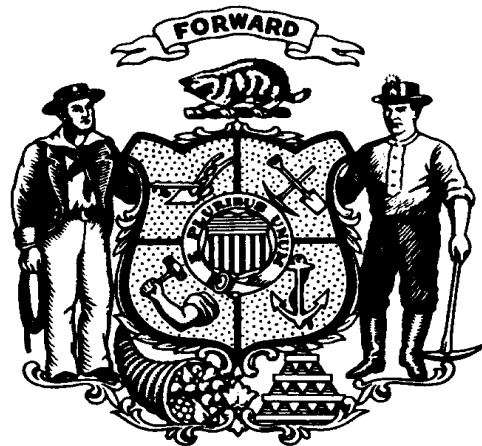


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Emergency rules now in effect

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: April 16, 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 Date: 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 Date: February 13, 2002

Commerce

(Flammable and Combustible Liquids – 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
Hearing Date: February 27, 2001

Employment Relations Commission

Rules were adopted amending **ch. ERC 3, Appendices A, B and C** relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

Finding of Emergency

As required by s. 227.24 (1), Stats., we find that it is necessary to promulgate the amendment to ch. ERC 33, Appendices A, B, and C as an emergency rule to preserve the public peace, health, safety and welfare. Absent promulgation of this emergency rule, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

The amendment of ch. ERC 33, Appendices A, B and C is required by 1999 Wisconsin Act 9's amendment of the statutory definition of a qualified economic offer in s. 111.70(1)(nc)1.c., Stats., and the ruling of the Wisconsin Court of Appeals in *Racine Education Ass'n v. WERC*, 238, Wis.2d 33 (2000). The amended statutory definition of qualified economic offer first applies to school district professional employee bargaining agreements covering the period of July 1, 2001 through June 30, 2003.

As amended, ch. ERC 33, Appendices A, B and C allow a school district to accurately calculate the level of salary increase, if any, which the district must offer to the labor

organization representing the district's professional employees as part of a qualified economic offer. As amended, ch. ERC 33, Appendices A, B and C implement (1) the statutory requirement that salary increases due to a promotion or the attainment of increased professional qualifications are not part of a qualified economic offer; and (2) the ruling of the Court in *Racine Education Ass'n v. WERC* that a qualified economic offer cannot exceed a 3.8% increase in salary and fringe benefit costs.

Publication Date: January 22, 2001
Effective Date: January 22, 2001
Expiration Date: June 20, 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
Hearing Date: April 18, 2001 [See notice
 this register]

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 Date: 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 Date: 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 Date: January 17, 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 Date: 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 Date:	January 10, 2001

Scope statements

Barbering and Cosmetology Examining Board

Subject

To clarify disinfection expectations for barbering and cosmetology, aesthetics, electrology and manicuring implements.

Policy analysis

Objective of the rule. To amend rules relating to the process of disinfection

Analysis. These rule amendments will provide a clearer explanation of what disinfection will protect the health, safety and welfare of the citizenry of Wisconsin.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), and 454.08 (4)

Staff Time Required

100 hours

Barbering and Cosmetology Examining Board

Subject

To permit a person leasing a chair or booth in an establishment to relocate to another chair or booth within the same establishment without requiring application for a new establishment license.

Policy analysis

Objective of the rule. Current rules require application for a new establishment license whenever an establishment changes ownership or location. Practitioners who rent a chair or booth and who relocate to a different chair or booth within the same establishment should not be required to obtain a new establishment license.

Analysis. To amend the rules so that a person leasing a chair or booth in an establishment to relocate to another chair or booth within the same establishment without requiring application for a new establishment license.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 454.08 (4)

Staff Time Required

100 hours

Barbering and Cosmetology Examining Board

Subject

To permit an establishment owner who has been unsuccessful in hiring a manager to operate an establishment temporarily without a licensed manager.

Policy analysis

Objective of the rule. To allow an establishment to operate temporarily without a manager if a manager resigns and the owner actively seeks a replacement.

Analysis. Current rules require a licensed manager to be identified for every establishment. The amendment would allow an establishment to operate without a manager if a manager resigns and the owner actively seeks a replacement.

Statutory authority

Sections 15.08 (5) (b) and 227.11 (2)

Staff Time Required

100 hours

Barbering and Cosmetology Examining Board

Subject

To identify the process for issuing and processing citations for disciplinary forfeitures.

Policy analysis

Objective of the rule. To identify the procedures for issuance, service and processing forfeiture citations. To allow a respondent to contest the citation via a hearing before an administrative law judge.

Analysis. To create rules to identify the procedures for issuance, service and processing forfeiture citations against professional and occupational licenses issued by the Barbering and Cosmetology Examining Board. In addition, the procedures would allow a respondent to contest the citation.

Statutory authority

Sections 15.08 (5) (b) and 227.11 (2)

Staff Time Required

100 hours

Barbering and Cosmetology Examining Board

Subject

To prohibit the use of methyl methacrylate monomer (MMA) in liquid form, or any cosmetic or nail service product formulated with MMA as one of its ingredients.

Policy analysis

Objective of the rule. MMA should not be used by any manicurist, nail technician, practitioner, manager or in any establishment in providing services or products to patrons. MMA, or any product containing MMA as an ingredient, should not be present upon the premises of any establishment. Any use of MMA or any product containing MMA, as well as selling, stocking or storing such substance or product, may result in disciplinary action against all licensees involved.

Analysis. Increased reports and complaints concerning MMA have prompted the board to prohibit the use of MMA in the practice of barbering and cosmetology and manicuring.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 454.15 and 454.16

Staff Time Required

100 hours

Controlled Substances Board

Subject

Classify as a schedule II controlled substance under state law dihydroetorphine, which has been classified as a schedule II controlled substance under federal law.

Policy analysis

Objective of the rule. By final rule of the Drug Enforcement Administration (DEA), adopted effective November 17, 2000, dihydroetorphine was classified as a schedule II controlled substance under the federal Controlled Substances Act (CSA). Dihydroetorphine has not been so scheduled under the Wisconsin Controlled Substances Act in Ch. 961, Stats. The objective of the rule is to bring the treatment of these drugs into conformity with that at the federal level.

