road
 La Crosse

August 7, 2007
 Tuesday
 at 7:00 p.m.
 Room R228
 Meggers Hall
 UW-Barron County
 1800 College Drive
 Rice Lake

August 8, 2007
 Wednesday
 at 7:00 p.m.
 Main Conference Room
 Agricultural Services Center
 3369 W. Brewster St.
 Appleton

August 9, 2007
 Thursday
 at 7:00 p.m.
 Main Conference Room
 State Office Bldg.
 141 N.W. Barstow Street
 Waukesha

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 Ms. Kim Benton at (608) 261-6458 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Kim Benton, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until August 9, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Benton.

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

Notice is hereby given that pursuant to ss. 23.09 (2) (intro.), 23.091, 23.11 (1), 23.22 (2) (a) and (b) 6., 27.01 (2) (j),

29.041, 227.11 (2) (a) and 227.24 (1) (a), Stats., interpreting ss. 23.09 (2) (intro.), 23.22 (2) (a), 29.014 (1), 29.041 and 227.11 (2) (a), Stats., the Department of Natural Resources will hold public hearings on Natural Resources Board Emergency Order No. FH-28-07(E) which revises chs. NR 19 and 20, Wis. Adm. Code, pertaining to control of fish diseases and invasive species. This emergency order was published on May 27, 2007 and revised Natural Resources Board Emergency Order FH-22-07(E) which took effect on April 7, 2007 and Natural Resources Board Emergency Order No. FH-25-07(E). This rule will aid the Department in controlling the spread of viral hemorrhagic septicemia virus (VHS) in the following ways: Natural Resources Board Emergency Order FH-28-07(E) extends the restrictions on the movement and use of fish, fish parts and water taken from the Great Lakes and Mississippi River drainages to the Lake Winnebago system and the Fox River from Lake Winnebago to Green Bay and allows extensions to other waters in the event that the VHS virus is discovered in those waters.

Hearing Information

Notice is hereby further given that the hearing will be held on:

July 11, 2007	Room 413
Wednesday	GEF #2, 101 South Webster Street
at 10:00 a.m.	Madison

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Impact

The fiscal impact that this rule package will have on state and local government—namely the increased costs associated with addressing or containing the VHS problem—is difficult to estimate given the short amount of time that has elapsed since the discovery of the virus. Consequently, the Department is characterizing the state and local fiscal impact as “indeterminate” until more detailed cost information becomes available.

Written Comments

The emergency rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Bill Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until July 13, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearing. A personal copy of the emergency rule and fiscal estimate may be obtained from Mr. Horns.

Notice of Hearings Natural Resources (Environmental Protection – General, Chs. NR 100—)

Notice is hereby given that pursuant to ss. 59.692, 227.11(2)(a) and 281.31, Stats., interpreting ss. 59.69,

59.692, 59.694 and 281.31, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 115, Wis. Adm. Code, relating to minimum standards for county shoreland zoning ordinances. Major provisions of the proposed rule include changes to vegetation management in the primary shoreland buffer and changes to regulation of nonconforming structures. New requirements include minimum lot size and density requirements for multi-unit residential development, mobile home parks and campgrounds; two formulas to calculate reduced shoreland setbacks; an impervious surface standard; and mitigation standards. The proposals include:

Land Division Review – NR 115.09

1. The requirement for land division review is changed from the creation of “3 or more lots” to the creation of “one or more lots” to ensure that all new lots created meet minimum lot size requirements.

2. If new lots are created that are divided by a stream or river, one side of the lot shall have a compliant building location.

Lot Size and Development Density – NR 115.11

1. Minimum lot size and density standards have changed eliminating a distinction between sewered and unsewered areas. The new minimum lot size for all lots created after the effective date of the rule is 20,000 square feet and 100 feet of width at the building setback and ordinary high water mark. Counties may allow development on a substandard lot.

2. Counties are required to develop minimum area or lot size requirements for multi-family residential structures, mobile home parks and campgrounds.

3. Counties may request the approval of standards for alternative forms of development with reduced lot sizes for planned unit developments, cluster developments, conservation subdivisions and other similar alternative forms of development if they include larger shoreland buffers, larger lot sizes or larger setbacks on those lots adjacent to the water.

Shoreland Setback – NR 115.13

1. Language is added to address structures exempted by other state or federal laws from the shoreland setback standards.

2. Provisions are added to allow counties to exempt structures from the shoreland setback if they meet certain requirements outlined in s. NR 115.13(4).

3. The construction of new dry boathouses is still exempted; however, a size limit of 250 square feet has been added to the rule.

4. Standards are established to qualify a lot for a reduced setback if there is not a compliant building location.

Height Requirements – NR 115.15

1. A new section on structure height was added to protect and preserve the natural scenic beauty of lake and riverine environments.

