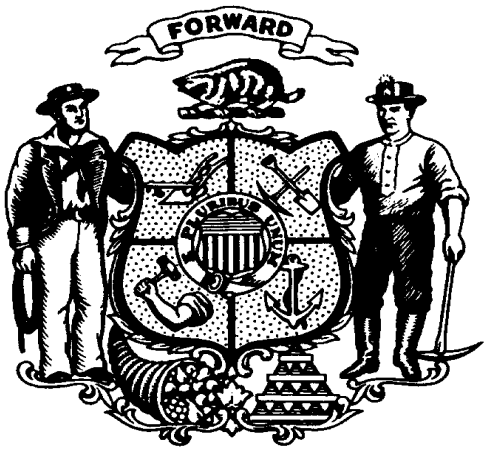
Wisconsin Administrative Register

No. 541



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Emergency rules now in effect

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

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

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

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

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

Agriculture, Trade & Consumer Protection – (3)

1. Rule adopted repealing **s. ATCP 134.06 (3) (c) note and creating s. ATCP 134.06 (3) (d)**, relating to residential rental practices.

Exemption from finding of emergency

On June 21, 2000, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) found that the "note" to s. ATCP 134.06 (3) (c) is actually a rule and directed DATCP to adopt the "note" as an emergency rule. According to s. 227.26 (2) (b), Stats., DATCP must promulgate the emergency rule under s. 227.24 (1) (a), Stats., within 30 days after the JCRAR directs DATCP to do so. Because the JCRAR has directed DATCP to adopt this emergency rule, DATCP is not required to make any other finding of emergency.

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

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers state landlord–tenant rules contained in ch. ATCP 134, Wis. Adm. Code. These rules affect over 1.5 million Wisconsin residents.

This emergency rule modifies current residential rental practices rules related to security deposit withholding. Under current rules, a landlord may not withhold a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible. A "note" to s. ATCP 134.06 (3) (c) also states that a landlord may not withhold from a tenant's security deposit for routine painting or carpet cleaning, where there is no unusual damage caused by tenant neglect.

Publication Date:	**July 20, 2000**
Effective Date:	**July 20, 2000**
Expiration Date:	**December 18, 2000**
Extension Through:	**February 15, 2001**

2. Rules adopted creating **ch. ATCP 16,** relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non–modified accredited" state.

Finding of Emergency

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis (M. bovis)*. It affects cattle, bison, deer, elk, goats and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as "accredited–free" for tuberculosis.

(3) The USDA recently reclassified Michigan from "accredited–free" to "non–modified accredited," reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) An emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin–raised animals.

Publication Date:	**August 11, 2000**
Effective Date:	**August 11, 2000**
Expiration Date:	**January 8, 2001**
Hearing Dates:	**September 19, 2000**
Extension Through:	**March 8, 2001**

3. Rules adopted creating **s. ATCP 10.21 (10) (c) and (15)** relating to reimbursement of Johne's disease testing costs.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection ("department") finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

1. 1999 Wisconsin Act 9 was published on October 28, 1999. It appropriates $100,000 for financial assistance to owners of livestock herds for conducting testing for Johne's disease (paratuberculosis) for FY 2000–01. It requires the department to provide the financial assistance.

2. 1999 Wisconsin Act 9 requires the department to promulgate rules for implementing the financial assistance program.

3. Permanent rules establishing the program will not take effect before June 1, 2001. This emergency rule establishes an interim procedure which will allow owners of livestock herds to apply for grants under this program. Without this rule, no person would be able to apply for a grant in FY 2000–01 until at least June 1, 2001, and the department would have insufficient time to review and process the grant requests before the end of the fiscal year.

Publication Date: **January 1, 2001**
Effective Date: **January 1, 2001**
Expiration Date: **May 31, 2001**
Hearing Dates: **February 13, 2002**
[See notice this register]

Commerce
(Flammable and Combustible – Ch. Comm 10)

Rules adopted revising **s. Comm 10.345**, relating to the effective date of required upgrades to aboveground bulk tanks that were in existence on May 1, 1991.

Finding of Emergency

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

Wisconsin Administrative Code ch. Comm 10, Flammable and Combustible Liquids Code, became effective on 5/1/91. Section Comm 10.345 (2) contains requirements for bulk tanks in existence on that date to be provided with specific containment or leak detection upgrades within 10 years of that date. Some concerns have been expressed on the impact that compliance date could have on heating oil supplies and prices this winter. Construction requirements could result in a substantial number of tanks storing heating oil to be closed during the winter heating season in preparation for the required upgrades.

Based on these concerns, the department has agreed to extend the compliance deadline for 3 months until 8/1/01 if approvable tank system upgrade plans have been submitted to the department by 2/1/01.

Publication Date: **January 6, 2001**
Effective Date: **January 6, 2001**
Expiration Date: **June 4, 2001**

Commerce
(PECFA – Chs. Comm 46–47)

Rules adopted creating **ch. Comm 46**, relating to "Petroleum Environmental Cleanup Fund Interagency Responsibilities," and relating to site contaminated with petroleum products from petroleum storage tanks.

Exemption from finding of emergency

(See section 9110 (3yu) 1999 Wis. Act 9)

Analysis prepared by the Department of Commerce

Statutory authority: ss. 227.11 (2) (a) and 227.24 and s. 9110 (3yu) (b) of 1999 Wis. Act 9.

Statutes interpreted: ss. 101.143, 101.144, 292.11, and 292.31 and ch. 160

The proposed ch. Comm 46 is identical to ch. NR 746 that is being promulgated by the Department of Natural Resources.

Chapter Comm 46 provides that the Department of Natural Resources has authority for "high–risk sites" and that the Department of Commerce has authority for "low and medium risk sites." The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a "high–risk site" or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter Comm 46 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum–contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

Publication Date: **May 17, 2000**
Effective Date: **May 18, 2000**
Expiration Date: **October 15, 2000**
Hearing Dates: **June 15, July 10 & 12, 2000**
Extension Through: **February 11, 2001**

Financial Institutions – Division of Securities

Rules adopted revising **ch. DFI–Sec 5,** relating to adopting for use in Wisconsin the Investment Adviser Registration Depository.

Finding of Emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows:

The U.S. Securities and Exchange Commission ("SEC"), in conjunction with the North American Securities Administrators Association ("NASAA"), an organization comprised of the securities administrators of all 50 states, including Wisconsin, has developed an electronic filing system for licensure of investment advisers to replace the paper filing system which heretofore has been used in all states. The system, the Investment Adviser Registration Depository (IARD), will permit investment advisers to satisfy their initial and renewal filing obligations to obtain licensure under the federal and state securities laws with a single electronic filing made over the Internet, instead of having to make separate paper filings with the SEC and with each state in which the investment adviser seeks to do business.

After several years in development and a pilot phase in the fall of 2000 that the Division participated in, the commencement date for states and the SEC to accept filings under the IARD has been set for January 1, 2001. Consequently, NASAA member states, including Wisconsin, need to take the necessary rule–making or other regulatory action by January 1, 2001 to enable investment advisers to make their licensing filings electronically. The Emergency Rules make the necessary changes to the Division's investment adviser license filing provisions that are

immediately needed to adopt the IARD for use in Wisconsin by investment advisers.

The IARD will be operated by NASD Regulation, Inc., a self–regulatory organization that for 20 years has operated an equivalent electronic filing system (the Central Registration Depository or "CRD") for federal and state licensure of securities broker–dealers and their sales agents. As with the CRD, the IARD will provide the advantages of: (1) elimination of paper filings; (2) a single filing will satisfy federal and state filing requirements; and (3) automatic payment of state licensing fees to the states where the investment adviser does business. Additionally and importantly, the IARD will provide the investing public with immediate, real–time access to information about investment advisers and their representatives.

Congress in its passage of the National Securities Markets Improvement Act in 1996 provided for the development of this electronic filing system for investment advisers, and the SEC has adopted rules mandating such. The SEC and the states have been working together to develop both the necessary changes to the filing form (Form ADV), and to the filing procedures to achieve uniformity in the filing processes and procedures. Additionally, to achieve uniformity among the states in the adoption of rules implementing the IARD, a NASAA Working Group has developed Model Rules (with commentary) to coordinate with the SEC requirements. The Wisconsin Emergency Rules adopted herein follow the NASAA Model Rules.

The Emergency Rules provide for: (1) a revised Licensing Procedure section in s. DFI–Sec 5.01 (1) and (2); (2) temporary and permanent hardship exemption provisions in s. DFI–Sec 5.01 (11); (3) a revised brochure rule in s. DFI–Sec 5.05(8); (4) revised filing periods and license expiration dates for licenses of investment advisers and investment adviser representatives, as well as for license withdrawals in ss. DFI–Sec 5.07 and 5.08; (5) a revised procedure for filings by federal covered advisers in s. DFI–Sec 5.11; and (6) a specific section in s. DFI–Sec 5.12 dealing with transition filings. Separate from these Emergency Rules, the Division will be issuing General Orders to further implement timing for various categories of filers, and which will provide partial fee rebates for 2001 for the smaller, state–only licensed advisers to help defray the initial one–time fee (of $150) they must pay for their initial participation in the IARD.

Publication Date:	**December 29, 2000**
Effective Date:	**January 1, 2001**
Expiration Date:	**May 31, 2001**

Health & Family Services
(Community Services, Chs. HFS 30–)

Rules were adopted creating **ch. HFS 79,** relating to state supplemental security income payments.

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:

Sections 49.77 and 49.775, Stats., authorize the Department to administer Supplemental Security Income (SSI) state supplemental payments to low income elderly and disabled residents of Wisconsin and their dependent children. These SSI payments are funded by state general purpose revenue and federal Temporary Assistance for Needy Families (TANF) grant funding in excess of $140,000,000 per state fiscal year. These payments are distributed monthly to approximately 100,000 beneficiaries and their dependent children. Neither s. 49.77 or 49.775, Stats., direct the Department to develop administrative rules to administer the program.

An unavoidable aspect of the program is the Department's need to periodically recover payments incorrectly made to benefit recipients. Overpayments and incorrect payments occur due to delays in transmission of eligibility and pricing information between the federal Social Security Administration and the Department and are not due to the Department's error or omission. On November 24, 1999, by order of the Wisconsin Court of Appeals, District II, the Department was found, absent administrative rule, to lack the authority to administratively recoup benefits overpaid to recipients who were ineligible for the benefits or to whom the Department paid an incorrect amount of benefits. The Department sought to appeal the decision to the Wisconsin Supreme Court, but recently learned that the Supreme Court will not hear the case. The Department's inability to recover payments made in error will cost the Department about $10,000 per month. Developing and promulgating permanent administrative rules to address the Court's decision will require at least 7 months, thereby costing the Department approximately another $70,000. The Department deems this unanticipated expense a threat to the public welfare insofar as Wisconsin and federal taxpayers should not be called upon to shoulder the burden of these unanticipated and undeserved expenses. Therefore, the Department is promulgating this emergency rule until the Department can promulgate a similar permanent rule.

This emergency rule provides the Department with the authority to recoup benefits incorrectly paid under ss. 49.77 and 49.775, Stats., and to again effectively administer both state and federal public welfare funding. By issuing this rule, the Department will effectively recover taxpayer monies to which recipients were not entitled, pending the promulgation of permanent rules.

Publication Date:	**September 5, 2000**
Effective Date:	**September 5, 2000**
Expiration Date:	**February 2, 2001**
Hearing Dates:	**December 13, 2000**

Health & Family Services
(Health, Chs. HFS 110–)

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

Finding of Emergency

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

Summary

September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD) assume states' commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Without DHFS issuance of revised training program requirements, Wisconsin's lead training programs will not alter their courses to HUD standards or receive state accreditation in time for sufficient personnel to be trained by

the time high demands for lead abatement commences. To sanction ill–trained lead abatement personnel by March 15, 2001, the Department would needlessly endanger the health of both untrained lead abatement personnel and the public whose residences are affected.

Lead Abatement Activities

Residences built before 1978 have a high likelihood of containing lead–based paint. When lead–based paint is in poor condition or when it is disturbed through activities such as sanding or scraping, the paint can break down into chips and dust that become a potential source of lead poisoning for occupants. Wisconsin has nearly 500,000 rental units and 1 million owner–occupied units built before 1978 and presumed to contain lead–based paint.

Exposure to lead in paint, dust or soil has both short–term and long–term adverse health effects on children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. When not fatal, these effects on the body last a lifetime. Of 63,400 Wisconsin children under the age of 6 screened for lead poisoning in 1999, 3,744 were identified as having lead poisoning. However, the number of children affected by lead poisoning is probably much greater, since the 63,400 screened represented only 16% of the state's children under the age of 6. Many of these children would not become lead poisoned if pre–1978 dwellings did not have deteriorated paint or lead–based paint on friction or impact surfaces and if lead–safe techniques were used when disturbing lead–based paint.

Lead poisoning can also affect older children and adults. In 1999, a 40–year old man employed to remove paint from windows of a rental dwelling was severely lead poisoned. He was hospitalized with complaints of headaches and joint pain. He underwent multiple sessions of chelation therapy to remove some of the lead from his blood, but still suffered serious neurological damage, which affected his speech and balance. This man's lead poisoning could have been avoided if he had been trained to use lead–safe techniques and personal protection equipment.

Existing Wisconsin Law

Chapter 254, Stats., provides for a comprehensive lead hazard reduction program, including lead exposure screening, medical case management and reporting requirements, and the development of lead training accreditation and certification programs. Under the authority of Chapter 254, Stats., the Department promulgated Chapter HFS 163, Wis. Adm. Code, in 1988 to provide rules for the certification of individuals performing lead hazard reduction and for the accreditation of the courses that prepare individuals for certification. These rules have been revised over time to meet requirements of the U.S. Environmental Protection Agency (EPA).

Wisconsin met federal standards for a state–administered lead training accreditation and certification program and received EPA authorization effective January 27, 1999. The Department's Asbestos and Lead Section of the Bureau of Occupational Health administers and enforces lead–based paint training, certification and work practice provisions of Chapter HFS 163, Wis. Adm. Code. The Section operates on a combination of program revenue and lead program development grants from the EPA.