Analysis. Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Health care providers are also subject to greater record keeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately, than do other drugs. The DEA administers the CSA. In doing so, it is empowered to schedule a drug as a controlled substance. International control of dihydroetorphine in Schedule I of the Single Convention on Narcotic Drugs, 1961 in 1998, forms the basis for the DEA action. Dihydroetorphine is a derivative of thebaine, a natural constituent of opium and thus a controlled substance under 21 U.S.C. 812 and 21 CFR Part 1308.12 (b) (1) (16).

Statutory authority

Sections 961.11, 961.16, and 961.19

Staff Time Required

80 hours

Controlled Substances Board

Subject

To create an exemption for the legitimate possession and use of gamma-butyrolactone (GBL) for industrial, scientific research, food industry uses and other uses. GBL is currently classified as a schedule I controlled substance under state law, but is classified by the Drug Enforcement Administration (DEA), as a list one chemical.

Policy analysis

Objective of the rule. GBL is currently classified under state law as a schedule one drug, s. 961.14 (5) (ag), Stats. This chemical is only classified by DEA as a list one chemical. Legitimate uses for gamma-butyrolactone exist for industrial, scientific research, food industry uses and other uses. The Controlled Substances Board has received information that currently the federal Environmental Protection Agency (EPA) has approved the use of GBL as an industrial solvent. The objective of the rule is to create a limited exemption for the possession and use of GBL which will obviate the need for obtaining a special use authorization under s. 961.335, Stats.

Analysis. Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Currently, persons having otherwise legitimate possession of GBL for legitimate uses are at risk of

prosecution under the Wisconsin Controlled Substances Act in Chapter 961, Stats. Distributors of GBL located outside of this state and end users located within this state do not currently have the benefit of a limited industrial use exemption for the possession and use of GBL. The intent of the Controlled Substances Board is to adopt a rule creating a limited exemption allowing legitimate possession and use of GBL, such that the health, safety and welfare of the citizens of this state will continued to be protected.

Statutory authority

Sections 961.11, 961.16, and 961.19

Staff Time Required

80 hours

Funeral Directors Examining Board

Subject

Funeral director licensing examination, continuing education and apprenticeships.

Policy analysis

Objective of the rule.

- To provide for a national portion and a state portion of the licensing examination.
- To authorize the board to accept the passing score established by the International Conference of Funeral Service Examining Boards, Inc., for the national portion of the examination.
- To specify the number of embalmings that must be performed at various times during an apprenticeship.
- To better address the contents of continuing education courses and the qualifications of instructors.
- To clarify that the state portion of the examination is the same for all applicants, including reciprocal applicants.

Analysis. The current rule on examinations does not state that there are 2 parts to the funeral directors examination. It does specify how the passing grade on the funeral directors examination is determined and it states that applicants who violate the rules of conduct of an examination may be denied the release of their grades or denied a license. The current rule on apprenticeships does not state that a certain number of embalmings must be performed at various periods during the apprenticeship. The current rule on continuing education describes the number of continuing education hours that are required in 4 content areas. It also describes the procedures for approval of continuing education programs. However, it does not list instructor qualifications. The current rule provides the procedure for determining the passing score on the reciprocal Wisconsin law exam.

Policies would be changed to:

- Provide for a national and a state portion of the examination.
- Clarify how the passing score is determined on the national and the state portion of the examination.
- Require a specified number of embalmings at various times during an apprenticeship.
- Have one state portion of the examination for reciprocal and nonreciprocal applicants.
- Limit the number of continuing education hours that may be obtained from the funeral establishment that employs a funeral director.
- Create criteria for instructor approval.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 445.03 (2) (a), 445.04 (3), 445.08, 445.095 and 445.10

Staff Time Required

120 hours

Health and Family Services**Subject**

Revision to ch. HFS 95, relating to use of force to prevent escapes and to recapture escaped persons under ch. 980, stats., and to provide security at facilities housing such persons.

Policy analysis

Objective of the rule. To define the use of “necessary and appropriate force” in relation to prevention escapes and pursuing and capturing persons detained [at] or committed to a facility, center or unit under ch. 980, Stats., who have escaped, as required by s. 46.058, Stats., and to establish security standards for the use of force at such a facility, center or unit.

Description of policies. Under ch. 980, Stats., a person may be found to be a sexually violent person and if so is committed by the court to the custody of the Department for institutional care, control and treatment. Persons committed for institutional care may attempt to escape. Section 46.058 (2m), Stats., directs facility superintendents to “adopt proper means to prevent escapes” by these persons and gives them authority to “adopt proper means to pursue and capture” any of these persons who have escaped, and permits staff to use “necessary and appropriate force, as defined by the department by rule, to prevent escapes and capture escaped persons.”

This rule would also apply to persons detained by the courts under ch. 980, Stats., pending a commitment hearing and placed at one of the specified facilities. They also pose an escape risk.

To provide appropriate security in such facilities, it may be necessary to use force in some circumstances. This rule sets forth standards for the use of such force in those circumstances, pursuant to the authority vested in the department under section 227.11 (2), Stats., section 46.055, Stats., section 980.06, Stats., section 980.04 (1), Stats., and section 51.61 (9), Stats.

There are currently no Department policies in place on this matter. The creation of this rule will define the new policy.

Statutory authority

Sections 46.058 (2m), 227.11 (2), 46.055, 980.06, 980.04 (1), and 51.61 (9)

Staff Time Required

An estimate of 60 hours to develop rules for Department-level review.

Natural Resources**Subject**

Revision of ch. NR 166 relating to the safe drinking water loan program and various updates and improvements.

Policy analysis

Changes in this code are necessary to: 1) enable safe drinking water loan program (SDWLP) funding of new public water systems projects; 2) revise the SDWLP priority scoring and ranking system to include scoring of new public water

system projects; and 3) make general improvements. Impacted and interested groups would be those with new public water systems projects currently ineligible for funding.