Shoreland Vegetation and Buffers – NR 115.17

1. Language governing management of shoreland vegetation in the primary shoreland buffer is improved, resulting in a more functional buffer protecting habitat and water quality.

2. Tree and shrubbery pruning is allowed. Removal of trees and shrubs may be allowed if they are exotic or invasive species, diseased or damaged, or if an imminent safety hazard, but removed trees and shrubbery must be replaced.

3. Provisions are added to allow counties to exempt 7 types of activities from the shoreland vegetation provisions.

4. A formula for the width of access corridors is provided, replacing the "30 feet in any 100 feet" provision, which was confusing if a lot had less than 100 feet of frontage. A second formula for lots with greater than 200 feet of frontage was also added to address larger developments adjacent to the water.

Impervious Surfaces – NR 115.19

1. Development is regulated through the use of percentages of total impervious surface rather than through the use of a nonconforming structure provision. The impervious surface percentages of 10% for new principal structures or 15% for existing development may be exceeded up to a maximum of 20% total impervious surface within 300 feet of the ordinary high water mark if mitigation measures are implemented and maintained.

2. Provisions are also included for shared impervious surfaces, expansion, enclosing existing impervious surfaces, replacements and relocation.

Mitigation Provisions – NR 115.21

1. Provisions are now a performance measure to protect, preserve and enhance water quality and wildlife habitat while achieving natural scenic beauty.

2. There is a water quality standard and a wildlife standard that the counties will have to flesh out in their individual ordinances. The water quality standard will require infiltration of runoff.

3. A provision on proportionality has been added to ensure the mitigation measures required will not outweigh the impacts of the proposed project.

Land Disturbing Construction Activities – NR 115.23

1. A county permit is required for land disturbing construction activities in the shoreland zone to minimize erosion and sedimentation.

2. Counties shall exempt from the permit requirement activities that have already received permits from other identified permitting authorities.

Initial Regulatory Flexibility Analysis

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.

Environmental Analysis

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

Hearing Information

Notice is hereby further given that the Department will hold an open house from 4:30 p.m. to 5:30 p.m. prior to each hearing. Department staff will be available to answer questions regarding the proposed rules.

Notice is hereby further given that the hearings will be held on:

July 24, 2007	Auditorium
Tuesday	Health & Science Bldg.
at 5:45 p.m.	North Central Tech College
	1000 W. Campus Dr.
	Wausau

July 25, 2007	Auditorium
Wednesday	Rhinelander High School
at 5:45 p.m.	665 Coolidge Avenue
	Rhinelander

July 26, 2007	Blue Hills Masonic Center
Thursday	225 West South Street
at 5:45 p.m.	Rice Lake

July 31, 2007	Community Room
Tuesday	Farmers & Merchants Bank
at 5:45 p.m.	1001 Superior Avenue,
	Tomah

August 1, 2007	Neville Museum Theater
Wednesday	210 Museum Place
at 5:45 p.m.	Green Bay

August 7, 2007	Lower Level
Tuesday	Pewaukee City Hall
at 5:45 p.m.	W240 N3065 Pewaukee Road
	Pewaukee

August 8, 2007	Opera House
Wednesday	381 E. Main Street
at 5:45 p.m.	Stoughton

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 Toni Herkert at (608) 266-0161 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

State Fiscal Impact. The department has an existing oversight capacity in the implementation, administration and enforcement of the current NR 115 program. In some cases, enforcement costs for the Department may actually decrease due to the decline in variance requests that will be realized with the increased level of flexibility offered to property owners and counties in the new rule. In other cases, the Department may incur additional costs related to the policy legal review and approval of new shoreland zoning ordinances required to implement the revised statewide minimum standards.

The Department expects that the net result will be that state costs will not substantially change as a result of the proposed NR 115 rule revisions.

Local Fiscal Impact. Counties and cities or villages that have annexed land since 1982 or incorporated since 1994 currently administer and enforce local shoreland zoning ordinances which meet or exceed the statewide minimum standards found in NR 115. Towns may also adopt a shoreland zoning ordinance, but it must be at least as restrictive as the applicable county's.

Counties and annexed or incorporated areas will incur one-time expenditures to revise shoreland zoning ordinances to reflect the new statewide minimum standards. However, after this initial increased workload and expense, the Department expects that the administrative burden of the zoning provisions will be less time-consuming than the current standards. Some counties have indicated that the new impervious surface standards are going to require additional staff. The Department contends that the same staff that worked on the issue of nonconformity can deal with impervious surfaces since nonconforming provisions are no longer part of the statewide standards. In addition, counties have 2 years before they have to have a shoreland ordinance in place. This delayed effective date was to allow the county to develop an ordinance which meets the new statewide minimum standards.