Under Chapter HFS 163, Wis. Adm. Code, a person offering, providing or supervising lead–based paint activities for which certification is required must be certified as a lead company and may only employ or contract with appropriately certified individuals to perform these activities. An individual may apply for certification in the following disciplines: lead (Pb) worker, supervisor, inspector, risk assessor and project designer. For initial certification, the individual must be 18 years of age or older, must meet applicable education and experience qualifications, must successfully complete certification training requirements and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, must pass a certification examination. All individuals must have completed worker safety training required by the U.S. Occupational Health and Safety Administration for lead in construction. In addition, a lead (Pb) worker, supervisor, or project designer must complete a 16–hour lead (Pb) worker course, a lead (Pb) supervisor or project designer also must complete a 16–hour lead (Pb) supervisor course, and a lead (Pb) project designer must complete an 8–hour lead (Pb) project designer course. A lead (Pb) inspector or risk assessor must complete a 24–hour lead (Pb) inspector course and a lead (Pb) risk assessor must also complete a 16–hour lead (Pb) risk assessor course.

New Federal Regulations

The U.S. Department of Housing and Urban Development (HUD) revised 24 CFR Part 35 effective September 15, 2000. The regulations require most properties owned by the federal government or receiving federal assistance to conduct specified activities to make the property lead–safe. Specifically, these regulations affect property owners receiving federal rehabilitation funds and landlords whose tenants receive federal rental assistance. To meet HUD's lead–safe standards, most affected properties must have a risk assessment completed and must use certified persons to reduce or eliminate the lead–based paint hazards identified in the risk assessment report. Property owners must also use trained people to perform maintenance or renovation activities and must have clearance conducted after completing activities that disturb lead–based paint. Clearance is a visual inspection and dust–lead sampling to verify that lead–based paint hazards are not left behind. The HUD regulations also establish a new, research–based standard for clearance that is more protective than HUD's previously recommended standard.

The EPA has issued a memorandum urging States to implement a lead sampling technician discipline for which a 1–day training course would be required. Addition of this discipline would help to meet the increased demand for clearance under both the HUD regulations and renovation and remodeling regulations being considered by EPA.

The EPA is preparing to promulgate lead renovation and remodeling regulations under 40 CFR Part 745. Under these training and certification regulations for renovators, any person who disturbs paint in a pre–1978 dwelling, other than a homeowner performing activities in an owner–occupied dwelling, will have to complete lead–safe training. EPA is also considering requiring clearance after any activity that disturbs paint in a pre–1978 dwelling, except when work on owner–occupied property was done by the property owner.

New Wisconsin Law

1999 Wisconsin Act 113 requires the Department to establish a process for issuing certificates of lead–free or lead–safe status and registering the properties for which certificates are issued. If a dwelling unit has a valid certificate of lead–free or lead–safe status when a person who resides in or visits the unit is lead poisoned, the property owner, and his or her agents and employees are generally immune from civil and criminal liability for their acts or omissions related to the lead poisoning or lead exposure. Act 113 also requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and

employees may complete in order to receive certification. The Department must also specify the scope of the lead investigation and lead hazard reduction activities that may be performed following certification. Act 113 specifies that administrative rules to implement Act 113 must be submitted to the Legislative Council Rules Clearinghouse by December 1, 2000. The rules providing the standards for lead–free and lead–safe property, and the procedures for issuing certificates of lead–free status and lead–safe status, are being promulgated separately and are not expected to be published for several months.

Result of Changing Federal and State Requirements

New HUD regulations create an urgent need for appropriately trained and certified workers to conduct activities that reduce or identify lead–based paint hazards. Due to a lack of trained and certified individuals to perform the activities required by the HUD regulations, housing agencies in Wisconsin have been forced to ask HUD for a 6–month extension before beginning enforcement of the regulations. To be granted the extension, the agencies must provide a plan for increasing the number of certified persons to meet the demand by March 15, 2001. If HUD does not grant an extension, millions of dollars in federal funding for rehabilitation and lead hazard reduction may be lost.

In addition to the demand for certified persons generated by the HUD regulations, Act 113 is generating its own demand for certified persons. Many property owners want to begin reducing lead–based paint hazards on their properties in order to meet the standards for lead–free or lead–safe property when the standards take effect. Although property owners and their employees may be certified now under Chapter HFS 163, Wis. Adm. Code, some property owners feel 5 days of training is too extensive for the work they will be performing. Act 113 requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. This emergency rule meets the requirement of Act 113 by providing for certification as a lead (Pb) low–risk supervisor to independently perform limited lead hazard reduction activities after only 2 days of training.

Department Response

The Department is gravely concerned that a lack of properly trained and certified individuals to meet the increased demand may lead to an increase in lead poisoning due to work being performed by untrained individuals. The new disciplines in this emergency order will help meet the demand for certified individuals because the rules reduce the training hours required for certification by targeting training to specific activities. With more individuals becoming certified, housing authorities and property owners will be able to comply with HUD regulations and property owners will be able to reduce lead–based paint hazards in preparation for the implementation of Act 113 lead–free and lead–safe property standards.

In promulgating these revisions to the certification and training accreditation requirements under chapter HFS 163, the Department seeks to meet the needs of all the parties affected by training or certification requirements under State, federal or local lead regulations. For each revision made by these rules, the Department considered the impact of the cost, the ease with which persons could comply, the ability to easily move to a higher level of certification, and the consistency with other regulations. In developing the low–risk worker and low–risk supervisor disciplines, the Department also considered potential requirements of EPA's renovation and remodeling regulations.

The Department divided required training into smaller independent modules to allow individuals to complete the least amount of training necessary to safely and accurately perform the lead–based paint activities for which the individual becomes certified. In addition, the Department:

- Divided lead hazard reduction activities into those that are low–risk and high–risk.
- Divided site management activities into project design and supervision of low–risk versus high–risk activities.
- Divided lead investigation activities conducted by lead risk assessors into sampling, inspection, and hazard investigation.
- Revised the definitions, training and certification requirements and accreditation standards to reflect these categories of activities.

Publication Date: December 1, 2000
Effective Date: December 1, 2000
Expiration Date: April 30, 2001
Hearing Dates: January 12, 16, 17, 18 and 19, 2001

Natural Resources – (3)

(Fish, Game, etc., Chs. NR 1–)

1. Rules adopted creating **s. NR 1.445** and revising **ch. NR 51**, relating to the stewardship program.

Exemption from finding of emergency

Emergency rules are necessary for the department to act as authorized under s. 23.0917, Stats., as created by 1999 Wis. Act 9. According to section 9136 (10g) of this Act, the department is not required to make a finding of emergency or provide evidence that promulgating this emergency rule is necessary for the preservation of public peace, health, safety or welfare. In addition, the emergency rules promulgated under this authority remain in effect until June 30, 2001, or until the date on which the corresponding permanent rules take effect, whichever is sooner.

Analysis prepared by the Department of Natural Resources:

Statutory authority: ss. 227.11 (2), 227.24, Stats, and s. 9136 (10g), 1999 Wis. Act 9

Statutes interpreted: ss. 23.09 (19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.29, 23.295, 30.24 and 30.277, Stats.

The emergency rule:

- Implements a statutory change that requires the department to obtain county approval for acquisitions in counties where greater than 66% of the land is publicly owned.
- Moves three stewardship grant programs (local park aids, urban green space, and urban rivers) from ch. NR 50 to ch. NR 51. Improves grant administration by combining all stewardship grant programs into one chapter.
- Revises and expands program definitions, including definitions for nature–based outdoor recreation and middle kettle moraine, to clarify terms, reflect statutory changes and improve grant administration.
- Implements a statutory change that expands grant eligibility to include non 501 (c) (3) organizations.
- Reorganizes the structure of chapter 51 to incorporate new programs and local government programs.
- Implements statutory changes that identify priorities and expand the purposes for which nonprofit conservation organizations can receive grants. Makes minor revisions to improve grant administration.
- Makes minor revisions to bring the natural areas program in line with statutory changes.

• Establishes the administrative framework for the new bluff protection program. Defines "bluff" and sets program priorities.
• Makes minor revisions in the habitat areas and fisheries program to bring the program in line with statutory changes and improve grant administration.
• Establishes the administrative framework for acquisition of property by the department and nonprofit conservation organizations to preserve wild lakes. Defines "wild lake."
• Makes minor revisions to the stream bank program to bring the program in line with statutory changes.
• Makes minor revisions to the state trails program to improve grant administration.
• Implements a statutory change that makes nonprofit conservation organizations eligible for grants for state property development. Revises grant priorities and makes minor revisions to improve administration of the state property development grant program.
• Establishes the administrative framework and sets priorities for the new Baraboo Hills subprogram.
• Clarifies and streamlines the administration of local assistance grants to governmental units.
• Clarifies and streamlines the administration of the local park aids, urban green space, and urban rivers grant programs which provide grant funds for governmental units and nonprofit conservation organizations. Implements statutory changes that require that all grants issued under these programs be for nature–based outdoor recreation. Lists eligible nature–based projects and sets grant priorities. Also implements a statutory change that allows "shoreline enhancements" to be funded under the urban rivers program and provides a list of typical shorelines enhancements that will qualify for the program.
• Establishes the administrative framework for the new acquisition of development rights program that provides grant funds to local governments and nonprofit conservation organizations. Sets priorities and identifies other factors that will be considered in awarding grants.
• Makes minor revisions to improve administration of the Heritage state park and forest trust program.

Publication Date: **September 1, 2000**
Effective Date: **September 1, 2000**
Expiration Date: **See section 9136 (10g), 1999 Wis. Act 9**
Hearing Dates: **November 1 & 2, 2000**

2. Rules adopted revising **ch. NR 47**, relating to the federal cost sharing program to suppress gypsy moths.

Finding of Emergency

An emergency rule is necessary in order to make the cost shared gypsy moth suppression program available for aerial treatments in May 2001. Given the survival of caterpillars this summer, the department expects that populations of gypsy moth will be high enough in some localities in 2001 to necessitate suppression to protect tree health. In order to offer participation in the aerial treatment project and cost sharing from the U.S. Forest Service, it is necessary that preparatory work be done this fall and winter to define treatment blocks. When gypsy moth outbreaks occur, the public typically becomes concerned and looks for ways to reduce the population of gypsy moth to tolerable levels. Treatments to kill large numbers of the pest can be expensive, at times damaging to our native insects and other animals, or even dangerous to the landowner and others when pesticides are not used according to directions. The Department organized suppression program will provide the public with a safe, effective and affordable means to prevent damage to their trees.

Publication Date: **November 10, 2000**
Effective Date: **November 10, 2000**
Expiration Date: **April 9, 2001**
Hearing Dates: **January 17, 2001**

3. Rules adopted revising **ch. NR 6** relating to defining unreasonable and improper speed to include operating a snowmobile at speeds greater than 50 MPH during the hours of darkness.

Finding of Emergency

During the 1999–2000 snowmobile season conservation wardens investigated 38 fatal snowmobile accidents. Of these accidents, 10 deaths could be directly attributed to operation at excessive speed during the hours of darkness. Fourteen other deaths could have been avoided if the operators had observed more prudent speeds, allowing them to avoid nighttime hazards. Potentially 24 of the 38 fatalities could have been avoided if the snowmobiler had been operating at slower speeds during the hours of darkness. Unless an immediate change is made in the snowmobile laws similar number of avoidable fatalities will occur during the 2000–2001 snowmobile season. Even greater numbers could occur if the early snows seen in November of 2000 remain, thereby extending the snowmobile season beyond that experienced in 1999–2000.

Publication Date: **December 15, 2000**
Effective Date: **December 15, 2000**
Expiration Date: **May 14, 2001**
Hearing Dates: **January 17, 2001**

Natural Resources
(Environmental Protection – General, Chs. NR 100–)

Rules adopted creating **ch. NR 168**, relating to the brownfield site assessment grant program administration.

Finding of Emergency

This rule implements the brownfield site assessment grant program. Created in the 1999–2000 biennial state budget bill (1999 Wisconsin Act 9), the brownfield site assessment grant program provides grants to eligible local governments to cover the costs of brownfield site assessment activities such as: investigating environmental contamination of an eligible site or facility; demolishing structures located on an eligible site; removing certain abandoned containers; abating asbestos as part of demolition activities; removing underground hazardous substance storage tank systems; and removing underground petroleum product storage tank systems. Eligible local governments include cities, villages, towns, counties, redevelopment authorities, community development authorities, and housing authorities. The legislature appropriated $1.45 million for the 99–01 biennium for these grants. Local governments are required to contribute matching funds as cash or in–kind, or both, equal to 20% of the grant. This rule limits the amount of funds that may be awarded for eligible activities. The rule specifies that 70% of available funds are to be allocated to "small" grants (i.e. a grant award between $2,000 and $30,000); and 30% of available funds are to be allocated to "large" grants (i.e. a grant award of more than $30,000 but not more than $100,000). Act 9 required that the department promulgate these rules as necessary to administer the program,

and directed the department to promulgate them as emergency rules.

Publication Date: **July 10, 2000**
Effective Date: **July 10, 2000**
Expiration Date: **December 8, 2000**
Extension Through: **February 5, 2001**

Natural Resources

(Environmental Protection–Investigation and Remediation, Chs. NR 700–)

Rules adopted revising **chs. NR 700, 716, 720, 722, 726 and creating ch. NR 746**, relating to site contaminated with petroleum products discharged from petroleum storage tanks.

Exemption from finding of emergency

(See section 9110 (3yu) 1999 Wis. Act 9)

The proposed ch. NR 746 is identical to ch. Comm 46 that is being promulgated by the Department of Commerce.

Chapter NR 746 provides that the Department of Natural Resources has authority for "high–risk sites" and that the Department of Commerce has authority for "low and medium risk sites." The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a "high–risk site" or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter NR 746 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum–contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

The amendments and new provisions that are proposed to be added to chs. NR 700, 716, 720, 722 and 726, as part of this rule package, consist of cross–references to ch. NR 746 that are proposed to be inserted in chs. NR 700, 716 and 726, and exemptions from the requirements in chs. NR 720 and 722 that would conflict with the requirements in ch. NR 746: that is, an exemption from the soil cleanup standards in ch. NR 720 and the remedial action option evaluation requirements in ch. NR 722 for those sites contaminated with petroleum products discharged from petroleum storage tanks that satisfy the risk criteria in s. NR 746.06 and are eligible for closure under s. NR 746.07.

Publication Date: **May 17, 2000**
Effective Date: **May 18, 2000**
Expiration Date: **October 15, 2000**
Hearing Dates: **June 15, July 10 & 12, 2000**
Extension Through: **February 11, 2001**

Public Service Commission (2)

1. Rules adopted creating **s. PSC 2.06**, relating to procedures for the confidential treatment of records.

Exemption from finding of emergency

At the direction of the Joint Committee for Review of Administrative Rules under s. 227.26 (2) (b), Stats., the Commission adopts a rule to create s. PSC 2.06, Wis. Adm. Code, relating to procedures for the confidential treatment of records.