The United States Environmental Protection Agency has recently interpreted federal statutes to allow for SDWLP funding of new public water systems. Currently, ch. NR 166, Wis. Adm. Code, does not allow new public water systems projects to be funded from the SDWLP.

Statutory authority

Sections 281.59 and 281.61

Staff Time Required

168 hours

Natural Resources**Subject**

A rule to incorporate the California Air Resources Board’s heavy-duty diesel engine rules which regulate emissions of NO_x, beginning Model Year 2005.

After Model Year 2004 engine manufacturers may legally increase their emissions of NO_x under federal rules. NO_x emissions are recognized as a contributor to tropospheric ozone formation, fine particulate pollution and regional haze. The increase in NO_x emissions would increase ambient concentrations of nitric acid, an air toxic and a contributor to acid deposition. In addition, increased NO_x emissions have other adverse environmental consequences including eutrophication of lakes. Most heavy-duty diesel engine manufacturers are covered by a consent decree to produce much cleaner engines for model years 2002 through 2004. At the time the consent decree was agreed to, the USEPA assumed that their new, clean diesel engine rules would be in effect beginning in Model Year 2005. USEPA’s rule was delayed and will not be in effect until Model Year 2007 at the earliest. The USEPA is restricted and cannot adopt a new rule to keep the engines clean during the interim model years. Only the State of California has the authority to adopt emissions standards that are different than those adopted by the federal government. Any state may choose to opt into vehicle and emissions rules adopted by California provided they give two model year’s notices to the manufacturers.

Seventeen other states have already indicated that they will opt into the California emissions requirements to preserve the emission reductions in Model Years 2005–2007 that will be in place for prior model years.

Policy analysis

Default enforcement is expected to come from registration denial of non-compliant engines produced beginning in Model Year 2005. If enough states opt into the program it is expected that only clean engines will continue to be produced. If only clean engines are produced, enforcement is not expected to be an issue.

Groups likely to be affected include the Wisconsin Department of Transportation, heavy-duty truck retailers, heavy-duty truck buyers, and heavy-duty truck and engine manufacturers.

This would be the first time Wisconsin has adopted a California engine emissions standard. Wisconsin has incorporated by reference, segments of the California Stage II vapor recovery program into Wisconsin’s Stage II vapor recovery rules.

Statutory authority

Sections 285.11 (5) and (6), Stats.; 42 USC 7507

Staff time required

328 hours

Natural Resources

Subject

Establishment of the 2001 migratory game bird hunting seasons

Policy analysis

Objective of the rule. The rule changes the basic migratory game bird hunting season rule to comply with changes required by the U.S. Fish and Wildlife Service and suggested by the public during the hearing process.

Statutory authority

Section 29.014

Staff time required

102 hours of staff time

Natural Resources

Subject

Revision of ch. NR 410, Asbestos Inspection Fees. The inspection fee for large projects, as referenced in s. NR 410.05 (3) (c) will be increased by \$10 per project.

Policy analysis

Objective of the rule. Increase fees. All asbestos abatement contractors and their customers that would be affected by the fee increase, will be interested in the issue.

Statutory authority

Section 285.69

Staff time required

61 hours of staff time

Public Instruction

Subject

Milwaukee parental choice program.

Policy analysis

The proposed rules will provide another option for private schools participating in the Milwaukee parental choice program to claim the cost for facilities provided by a related party.

The proposed rules will also delete the term “annually” when it requires a private school to “annually make an irrevocable election . . .” since it is not the intent nor current practice to make an irrevocable decision on an annual basis.

The building usage charge shall be charged annually at 10.5% of the appraised market value of the school buildings, sites and improvements. If a private school chooses to use the building usage charge, the cost must be claimed on the financial information report that is submitted annually on September 1. Also, previous reports submitted since September 1, 1999 must be amended to reflect the new cost calculation.

The proposed building usage cost provides participating private schools with another option to take the cost of operating a building as an expense in computing its cost per child and is preferable to current rules.

Statutory authority

Section 119.23

Staff time required

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

Submittal of rules to legislative council clearinghouse

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

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On February 13, 2001, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. ATCP 161, relating to grant payments to ethanol producers.

Agency Procedure for Promulgation

A hearing is scheduled for March 12, 2001.

Contact Information

The Department's Trade Division is primarily responsible for this rule.

If you have questions, please contact:
Kevin LeRoy at (608) 224-4928.

Health and Family Services

Rule Submittal Date

On February 14, 2001, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. HFS 172, 175, 178, 196, 197, and 198, relating to increasing permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Under the department's rules, facilities are charged permit and related fees. Fee revenue supports the department's expenses in providing statutorily required regulatory oversight of these entities.

This rulemaking order amends the department's rules for operation of these facilities to increase permit fees an average of 40% for all program areas, to increase the pre-inspection fee for new hotels and motels, tourist rooming houses, restaurants and bed and breakfast establishments.

The fee increase will enable the department to fully staff existing position regulatory program vacancies, allowing the department to increase its frequency of routine inspections, ability to promptly respond to public complaints, and undertake necessary enforcement action.

This order does not affect facilities regulated by local health departments granted agent status under s. 254.69(2), Stats. Permit fees for those facilities are

established by the local health department pursuant to 254.69(2)(d), Stats.

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats., approval of rules in final draft form by the DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

Contact Information

If you have questions, please contact:
Gregory Pallaski
Bureau of Environmental Health
Telephone: (608) 266-8351

Natural Resources

Rule Submittal Date

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. NR 5 and 50 relating to boating safety and enforcement.

Agency Procedure for Promulgation

Public hearings will be held in April or May, 2001.

Contact Information

If you have questions, please contact:
Bill Engfer
Bureau of Law Enforcement
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources

Rule Submittal Date

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. NR 1 and 45 relating to public use of department lands.

Agency Procedure for Promulgation

Public hearings will be held in April or May, 2001.

Contact Information

If you have questions, please contact:
Kate Fitzgerald
Bureau of Facilities and Lands
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Ch. NR 714 relating to notification of affected landowners when off-site contamination is detected, and notification to the public when an environmental investigation is required at a leaking underground storage tank site.