The exact annualized local costs including, increased and decreased costs, increased revenues (based on local permitting fees including new permitting systems and subsequent fees that may be developed) and decreased revenues (based on a reduction in the number of variances requested) are extremely difficult to estimate and will vary considerably on a county by county basis. Consequently, the Department has characterized the overall impact on local government costs as "indeterminate".

Long-range fiscal implications. The revised rule will provide increased predictability for investment decisions for local government, businesses, residents and new property owners, thereby decreasing operational costs, increasing property tax revenues, and generating economic growth from a more predictable zoning environment.

Written Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at either of the following Internet sites: <http://dnr.wi.gov/org/water/wm/dsfm/shore/news.htm> or <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Toni Herkert, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until September 7, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Herkert.

Notice of Hearings

Natural Resources

(Environmental Protection—Water Regulation, Chs. NR 300—)

Notice is hereby given that pursuant to ss. 30.12 (1) and (3) (br), 30.2035, 30.206, 227.11 (2) (a) and 227.24, Stats., interpreting ss. 30.12 (1), (3) and (3m) and 30.206, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WT-26-07(E) pertaining to general permits for dredging in Great Lakes navigable waterways. The emergency rule revises ch. NR 345, Wis. Adm. Code, to establish a new general permit with appropriate conditions. The rule establishes standards for projects to be eligible for a general permit for dredging, including operation of a motor vehicle, on the beds of the Great lakes to remove algae, mussels, dead fish and similar large plant and animal nuisance deposits.

The emergency rule establishes a general permit for an activity that would otherwise require an individual permit. The general permit will permit lakefront property owners to remove plant and animal nuisance deposits on the beds of outlying waters more efficiently while complying with general permit conditions created to protect the public interest

in the lakebed. The general permit has a \$50 application fee and is processed within 30 days.

Hearing Information

Notice is hereby further given that the hearing will be held on:

July 10, 2007	Lake Michigan Room
Tuesday	Green Bay Service Center
at 3:00 p.m.	2984 Shawano Ave.
	Green Bay

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 Roberta Lund at (608) 266-2220 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

The emergency rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Martye Griffin, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until July 20, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the emergency rule may be obtained from Ms. Lund.

Fiscal Estimate

Department staff that work in the areas that would be affected by the new general permit report that approximately 20 requests are made annually for permission to dredge on Great Lakes beds. Under current law, approximately 2 of these requests actually result in an application for an individual permit at a cost of \$500 each, for an estimated total annual revenue of \$1,000 (2 permit applications x \$500).

Based on knowledge of beach conditions, Department staff estimate that the implementation of a general permit, as well as the streamlined permit process that goes with it, will double the number of requests for permission to dredge on Great Lakes beds from 20 to 40 annually, and that all 40 requests will result in actual permit applications.

The Department estimates that under the proposed rule, approximately 2 dredging requests per year will continue to require a \$500 individual permit, for a total of \$1,000 in individual permit revenue. It is estimated that the remaining 30 requests will require general permits, for a total of \$1,900 in general permit revenue (30 general permits x \$50/each). Therefore total revenue for individual and general permits is estimated to be \$2,900, which represents a \$1,900 increase over revenue generated under current law.

The rule change will have no impact on local government costs.

Submittal of Proposed Rules to the Legislature

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

Commerce
(CR 06–120)

Chs. Comm 14, 60 to 66, relating to Fire Prevention Code and Wisconsin Commercial Building Code.

Elections Board
(CR 07–043)

Ch. ElBd 3, relating to pricing of voter registration data.

Natural Resources
(CR 07–015)

Chs. NR 10, 11, 16 and 19, relating to hunting and trapping regulations.

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.wisconsin.gov or (608) 266-7275 for updated information on the effective dates for the listed rule orders.

Agriculture, Trade & Consumer Protection (CR 06-036)

An order affecting ch. ATCP 30, relating to soil fumigant pesticides.
Effective 8-1-07.

Natural Resources (CR 06-110)

An order affecting ch. NR 484 and creating Chs. NR 460 Appendix EEEEE and NR 463 Subch. III, relating to national emission standards for hazardous air pollutants for iron and steel foundries.
Effective 8-1-07

Natural Resources (CR 06-131)

An order affecting ch. NR 10, relating to deer hunting season and permit issuance regulation changes.
Effective 8-1-07.

Natural Resources (CR 07-016)

An order affecting Chs. NR 428 and 484, relating to implementation of Reasonably Available Control Technology (RACT) NO_x emission limitations applicable to major sources in the 8-hour ozone non-attainment area in southeastern Wisconsin.
Effective 8-1-07.

Public Service Commission (CR 06-139)

An order creating ch. PSC 137, relating to rules regarding energy efficiency and renewable resource programs.
Effective 8-1-07.

Veterans Affairs (CR 07-022)

An order repealing ss. VA 8.01 and 8.03 (1), relating to the county veterans service officer grant program.
Effective 8-1-07.