Analysis by the Public Service Commission

Statutory authority: ss. 196.02(1) and (3), 227.11, 227.24 and 227.26, Stats.

Statutes interpreted: ss. 196.14, 196.72 and 196.795 (9), Stats.

On August 15, 2000, the Commission voted to promulgate administrative rules on requests for confidential handling of documents filed with the Commission. On September 20, 2000, the Joint Committee for Review of Administrative Rules directed the Commission to adopt a rule on the subject under s. 227.26 (2) (b), Stats. This rule creates a process for obtaining a designation of confidential status. Under the rule, a determination on whether information shall be treated confidentially shall be made at the time the information is given to the Commission. Under previous Commission procedures, if a person filing a document sought confidential treatment of information in the document, the filer could do so by identifying the grounds under which confidentiality could be granted. The Commission would accept the filing, but the acceptance did not constitute a determination that public access to the information would not be permitted. The Commission would determine if confidential status should be granted when a request for that information was made by another person.

Under this rule, a person who wishes the Commission to keep confidential information in the possession of the Commission, or requested by the Commission, must make an application for confidential status. The application must identify the information for which confidential treatment is sought and identify the authority under which confidential status should be granted. Within 21 days after receiving an application, the Commission may seek additional information from the applicant, if needed, to make a confidentiality determination. The applicant must respond within 30 days to the information request.

The Commission will make a determination on a confidentiality request within 30 days of receiving the additional information or within 30 days of the filing of the application if no additional information is needed. The determination will specify what, if any, information is given confidential treatment and the basis for that determination.

The Commission will give the applicant written notice of its determination. The Commission shall post all determinations regarding confidentiality on its website and may give other appropriate notice. If an applicant is authorized to file information confidentially in the context of a Commission proceeding, the applicant shall serve a copy of the determination on all persons listed on the service list for that proceeding.

Publication Date: **October 23, 2000**
Effective Date: **October 23, 2000**
Expiration Date: **March 22, 2001**

2. Rules adopted amending **s. PSC 116.06 (1) and (2)**, relating to the triggering mechanism and the period of time in which fuel costs are estimated for purposes of

seeking an emergency or extraordinary rate increase under s. PSC 116.06.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend s. PSC 116.06 (1) and (2), which would allow the Commission to grant a rate increase to an applicable Class A electric public utility based on estimated fuel cost for the year in which it is reasonably anticipated that the rate increase would go into effect. In granting the rate change the Commission must find, after a hearing confined solely to fuel costs, that the utility is eligible to seek an emergency or extraordinary rate increase under the current rule, an emergency or extraordinary increase in the cost of fuel exists, and the fuel cost increase will affect the utility's average yearly fuel costs for the year in which it is reasonably anticipated that the rate increase would go into effect so as to fall outside the established annual range for that year. This change would assist in implementing the rule at a time of volatile fuel costs.

Publication Date:	**December 28, 2000**
Effective Date:	**December 28, 2000**
Expiration Date:	**May 27, 2001**
Hearing Dates:	**January 23, 2001**

Tobacco Control Board

Rules adopted creating **ch. TCB 1**, relating to the administration and awarding of grants for tobacco control and establishing criteria for recipients of the grants.

Finding of Emergency

The Wisconsin Tobacco Control Board finds that an emergency exists and that a rule is necessary for the immediate preservation of the health, safety and welfare of Wisconsin residents, particularly youth and current smokers. A statement of the facts constituting the emergency is as follows:

The health and fiscal impact of tobacco use are well documented. In Wisconsin alone, 7,800 deaths occur each year from tobacco–related disease. In addition, Wisconsin government, residents and health care providers pay over $1.3 billion annually for health care costs associated with tobacco use.

While tobacco's effects are in individuals' futures, immediate action is required to reverse the recent trend toward rising youth addiction and resulting long–term negative health effects of tobacco use. According to the Centers for Disease Control and Prevention, over 3,000 youths begin smoking every day in the United States. In Wisconsin alone, there has been a 19 percent increase in high school tobacco use since 1993, with over 38 percent of high school youth smoking a cigarette in the last month. This increase in youth tobacco use is particularly threatening since over 90 percent of current smokers began smoking before the age of 18. Of the current 1 million smokers in Wisconsin, half will die from tobacco–related diseases such as emphysema, lung cancer, heart disease and stroke.

In addition, tobacco use among specific populations continues to present an ongoing threat to the health of Wisconsin citizens. Wisconsin has a rate of tobacco use among pregnant women that is 30 percent higher than the national average. In addition, the national smoking rate among African–American youth doubled from 14 percent in 1993 to 28 percent in 1997. Finally, the 48% smoking rate of Medicaid recipients is twice the rate of the general population.

The ongoing and emerging health impacts and costs associated with tobacco use necessitate the immediate implementation of the comprehensive initiative to address tobacco use in Wisconsin.

The Board, through this order, is creating chapter TCB 1 relating to the Board's administering and awarding grants for tobacco control and establishing criteria for recipients of the grants. The rule is being promulgated under the authority of s. 255.15 (1m), Stats., for the purpose of establishing criteria, procedures, requirements and conditions for the award of project grants from the appropriation under s. 20.436 (1) (tc), Stats., to organizations that operate or propose to operate programs reducing tobacco use by preventing tobacco use, promoting tobacco use cessation and eliminating environmental tobacco smoke.

Publication Date:	**November 7, 2000**
Effective Date:	**November 7, 2000**
Expiration Date:	**April 6, 2001**
Hearing Dates:	**January 10, 2001**

Scope statements

Administration

Subject

Payroll deduction for charitable purposes.

Description of Policy Issues

Objective of the rule. The Department of Administration proposes to amend the rule to conform to existing statutory provisions.

In April 1980, the Department of Administration created Chapter Adm 30 to implement payroll deductions for charitable purposes as provided in s. 20.921 (1) (a) 4., Stats. The current s. Adm 30.05 (11), does not include a requirement of nondiscrimination in terms of sexual orientation which is required by s. 227.10 (3) (a), Stats.

Statutory Authority

Sections 16.004 (1), and 20.921 (1) (a) 4., Stats.

Staff Time Required

20 hours

Agriculture, Trade and Consumer Protection

Subject

Pesticide product restrictions; Atrazine pesticides.

Description of Policy Issues

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

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

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

Current rules under ATCP 30 prohibit the use of atrazine in 103 designated areas (approximately 1,200,000 acres), including large portions of the Lower Wisconsin River Valley, Dane County and Columbia County. The current rules also restrict atrazine use rates and handling practices on a statewide basis. The statewide restrictions are designed to minimize the potential for groundwater contamination, as required under s. 160.25, Stats.

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

Statutory Authority

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

Staff Time Required

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

Agriculture, Trade and Consumer Protection

Subject

Cheese grading, packaging and labeling.

Description of Policy Issues

Objective of the rule. Update the Wisconsin grade standard for Swiss (emmentaler) cheese so that the Wisconsin cheese industry may embrace new cheese manufacturing and packaging technology and meet customer expectations. The U. S. Department of Agriculture (USDA) expects to publish a final rule in the near future that adopts at the federal level the changes contemplated in Wisconsin's grade standards for Swiss cheese. The Wisconsin cheese industry and the department agree that eye size in the state's Swiss cheese standards should match USDA grade standards.

Current rules under ch. ATCP 81, Wis. Adm. Code, establish standards for cheese grading, packaging and labeling. Among other things, ATCP 81 addresses:

- General grading and marking requirements
- Recordkeeping requirements
- Cheese style and container requirements
- Grade standards for several commodity cheeses
- Wisconsin's standard of identity for Baby Swiss cheese

The department received requests from the Wisconsin cheese industry in 1999 to amend the Wisconsin grade standard for Swiss (emmentaler) cheese in chapter ATCP 81. The department met with representatives of the cheese industry to discuss the Swiss grade standard. Industry representatives stated that packagers and cut/wrap operations preferred smaller eyes (or holes) than the current Wisconsin cheese grade standard allows. This would facilitate cutting operations with high–speed slicing equipment. Delicatessen operators, however, prefer a larger eye size due to customer preference at the retail level. The proposed change will not allow larger eyes in Swiss cheese, but will permit the cheese to have smaller eyes by expanding the lower end of the range.

Additional minor rule changes may be incorporated to make the Wisconsin grade standard for Swiss cheese more consistent with the federal grade standard. Changes may also be considered that make the rule easier to read and understand.

Rule amendments may address the following subjects, among others:

• Cheese grading procedures for Swiss (emmentaler) cheese

• Specifications for eye and texture characteristics in the Wisconsin grade standards for Swiss (emmentaler) cheese

• Other minor technical or editorial changes

Statutory Authority

The department proposes to revise ch. ATCP 81, Wis. Adm. Code, under authority of Wis. Stat. §§ 97.09 (1) and 97.177 (1), (2) and (4).

Staff Time Required

The department estimates that it will use approximately 0.1 FTE staff time to develop this rule change. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. The department will assign existing staff to develop this rule.

Financial Institutions – Securities

Subject

Rules to adopt for use and to implement in Wisconsin, the Investment Adviser Registration Depository.

Description of Policy Issues

Objective of the rule. The Department of Administration proposes to amend the rule to conform to existing statutory provisions.

To adopt permanent rules to be in effect upon expiration of identical emergency rules issued by the Division on December 26, 2000 to implement in Wisconsin, the Investment Adviser Registration Depository ("IARD"). The emergency rules became effective on January 1, 2001 upon prior publication in the official state newspaper and compliance with other emergency rulemaking requirements.

The U.S. Securities and Exchange Commission ("SEC"), in conjunction with the North American Securities Administrators Association ("NASAA"), an organization comprised of the securities administrators of all 50 states, including Wisconsin, has developed the IARD as an electronic filing system for licensure of investment advisers to replace the paper filing system which heretofore has been used in all states. The IARD system permits investment advisers to satisfy their initial and renewal filing obligations to obtain licensure under the federal and state securities laws with a single electronic filing made over the Internet, instead of having to make separate paper filings with the SEC and with each state in which the investment adviser seeks to do business.

After several years in development and a pilot phase in the fall of 2000 that the Division participated in, the commencement date for states and the SEC to accept filings under the IARD was set for January 1, 2001. Consequently, NASAA member states, including Wisconsin, needed to take the necessary rule–making or other regulatory action to enable investment advisers to make their licensing filings electronically after that date. The proposed permanent rules, as did the emergency rules, make the necessary changes to the Division's investment adviser license filing provisions that are needed to adopt and implement the IARD for use in Wisconsin by investment advisers.

The IARD will be operated by NASD Regulation, Inc., a self–regulatory organization that for 20 years has operated an equivalent electronic filing system (the Central Registration Depository or "CRD") for federal and state licensure of securities broker–dealers and their sales agents. As with the CRD, the IARD will provide the advantages of: (1) elimination of paper filings; (2) a single filing will satisfy federal and state filing requirements; and (3) automatic payment of state licensing fees to the states where the investment adviser does business. Additionally and importantly, the IARD will provide the investing public with immediate, real–time access to information about investment advisers and their representatives.

Congress in its passage of the National Securities Markets Improvement Act in 1996 provided for the development of this electronic filing system for investment advisers, and the SEC has adopted rules mandating such. The SEC and the states have been working together to develop both the necessary changes to the filing form (Form ADV), and to the filing procedures to achieve uniformity in the filing processes and procedures. Additionally, to achieve uniformity among the states in the adoption of rules implementing the IARD, a NASAA Working Group has developed Model Rules (with commentary) to coordinate with the SEC requirements. The Wisconsin Rules, both emergency and permanent, follow the NASAA Model Rules.

Existing and new policies contained in the proposed rules include:

(1) Providing a revised licensing procedure for investment advisers and investment adviser representatives to enable utilization of the electronic filing mechanism of the IARD;

(2) Providing temporary and permanent hardship exemptions from the electronic filing obligation;

(3) Repealing and recreating the so–called "brochure rule," which is the information document required under federal rules to be provided to customers by investment advisers describing their advisory services;

(4) Revising filing periods and license expiration dates for licenses of investment advisers and investment adviser representatives, as well as for license withdrawals;

(5) Providing a revised procedure for notice filings made by federal covered advisers to enable utilization of the electronic filing mechanism of the IARD;

(6) Creating a specific section dealing with transition filings; and

(7) Providing to all public investors in Wisconsin, via implementation of the IARD, immediate, real–time Internet access to information about the services and background of investment advisers and their representatives.

Additionally, and separate from the permanent rules, the Division will be issuing General Orders to further implement timing for various categories of filers, and which will provide partial fee rebates for 2001 for the smaller, state–only licensed advisers to help defray the initial one–time fee (of $150) they must pay for their initial participation in the IARD.

Statutory Authority

Sections 551.32 (1) (a), (b) and (c), (1m), (1s) and (8), and 551.63 (2), Stats.

Staff Time Required

40 hours

Natural Resources (Fish and Game)

Subject

Revision of chs. NR 20 and NR 25, relating to commercial fishing – outlying waters and fishing inland waters and outlying waters.

Description of Policy Issues

Poor reproduction by yellow perch in Green Bay and declining harvests of adult yellow perch, both in commercial nets and in Department survey nets, have elevated concern about the long–term of the Green Bay yellow perch population. The Department is proposing to reduce sport and commercial harvests from Green Bay by reducing sport bag limits and reducing the annual total allowable commercial harvest. Sport and commercial fishers and affiliated businesses (bait shops, restaurants, etc.) would be interested in this issue.

This proposal is consistent with well–established policy of limiting sport and commercial harvests to levels sustainable by the fish populations.

Statutory Authority

Sections 29.041, 29.014 (1), 29.519 (1) (b) and 227.11 (2) (a), Stats.

Staff Time Required

59 hours

Workforce Development (Economic Support)

Subject

Relating to locally–matched child care grants.

Description of Policy Issues

Objective of the rule. On July 12, 2000, the Joint Committee on Finance approved $25,965,700 in additional federal child care expenditure authority for fiscal year 2000–01 for a new program that allows DWD to pass these grant monies through to local governments that can identify and certify the required match. Joint Finance directed DWD to promulgate administrative rules regarding how funding under the local pass–through program is to be allocated and used before any federal matching funds can be distributed to local governments after June 30, 2001, i.e., after fiscal year 2000–01.