Agency Procedure for Promulgation

A public hearing will be held on March 21, 2001.

Contact Information

If you have questions, please contact:

Terry Evanson
Bureau of Remediation and Development
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects s. NR 45.045 relating to demonstrations on certain types of DNR properties.

Agency Procedure for Promulgation

A public hearing will be scheduled at a later date.

Contact Information

If you have questions, please contact:

Michael Lutz
Bureau of Legal Services
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. NR 10, 12 and 19, relating to hunting, trapping and nuisance wildlife control.

Agency Procedure for Promulgation

A public hearing will be held on March 12, 2001.

Contact Information

If you have questions, please contact:

Pat Beringer
Bureau of Wildlife Management
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. NR 20, 21 and 50, relating to fishing on the inland, outlying and boundary waters of Wisconsin and fish rearing pond grants.

Agency Procedure for Promulgation

A public hearing will be held on March 12, 2001.

Contact Information

If you have questions, please contact:

Tim Simonson
Bureau of Fisheries Management and Habitat
Protection
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Ch. NR 199, establishing municipal flood control and riparian restoration grants.

Agency Procedure for Promulgation

A public hearing will be held on March 13, 2001.

Contact Information

If you have questions, please contact:

Gary Heinrichs
Bureau of Watershed Management
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. NR 1, 10, 11, 16, 17, and 45, relating to hunting, trapping and captive wildlife.

Agency Procedure for Promulgation

A public hearing will be held on April 9, 2001.

Contact Information

If you have questions, please contact:

Pat Beringer
Bureau of Wildlife Management
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Natural Resources**Rule Submittal Date**

On February 6, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. NR 20 and 26, relating to sport fishing on the inland, outlying and boundary waters and fish refuges on the inland waters of Wisconsin.

Agency Procedure for Promulgation

A public hearing will be held on April 9, 2001.

Contact Information

If you have questions, please contact:
Tim Simonson
Bureau of Fisheries Management Habitat
Protection
Dept. of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Rule-making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 01-04]

(Reprinted from 2/15/01 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on the proposed revisions to rule, ch. ATCP 48, relating to drainage district finances and grants to county drainage boards. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rules. Following the public hearings, the hearing record will remain open until March 30, 2001, for additional written comments.

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, by calling 608-224-4627 or by sending a faxed request to 608-224-4615. Copies will also be available at the hearing location.

For the hearing or visually impaired, non-English speaking, or for those with other personal circumstances which might make communication at the hearing difficult, this agency will, to the maximum extent possible, provide aids including an interpreter, or a non-English, large print or taped version of hearing documents. Please contact the address or phone number listed above or the TDD telephone at 608-224-5058 as soon as possible. The hearing locations are handicap accessible.

The following two hearings are scheduled:

Tuesday, February 27, 2001, 7:00 PM until 9:00 PM
Outagamie County Highway Department
1313 Holland Road
Appleton, WI

Wednesday, February 28, 2001, 7:00 PM until 9:00 PM
Jefferson County Courthouse
307 Main Street, Room 202
Jefferson, WI

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

Statutory Authority: ss. 93.07 (1), 88.11, and 88.15 (2)
Statutes Interpreted: ss. 88.15 and 88.18

In the 1999-2001 biennial budget act (1999 Wis. Act 9), the Legislature created a state grant program to help county drainage boards comply with new legal requirements related to drainage districts. This rule implements that grant program. This rule also clarifies that county drainage boards must keep their drainage district accounts with the county treasurer.

Background

Drainage districts are special purpose districts formed to drain land, primarily for agricultural purposes. Drainage districts control the flow of water in large areas of the state, and have a major impact on agriculture, land use and the

environment. Some districts have been in existence since the 1880s. There are approximately 199 drainage districts located in 30 counties.

A county drainage board oversees all the drainage districts within each county. The Wisconsin department of agriculture, trade and consumer protection (DATCP) helps county drainage boards comply with state drainage laws, ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code.

When a drainage district is created, the circuit court approves drainage district specifications that determine the rights and responsibilities of affected landowners. But many old drainage specifications are unclear, and some have been lost or destroyed. A lack of clear specifications can lead to costly problems and legal disputes.

New Legal Requirements

Recent law changes require county drainage boards to update the specifications for all drainage districts. For each drainage district, a county drainage board must create a professional quality map set showing drainage district boundaries, drain alignments, drain cross-sections and drain grade profiles. Drainage boards must also develop plans to maintain drainage districts according to the updated specifications.

County drainage boards must assess drainage district landowners in order to pay for drainage district specifications, maintenance plans and other costs. Drainage boards must assess costs according to the benefits that landowners derive from the drainage district. In order to assess costs fairly, some county drainage boards may need to modernize their outdated assessments of landowner benefits.

Grant Program

In the 1999-2001 biennial budget act, the Legislature provided grant funds to help county drainage boards meet their new legal responsibilities. The Legislature provided \$500,000 for the state fiscal year ending June 30, 2001, with a possibility of continued annual appropriations until June 30, 2006. From these appropriations, DATCP may award grants for 60% of eligible drainage board costs.

Initial Grants

On September 15, 2000, DATCP awarded drainage board grants for the state fiscal year ending June 30, 2001. DATCP offered a total of just over \$450,000 to 12 county drainage boards. DATCP awarded grants for the following types of projects, in descending priority order:

- Drainage specifications (map sets).
- Drainage benefit reassessments.
- Drainage district maintenance plans.

If the Legislature continues to appropriate funds, DATCP will continue to award drainage board grants in future fiscal years. This rule establishes standards and procedures for the grant program.

County Drainage Board Accounts

According to s. 88.18, Stats., the county treasurer must serve as treasurer of all drainage districts under the jurisdiction of the county drainage board. The county treasurer may deduct a portion of the interest earned on county

drainage board accounts, to cover relevant costs incurred by the county treasurer and county zoning administrator. The county drainage board may appoint its own treasurer, who serves as deputy county treasurer. This rule clarifies the handling of county drainage board funds, to ensure proper documentation and accountability.