Rules Published with this Register and Final Regulatory Flexibility Analyses

*The following administrative rule orders have been adopted and published in the **June 30, 2007**, 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.

Elections Board (CR 05-093)

An order creating ch. ElBd 11, relating to the training and certification of election inspectors. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The creation of this rule does not affect small business.

Summary of Comments by Legislative Review Committees

No comments or modification requests were received by the Department.

Health and Family Services (CR 05-052)

An order affecting ch. HFS 107, relating to private duty nursing and respiratory care service benefits covered by the Wisconsin medical assistance program. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will not have a significant economic impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Insurance (CR 06-117)

An order affecting ch. Ins 6, relating to underinsured ("UM") and uninsured motorist coverage ("UIM") in personal umbrella, personal excess, commercial automobile liability and commercial liability policies and affecting small businesses. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Insurance (CR 07-001)

An order affecting ch. Ins 17, relating to peer review surcharge rates for the injured patients and families compensation fund and for the Wisconsin health care liability insurance plan. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Insurance (CR 07-002)

An order affecting ch. Ins 17, relating to annual patients compensation fund and mediation fund fees. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The legislative standing committees had no comments on this rule.

Natural Resources (CR 03-118)

An order affecting Chs. NR 405, 408 and 484, relating to incorporation of federal changes to the air permitting program. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

It is unlikely that small businesses will be impacted by these rule revisions. These rule revisions primarily will affect large, major sources of air emissions, most of which are not small businesses. The Department held several public meetings in regard to these rule changes that were attended by external stakeholders, including representatives of the Department of Commerce's Small Business Assistance Program. Any concerns raised by small businesses representatives were similar to those of larger entities and addressed to the best of the Department's ability.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the 2005-2006 Assembly Committee on Natural Resources and the 2005-2006 Senate Committee on Natural Resources and Transportation. On March 29, 2006, the Assembly

Committee on Natural Resources held a public hearing. There were no comments or recommendations received as a result of this hearing. The Department has delayed the publication of these rules until the U.S. Environmental Protection Agency approved the Department's State Implementation Plan change. This approach prevented a potential problem for conflicting air permit requirements.

Natural Resources (CR 05–104)

An order affecting Chs. NR 12, 16 & 17, relating to hound dog training and trialing on captive wild animals. Effective 7–1–07.

Summary of Final Regulatory Flexibility Analysis

Small businesses, which operate large acreage training enclosures in this state, must obtain a hound dog training enclosure permit in addition to a hound dog training, dog club or dog trialing license in order to operate. There is no fee for issuance of a hound dog training enclosure permit. All hound dog training enclosures shall provide the necessary natural or artificial habitat and meet the food, water and cover requirements of a coyote, fox or rabbit. Such conditions are subject to approval by the department. Any wild coyote or fox present in any new enclosure shall be removed. Small businesses cannot be exempted from the requirements of this rule since the purpose of this rule is to ensure that hound training enclosures used for dog training on captive wild animals adhere to the standards of humane care, treatment and health of the animals used within these enclosures. Also, the risks associated the disease and parasite introduction are too significant to require any less stringent requirements than those already incorporated into this rule.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on natural Resources. On March 28, 2007, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive any comments or a request for modifications as a result of this hearing.

Natural Resources (CR 06–019)

An order affecting chs. NR 406 and 410, relating to linkage of the state air permitting programs with federal changes to the air permitting program and affecting small businesses. Effective 7–1–07.

Summary of Final Regulatory Flexibility Analysis

Since these rules affect the permitting of major sources of air pollution, it is unlikely that many small businesses will be impacted by them. Although a small percentage of major sources are small businesses, these rules provide for the ability to implement federal permitting changes that are intended to streamline the state's construction and operation permit process. As a result, any effect on small businesses would be to their benefit.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the 2005–2006 Assembly Committee on Natural Resources and the

2005–2006 Senate Committee on Natural Resources and Transportation. On March 29, 2006, the Assembly Committee on Natural Resources held a public hearing. There were no comments or recommendations received as a result of this hearing. The Department has delayed the publication of these rules until the U.S. Environmental Protection Agency approved the Department's State Implementation Plan change. This approach prevented a potential problem for conflicting air permit requirements.

Natural Resources (CR 06–037)

An order affecting chs. NR 10 and 45, relating to correcting management unit boundaries, clarifying trapping requirements, correcting cross–references, and update rules on the identification of tree stands on state lands. Effective 7–1–07.

Summary of Final Regulatory Flexibility Analysis

These proposed rules regulate individual hunters and trappers 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 proposed rules were reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On February 28, 2007, the Assembly Committee on Natural Resources held a public hearing. No comments or modification requests were received by the Department.