The department proposes continuing to allow the federal funds to be used by local governments for purposes such as child care quality improvement, training to integrate children with disabilities into child care programs with children without disabilities, training in the prevention and management of illness and injury in the child care setting, and the start–up and expansion of collaborative services such as sick child care, second shift care, and school–aged child care. The rules will define eligible applicants, allowable match expenditures, and allowable uses for grant funds. The rules will also address allocation of funds among jurisdictions and applicants.

Statutory Authority

Minutes of the July 12, 2000, meeting of the Joint Committee on Finance under s. 13.10. The minutes are available at http://www.doa.state.wi.us/debf/sbo/jcf/jcf.asp.

Staff Time Required

Less than 150 hours.

Submittal of rules to legislative council clearinghouse

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

Natural Resources

Rule Submittal Date

On January 10, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 415 relating to control of particulate matter emissions.

Agency Procedure for Promulgation

The date for public hearing is February 15, 2001.

Contact Information

If you have questions, please contact:
Ralph Patterson
Bureau of Air Management
Telephone: (608) 267–7546
Email: patter@dnr.state.wi.us
Mailing Address:
101 S. Webster Street
Madison, WI 53703

Regulation and Licensing

Rule Submittal Date

On January 16, 2001, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule relates to the regulation of professional boxing.

Agency Procedure for Promulgation

The date for public hearing is February 14, 2001.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone: (608) 266–0495
Email: pamela.haack@drl.state.wi.us
Mailing Address:
1400 E. Washington Ave., Room 171
Madison, WI 53703

Transportation

Rule Submittal Date

On January 11, 2001, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Trans 131 relating to motor vehicle emissions inspection program.

Agency Procedure for Promulgation

The date for public hearing is February 20, 2001.

Contact Information

If you have questions, please contact:
Julie A. Johnson
Telephone: (608) 267–3703
Email: julie.johnson@dot.state.wi.us
Mailing Address:
4802 Sheboygan Ave., 115B
Madison, WI 53702

Rule–making notices

Notice of Hearing
Agriculture, Trade and Consumer Protection

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces it will hold a public hearing on its emergency rule to create s. ATCP 10.21 (10) (c) and (15) relating to reimbursement of Johne's disease testing costs. The public hearing will be held on Tuesday, February 13, 2001 at 2:00 p.m. at the following location:

Department of Agriculture, Trade and Consumer Protection
Prairie Oak State Office Building
Room 106
2811 Agriculture Drive
Madison, Wisconsin

Public comment is being sought on the Department's emergency rule, pursuant to s. 227.24 (4), Stats., which requires that a public hearing be held within 45 days after an emergency rule is adopted. Following the public hearing, the hearing record will remain open until Wednesday, February 14, 2001 to receive additional written comments.

An interpreter for the hearing impaired will be available on request for this public hearing. Please make reservations for a hearing interpreter by Monday, February 5, 2001 either by writing to Lynn Miller, Division of Animal Health, P.O. Box 8911, Madison, WI 53708–8911 (telephone 608 224–4883) or by calling the Department TDD at 224–5058.

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

Statutory Authority: ss. 93.07 (1), and 95.197 (2).
Statute Interpreted: s. 95.197.

Johne's disease (paratuberculosis) is a serious disease of cattle. The 1999–2001 biennial budget act (1999 Wis. Act 9) established a grant program to help cattle owners pay for Johne's disease testing. The department of agriculture, trade and consumer protection (DATCP) administers the grant program. This rule establishes standards for the grant program, as required by the biennial budget act.

Background

Under s. 95.195, Stats., and current DATCP rules, a seller warrants that cattle are free of Johne's disease at the time of sale unless the seller discloses to the prospective buyer the current Johne's disease herd classification of the source herd. Every herd of cattle has a Johne's disease herd classification.

A herd is automatically classified "maximum risk for Johne's disease" unless DATCP assigns a different herd classification based on an annual herd test. DATCP may assign one of several herd classifications, based on annual herd test results. An annual herd test is voluntary. A herd owner may arrange and pay for an annual herd test, and may ask the department to classify the herd based on the test results.

Grant Program

The biennial budget act (1999 Wis. Act 9) provided $100,000 in grant funds FY 2000–01 to help cattle owners pay for annual Johne's disease herd tests. Under this rule, a herd owner who asks the department to classify a herd based on an annual herd test may apply for reimbursement of laboratory costs associated with the annual test. When DATCP classifies the herd, it will tell the herd owner how to apply for reimbursement.

To obtain reimbursement, a herd owner must file a claim by February 1 of the year following the year in which the herd owner tests the herd. The herd owner must submit copies of bills that establish the amount of laboratory costs charged to the herd owner. DATCP will distribute available funds by June 30 (following the February 1 annual application deadline).

DATCP may reimburse all or part of an applicant's allowed claim, depending on available funding. If allowed claims exceed available funding, DATCP will pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

SECTION 1. ATCP 10.21 (10) (c) is created to read:

ATCP 10.21 (10) (c) *Eligibility for reimbursement.* Notice that the herd owner may apply for reimbursement of testing costs, according to sub. (15).

SECTION 2. ATCP 10.21 (15) is created to read:

ATCP 10.21 (15) REIMBURSEMENT OF ANNUAL HERD TEST COSTS. (a) *Eligibility.* A herd owner who asks the department to classify a herd under sub. (3) based on an annual herd test performed under sub. (5) may apply for reimbursement of laboratory testing costs under sub. (7).

(b) *Reimbursement claim.* To apply for reimbursement of annual herd test costs under par. (a), a herd owner shall file a claim with the department by February 1 of the year following the year in which the herd is tested and classified. The herd owner shall apply on a form provided by the department. The herd owner shall submit copies of bills from the veterinarian or laboratory that establish the amount of laboratory test costs that the herd owner incurred.

(c) *Claims disallowed.* The department may disallow all or part of a claim under par. (b) if the department finds that the herd owner has misrepresented or falsified any part of a claim.

(d) *Reimbursement payments.* The department shall reimburse a herd owner's allowed claim by June 30 of the year following the year which the owner's herd was tested and classified. If allowed claims exceed available funding, the department shall pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

Fiscal Estimate

The department does not anticipate this emergency rule to have a significant fiscal effect. It is estimated that 2,400 herds will be classified over a 12 month period of which approximately 80% of the herd owners will file a reimbursement claim. Each claim is expected to require 20 minutes to review and complete data entry for payment. The total cost will be approximately $13, 200 ($12,600 for salary and fringe and $600 for postage). This time can be accommodated with existing staff and through reprioritization of work assignments in the office. There is no anticipated fiscal effect for local units of government.

Regulatory Flexibility Analysis

This rule establishes standards for the grant program created by 1999 Wis. Act 9 to assist cattle owners in paying for Johne's disease testing. It will affect cattle owners who wish to obtain reimbursement for a portion of the costs incurred to test their herds for Johne's disease.

When a herd owner has his or her herd tested for Johne's disease and requests that the herd be classified on the basis of that test, the department will advise the herd owner that he or she is eligible to participate in the grant program. To participate in the grant program, the herd owner must file a claim no later than February 1 of the year following the calendar year in which the herd was tested. The owner must provide copies of bills from either the veterinarian or the laboratory to establish amount of laboratory costs incurred.

This claim filing process is the least onerous possible that is consistent with the state's need to audit and assure that grants are only given in appropriate amounts to eligible owners. The rule permits filing the claim anytime between the date their herd is classified and February 1 of the year after the testing is conducted. This allows significant flexibility for the animal owner.

It is not anticipated that the animal owner will need any significant professional skills to complete the claim form and become eligible for a grant under this rule.

Notice of Hearings
Health and Family Services
(Health, Chs. 110–199)
[CR 00–172]

Notice is hereby given that pursuant to ss. 227.24 (1), 250.04 (7), 250.041, 254.115, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2), and 254.179, Stats., the Department of Health and Family Services will hold public hearings to consider the revision of a previously proposed order to repeal and recreate ch. HFS 163, Wis. Adm. Code, relating to certification for the identification, removal and reduction of lead–based paint hazards and the issuance and registration of certificates of lead–free status and lead–safe status.

Note: These hearings are being held in addition to hearings held in January because the Department proposes to make a variety of substantive changes to the order on which the January hearings were based. The substantive changes to the order result from final regulations issued by the U.S. Environmental Protection Agency (EPA) establishing standards for identifying lead–based paint hazards that are significantly different from those originally proposed by the EPA. The EPA regulations were issued on January 5, 2001. The Department's modifications to the previous proposed order are intended to comply with the final EPA regulations for determining the existence of lead–based paint hazards.

Hearing Information

The public hearings will be held:

Date & Time	Location
February 22, 2001 Thursday Beginning at 10:00 a.m.	State Office Building Rm 137, 141 NW Barstow St. Waukesha WI
February 23, 2001 Friday Beginning at 10:00 a.m.	Marathon Co. Aging and Disability Resource Ctr. Theater, 1100 Lakeview Dr. Wausau WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

Chapter 254, Stats., provides for a comprehensive lead (Pb) hazard reduction program, including lead exposure screening, medical case management and reporting requirements, and the development of lead training accreditation and certification programs. Under the authority of ch. 254, Stats., the Department promulgated ch. HFS 163, Wis. Adm. Code, in 1988 to provide rules for the certification of individuals performing lead hazard reduction and for the accreditation of the courses that prepare individuals for certification. These rules have been revised over time to meet requirements of regulations issued by the U.S. Environmental Protection Agency (EPA).

Wisconsin met federal standards for a state–administered lead training accreditation and certification program and received EPA authorization effective January 27, 1999. The Department's Asbestos and Lead Section of the Bureau of Occupational Health administers and enforces lead–based paint training, certification and work practice provisions of ch. HFS 163, Wis. Adm. Code. The Section derives its revenues from two sources: various fees the Department assesses under this chapter; and lead program development grant monies the Department receives from EPA.

Under ch. HFS 163, a person offering, providing or supervising lead–based paint activities for which certification is required must be certified as a lead company and may only employ or contract with appropriately certified individuals to perform these activities. Effective December 1, 2000, the Department revised the training accreditation and certification requirements of the rule by emergency order. An individual may apply for

certification in the following disciplines: lead low−risk worker, low−risk supervisor, high−risk worker, contractor supervisor, hazard investigator, inspector, risk assessor, project designer and sampling technician. For initial certification, the individual must be 18 years of age or older, must meet applicable education and experience qualifications, must successfully complete certification training requirements and, to be certified as a lead hazard investigator, inspector, risk assessor, low−risk supervisor or contractor supervisor, must pass a certification examination. In addition, the Department must accredit the lead training courses that prepare persons for certification.

New Federal Regulations

The U.S. Environmental Protection Agency has issued final regulations establishing standards for identifying lead−based paint hazards under the authority of section 403 of the federal Toxic Substance Control Act. These regulations were published in the January 5, 2001, Federal Register. These new national standards are more protective than previous EPA guidance and will, for the first time, provide homeowners, school and playground administrators, childcare providers and others with standards to protect children from hazards posed by lead, including children in federally−owned housing.

Under these new standards, federal agencies, including Housing and Urban Development, as well as state, local and tribal governments will have new uniform benchmarks on which to base remedial actions taken to safeguard children and the public from the dangers of lead. These standards will also apply to other Federal lead provisions, such as EPA's real estate disclosure requirements presently in place for people selling or renting a home or apartment. These hazard standards will also serve as general guidance for other EPA programs engaged in toxic waste cleanups. In addition, these standards will provide landlords, parents, and childcare providers with specific levels on which to make informed decisions regarding lead found in their homes, yards, or play areas.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Gail Boushon, Regulatory Specialist
Asbestos and Lead Section
Room 137, 1 West Wilson Street
P.O. Box 2659
Madison, WI 53701−2659
Telephone: 608−261−6876 or 266−1511 if you are hearing impaired.
Fax: 608−266−9711
Email: boushga@dhfs.state.wi.us

A copy of the revised proposed rules are available to view and download at the Department's website:

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

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

Written comments on the proposed revision to proposed rules received at the previously stated address no later than **March 2, 2001**, will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

The proposed revisions to the previously proposed order repealing and recreating Chapter HFS 163 will not alter the fiscal effect on state or local government, so the existing fiscal estimate for the proposed order still applies and is repeated from the previous hearing notice below.

The Department expects that owners of the approximately 500,000 rental units in Wisconsin built before 1978 to be the primary purchasers of certificates of lead−free status or lead−safe status to be issued under the proposed rule. It further expects that about 50% of these properties will be eligible for a certificate of lead−free and 50% for a certificate of lead−safe. A certificate of lead−free status costs $50 and is issued for an indefinite term. The Department anticipates that 10,000 certificates of lead−free status will be issued annually. A certificate of lead−safe status costs $25 and is issued for terms that vary from 9 months to 7 years. The Department anticipates that 8,000 certificates of lead−safe status will be issued or renewed each year. Therefore, the Department estimates an annual total of $700,000 in program revenues from the issuance of lead−free and lead−safe certificates. In addition, the proposed rule contains various fees for certification of individuals and companies, accreditation of training courses, and approval of principal instructors. The Department estimates that the proposed rule will increase revenues for these various by $206,400 annually. Contact Gail Boushon, Regulatory Specialist with the Asbestos and Lead Section to obtain a copy of the spreadsheet showing the breakdown of the estimated revenues.

The Department anticipates the total annual cost of administering the program to be $736,600. It estimates that 9.5 FTE will be necessary to administer the program at an estimated annual cost of $551,595. Of the 9.5 FTE, 4.5 FTE are transferred from existing DHFS programs and 5.0 FTE are authorized under 1999 Wisconsin Act 113. In addition, the Department anticipates other annual costs in the amount of $185,000. These costs include $50,000 to maintain the database of certificates, $120,000 laboratory costs for processing paint chip and dust wipe samples taken to verify eligibility for a certificate, and $15,000 for printing, postage and other services and supplies.

Initial Regulatory Flexibility Analysis

The proposed lead−based paint hazard standards may affect small businesses that own residential rental property if the property is determined to be free of lead−based paint hazards. However, property owned by small businesses is not required by State regulations to be free of lead−based paint hazards unless a lead−safe certificate is sought for the property under the proposed order repealing and recreating Chapter HFS 163. The federal regulations under 40 CFR 745, Subpart D establish a minimum national standard for determining what is a lead−based paint hazard. A State that administers a lead training and certification program under federal authority may not promulgate rules specifying standards more lenient than the federal standards. If the State does not implement standards that meet the federal minimum, the U.S. EPA must enforce the federal standards under 40 CFR 745, Subpart D. The proposed revisions to the lead−based paint hazard standards will not create additional training, certification, accreditation, reporting or recordkeeping requirements. Therefore, the initial regulatory flexibility analysis issued with the previous hearing notice still applies and is repeated below.