Rule Contents

Grants to county drainage boards; general

Under this rule, DATCP may award grants to county drainage boards to help them comply with ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code. A grant may pay a county drainage board for up to 60 percent of the drainage board's costs to do any of the following:

- Develop and adopt drainage district specifications (map sets).
- Reassess benefits in a drainage district.
- Develop and adopt drainage district maintenance plans. (Grants do not pay for actual maintenance costs.)
- Carry out other eligible projects identified in DATCP's annual request for grant proposals.

Annual request for grant proposals

Under this rule, DATCP must annually request grant proposals from county drainage boards. DATCP must issue its annual request, in writing, to each county drainage board. The request must include all the following:

- The amount of grant funds available for distribution in the grant year. Each grant year ends on June 30.
- The types of projects for which county drainage boards may request funding.
- DATCP's grant priorities, if any.
- General grant terms and conditions that may affect grant applications.
- Grant application procedures.
- A grant application deadline.
- A grant application form.

Grant applications

To apply for a grant, a county drainage board must submit a completed grant application form that includes all the following:

- A description of the project for which the county drainage board seeks a grant.
- The estimated cost of the project.
- The county drainage board's plan for financing the project.
- Competitive bidding or other procedures that the county drainage board will use to control project costs.
- Other information required by DATCP.

Grant awards

Under this rule, DATCP must act on all grant applications within 90 days after the annual grant application deadline. DATCP must notify all grant applicants of its grant awards.

Grant contracts

Under this rule, DATCP must enter into a grant contract with each grant recipient. The contract must specify grant terms and conditions. DATCP must distribute grant funds according to the grant contract.

Grant payments

DATCP will make grant payments after the county drainage board documents that it has completed the funded

project and paid its share of the project costs. DATCP will not pay any project costs incurred after the end of the grant term specified in the grant contract.

A county drainage board must submit a payment request on a form provided by DATCP. The county drainage board must document that it has completed the project and paid its share of the project costs.

DATCP will make grant payments to the county treasurer, for the benefit of the county drainage board. If the county drainage board hires an agent to complete a project on its behalf, DATCP may make a check jointly payable to the county treasurer and that agent.

County drainage board accounts

Under this rule, whenever a person receives funds on behalf of a county drainage board or any drainage district, that person must promptly deposit those funds with the county treasurer. The county treasurer may not pay out any funds without proper authorization from the county drainage board.

Pursuant to s. 88.18(1), Stats., the county treasurer may retain a portion of the interest received on drainage district funds, to cover costs that the county treasurer and county zoning administrator incur to provide services to the county drainage board. The amount retained may not exceed the amount authorized by s. 88.18(1), Stats.

Under this rule, the county treasurer must keep a separate account for each drainage district. The county treasurer must keep complete accounting records in the county treasurer's office. The accounting records must include records of all receipts, deposits, payments, county deductions and account balances. The county drainage board must also file, with the county treasurer, a copy of every DATCP grant contract with the county drainage board.

The county treasurer must retain the accounting records as county records. Except as provided in ch. 88, Stats., or ch. ATCP 48, the county treasurer must treat the records as the treasurer would treat comparable county accounting records for retention and disposal purposes.

Under this rule, if a county drainage board appoints its own treasurer, that treasurer serves as a deputy of the county treasurer. The county drainage board treasurer must promptly deposit, with the county treasurer, all funds received on behalf of the county drainage board or any drainage district. The drainage board treasurer may not pay out any funds before depositing them with the county treasurer.

The drainage board treasurer may not pay out any funds without proper authorization from the county drainage board and the county treasurer. The county treasurer may not refuse to authorize a payment approved by the county drainage board, unless there are insufficient funds in the drainage district account to make that payment. The county treasurer must keep complete records of all drainage district accounts (the drainage board treasurer may keep duplicate records).

Fiscal Estimate

Impact of Rule Revision to State Government

Chapter ATCP 48 is administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). The proposed rule revisions codify a cost-share grant program intended to distribute as much as \$500,000 per year for a maximum of six years to county drainage boards. Administration of these grants will be handled by existing DATCP staff. The DATCP will experience some increase in costs associated with WiSMART charges and other miscellaneous administrative expenses, such as postage; however, these administrative costs will be minimal and will

be absorbed by the DATCP. Funds provided by the Legislature for this program are in a new general purpose revenue appropriation.

Impact of Rule Revision to County Drainage Boards

Funds provided by the DATCP will go directly to county drainage boards to pay 60% cost-sharing for eligible expenses associated with the development of district specifications, benefits reassessment, and compliance (maintenance) plans. The availability of these funds will encourage drainage boards to proceed with this work as the grant funds greatly reduce the financial burden on drainage district landowners. District landowners will be assessed by the drainage board for the remaining 40% of eligible project expenses.

Initial Regulatory Flexibility Analysis

See 2/15/01 Wis. Adm. Register, page 20.

Notice of Hearing **Agriculture, Trade and Consumer Protection** **[CR 01-15]**

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed rule (proposed ch. ATCP 161, subchapter III, Wis. Adm. Code) relating to annual grants to ethanol producers. The hearing will be held:

Monday, March 12, 2001 at 1:00 p.m.
Wisconsin Dept. of Agriculture, Trade and Consumer Protection
Board Room (SR-106)
2811 Agriculture Drive
Madison, WI 53718-6777.

The public is invited to attend the hearing and make comments on the proposed rule. Additional written comments will be accepted until March 12, 2001.

A copy of this rule may be obtained free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, PO Box 8911, Madison, WI 53708 or by calling (608)224-4928. Copies will also be available at the public hearing.

An interpreter for the hearing impaired will be available on request for this public hearing. Please make reservations for the hearing interpreter by March 7, 2001 either by writing to Kevin LeRoy, Division of Trade and Consumer Protection, PO Box 8911, Madison, WI 53708, (608/224-4928), or TDD at (608/224-5058). Handicap access is available at the hearing.