Natural Resources (CR 06–111)

An order affecting ch. NR 25, relating to commercial fishing open seasons in Lake Michigan for chubs. Effective 7–1–07.

Summary of Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed as a result of these rule changes. The rule that has been in effect since 2002 will remain in effect.

Summary of Comments by Legislative Review Committees

The rule was reviewed by the Senate Committee on Environment and Natural Resources and the Assembly Committee on Natural Resources. On February 28, 2007, the Assembly committee on Natural Resources held a public hearing. No comments were received by the Department.

Public Service Commission (CR 06–106)

An order affecting ch. PSC 135, relating to incorporating recent changes to the federal pipeline safety regulations. Effective 7–1–07.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were received.

**Transportation
(CR 06-099)**

An order affecting ch. Trans 112, relating to medical standards for driver licensing and general standards for school bus endorsements. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rule may affect small businesses indirectly, but will not have a significant economic impact on a substantial number of small businesses. The rule may have a favorable effect on some small businesses by enlarging the categories of persons eligible to submit medical reports to the Department.

Summary of Comments by Legislative Review Committees

No comments were received.

**Transportation
(CR 06-129)**

An order affecting ch. Trans 276, relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rule expands freight access for small businesses by allowing delivery with 53-foot trailers when located within 15 miles of a designated route. The expanded freight opportunities are expected to benefit small businesses. There is no expectation that enforcement of the rule provisions will change.

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 07-003)**

An order affecting ch. DWD 290, relating to adjustment of thresholds for application of prevailing wage rates. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 07-009)**

An order affecting chs. DWD 100 to 150, relating to unemployment insurance technical corrections. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The rule does not affect small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 07-010)**

An order affecting ch. DWD 295, relating to enforcement of indenture agreements. Effective 7-1-07.

Summary of Final Regulatory Flexibility Analysis

The rule affects small businesses as defined in s. 227.114 (1), Stats., but does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections Affected by Rule Revisions and Corrections

The following administrative rule revisions and corrections have taken place in **June 2007**, 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

Elections Board

Ch. EIBd 11

Entire Chapter

Health and Family Services

Ch. HFS 107

S. HFS 107.113 (5) (d) and (g)

S. HFS 107.12 (2) (b), (3) (d), (4) (f) and (g)

Insurance

Ch. Ins 6

S. Ins 6.77 (1), (2), (3) (ac), (ag), (am) and (bm), (4) (a), (b) and (d) and (6)

Ch. Ins 17

S. Ins 17.01 (3)

S. Ins 17.25 (12m)

S. Ins 17.28 (6) and (6s)

Natural Resources

Ch. NR 10

S. NR 10.13 (1) (b)

S. NR 10.145 (4) (a)

S. NR 10.29

S. NR 10.30

Ch. NR 12

S. NR 12.10 (1) (a) and (b)

Ch. NR 16

S. NR 16.30 (1)

Ch. NR 17

S. NR 17.001 (1), (1e), (1m), (1s), (5m), (5s), (7m) and (8m)

S. NR 17.02 (1) and (3)

S. NR 17.03 (1), (2) (a) and (d)

S. NR 17.045

S. NR 17.047

S. NR 17.07 (1) and (3)

S. NR 17.11 (1) to (4)

Ch. NR 25

S. NR 25.05 (1) (d)

Ch. NR 45

S. NR 45.09 (2)

Ch. NR 405

S. NR 405.01 (1) and (2)

S. NR 405.02 (1) (a) to (d), (2m), (8), (11), (11c), (11e), (11j), (12), (20m), (21), (24), (24j), (24m), (25b), (25d), (25e), (25f), (25i), (27) (a) and (27m)

S. NR 405.025

S. NR 405.16 (3) and (4)

S. NR 405.18

Ch. NR 406

S. NR 406.035

S. NR 406.04 (1f) and (1k)

S. NR 406.07 (3)

S. NR 406.11 (1m)

Ch. NR 408

S. NR 408.02 (1), (2m), (4), (5), (11), (11e), (11m), (11s), (13), (13m), (20), (21) (a), (23), (24m), (25s), (27), (28e), (28j), (28m), (28s), (29m) and (32m)