The rule will affect small businesses as defined in s. 227.114 (1) (a), Stats. There are 286 certified lead companies in Wisconsin, of which at least 80% have fewer than 25 employees. There are 5 providers of training courses. Four of the training providers are companies and one is operated by a labor union. In addition, the proposal includes an option for property owners to obtain a certificate of lead–free status or lead–safe status in exchange for immunity from liability when a child is lead poisoned. The standards and certificates of lead–free status and lead–status will affect rental real estate owners who elect to participate. Many of these owners could be classified as small businesses. Therefore, the Department developed the rule only after careful consideration of the cost and administrative burden to affected parties.

In proposing standards that must be met in order for a real estate owner to receive a certificate of his or her building being lead–free or lead–safe, the Department continually weighed the cost to achieve or maintain a standard against the risk of a child being lead poisoned.

Training for certification was established in modules that allow easy movement to higher discipline levels after completing additional training without having to repeat information. This reduces the required initial amount of time and money, before a person may be sure of his or her commitment, and reduces barriers to upward movement within the lead industry.

Minimum reporting requirements will be placed on trainers and lead professionals. The Department considers the information proposed to be required of property owners minimally essential for awarding certificates of lead–free or lead–safe to a structure's owner. Such certifications form the basis for the owner's immunity from liability. Therefore, reporting requirements cannot be reduced for "small businesses."

Notice of Hearings

Natural Resources

Environmental Protection – Air Pollution Control

[CR 01–02]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a) and 285.11 (1), Stats., interpreting s. 285.11 (6), Stats., and the State Implementation Plan developed under that provision, the Department of Natural Resources will hold public hearings on revisions to ch. NR 415, Wis. Adm. Code, relating to control of particulate matter emissions. The proposed rule will change the applicability of certain particulate matter emission limiting requirements by substituting for the term "nonattainment area" a description of specific geographic areas where the requirements would continue to be in effect. This will allow certain state designated nonattainment areas for total suspended particulates (TSP) to be redesignated to attainment without sacrificing the particulate limits and control requirements which helped to lower particulate matter concentrations in those areas.

Those provisions of ch. NR 415 being repealed pertain to schedules for a facility to achieve compliance with the particulate emission limiting requirements for a nonattainment area. These deadlines have passed, and any future TSP nonattainment designations will be accompanied by rule changes that will include compliance schedules. The new s. NR 415.035 contains the description of the specific geographic areas where the particulate matter emission limiting requirements currently applicable to nonattainment areas would continue to be in effect The areas described are identical to the current TSP nonattainment areas.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rules may have an impact on small business. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Any company that emits particulate matter in certain portions of Beloit, Milwaukee and Waukesha. However, the rule will not change current applicable emission limits or add any new requirements for the sources.

b. Description of reporting and bookkeeping procedures required: No new procedures.

c. Description of professional skills required: No new skills

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

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

February 15, 2001	**Video conference participation** will Thursday	be available at:
10:00 a.m.	Rm 8F, State Office Building, 101 E.	Wilson Street, Madison
	Rm 131, Andrews Hall, UW–Rock	County, 2909 Kellogg Ave., Janesville
	Room 542, State Office Building, 819	N. Sixth Street, Milwaukee
	Room 127, Transportation Offices,	141 NW Barstow St., 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 Ralph Patterson at (608) 267–7546 with specific information on your request at least 10 days before the date of the scheduled hearing.

There is no fiscal impact anticipated from this proposed rule.

Written comments on the proposed rules may be submitted to Mr. Ralph Patterson, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than February 26, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings.

A copy of proposed rule no. AM–16–00 and its fiscal estimate may be obtained from:

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

Notice of Hearing
Pharmacy Examining Board

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a) and (e), Stats., and interpreting s. 450.02 (3) (a), (b), (d) and (e), Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. Phar 7.05 (3) (b) 4.; to amend s. Phar 7.05 (3) (a) (intro.) and (c), (5) and (6) (intro.); and to create s. Phar 7.05 (3) (b) 8., relating to transfer of prescription orders.

Hearing Date, Time and Location

Date: February 14, 2001

Time: 9:15 A.M.

Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by March 2, 2001 to be included in the record of rule–making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

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

Statute interpreted: s. 450.02 (3) (a), (b), (d) and (e).

Under s. Phar 7.05 (3) and (4), a prescription order may be transferred between pharmacies only one time. The Pharmacy Examining Board amends its rules to permit an unlimited number of transfers between pharmacies. For example, a consumer may have a prescription order for medication with five refills that is originally presented and filled at a Milwaukee pharmacy. If the consumer goes on vacation in Door County and finds he or she requires a refill while there, the consumer can have the prescription order "transferred" to a Door County pharmacy for dispensing a refill. However, under the current one–time transfer rule, when the consumer returns to Milwaukee he or she will need a new prescription order for the medication, because the prescription cannot be transferred back to the original pharmacy even though there are refills remaining. The board believes the rule should be modified to rectify these types of situations.

The current reference to the transfer of an original prescription order is removed and modifies the one–time transfer limitation to permit unlimited transfer with the restriction that the transfer of original prescription order information for the purpose of renewal dispensing of controlled substances is only permitted between two pharmacies on a one–time basis. The controlled substance one–time transfer restriction does not apply where pharmacies have access to a common central processing unit, and approval is received from the Pharmacy Examining Board.

Text of Rule

SECTION 1. Phar 7.05 (3) (a) (intro.) is amended to read:

Phar 7.05 (3) (a) (intro.) Except as provided in sub. (5), the transfer of ~~original~~ prescription order information for the purpose of ~~renewal~~ dispensing is permissible between ~~2~~ pharmacies on ~~a one–time~~ <u>an unlimited</u> basis pursuant to the following requirements:

SECTION 2. Phar 7.05 (3) (b) 4. is repealed.

SECTION 3. Phar 7.05 (3) (b) 6. is amended to read:

Phar 7.05 (3) (b) 6. The pharmacy's name, address, the ~~original~~ prescription order number from which the prescription order information was transferred.

SECTION 4. Phar 7.05 (3) (b) 8. is created to read:

Phar 7.05 (3) (b) 8. The name, address and telephone number of the pharmacy from which the original prescription order was transferred if different from subd. 6.

SECTION 5. Phar 7.05 (3) (c), (5) and (6) (intro.) are amended to read:

Phar 7.05 (3) (c) The original and transferred prescription ~~order~~ <u>orders</u> shall be maintained for a period of 5 years from the date of the last renewal.

(5) ~~Pharmacies~~ <u>The transfer of original prescription order information for the purpose of renewal dispensing of a controlled substance is permissible between 2 pharmacies only on a one–time basis. However, pharmacies</u> having access to a common central processing unit are not limited in the transfer of original prescription order information <u>pertaining to controlled substances</u> for the purpose of renewal dispensing if prior written approval is received from the board.

(6) (intro.) A computerized system may be used for maintaining a record, as required under this section, of prescription dispensing and transfers of ~~original~~ prescription order information for the purposes of renewal dispensing, if the system:

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: $0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: $0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: $0.00.

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

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

Notice of Hearing
Regulation and Licensing
[CR 01–03]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 444.02 and 444.05, Stats., and interpreting ss. 444.02, 444.03, 444.06, 444.09, 444.10, 444.11 and 444.12, the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to revise chs. RL 110 to 114, relating to the regulation of professional boxing.

Hearing Date, Time and Location

Date: February 14, 2001

Time: 10:00 a.m.

Location: 1400 East Washington Avenue
Room 133
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 March 2, 2001 to be included in the record of rule–making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 227.11 (2), 444.02 and 444.05.

Statutes interpreted: ss. 444.02, 444.03, 444.06, 444.09, 444.10, 444.11 and 444.12.

SECTION 1 defines "technical knock–out" to include situations when a boxer discontinues boxing or a referee terminates the bout because the boxer is incapable of continuing. SECTION 1 also defines "10–point must scoring," a scoring system used by the judges at a professional boxing show.

SECTION 2 requires licensed boxing officials to comply with the federal Professional Safety Act which was enacted several years ago and amended in 2000. The Act grants authority and responsibilities to the entity authorized in each state to regulate professional boxing in that state.

SECTION 2 also creates a note that provides a citation for the Professional Boxing Safety Act.

SECTION 3 amends a section title to more appropriately identify the contents of that section.

SECTION 4 requires promoters to include in an application for a permit to conduct a professional boxing show information about the number of rounds for which each bout is scheduled.

SECTIONS 5 and 6 expand the reasons for which an application for a permit to conduct a professional boxing show may be denied. The additional reasons include having a license suspended or revoked in another state, having certain medical problems and falsifying information provided to the department. The changes correspond with causes for denial stated in the Professional Boxing Safety Act.

SECTION 7 requires that professional bouts be judged by 3 judges whose names must be submitted to the department by a promoter. SECTION 7 also permits the department to allow a professional boxing club to assign the judges and it authorizes the department to refuse to approve certain persons to act as a judge for lack of competence, a conflict of interest or disciplinary action against the person in Wisconsin or another state.

SECTION 8 requires judges to use the 10–point must scoring system.

SECTION 9 Removes the prohibition against ropes made of metal. The rule does require that the ropes be wrapped with soft material.

SECTION 10 distinguishes between male boxers and female boxers, as well as heavier and lighter boxers, relating to the weight of gloves to be used in a bout.

SECTION 11 replaces the current provision concerning hand bandages with language suggested by the Association of Boxing Commissions, which is identified in the Note at SECTION 28.

SECTION 12 requires hand bandages to be put on under the supervision of a representative of the department. A representative of the opposing boxer may also be present.

SECTION 13 prohibits boxers to use cosmetics or an excessive amount of Vaseline.

SECTION 15 requires boxers to wear a form–fitted mouthpiece during a bout. A referee may deduct points from a boxer who fails to comply.

SECTION 16 requires a boxer at a professional show who participate in a sparring bout to wear headgear.

SECTION 17 describes the medications that a boxer's seconds may use when the boxer has sustained a cut.

SECTION 18 prohibits a male and a female boxer to compete against each other in a boxing show.

SECTION 19 states that the same weight differences between boxers apply for both male and female boxers.

SECTION 20 states that female boxers may be scheduled for no more than ten 2–minute rounds with a one–minute rest between rounds. Male boxers may be scheduled for no more than twelve 3–minute rounds with a one–minute rest between rounds. These differences were recommended by the Association of Boxing Commissions.

SECTION 21 prohibits a second from attempting to stop a bout by throwing a towel or anything else into the ring.

SECTION 22 amends the language pertaining to injuries sustained by fouls. This SECTION distinguishes between an intentional foul and an accidental foul. This SECTION provides guidance to the referee and judges concerning the action to be taken following a foul and how the bout should be scored. This SECTION also includes requirements relating to the deduction of points from the boxer who caused an intentional foul and it states that the winner will be declared as such by a "technical decision."

SECTION 23 requires a mandatory 8 count when a boxer is down. The referee shall continue to count, even if the bell sounds, indicating the end of the round.

SECTION 24 states that a referee may not stop a bout solely because a boxer has been knocked down 3 times in one round.

SECTION 25 prohibits a boxer who was knocked out from participating in competitive boxing or sparring for a period of at least 60 days. A boxer who sustained a technical knock–out may not participate in competitive boxing or sparring for a period of at least 30 days. Other timelines are specified for boxers who have been knocked out several times within certain time periods.

SECTION 26 requires a boxer who sustained a technical knock–out to undergo a medical procedure or examination, as recommended by the ringside physician and prescribed by the department, before being permitted to box again.

SECTION 27 states that a bout that is terminated by the ringside physician shall be scored as a technical knock–out.

SECTION 28 permits the department to make exceptions to certain rules for a bout that has been designated a championship bout and to substitute the currently–approved "Unified Championship Rules" of the Association of Boxing Commissions. SECTION 28 also creates a note concerning the authority and address of the Association of Boxing Commissions.

SECTION 29 prohibits a second to give a boxer a stimulant during a bout and permits the department to require a boxer to submit to a drug test or HIV exam before a scheduled bout.

Text of Rule

SECTION 1. RL 110.02 (10) and (11) are created to read:

RL 110.02 (10) "Technical knock–out" means that a boxer loses a bout because the boxer discontinues boxing for any reason or because the referee terminates the bout because the boxer is defenseless or incapable of continuing. "Technical knock–out" does not include a situation when a boxer is down for a 10–count by the referee.

(11) "10–point must scoring system" means a system for scoring each round of a bout in such a way that the winner is awarded 10 points and the loser is awarded 9 points or less. Under this system each judge renders his or her score to the official scorekeeper for a round by round tally of points for each boxer. At the end of the bout, the scorekeeper adds the points that each judge gave for each boxer for each round. The winner of the bout is the boxer who receives the higher score from a majority of the judges.

SECTION 2. RL 110.025 and Note are created to read:

RL 110.025 Compliance with federal laws. Professional clubs, promoters, seconds and boxers shall comply with the professional boxing safety act and provide the department with information, copies of documents, identification cards, copies of contracts, disclosures and notifications, as required by the Act.

Note: The Professional Boxing Safety Act may be found in 15 USC 6301 et seq.

SECTION 3. RL 110.03 (title) is amended to read:

RL 110.03 (title) Professional club ~~record~~ license.

SECTION 4. RL 110.04 (1) (em) is created to read:

RL 110.04 (1) (em) The number of rounds for which each bout is scheduled.

SECTION 5. RL 110.04 (2) (intro.) is amended to read:

RL 110.04 (2) (intro.) After receipt of an application for a permit to conduct a professional boxing show, the department may deny the application if the applicant does not provide all the required information, if the department does not have a referee, inspector or ringside physician available on that date or if one or more boxers are not licensed or otherwise eligible to fight, due to failure to comply with conditions in s. RL 114.06~~. The department may grant a permit for the show, but withhold approval of one or more boxers to fight in the show~~ or due to being under a suspension or revocation order issued by another licensing jurisdiction for one of the following reasons:

SECTION 6. RL 110.04 (2) (a) to (d) are created to read:

RL 110.04 (2) (a) A recent knock–out or series of consecutive losses.