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

Statutory authority: ss. 93.07(1) and 93.75(3)

Statutes interpreted: s. 93.75

The legislature, in 1999 Wisconsin Act 55, created an ethanol grant program under s. 93.75, Stats. The legislature authorized the department of agriculture, trade and consumer protection (DATCP) to make grants to ethanol producers in this state. The legislature has not yet provided any funding for the grant program. This rule implements the grant program, subject to legislative funding. The ethanol grant program is scheduled to sunset on July 1, 2006.

Statutory Requirements

To be eligible for a grant under s. 93.75, Stats., an ethanol producer must produce at least 10 million gallons of ethanol

in a 12-month period unless DATCP specifies a different amount by rule. The ethanol producer must also purchase commodity inputs from "local sources" as defined by DATCP rule.

Under s. 93.75, Stats., an ethanol producer is eligible for grant payments during the first 60 months of ethanol production. Subject to available funding, the legislature directed DATCP to pay 20 cents per gallon for up to 15 million gallons of eligible ethanol production per 12-month period. DATCP must adopt rules to prorate grant payments if there are not enough funds to pay all ethanol producers at the authorized statutory rate.

Rule Contents

Annual grants to ethanol producers

Under this rule, an ethanol producer may apply by April 1 of each year to receive an ethanol production grant for any consecutive 12-month period ending within a year prior to that April 1. (The applicant chooses the consecutive 12-month period.) Subject to available funding, DATCP will award to each eligible applicant a grant of 20 cents per gallon for up to 15 million gallons of "eligible ethanol" produced during the consecutive 12-month period identified in the grant application.

Eligible producer

An ethanol producer is eligible for an annual grant if all the following apply:

- The producer produced at least 10 million gallons of "eligible ethanol" during the consecutive 12-month period identified in the grant application.
- DATCP has not previously awarded a grant to the ethanol producer for ethanol produced during the consecutive 12-month period identified in the grant application.
- The ethanol producer first began producing ethanol in this state not more than 60 months prior to the end of consecutive 12-month period identified in the grant application.

Eligible ethanol

Under this rule, DATCP will make grant payments only for "eligible ethanol" production. "Eligible ethanol" means ethanol that the ethanol producer produces in this state from commodities purchased from local sources. A "commodity" includes grain and other starch or sugar crops. A "commodity purchased from a local source" means any of the following:

- A commodity that the ethanol producer purchases from a person who grew that commodity in this state.
- Grain that the ethanol producer purchases from a grain dealer and receives directly from a grain facility located in this state.

Grant application

An ethanol producer must submit a grant application in writing, on a form provided by DATCP. The application must specify all the following:

- The consecutive 12-month period for which the applicant seeks a grant.
- The total gallons of "eligible ethanol" that the applicant produced during that consecutive 12-month period.
- The name and address of each supplier from whom the applicant purchased a commodity used to produce the "eligible ethanol." The applicant must identify the type and amount of each commodity purchased from each supplier. If the applicant purchased grain from a grain dealer, the applicant must give the address of the grain facility from which the grain dealer shipped that grain to the applicant.

- The applicant's federal tax identification number.
- The date on which the applicant first produced ethanol in this state.
- Any other information required by DATCP.

DATCP action on grant applications

DATCP must award grants by June 1 of each year, and must make grant payments by June 30 (the end of the state fiscal year). If DATCP denies a grant application, or awards a smaller prorated amount (see below), DATCP must explain its action in writing.

DATCP may require an applicant to provide additional information, and may deny a grant application if the applicant fails to honor DATCP's reasonable request for relevant information. DATCP may exercise its authority under ch. 93, Stats., to verify a grant application, or to verify the applicant's eligibility for a grant.

DATCP may deny a grant application, or recover grant payments made to an applicant, if DATCP finds that the applicant has materially misrepresented any information related to a grant application.

Prorating payments

Under this rule, if grant awards in any state fiscal year exceed the grant funds appropriated for that fiscal year, DATCP must prorate grant awards based on each applicant's eligible ethanol production during the consecutive 12-month period identified in the applicant's grant application. An ethanol producer who receives a pro-rated grant may *not* apply for the balance of that grant in the next fiscal year.

Fiscal Estimate

This proposed rule was initiated when the legislature passed 1999 Wis. Act 55. This act created an ethanol grant program under s. 93.75, Wis. Stats. Under this program, the department is authorized to make grants to certain ethanol producers. The legislation requires the department to adopt rules for the program. Administrative costs associated with this program should be minimal and easily absorbed into the agency's general duties.

Initial Regulatory Flexibility Analysis

1999 Wis. Act 55 created an ethanol grant program under s. 93.75, Wis. Stats. Under this program, the department is authorized to make grants to certain ethanol producers. The legislation requires the department to adopt rules for the grant program.

To be eligible for a payment, the ethanol producer must produce at least ten million gallons of ethanol per year. The legislation requires the department to pay ethanol producers who meet the statutory and proposed rule criteria 20¢ per gallon for not more than 15 million gallons.

Ethanol producers may only apply for a grant payment if they have been in business for sixty months or less. The entire program is scheduled to sunset on July 1, 2006.

There is little chance that any ethanol producer who can produce the minimum ten million gallons per year would also meet the state's definition of a "small business" contained in s. 227.114(1)(a). Stats. In that statutory section, "small business" means a business entity, including its affiliates, which is independently owned and operated and is not dominant in its field, and which employs fewer than twenty-five full time employees or which has gross annual sales of less than \$2,500,000. Consequently, the department expects this program to have minimal impact on small business in the ethanol production industry.

The grant program should have a major impact on the prices for agricultural crops used in the production of ethanol. By providing another market for these agricultural crops, the prices for those crops should increase. The increase in prices will benefit Wisconsin farmers. Since the grant program is designed to promote the purchase of crops grown in Wisconsin, there will be a benefit to Wisconsin small businesses derived from this program and rule.

Notice of Hearing Financial Institutions—Securities

NOTICE IS HEREBY GIVEN that pursuant to secs. 551.32(1)(a), (b), (c), (1m), (1s) and (8), and 551.63(2), Wis. Stats., the Division of Securities of the Department of Financial Institutions will hold a public hearing at 345 West Washington Avenue, 4th floor Conference Room, at 10:00 a.m. on **Wednesday, April 18, 2001** to consider the amendment and adoption of administrative rules under the Wisconsin Uniform Securities Law relating to adopting for use in Wisconsin the Investment Adviser Registration Depository.