S. NR 408.025

S. NR 408.06 (10)

S. NR 408.10 (5) and (6)

S. NR 408.11

Ch. NR 410

S. NR 410.03 (intro.), (1) (a) and (b)

Ch. NR 484

S. NR 484.04 (21) and (27m)

Public Service Commission

Ch. PSC 135

S. PSC 135.019 (1)

Transportation

Ch. Trans 112

S. Trans 112.02 (1) and (1g)

S. Trans 112.03 (6)

S. Trans 112.04 (1) (e) to (g)

S. Trans 112.045 (1) and (2)

S. Trans 112.05 (2) (a) and (3) (c)

S. Trans 112.06 (3) (b) and (c)

S. Trans 112.07 (3) (b) and (c)

S. Trans 112.08 (3) (b)

S. Trans 112.10 (3) (b) and (c)

S. Trans 112.12 (3) (b) and (c)

S. Trans 112.13 (3) (b) and (c)

S. Trans 112.15 (5) (a) and (b)

S. Trans 112.16 (1) (a) and (4)

S. Trans 112.17

S. Trans 112.18 (1) and (2)

Ch. Trans 276

S. Trans 276.01 (1)

S. Trans 276.02 (1), (2) (a), (ar), (cm), (fg), (fm) and (hm)
 S. Trans 276.04
 S. Trans 276.06
 S. Trans 276.065
 S. Trans 276.07 (3), (10), (20)
 S. Trans 276.075
 S. Trans 276.077

Workforce Development

Ch. DWD 105

S. DWD 105.03 (2) (intro.) and (3)
 S. DWD 105.04 (2) (intro.) and (3)

Ch. DWD 107

S. DWD 107.03
 S. DWD 107.04 (2) (intro.), (3) and (4)
 S. DWD 107.05 (2) (intro.) and (3)

Ch. DWD 120

S. DWD 120.02

Ch. DWD 145 (Entire chapter)

Ch. DWD 290

S. DWD 290.155 (1)

Ch. DWD 295

S. DWD 295.001 (3)
 S. DWD 295.08
 S. DWD 295.20 (1), (2), (3), (4) (a), (b), (c) and (d), (5) (a), (b) and (f) and (6)

Editorial corrections

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

Natural Resources

Ch. NR 16

S. NR 16.30 (1)

Ch. NR 17

S. NR 17.046 (5) (b)
 S. NR 17.047 (4)

Ch. NR 408

S. NR 408.11 (9) (e)

Public Service Commission

Ch. PSC 135

S. PSC 135.163 (2)

Workforce Development

Ch. DWD 40

S. DWD 40.01
 S. DWD 40.02 (11) & (13) (b)
 S. DWD 40.03 (6) to (8), (11) (a) and (b)

Ch. DWD 129

S. DWD 129.01 (2) (b)

Ch. DWD 140

S. DWD 140.01 (2) (a)
 S. DWD 140.21 (1)

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 198. 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 Private First Class Nicholas Riehl of the United States Army Who Lost His Life During Operation Iraqi Freedom.

Executive Order 199. 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 Peace Officers Who Have Given Their Lives in the Line of Duty.

Executive Order 200. Relating to Issuance of General Obligation Bonds for the Veterans Home Loan Program and Appointment of Hearing Officer.

Executive Order 201. 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 the Late Deputy Frank Fabiano, Jr. of the Kenosha County Sheriff's Department.

Executive Order 202. 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 First Class Jesse Albrecht of the United States Army Who Lost His Life During Operation Iraqi Freedom.

Executive Order 203. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff on Memorial Day.

Executive Order 204. 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 First Class Scott Brown of the United States Army Who Lost His Life During Operation Iraqi Freedom.

Executive Order 205. 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 Tyler Kritz of the United States Army Who Lost His Life During Operation Iraqi Freedom.

Public Notices

Public Notice Health and Family Services

(Medicaid Reimbursement for Non–Institutional Providers of Services:
State of Wisconsin Medicaid Payment Plan for FY 2007–2008 and 2008–2009)

The State of Wisconsin reimburses providers for non–institutional services provided to medical assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.497, Wisconsin Statutes. This program, administered by the State’s Department of Health and Family Services, is called Medicaid.

Under current law, non–institutional Medicaid providers are paid the lesser of: (a) their usual and customary charges; or (b) maximum fees established by the Department for each procedure. The Department modifies the maximum fee schedules to implement Medicaid rate changes authorized by the Legislature.

The Wisconsin Legislature is in the process of completing work on the 2007 to 2009 State Budget. The new State Budget is expected to increase rates for non–institutional providers.

Pending final legislative action, the Department is proposing an increase in the rates for reimbursement for these non–institutional providers of services under Medicaid. The amount of the increase will be 1% in state fiscal year (SFY) 2007–08 and an additional 2% in 2008–09 (for a total of 3%), compared to current rates, with certain exceptions. Federally Qualified Health Centers and Rural Health Centers will receive no rate increase, since

Medicaid currently pays their costs of serving Medicaid recipients. The rate increase will not be applied to common carrier transportation allocations to counties. Effective July 1, 2007, Medicaid fee–for–service pharmacy claims will no longer be reduced by 50 cents per claim, as they have been since July 2005. This change does not apply to SeniorCare. Rates for psychotherapy and evaluation services provided by psychiatrists will be increase by 20%, beginning in SFY 2008. In addition, funding will be provided to increase capitation rates for managed care organizations so that these providers can increase rates to non–institutional providers with which they contract. The Department’s proposals involve no change in the definition of those eligible to receive benefits under Medicaid, and the benefits available to eligible recipients remain the same.