(b) An injury, a requirement for a medical procedure, or a physician's denial of certification.

(c) Failure of a drug test.

(d) The use of false aliases, or falsifying, or attempting to falsify, official identification cards or documents issued pursuant to ch. 444, Stats., or 15 USC s. 6305.

(e) Unprofessional conduct or other inappropriate behavior inconsistent with generally accepted methods of competition in a professional boxing show.

SECTION 7. RL 111.04 is renumbered RL 111.04 (1) and amended to read:

RL 111.04 Judges and judging. (1) ~~Judges are assigned by the~~ The department may permit a professional club conducting a show to assign the judges for a show. Any professional boxing club applying for a permit shall provide the names of the judges, if known, at the time of application and shall describe in the application the procedure to be used for selecting judges and for judging and scoring bouts. The department may refuse to approve a person to act as judge if the department has reasonable proof that the person is not competent to act as a judge, that the person has a conflict of interest or that the person is subject to a disciplinary action taken by the department or another licensing jurisdiction that prohibits the person from acting as a judge.

SECTION 8. RL 111.04 (2) is created to read:

RL 111.04 (2) The 10–point system shall be used to determine the winner of a bout.

SECTION 9. RL 112.01 (2) is amended to read:

RL 112.01 (2) The ring shall be circumscribed with at least 4 ropes. Ropes may not be less than one inch in diameter. Ropes ~~may not be made of metal.~~ shall be wrapped securely with soft material. The lowest rope shall be 18 inches above the ring floor, the second rope 30 inches, the third rope 42 inches, and the fourth rope 54 inches above the ring floor. The ropes shall be secured with 2 spacer ties on each side of the ring. The ring floor shall be padded with a one–inch layer of padding of felt, rubber or other similar material, placed on a one–inch base of building board or similar supporting base. Padding shall be covered with canvas duck, or similar material tightly stretched and laced securely in place, preferably under the apron.

SECTION 10. RL 112.03 (1) is amended to read:

RL 112.03 (1) Boxing gloves for male boxers may be not less than 5 oz. each in weight when worn by a boxer under 140 pounds, and not less than 6 oz. when worn by ~~other boxers~~ a boxer weighing 140 pounds or more. Boxing gloves for female boxers may be not less than 8 oz. each in weight when worn by a boxer under 154 pounds, and not less than 10 oz. when worn by a boxer weighing 154 pounds or more.

SECTION 11. RL 112.04 (1) is repealed and recreated to read:

RL 112.04 Bandage specifications. (1) Boxers may wear a bandage on each hand that consists of no more than 20 yards of soft gauze that is not more than 2 inches wide and that is held in place by not more than 8 feet of adhesive tape that is not more than 1 ½ inches wide. The tape may not cover any part of the knuckles when the hand is clenched to make a fist. Boxers may not use water or any other liquid or material on the tape.

SECTION 12. RL 112.04 (3) is created to read:

RL 112.04 (3) Bandages that cover a boxer's hand shall be put on under the supervision of the department's inspector or a person delegated by the inspector and one representative of any other boxer, if any other boxer so requests.

SECTION 13. RL 112.05 (3) is amended to read:

RL 112.05 (3) Boxers may not use any type of grease, cosmetics or other substance on the body, except that a non–excessive amount of Vaseline may be used.

SECTION 14. RL 112.05 (4) is created to read:

RL 112.05 (4) Boxers with long hair shall have their hair secured with soft, non–abrasive material.

SECTION 15. RL 112.06 is amended to read:

RL 112.06 Mouthpieces. Boxers shall wear an individually form–fitted mouthpiece during each round. If a boxer loses his or her mouthpiece during a round, the referee shall have it replaced during the first break in the action. The referee may deduct points from a boxer who demonstrates a continued pattern of losing a mouthpiece during a bout.

SECTION 16. RL 112.07 (intro.) is amended to read:

RL 112.07 Headgear. (intro.) Boxers, other than those who are participating in a sparring bout, may wear headgear. Boxers who are participating in a sparring bout shall wear headgear. Headgear shall be approved by the inspector and meet substantially the following specifications:

SECTION 17. RL 112.08 (3) is created to read:

RL 112.08 (3) In case of a cut, a boxer's seconds may only make topical use of the following:

(a) A solution of adrenaline 1/1000.

(b) Avetine.

(c) Thrombin.

SECTION 18. RL 113.01 (4) is created to read:

RL 113.01 (4) A female boxer and a male boxer may not compete against each other in a bout.

SECTION 19. RL 113.04 is amended to read:

RL 113.04 Weight limitations. No boxer may participate in a show where the weigh–in weight difference of the boxers exceeds the allowance shown in the schedule below. When approving pairings between male or female boxers and applying these allowances, the department shall first determine which boxer weighs less than the other. The maximum allowable weight difference shall be that which relates to the category in which the lower weight boxer falls.

Weight	Allowance
135 lbs. or under	not more than 6 lbs.
136–175 lbs.	not more than 10 lbs.
176–190 lbs.	not more than 15 lbs.
191 lbs. or over	no limit

SECTION 20. RL 113.05 is created to read:

RL 113.05 Number of rounds in a bout. (1) No bout involving female boxers may be scheduled for more than 10 rounds with each round lasting 2 minutes and with a one–minute rest between rounds.

(2) No bout involving male boxers may be scheduled for more than 12 rounds with each round lasting 3 minutes and with a one–minute rest between rounds.

SECTION 21. RL 113.06 (5) is created to read:

RL 113.06 (5) A second may not attempt to stop a bout by throwing a towel, a sponge or any other thing into the ring.

SECTION 22. RL 114.03 is repealed and recreated to read:

RL 114.03 Injuries sustained by fouls. (1) INTENTIONAL FOUL. (a) If an intentional foul causes an injury and the injury is severe enough to terminate a bout, the boxer causing the injury shall lose by disqualification.

(b) If an intentional foul causes an injury and the bout is allowed to continue, the referee shall notify the boxer and the judges that 2 points shall be deducted from the score of the boxer who caused the foul.

(c) If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured boxer shall win by "technical decision" if the boxer is ahead on the scorecards, or the bout shall result in a "technical draw" if the injured boxer is behind on the scorecards.

(d) If a boxer injures himself or herself while attempting to intentionally foul an opponent, the referee may not take any action in the boxer's favor. The injury shall be considered the same as one produced by a fair blow.

(e) If the referee decides that a boxer has conducted himself or herself in an unsportsmanlike manner, the referee may stop the bout and disqualify the boxer.

(2) ACCIDENTAL FOUL. If an accidental foul occurs before the completion of 4 rounds of a bout and the injured boxer is not able to continue the fight, the fight shall be declared a "no contest." If the accidental foul occurs after the completion of 4 rounds of a bout and the fouled boxer is not able to continue, the judges shall score the bout as a "technical knock–out" and the boxer who is ahead on points shall be declared the winner. In determining the points, the judges shall score the completed rounds and the partial or incomplete rounds. If no action has occurred in a partial or incomplete round, the round shall be scored as an even round. When a boxer is not able to continue boxing, the referee shall stop the action and inform the department's inspector, the judges and both boxers that the foul was accidental. If in the later rounds the injury has worsened as a result of legal blows, and the injured boxer is not able to continue, the judges shall score the bout based on the completed rounds and the partial or incomplete rounds. A referee, in consultation with the ringside physician, shall allow the injured boxer up to 5 minutes to recover from the foul.

(3) ACCIDENTAL LOW BLOW. A boxer who is hit with an accidental low blow, shall continue after a reasonable amount of time, not exceeding 5 minutes, or the boxer shall lose the bout. The referee shall stop the action in a bout and inform the judges of any deduction of points made by the referee.

SECTION 23. RL 114.05 (3) and (7) are amended to read:

RL 114.05 (3) COUNT. When a boxer is down, the referee shall ~~count aloud from one to 10 with~~ give a mandatory 8 count and shall continue to count to 10 if the downed boxer is not able to continue fighting after the mandatory 8 count. The referee shall count aloud and provide intervals of one second between the numbers, and shall indicate each second with his or her hand in a manner such that the boxer who has been knocked down is aware of the count. Before the number "one" is counted, an interval of one second shall have elapsed from the time the boxer went down and the time of announcing "one." The referee shall continue counting, even if the bell sounds, indicating the end of the round.

(7) FAILURE TO BOX. A boxer who fails to resume boxing immediately after the termination of the rest interval, who sustains an injury from a fair blow and the injury is severe enough to terminate a bout, or who, when knocked down by a fair blow, fails to resume within 10 seconds, shall lose the bout. A referee may not give a standing 8 count.

SECTION 24. RL 114.05 (8) is created to read:

RL 114.05 (8) THREE KNOCKDOWNS. The referee may not stop a bout solely because a boxer has been knocked down 3 times in one round.

SECTION 25. RL 114.06 (2) (a) to (d) are amended to read:

RL 114.06 (2) PERIODS OF REST REQUIRED AFTER KNOCK–OUT OR ~~HEAD BLOWS~~ TECHNICAL KNOCK–OUT. (a) A boxer who has been knocked out ~~as a result of head blows during a bout or who has received hard blows to the head, making the boxer defenseless or incapable of continuing,~~ may not take part in competitive boxing or sparring for a period of at least ~~30~~ 60 days from the date of the bout. A boxer whose bout was terminated by a technical knock–out may not take part in competitive boxing or sparring for a period of at least 30 days from the date of the bout.

(b) A boxer who, twice in a period of 3 months, has ~~either~~ been knocked out ~~as a result of head blows during a bout or who has received hard blows to the head, making the boxer defenseless or incapable of continuing,~~ may not take part in competitive boxing or sparring during a period of 6 months from the second bout.

(c) A boxer who has been knocked out ~~as a result of head blows three~~ 3 times in a period of 12 months ~~or who has in 3 consecutive bouts, received hard blows to the head, making the boxer defenseless or incapable of continuing,~~ may not take part in competitive boxing or sparring for a period of one year from the third knock–out.

(d) Before resuming boxing after any of the periods of rest prescribed in ~~the~~ pars. (a) to (c), a boxer shall ~~be given a special examination by a qualified physician which includes an electroencephalogram (EEG), a computerized axial tomography (CAT) scan, a magnetic resonance imaging scan (MRI), or any other scan which a physician believes is as reliable or more reliable than an EEG or a CAT scan for determining the presence of brain damage. The special examination shall include a certification by the examining physician that the boxer is fit to take part in competitive boxing~~ satisfy any requirements imposed by the ringside physician pursuant to s. RL 114.065.

(e) The requirements and conditions enumerated in ~~this subsection~~ subs. (a) and (d) apply to knock–outs and ~~hard blows to the head regardless of whether the~~ technical knock–outs in bouts that occurred in Wisconsin ~~or another jurisdiction~~. The requirements and conditions enumerated in subs. (b) and (c) apply to knock–outs and technical knock–outs regardless of whether the bouts occurred in Wisconsin or another jurisdiction.

SECTION 26. RL 114.065 is created to read:

RL 114.065 Ringside physician's requirements relating to injuries. (1) A ringside physician may recommend to the department that the department prescribe that a boxer shall obtain an examination or a medical procedure following a technical knock–out. A ringside physician shall recommend to the department that the department prescribe that a boxer shall obtain an examination or a medical procedure following a technical knock–out. The medical procedure may include an electroencephalogram (EEG), a computerized axial tomography (CAT) scan, a magnetic resonance imaging scan (MRI), or any other scan which the examining physician believes is as reliable or more reliable than an EEG or a CAT scan for determining the presence of brain damage.

(2) A boxer whose bout was terminated by a technical knock–out or by a knock–out may not take part in competitive boxing or sparring until the boxer has completed a medical procedure or an examination that was recommended by the ringside physician and prescribed by the department following the bout in which the injury or action occurred, and has submitted the results of the medical procedure or physical examination to the department.

SECTION 27. RL 114.07 (2) is amended to read:

RL 114.07 (2) The attending ringside physician may on his or her own initiative enter the ring between rounds and, at the request of the referee, during the round for the purpose of examining an injured boxer. If in the opinion of the ringside physician a boxer is in danger of further physical injury, the ringside physician shall notify the referee to terminate the bout. The injured boxer shall lose the bout by a "technical knock–out."

SECTION 28. RL 114.085 and Note are created to read:

RL 114.085 Exceptions to rules for the conduct of boxing. The department may make exception to the rules in ss. RL 114.04 to 114.05 for a bout that has been designated a championship bout by a professional boxing sanctioning organization and may substitute the currently–approved "unified championship rules" of the association of boxing commissions.

Note: The Association of Boxing Commissions has certain responsibilities relating to professional boxing in the United States, as provided in 15 USC, Chapter 89. The address of the Association is 116 Pine Street, Harrisburg, PA 17101. Telephone: (717) 787–5720.

SECTION 29. RL 114.09 is amended to read:

RL 114.09 Stimulants prohibited. A second may only give a boxer water to drink during a bout. No manager or second may give ~~stimulants, of any kind~~ any drug, narcotic or stimulant to ~~boxers~~ a boxer before or during a bout. The department may require a boxer to submit to a drug test or HIV examination before a scheduled bout.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: $0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: $0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: $0.00.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing
Transportation
[CR 01–01]

NOTICE IS HEREBY GIVEN that pursuant to ss. 110.06, 110.20 (9) and 227.11 (2), Stats., and interpreting s. 110.20, Stats., the Department of Transportation will hold a public hearing in Room 254 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the 20th day of February, 2001, at 10:00 a.m. to consider the amendment of ch. Trans 131, Wis. Adm. Code, relating to a motor vehicle emissions inspection program.

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

The public record on this proposed rule making will be held open until close of business February 22, 2001, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Jerry Medinger, Department of Transportation, Bureau of Vehicle Services, Third Party Programs Section, Room 253, P. O. Box 7909, Madison, WI 53707–7909.

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

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 110.06, 110.20 (9) and 227.11 (2).
Statute Interpreted: s. 110.20.

General Summary of Proposed Rule

Ch. Trans 131 specifies the procedures used in the administration of the Wisconsin Motor Vehicle Inspection and Maintenance (I/M) Program. The proposed rule amendments specify testing procedures and failure criteria for the use of on–board diagnostic inspections for newer model year vehicles. The new testing procedures result from recent USEPA regulation which requires the use of on–board diagnostic inspections in all areas that operate I/M programs.