Written comments in lieu of public hearing testimony may be submitted which must be received no later than the hearing date and should be addressed to the Administrator for the Division of Securities, 345 West Washington Avenue, PO Box 1768, Madison, Wisconsin, 53701.

Analysis Prepared by the Department of Financial Institutions, Division of Securities

Statutory Authority: Sections 551.32(1)(a), (b), (c), (1m), (1s) and (8), and 551.63(2)

Statutes Interpreted: Section 551.32(1)(a), (b), (c), (1m), (1s) and (8)

These proposed permanent rules are being implemented to be in effect upon expiration of 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 Emergency Rules adopted herein are patterned after the NASAA Model Rules.

The proposed permanent rules, as did the emergency rules, provide for: (1) a revised Licensing Procedure section in DFI-Sec 5.01(1) and (2); (2) temporary and permanent hardship exemption provisions in DFI-Sec 5.01(8); (3) a revised brochure rule in 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 DFI-Sec 5.07 and 5.08; (5) a revised procedure for filings by federal covered advisers in DFI-Sec 5.11; and (6) a specific section in DFI-Sec 5.12 dealing with transition filings. Separate from the emergency rules and the permanent rules, the Division issued General Orders on February 1 and 2, 2001 to further implement timing for various categories of filers, and which provided 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.

Text of Rule

Section 1. DFI-Sec 1.02(18) through (21) are created to read:

(18) "Current brochure" and "current brochure supplement" mean the most recent revision of the brochure or brochure supplement, including all subsequent amendments, prepared on Part 2 of Form ADV as revised in 2001.

(19) "Sponsor" for purposes of a wrap fee program means a broker-dealer or investment adviser that is compensated under a wrap fee program for sponsoring, organizing or administering the program, or for selecting, or providing advice to clients regarding the selection of, other investment advisers in the program.

(20) "Wrap fee program" means a program under which a specified fee or fees, not based directly upon transactions in a client's account, is charged for investment advisory and brokerage services, which may include portfolio management or advice concerning the selection of other investment advisers and the execution of client transactions.

(21) "Entering into" for purposes of an investment advisory contract, does not include an extension or renewal of

an existing contract that does not contain any material changes.

Section 2. DFI-Sec 5.01(1) and (2) are repealed and recreated to read:

DFI-Sec 5.01 Licensing procedure. (1) (a) The investment adviser registration depository operated by the National Association of Securities Dealers shall receive and maintain filings on forms established for the investment adviser registration depository and collect related fees from investment advisers and investment adviser representatives on behalf of the division.

(b) Unless otherwise provided under sub. (11) or by order of the division, applications for initial and renewal licenses of investment advisers and investment adviser representatives, as well as amendments, reports, notices, related filings and fees, shall be filed with the investment adviser registration depository.

(c) Except as provided in par. (a), applications for initial or renewal licenses of investment adviser representatives shall be filed on forms prescribed in section DFI-Sec 9.01(1).

(2) (a) A licensing "application" for purposes of s. 551.32 (1) (a), Stats., consists of all information required by the form prescribed under sub. (1), any additional information required by the division and all required fees. Any documents or fees required to be filed with the division that are not permitted to be filed with or cannot be accepted by the investment adviser registration depository shall be filed directly with the division.

(b) An application for initial license as an investment adviser under this paragraph shall be deemed filed under s. 551.32(1)(a), Stats., on the date the application is transferred from "NO STATUS" to "PENDING" on the records of the investment adviser registration depository. An application for renewal of a license as an investment adviser under this paragraph shall be deemed filed under s. 551.32(1)(a), Stats., when the fee on deposit with the investment adviser registration depository has been allocated to the division.

(c) An "application" for initial license or for renewal of a license as an investment adviser representative for an investment adviser licensed under this chapter consists of the payment of Wisconsin investment adviser representative license or renewal fees to the investment adviser registration depository. An application for initial license as an investment adviser representative under this paragraph shall be deemed "filed" under s. 551.32 (1) (a), Stats., on the date when the application is designated ready for approval on the records of the investment adviser registration depository. An application for renewal of a license as an investment adviser representative under this paragraph shall be deemed "filed" under s. 551.32 (1) (a), Stats., when the fee on deposit with the investment adviser registration depository has been allocated to the division.

(d) 1. Each investment adviser shall file an amendment to its application with the investment adviser registration depository within 30 days of any material change to information included in its application in accordance with the instructions to Form ADV.

2. Each investment adviser shall file a complete, updated Form ADV with the investment adviser registration depository within 90 days of the end of its fiscal year.

3. Each investment adviser representative and his or her employing investment adviser or federal covered adviser shall update information contained in an investment adviser representative's application by filing an amendment to Form U-4 with the investment adviser registration depository

within 30 days of the date of the event that requires filing of the amendment.

(e) An electronic signature affixed to any filing made in compliance with the requirements of the investment adviser registration depository shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

Section 3. DFI–Sec 5.01(8) is created to read:

(8) (a) Investment advisers licensed or required to be licensed who experience unanticipated technical difficulties that prevent submission of an electronic filing to the investment adviser registration depository may request a temporary hardship exemption from the requirements to file electronically. An investment adviser whose principal place of business is located in this state may request a temporary hardship exemption by doing all of the following:

1. Filing Form ADV–H in paper format with the division not later than one business day after the due date for the type of filing that is the subject of the Form ADV–H.

2. Submitting the filing that is the subject of the Form ADV–H in electronic format to the investment adviser registration depository not later than seven business days after the due date for the type of filing that is the subject of the Form ADV–H.

(b) The temporary hardship exemption will be deemed effective upon receipt by the division of the completed Form ADV–H within the filing deadline provided in par. (a). Multiple temporary hardship exemption requests by an investment adviser within the same calendar year may be disallowed by the division.