It is estimated that this change will increase annual aggregate Medicaid expenditures by \$14,130,700 all funds in SFY 2007–08 (\$5,814,200 state GPR and \$8,316,500 federal) and \$44,063,700 all funds in SFY 2008–09 (\$17,240,700 state GPR and \$26,823,000 federal).

Proposed Change

The proposed change is to modify the rate for reimbursement for these non–institutional providers of services by an increase of 1% beginning July 1, 2007 and an additional 2% beginning July 1, 2008, increase rates for psychotherapy and evaluation services provided by psychiatrists by 20%, beginning July 1, 2007, and increase reimbursement to pharmacies for Medicaid by \$0.50 beginning July 1, 2007.

Copies of the Proposed Change

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

Regular Mail

Division of Health Care Financing
P.O. Box 309
Madison, 53701–0309

Phone

James Vavra
Director, Bureau of Fee–for–Service Health Care Benefits
(608) 261–7838

Fax

(608) 266–1096

Attention: James Vavra

E–Mail

vavraj@dhfs.state.wi.us

A copy of the proposed change is available for review at the main office of any county department of social services or human services.

Written Comments

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

All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

Public Notice
Health and Family Services
*(Medicaid Reimbursement for Inpatient Hospital Services:
Acute Care and Children's Hospitals Major Border Status Hospitals
Non State Public and Private Psychiatric Hospitals State of Wisconsin Medicaid
Payment Plan for FY 2007-2008 and 2008-2009)*

The State of Wisconsin reimburses hospitals for inpatient hospital services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and Chapter 49 of Wisconsin Statutes. This program, administered by the State's Department of Health and Family Services, is called Medicaid or Medical Assistance.

Under current law, Wisconsin hospitals are paid on a reimbursement system based on Diagnosis Related Groupings (DRGs). The DRG system covers Acute Care Hospitals, Children's Hospitals, Non State Public and Private Psychiatric Hospitals, and Major Border Status Hospitals. Each hospital is assigned a unique hospital specific DRG base rate. This rate includes adjustments for differences in wage levels, includes an amount for capital expenditures, and payment enhancements for qualifying Disproportionate Share Hospitals and facilities with Graduate Medical Education programs. In addition, a cost outlier payment is made when the cost of providing services exceeds a pre-determined tripoint. The Department intends to modify the inpatient rate setting methodology to implement Medicaid rate changes authorized by the Legislature.

The Department is proposing to implement a rate setting methodology change for inpatient hospital services for those facilities previously subject to the DRG reimbursement system. This change will impact inpatient hospital services provided by three classes of inpatient hospital providers: 1) Acute Care and Children's Hospitals; 2) Major Border Status Hospitals; and 3) Non State Public and Private Psychiatric Hospitals. The effective date for these proposed changes will be July 1, 2007.

Acute Care and Children's Hospitals

Under the proposed changes, the Department will develop a provider specific, cost based DRG payment system adjusted by case mix with additional payments made to eligible disproportionate share hospitals and outlier payments for high-cost cases. Payment rates will be derived using the most recently available audited Medicare cost reports at the time of rate calculation. The provider specific, cost based DRG rates for providers will be adjusted as necessary to ensure budget compliance.

The Wisconsin Legislature is in the process of completing work on the 2007 to 2009 State Budget. The new State Budget may increase Medicaid inpatient rates for Acute and Children's Hospital providers located within the State of Wisconsin. The amount of the increase is estimated to be \$122 million in state fiscal year (SFY) 2007-08 and \$131 million in SFY 2008-09. In addition, funding will be provided to increase capitation rates for managed care organizations for the purpose of these health maintenance organizations increasing rates to inpatient hospitals with which they contract.

Major Border Status Hospitals

Under the proposed changes, the Department will develop a provider specific, cost based DRG payment system adjusted by case mix with additional payments made to eligible disproportionate share hospitals and outlier payments for high-cost cases. Payment rates will be derived using the most recently available audited Medicare cost reports at the time of rate calculation. The provider specific cost based DRG rates for providers will be adjusted as necessary to ensure budget compliance.

The Wisconsin Legislature is in the process of completing work on the 2007 to 2009 State Budget. The new State Budget does not provide an increase in rates for inpatient services provided by hospitals located outside the State of Wisconsin that qualify as Major Border Status Hospitals. It is estimated that this change will have no impact on annual aggregate Medicaid expenditures in state fiscal year (SFY) 2007-08 and SFY 2008-09.