The current emission testing procedure consists of operating a vehicle on a dynamometer to simulate on–road operation. The hydrocarbon (HC), carbon monoxide (CO), and oxides of nitrogen (NOx) emissions discharged from the tailpipe are measured and compared to allowable limitations for that particular model year and weight class of vehicle. The maximum allowable limitations are set by the Wisconsin Department of Natural Resources. Vehicles that emit pollutants in excess of the allowable limits are required to be repaired and returned for reinspection.

The procedural changes described in the rule amendments specify how the Department will conduct the on–board diagnostic inspections on model year 1996 and newer vehicles which are equipped with on–board diagnostic, version II (OBD II) systems. The on–board diagnostic inspections will be used in place of the current tailpipe test.

Vehicle manufacturers have designed OBD II systems to monitor the electronic emission control components on automobiles and light–duty trucks. These OBD II systems continually check that the emission control systems are operating according to programmed specifications. If serious problems occur, the OBD II systems alert the driver by means of a malfunction indicator lamp (MIL) or "check engine" light.

The on–board diagnostic inspection consists of an interrogation of the vehicle's OBD II computer system to verify that all of the emission controls are functioning properly. The inspection is performed by connecting a cable from the vehicle to the test–lane computer system. The test–lane computer system checks to see that the vehicle's OBD II system is functioning and ready for an information download. The OBD II computer sends information to the test–lane computer, and the motorist receives a printout containing the result of that communication. If the vehicle communicates that there is a malfunctioning emission component, the motorist is required to have the vehicle reinspected after repair.

The proposed rule amendments also include some minor changes for either grammatical purposes or to reflect current practice.

Fiscal Impact

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

Initial Regulatory Flexibility Analysis.

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

Copies of Proposed Rule

Copies of the proposed rule may be obtained upon request, without cost, by writing to Jerry Medinger, Third Party Programs Section, P. O. Box 7909, Madison, WI 53707–7909, or by calling (608) 266–2267. Hearing–impaired individuals may contact the Department using TDD (608) 266–3096. Alternate formats of the proposed rule will be provided to individuals at their request.

Submission of proposed rules to the legislature

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

Commerce (CR 00–126)
Ch. Comm 5 – Relating to renewal of expired credentials.

Financial Institutions – Banking (CR 00–166)
Ch. DFI–Bkg 8.04 – Relating to stating name and location of office on bank checks.

Health and Family Services (CR 00–134)
Ch. HFS 97 – Relating to complaint procedures for inmates of the Wisconsin resource center.

Health and Family Services (CR 00–150)
Ch. HFS 79 – Relating to administration of supplemental security income (SSI), state supplemental payments to low–income elderly and disabled residents of Wisconsin and their dependent children.

Natural Resources (CR 00–112)
Ch. NR 7 – Relating to recreation boating facilities program.

Natural Resources (CR 00–118)
Ch. NR 10 – Relating to deer management unit boundaries and population goals.

Public Service Commission (CR 00–065)
Ch. PSC 118 – Relating to the use of renewable resource credits.

Rule orders filed with the revisor of statutes bureau

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

Commerce (CR 00–73)

An order affecting chs. Comm 20–25 relating to the uniform (1–2 family) dwelling code.

Effective 4–1–01

Public Service Commission (CR 00–113)

An order to add sewerage systems to ch. PSC 132.

Effective 3–1–01

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **January 31, 2001** Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Agriculture, Trade and Consumer Protection
(CR 00−060)

An order to repeal and recreate ch. ATCP 75 relating to retail food establishments.
Effective 2−1−01

Summary of final regulatory flexibility analysis

This rule repeals and recreates DATCP's current rules for retail food establishments, such as grocery stores. This rule is based on the federal model food code, published by the United States Food and Drug Administration. The model food code is based on the best science currently available to FDA.

The Wisconsin Department of Health and Family Services is proposing nearly identical rules for restaurants. This is a joint effort by DATCP and DHFS to establish consistent and up−to−date standards for all food service operations. DATCP and DHFS are already coordinating their licensing and inspection activities, to provide effective regulation without unnecessary overlap.

The model food code is applicable to retail food establishments as well as restaurants. The FDA has recommended that state and local governments adopt the model food code. Retail food operations throughout the nation are familiar with the model food code.

This rule will not have a major impact on small businesses, because the food sanitation requirements contained in this rule are similar to those that currently apply. However, this rule will require some additional training of retail food establishment personnel. It should not be necessary for retail food establishments to hire additional professional services to comply with this rule.

This rule will assist small business by maintaining public confidence in the retail food supply, and by eliminating inconsistent regulation of retail food establishments and restaurants (many of which are combined at the same location). The final regulatory flexibility analysis is attached as an *Appendix*.

Comments

On September 1, 2000, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Health, Utilities and Veterans and Military Affairs and the Assembly Committee on Public Health. The Assembly committee took no action on this rule during the review period.

The Senate committee held a hearing November 2, 2000. As a result of this hearing, the Chair of the Senate committee, Rodney Moen, asked that DHFS modify their rule to establish minimum inspection frequencies of once every 12 months for full service restaurants and once every 18 months for limited service restaurants. DHFS has agreed to make these modifications to their rule.

Neither committee asked DATCP to modify the final rule. Also, neither of the committees asked the agencies to make any changes to Appendix A of the rule, the Wisconsin Food Code.

Agriculture, Trade and Consumer Protection
(CR 00−104)

An order affecting ch. ATCP 136 relating to reclaiming and recycling refrigerant for mobile air conditioners.
Effective 2−1−01

Summary of final regulatory flexibility analysis

Small businesses continue to have flexibility under the current rule and the proposed amendments. Auto repair businesses are not required to service or repair mobile air conditioners or trailer refrigeration equipment. In fact, many auto repair businesses do not service air conditioners or refrigeration equipment themselves. Rather, they contract out repairs related to refrigerant recovery, recycling and recharging air conditioners or refer customers to businesses registered to perform these kinds of repairs.

Comments

This department transmitted the above rule for legislative committee review on October 12, 2000. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform on October 18, and to the Assembly Committee on Environment on October 19. The committees took no action on the rule during its review period. Nor did the department receive any comments from the committees.

Health and Family Services
(CR 99−157)

An order to repeal and recreate ch. HFS 175 relating to recreational and educational camps.
Effective 2−1−01

Summary of final regulatory flexibility analysis

No more than 30 of the 246 recreational and educational camps in Wisconsin are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. However, the repeal and recreation of ch. HFS 175 will have a minimal fiscal effect on these small businesses.

The revised rules clarify current provisions, add new safety requirements and make the rules more flexible in recognition of changes in the industry. The definition of "camp" is modified to delete the limitation that a camp provide 4 or more consecutive nights of lodging, the effect being to permit a camp to operate the year around and to enable some camps to avoid having to obtain restaurant and hotel permits in addition to a camp permit; there is no longer a requirement for Department pre−approval of plans for a new or expanded camp; food safety and service requirements and related equipment and utensil requirements in ch. HFS 196, rules for restaurants, are made to apply also to camp dining halls; there are new rules for food safety and sanitation when food is prepared and served out−of−doors; and more flexibility is permitted in staffing for health care services. Finally, the proposed rules reference other existing administrative rules of this Department and the Departments

of Commerce and Natural resources. The Department could not exempt particular operators from the rules of other Departments.

The major effect of these rules on camp operators will be increased record keeping requirements necessary to ensure the safety and welfare of campers. However, these rules will not require camp operators to employ additional professional services to achieve compliance. Pursuant to s. HFS 175.02 (2), licensed operators will still have the ability to apply for comparable compliance for alternative methods, practices, materials, equipment or design allowing additional flexibility and minimizing impact.

In summary, these rules are minimum requirements for protecting the health and safety of campers and staff. Given this, no additional special measures could be included in the revised rules to relieve small businesses from complying with the rule's requirements.

Comments

No comments were reported.

Health and Family Services
(CR 00–059)

An order affecting ch. HFS 196 relating to restaurants.
Effective 2–1–01

Summary of final regulatory flexibility analysis

There are approximately 17,000 licensed facilities that sell meals to the public. These facilities are inspected either by the department or local and municipal health departments. These licensed facilities include: restaurants, temporary food stands, mobile restaurants, campgrounds, lodging facilities and swimming pools with food service facilities. The overall impact of repealing and recreating the proposed ch. HFS 196 rule on small businesses will have a minimal fiscal impact on small businesses and will not require restaurants to employ additional professional services to achieve compliance with the rule.

The proposed restaurant rule will include an "Appendix A", Wisconsin Food Code, which will update existing requirements and provide guidance for safe food handling practices. This rule is almost identical to the rule being proposed by DATCP for retail food establishments. The proposed rule is based on the 1999 model food code published by the United States Food and Drug Administration (FDA) which has recommended that state and local governments adopt this code to provide more regulatory uniformity between restaurants and retail food establishments and across local and federal jurisdictions.

Comments

The Senate Committee on Health, Utilities and Veterans and Military Affairs held a public hearing on the rule on November 2, 2000. During the hearing, a number of people expressed concerns about the ability of the Department or its agents to increase the interval between restaurant inspections to more than 12 months. As a result, Sen. Moen asked that several modifications be made to s. HFS 196.05 (2). On November 2, 2000, the Department sent Sen. Moen a letter agreeing to make the modifications Sen. Moen requested.

Insurance Commissioner
(CR 00–120)

An order affecting ch. Ins 23 relating to standards for insurance marketed to fund prearranged funeral plans.
Effective 2–1–01

Summary of final regulatory flexibility analysis

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

Comments

No comments were reported.

Natural Resources
(CR 00–087)

An order affecting ch. NR 101 relating to the wastewater fee program.
Effective 2–1–01

Summary of final regulatory flexibility analysis

Pursuant to s. 227.114, Stats., the proposed changes to ch. NR 101 do not change the number nor types of small businesses impacted by the rule. The proposed changes do not require any additional bookkeeping nor reporting, nor do they require any change in the professional skills required to comply with the rule.

Comments

No comments were reported.

Natural Resources
(CR 00–090)

An order affecting chs. NR 700, 716, 720, 722, 726, and 746 relating to sites contaminated with petroleum products discharged from petroleum storage tanks.
Effective 2–1–01

Summary of final regulatory flexibility analysis

The Department does not expect any negative impact on small businesses as a result of this action. It is anticipated that this action will save money for many responsible parties, including small businesses, which conduct remediation of groundwater.

Comments

No comments were reported.

Natural Resources
(CR 00–093)

An order to create ch. NR 168 relating to the brownfield site assessment grant program administration.
Effective 2–1–01

Summary of final regulatory flexibility analysis

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

Comments

No comments were reported.

Natural Resources
(CR 00–096)

An order affecting chs. NR 400, 410, 423, 428, 439, 484 and 485 relating to reducing ozone concentrations in the ambient air in southeastern Wisconsin by controlling nitrogen oxides (NO_X) and volatile organic compound (VOC) emissions.
Effective 2–1–01

Summary of final regulatory flexibility analysis

Small businesses will not be directly affected by the proposed rules for controlling VOC and NO_X emissions. The regulations for NO_X control for existing facilities would apply to industries large enough to have existing steam boilers, industrial process heaters, furnaces, combustion turbines or stationary reciprocating engines with at least 75 million BTU per hour of heat input. The RACT regulations for VOC control apply to major sources by definition.

Comments

No comments were reported.

Natural Resources
(CR 00–101)

An order affecting chs. NR 406, 407, 419, 422 and 484 relating to the control of volatile organic compound emissions from automobile refinishing operations.
Effective 2–1–01

Summary of final regulatory flexibility analysis

The proposed rule will have a significant effect on a substantial number of small businesses. Almost all automobile refinishing facilities are small businesses. It will exempt these facilities from applying for, and obtaining an air pollution construction and operation permit. The facilities will have to keep records of the amount of VOCs used to verify that they are exempt from needing a permit. In most cases, the actual pounds of coatings used are far less than the exemption level established for the VOC content of those coatings.

Comments

No comments were reported.

Regulation and Licensing
(CR 00–100)

An order affecting chs. RL 30 to 35 relating to private detectives, private detective agencies and private security personnel.
Effective 2–1–01

Summary of final regulatory flexibility analysis

A member of the department's Small Business Review Advisory Committee had the following comment: "Maybe it is not affecting business, however, I am confused about the accountability of peace officers versus private security officers (example: language regarding fingerprints)."

The department offered the following response and made no additional changes. The Wisconsin Statutes only permit peace officers to carry concealed weapons. Private detectives and private security persons may not carry a concealed weapon unless they are peace officers.

The purpose of the private detective and private security regulation is to assure that private detectives and private security persons have not been convicted of serious crimes, that the employing agency has a surety bond or a liability policy, and that private detectives are minimally competent to protect the public. Peace officers are required to satisfy comprehensive qualification standards.

Comments

No comments were reported.

Regulation and Licensing
(CR 00–105)

An order affecting chs. RL 17, 24 and 25 relating to real estate education requirements.
Effective 2–1–01

Summary of final regulatory flexibility analysis

A member of the department's Small Business Review Advisory Committee had the following comments: (1) "Exception should extend to rental or sale of real estate owned by a licensee. If a licensee owns real estate but is not active in the profession, they should have the right to sell property they own without involved a broker (and broker fee)."

The department offers the following responses: The current rule states at RL 24.04 (2) (c): "A licensee may advertise the occasional sale of real estate by the licensee or the solicitation of real estate for purchase by the licensee without complying with pars. (a) and (b), provided that the licensee clearly identifies himself, herself or itself as a real estate licensee in the advertisement."

The Wisconsin statutes distinguish between a pattern of sales and an occasional sale. If a person is involved in a pattern of sales of his, her or its own property, the person either needs a real estate broker's licensee or has to contact with a broker. Licensed salespersons are only permitted to negotiate the sale of real estate when employed by a broker. However, no one is required to have a real estate broker's license or hire a broker in order to lease or rent his, her or its own property.

(2) "Licensees should be required to disclose other pending offers on the sale of a property. Competition is good for purchasers."

The purpose of this is to avoid a bidding war between prospective buyers, fueled by the real estate agent who will make a larger commission based on a higher sales price. The rules direct licensees to tell prospective buyers that they should offer their highest and best price. When a seller receives one or more offers, the seller can counter one or all of the offers and buyers can counter the counter. Thus, the seller and prospective buyers are able to continue to negotiate the price. The rule appears to provide fair treatment to all parties.

These rules will have not significant economic impact on a number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Comments

No comments were reported.

Regulation and Licensing
(CR 00–106)

An order affecting chs. RL 121, 125, and 126 relating to the regulation of auctioneers and auction companies.
Effective 2–1–01

Summary of final regulatory flexibility analysis

A member of the department's Small Business Review Advisory Committee had the following comment: "This rule will impact all auction companies and I assume these firms are all small businesses. I am concerned that the restriction resulting from the action of an auctioneer apply to the entire auction company. This could result in 'innocent' people employed by the auction company, but not involved with the infractions being impacted with loss of income and/or employment. Unless the auction company (small business) and the auctioneer are one and the same – I suggest 'company' and 'auctioneer' actions be separated."

The department offered the following response and made no additional changes. Section 480.01, Stats., and s. RL 121.02, "auctioneer" and "auction company" in such a way that an auctioneer is an individual who calls auctions or advertises his or her availability to do so. An auction company is an individual who does not have an auctioneer license and is not able to call auctions, but who does wish to manage auctions and contract with registered auctioneers to call an auction managed by the individual. In addition, an auction company is a corporation, a partnership or an association that wishes to manage auctions and contract with registered auctioneers to call an auction managed by the corporation, partnership or association. Thus, an auction company is able to contract with any auctioneer to call auctions managed by the auction company.

The rule says "an auctioneer or auction company whose registration has been suspended or revoked...." The rule is properly stated because the board may appropriately discipline one or the other, or both. A prosecutor will only include the auction company if the prosecutor believes that the company, based on the makeup of its ownership and the involvement of the owner or owners, should be disciplined.

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

Comments

No comments were reported.

Regulation and Licensing
(CR 00–128)

An order affecting chs. RL 90, 91, and 92 relating to educational and examination requirements for massage therapists and bodyworkers.
Effective 2–1–01

Summary of final regulatory flexibility analysis

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

Comments

No comments were reported.

Regulation and Licensing
(CR 00–141)

An order affecting ch. RL 7 relating to standards for approved drug testing programs.
Effective 2–1–01

Summary of final regulatory flexibility analysis

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

Comments

No comments were reported.

Social Workers, Marriage and Family Therapists and Professional Counselors
(CR 00–054)

An order affecting ch. SFC 8 relating to continuing education programs.
Effective 2–1–01

Summary of final regulatory flexibility analysis

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

Comments

No comments were reported.

Transportation
(CR 00–109)

An order affecting chs. Trans 231 and 233 relating to division of land abutting a state trunk or connecting highway.
Effective 2–1–01

Summary of final regulatory flexibility analysis

No effect on small business.

Comments

No comments were reported.

Transportation
(CR 00–121)

An order to create ch. Trans 156 relating to the automated partnership processing system program.
Effective 2–1–01

Summary of final regulatory flexibility analysis

The Department of Transportation has concluded, after complying with s. 227.114 (1) to (5), Stats., that the rule will not have a significant economic impact on a substantial number of small businesses.

Comments

No comments were reported.

Transportation
(CR 00–137)

An order affecting ch. Trans 4 relating to the state public transit operating assistance program.
Effective 2–1–01

Summary of final regulatory flexibility analysis

The proposed rule will have no adverse impact on small business.

Comments

No comments were reported.

Workforce Development
(CR 00–066)

An order affecting ch. DWD 16 relating to emergency assistance for families facing impending homelessness.
Effective 2–1–01

Summary of final regulatory flexibility analysis

Privately–run W–2 agencies and subcontractors of W–2 agencies will be affected by this rule. These rules add no significant economic impact beyond what was considered in the statute.

Comments

In response to concerns expressed at a meeting with Senator Robson, the department clarified that eligibility for emergency assistance for impending homelessness may include a financial crisis caused by a loss of W–2 benefits due to a sanction that is subsequently overturned through the dispute resolution process under s. 49.152, Stats.

Workforce Development
(CR 00–129)

An order affecting chs. DWD 12 and 56 relating to W–2 eligibility and child care copayments.
Effective 2–1–01

Summary of final regulatory flexibility analysis

Privately–run W–2 agencies will be affected by the rule changes, but the rules will not have a significant economic impact on a substantial number of small businesses.

Comments

No comments were reported.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **January 2001**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266–7275.

Revisions

Agriculture, Trade and Consumer Protection:

Ch. ATCP 75 (entire chapter)

Ch. ATCP 136

S. ATCP 136.01 (2) and (19)
S. ATCP 136.02 (2) (c), (4) (d) and (7)
S. ATCP 136.04 (1) (b) and (c)
S. ATCP 136.06 (entire section)
S. ATCP 136.08 (1), (4) and (5)
S. ATCP 136.10 (2) (intro.) and (a), (3) (a) and (b), (4), (5) (d), (7) (a) and (8) (a)
S. ATCP 136.16 (4)

Health and Family Services:

(Health, Chs. HFS 110––)

Ch. HFS 175 (entire chapter)

Ch. HFS 196 (entire chapter)

Insurance, Commissioner of:

Ch. Ins 23

S. Ins 23.30 (1) (b) to (h) and (2) (b) and (d)
S. Ins 23.35 (entire section)
S. Ins 23.40 (entire section)

Natural Resources:

(Environmental Protection––General, Chs. NR 100––)

Ch. NR 101

S. NR 101.03 (2m), (4) and (5)
S. NR 101.13 (intro.), (1), (3), (4) (e), (5) (c), (8), (9) and (12)
S. NR 101.31 (entire section)

Ch. NR 168 (entire chapter)

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

Ch. NR 400

S. NR 400.02 (45m)

Ch. NR 406

S. NR 406.04 (1) (gm) and (7)

Ch. NR 407

S. NR 407.03 (1) (gm) and (4) (intro.) and (c)

Ch. NR 410

S. NR 410.06 (entire section)

Ch. NR 419

S. NR 419.02 (2)

Ch. NR 422

S. NR 422.02 (1), (7e), (7m), (7s), (19m), (20m), (39m), (42m), (45m), (49m), (53m), (54m), (67m), (68), (70), (87m), (89), (96m), (102), (105g), (105r), (109m) and (110m)
S. NR 422.095 (1), (2) (a) and (c), (3), (4), (5) (intro.), (6), (7) and (8)

Ch. NR 423

S. NR 423.02 (1), (1g), (1r), (5g), (5r), (7m), (8) to (8x), (9c) to (9w), (10g), (10r), (11g) and (11r)
S. NR 423.035 (entire section)

Ch. NR 428

S. NR 428.01 (entire section)
S. NR 428.02 (entire section)
SS. NR 428.04 to 428.11 (entire sections)

Ch. NR 439

S. NR 439.096 (entire section)

Ch. NR 484

S. NR 484.04 (21) and (27)
S. NR 484.10 (9) and (25m)

Ch. NR 485

S. NR 485.04 (9)

(Environmental Protection––Investigation and Remediation, Chs. NR 700––)

Ch. NR 700

S. NR 700.03 (66m)
S. NR 700.11 (1) (b) and (2) (b), (e) and (f)

Ch. NR 716

S. NR 716.05 (1)
S. NR 716.07 (12)
S. NR 716.11 (3) (c) and (5) (a)
S. NR 716.15 (1) and (2) (g)

Ch. NR 720

S. NR 720.02 (1) (intro.) and (1m)
S. NR 720.11 (4) and (5)

Ch. NR 722

S. NR 722.02 (1) to (3) and (3m)
S. NR 722.13 (1)

Ch. NR 726

S. NR 726.05 (1), (2) (a) and (b) and (6)
S. NR 726.07 (1)
S. NR 726.09 (2) (b)

Ch. NR 746 (entire chapter)

Regulation and Licensing:

Ch. RL 7

S. RL 7.02 (6) and (8)
S. RL 7.04 (1) (e)
S. RL 7.05 (1) (d)
S. RL 7.06 (1) (d) and (e) and (2) (d) and (e)
S. RL 7.11 (entire section)

Ch. RL 17

S. RL 17.02 (3), (3g), (3k) and (5)
S. RL 17.03 (2) to (4)
SS. RL 17.04 to 17.06 (entire sections)
S. RL 17.08 (1)
S. RL 17.12 (1)

Ch. RL 24

S. RL 24.05 (5)
S. RL 24.07 (8) (a)
S. RL 24.12 (entire section)
S. RL 24.13 (3) (b) and (5)

Ch. RL 30

S. RL 30.02 (9) and (10g)

Ch. RL 31

S. RL 31.02 (1) (b), (2) (d) and (3) (d)
S. RL 31.03 (1) (b) and (1m)
S. RL 31.035 (1) (b) and (1m)
S. RL 31.036 (1) (b) and (1m)
S. RL 31.05 (entire section)

Ch. RL 32

S. RL 32.03 (entire section)

Ch. RL 33

S. RL 33.025 (entire section)
S. RL 33.05 (entire section)
S. RL 33.06 (2) (d)

Ch. RL 34

S. RL 34.01 (4)
S. RL 34.015 (5)
S. RL 34.04 (1m), (2) (intro.), (a) and (b), (5) and (6)

Ch. RL 35

S. RL 35.01 (1) and (4m)

Ch. RL 90

S. RL 90.02 (1) to (9)

Ch. RL 91

S. RL 91.01 (intro.) and (3) (a) to (f)
S. RL 91.02 (entire section)
S. RL 91.03 (1) (intro.) and (c)

Ch. RL 92

S. RL 92.01 (1), (3), (4) and (5) (e) and (f)
S. RL 92.02 (entire section)

Ch. RL 121

S. RL 121.025 (entire section)

Ch. RL 126

S. RL 126.02 (13)
S. RL 126.03 (entire section)

Social Workers, Marriage & Family Therapists and Professional Counselors Examining Board:

Ch. SFC 8

S. SFC 8.02 (1) (intro.), (a) and (c), (2), (6) and (9)
S. SFC 8.03 (entire section)

Transportation:

Ch. Trans 4

S. Trans 4.09 (4)

Ch. Trans 156 (entire chapter)

Ch. Trans 231

S. Trans 231.01 (intro.), (3) to (7) and (9)
S. Trans 231.02 (2), (3), (4) and (6)
S. Trans 231.03 (2), (5), (7) (a) and (c)
S. Trans 231.04 (1), (3) and (4) (a)
S. Trans 231.06 (2) and (3)
S. Trans 231.07 (2)

Ch. Trans 233

S. Trans 233.01 (entire section)
S. Trans 233.012 (entire section)
S. Trans 233.015 (1m), (1r), (2m), (5m), (6m), (6r), (7m) and (8m)
S. Trans 233.02 (intro.)
S. Trans 233.03 (intro.), (2) to (8)
S. Trans 233.05 (1)
S. Trans 233.08 (2) (c) and (d) and (3n)
S. Trans 233.105 (1), (2) (intro.) and (3)
S. Trans 233.11 (2) to (7)

Workforce Development:

(Economic Support, Chs. DWD 11–59)

Ch. DWD 12

S. DWD 12.05 (10)
S. DWD 12.09 (2) (d) and (n) and (3) (b)
S. DWD 12.11 (1)
S. DWD 12.13 (entire section)
S. DWD 12.17 (1) (b)
S. DWD 12.20 (2)
S. DWD 12.26 (entire section)

Ch. DWD 16

S. DWD 16.01 (entire section)
S. DWD 16.03 (2)
S. DWD 16.04 (entire section)
S. DWD 16.05 (1) (em) and (f) and (3)
S. DWD 16.08 (6)

Ch. DWD 56

S. DWD 56.02 (11), (12), (14), (15), (15m), (16), (16m), (20), (20m) and (25)
S. DWD 56.04 (1)
S. DWD 56.08 (1) and (2)

Editorial corrections

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

Insurance, Commissioner of:

Ch. Ins 23

S. Ins 23.80 (2) had a correction made under s. 13.93 (2m) (b) 1., Stats.

Natural Resources:

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

Ch. NR 400

S. NR 400.02 (40), (70), (74), (77), (79), (86), (91), (96), (131), (135) and (149) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 410

S. NR 410.02 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 428

S. NR 428.04 to 428.08 (entire sections) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 439 (entire chapter) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 485

S. NR 485.02 (18) and (22) had corrections made under s. 13.93 (2m) (b) 7., Stats.

(Environmental Protection––Investigation and Remediation, Chs. NR 700––)

Ch. NR 702

S. NR 702.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 702.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 704

S. NR 704.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 704.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 704.03 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 720 (entire chapter) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Public Service Commission:

Ch. PSC 113

S. PSC 113.0701 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Workforce Development:

(Economic Support, Chs. DWD 11–59)

Ch. DWD 12

S. DWD 12.03 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 56

S. DWD 56.06 (3) (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Errata

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

Public Instruction:

Ch. PI 35

S. PI 35.045 (1) (e) (intro.) was reprinted to correct error.

Transportation:

Ch. Trans 103

S. Trans 103.05 (entire section) was reprinted to correct printing error.

Sections affected by revisor's corrections not published

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

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

Location of invalid cross–reference	Invalid cross–reference	Correction
Adm 11.06 (2)	66.30 (1) (a)	66.0301 (1) (a)
Adm 15.04 (9) (intro.) and (d)	49.046	Explanatory notes inserted
Adm 25.01 Adm 25.02 Adm 25.04 (intro.)	16.971 (5) (g) 16.971 (5) (a) 16.971 (5)	Explanatory note inserted
Adm 35.02 (7) Adm 35.03 (4) (b) 3.	281.58 (1) (a) 66.88 to 66.918	Explanatory note inserted 200.21 to 200.65
Adm 41.01 Adm 41.01 Adm 41.04 (2) Adm 41.04 (3) Adm 41.06 (intro.) Adm 41.07 (2)	16.956 20.505 (1) (d) 16.956 (2) 16.956 (1) (d) 16.956 (4) 16.956	Explanatory note inserted
Adm 66.01 Adm 66.02 (8) (a) (intro.)	218.01 (5) (c) 218.10 (3)	218.0152 (3) 218.10 (1g)
Adm 67.01 Adm 67.01 Adm 67.02 (7) (a) (intro.)	218.101 (1) and 218.16 218.01 (5) (a) 218.10 (3)	Explanatory note inserted 218.0152 (1) 218.10 (1g)

Executive orders

The following is a recent Executive Order issued by the Governor.

Executive order 413. Relating to a proclamation that the entire county of Milwaukee be in a state of emergency because of severe damage to the Hoan bridge due to cold weather.

Executive order 414. Relating to a proclamation that a state of emergency exists in Dane, Door, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Rock, Sheboygan, Walworth and Waukesha counties because of severe winter weather.

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