Non State Public and Private Psychiatric Hospitals

Under the proposed changes, the Department will implement a rate setting methodology change for inpatient hospital services for Non State Public and Private Psychiatric Hospitals. The Department will develop a provider

specific, cost based per diem payment rate. Payment rates will be derived using the most recently available audited Medicare cost reports at the time of rate calculation. Provider specific cost based per diem payment rates will be adjusted as necessary to ensure budget compliance.

The Wisconsin Legislature is in the process of completing work on the 2007 to 2009 State Budget. The new State Budget does not provide an increase in rates for inpatient services provided by Non State Public and Private Psychiatric Hospitals. It is estimated that this change will have no impact on annual aggregate Medicaid expenditures in state fiscal year (SFY) 2007–08 and SFY 2008–09.

Proposed Change

The proposed change is to modify the inpatient rates for Acute and Children’s Hospitals under the MA program by an increase of \$122 million beginning July 1, 2007 and \$131 million beginning July 1, 2008, compared to current rates. The proposed changes to payment rates for Major Border Status Hospitals, Non State Public and Private Psychiatric Hospitals are not expected to impact annual aggregate Medicaid expenditures. The Department intends to update the inpatient hospital rate setting methodology to implement Medicaid rate changes authorized by the Legislature.

This proposal involves no change in the definition of those eligible to receive benefits under Medicaid, and the benefits available to eligible recipients remains the same. The effective date for these proposed changes will be July 1, 2007.

Copies of the Proposed Change

A copy of the proposed change may be obtained free of charge at your local county agency or by calling or writing as follows:

Regular Mail

Division of Health Care Financing
P.O. Box 309
Madison, WI 53701–0309

Phone

James Vavra, Director
Bureau of Fee–for–Service Health Care Benefits
(608) 261–7838

Fax

(608) 266–1096
Attention James Vavra

E–Mail

vavraj@dhfs.state.wi.us

A copy of the proposed change is available for review at the main office of any county department of social services or human services.

Written Comments

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

All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

Public Notice

Health and Family Services

(Medicaid Reimbursement for Outpatient Hospital Services

Hospitals within the State of Wisconsin

State of Wisconsin Medicaid Payment Plan for FY 2007–2008 and 2008–2009)

The State of Wisconsin reimburses hospitals for outpatient hospital services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and Chapter 49 of Wisconsin Statutes. This program, administered by the State’s Department of Health and Family Services, is called Medicaid or Medical Assistance.

Under current law, Wisconsin hospitals outpatient payment rates are hospital–specific, cost–based and annually adjusted to recognize that hospitals vary significantly in the types of medical services they provide. Hospitals located in the State of Wisconsin are reimbursed for outpatient services at an interim rate per visit with a final cost settlement.

However, reimbursed costs under the retrospective settlement are limited to a prospectively established ceiling amount. The ceiling amount is a prospective, hospital-specific rate per outpatient visit that is based on a hospital's historical cost and adjusted to stay within the State's available funding for outpatient hospital services. Critical access hospitals are exempt from the ceiling rate. The Department intends to update the outpatient rate setting methodology to implement Medicaid rate changes authorized by the Legislature.

The Department is proposing to update MA outpatient hospital payment rates for hospitals within the State of Wisconsin using the most recently available audited Medicare cost reports at the time of rate calculation. The Department will review and adjust the established hospital ceiling amount to stay within the State's available funding for outpatient hospital services. The provider specific cost based rates and ceiling amount will be adjusted as necessary to ensure budget compliance.

The Wisconsin Legislature is in the process of completing work on the 2007 to 2009 State Budget. The new State Budget is expected to increase Medicaid outpatient rates for hospitals located within the State of Wisconsin. The amount of the increase is estimated to be \$13.2 million in state fiscal year (SFY) 2007-08 and \$14.2 million in SFY 2008-09. In addition, funding will be provided to increase capitation rates for managed care organizations for the purpose of these health maintenance organizations increasing outpatient rates to hospitals with which they contract.

Proposed Change

The proposed change is to modify the outpatient rates and related ceiling amount for hospitals located within the State of Wisconsin under the MA program. The proposed changes will increase of MA payments to hospitals in the State of Wisconsin by \$13,200,000 beginning July 1, 2007 and \$14,100,000 beginning July 1, 2008, compared to current rates. The Department intends to update the outpatient hospital rate setting methodology to implement Medicaid rate changes authorized by the Legislature.

This proposal involves no change in the definition of those eligible to receive benefits under Medicaid, and the benefits available to eligible recipients remains the same. The effective date for these proposed changes will be July 1, 2007.

Copies of the Proposed Change

A copy of the proposed change may be obtained free of charge at your local county agency or by calling or writing as follows:

Regular Mail
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701-0309
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James Vavra, Director
Bureau of Fee-for-Service Health Care Benefits
(608) 261-7838
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(608) 266-1096
Attention: James Vavra
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vavraj@dhfs.state.wi.us

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All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

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