(c) A continuing hardship exemption will be granted only if an investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome. An investment adviser whose principal place of business is located in this state may request a continuing hardship exemption by filing Form ADV–H in paper format with the division at least twenty business days before the due date for the type of filing that is the subject of the Form ADV–H. The division shall grant or deny the request within ten business days after the filing of Form ADV–H.

(d) The continuing hardship exemption is effective upon approval by the division for a time period not longer than one year after the date on which the Form ADV–H is filed. If the division approves the request, and for the period of time for which the exemption is granted, the investment adviser shall, not later than five business days after the exemption approval date, submit filings in paper format, along with the appropriate processing fees, to the division as prescribed by separate rule or order.

(e) An investment adviser whose principal place of business is located in another state may claim a hardship exemption from the electronic filing requirement in this state if that investment adviser has received a hardship exemption in the state where its principal office is located.

Section 4. DFI–Sec 5.03(1)(p) and (q) are created to read:

(p) 1. A copy of each brochure and supplement and each amendment or revision to the brochure or supplement, given or sent to any client or prospective client of the investment adviser as required by s. DFI–Sec 5.05(8);

2. A summary of material changes that are required by Part 2 of Form ADV, but are not contained in the brochure or supplement; and

3. A record of the dates that each brochure and supplement, each amendment or revision thereto, and each summary of material changes, was given or offered to any client or to any prospective client who subsequently becomes a client.

(q) Copies bearing signatures of the investment adviser's appropriate signatory and the investment adviser representative, of each initial Form U–4 and each amendment to the disclosure reporting pages of Form U–4, must be retained by the investment adviser who prepared the filing on behalf of the investment adviser representative.

Section 5. DFI–Sec 5.05(8) is repealed and recreated to read:

(8) (a) Unless otherwise provided in this rule, each investment adviser shall offer and deliver to each client and prospective client a firm brochure and one or more supplements as required by this subsection. The brochure and any required supplement shall contain all information required by Part 2 of Form ADV and such other information as the division may require.

(b) 1. Each investment adviser shall deliver the current brochure required by this section, and the current brochure supplement for each investment adviser representative who will provide advisory services, to a client or prospective client.

2. For purposes of this subsection, an investment adviser representative is deemed to provide advisory services for a client if the investment adviser representative does any of the following:

a. Regularly communicates investment advice to that client.

b. Formulates investment advice for assets of that client.

c. Makes discretionary investment decisions for assets of that client.

d. Solicits, offers or negotiates for the sale of or sells investment advisory services.

3. The documents required in subd. (b)1. above shall be delivered at the following times:

a. Not less than 48 hours prior to entering into any investment advisory contract with a client or prospective client.

b. At the time of entering into any contract, if the contract specifically provides that the client has a right to terminate the contract without penalty within five business days after entering into the contract.

(c) Each investment adviser shall, at least once a year, without charge, deliver or offer in writing to deliver to each of its clients the current brochure and any current brochure supplements required by par. (a). If a client accepts the written offer, the investment adviser shall send to that client the current brochure and supplements not later than seven days after the investment adviser is notified of the acceptance.

(d) If the adviser is the general partner of a limited partnership, the manager of a limited liability company, or the trustee of a trust, then for purposes of this subsection, the investment adviser shall treat each of the partnership's limited partners, the company's members, or the trust's beneficial owners as a separate client. For purposes of this subsection, a limited liability partnership or limited liability limited partnership is also considered to be a "limited partnership."

(e) 1. Each investment adviser that is a sponsor of a wrap fee program shall deliver to a client or prospective client in lieu of the brochure required in par. (b), a wrap fee brochure containing all information required by Form ADV. All information in a wrap fee brochure must be limited to

information applicable to wrap fee programs that the investment adviser sponsors.

2. An investment adviser is not required to offer or deliver the wrap fee brochure if another sponsor of the wrap fee program offers or delivers to the client or prospective client of the wrap fee program a wrap fee program brochure containing all the information that the investment adviser's wrap fee program brochure must contain.

3. A wrap fee brochure shall not be used in place of any brochure supplement that the investment adviser is required to deliver under par. (b)1.

(f) Each investment adviser shall amend its brochure and any brochure supplement and deliver the amendments to clients not more than 30 days from the date that the information contained in the brochure or brochure supplement becomes materially inaccurate. The investment adviser shall comply with the instructions to Part 2 of Form ADV regarding updating and delivery.

(g) Each investment adviser that renders substantially different types of investment advisory services to different clients may provide them with different brochures, provided that each client receives all applicable information about services and fees. The brochure delivered to a client may omit any information required by Part 2A of Form ADV if such information is applicable to only a type of investment advisory service or fee that is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(h) Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of this chapter or any rules thereunder or other federal or state law to disclose any information to its clients or prospective clients not specifically required by this rule.

(i) Each investment adviser shall deliver to each of its clients its current brochure and all required brochure supplements not later than January 1, 2002.

Section 6. DFI–Sec 5.07 and 5.08 are repealed and recreated to read:

DFI–Sec 5.07 License and notice filing period. (1) Prior to January 1, 2002, the license of an investment adviser expires on April 30. Effective January 1, 2002, the license of an investment adviser expires on December 31 of each year. Each licensed investment adviser seeking renewal of its license shall file for renewal with the investment adviser registration depository according to the depository's schedule.

(2) The license of an investment adviser representative expires on the same day as the license of the investment adviser or the notice filing of the federal covered adviser which the person represents. The license of an investment adviser representative is not effective during any period when the investment adviser which that person represents is not licensed, or when the federal covered adviser that the person represents does not have an effective notice filing with the division, or during any period when the representative is not employed either by a specified investment adviser licensed under ch. 551, Stats., or a federal covered adviser that has filed a notice with the division under s. 551.32(1m)(a), Stats. Each licensed investment adviser representative seeking renewal of his or her license shall file for renewal with the investment adviser registration depository according to the depository's schedule.

DFI–Sec 5.08 Withdrawal of licenses. (1) An application for withdrawal from the status of a licensed investment

adviser under s. 551.32(9)(a), Stats., shall be filed with the investment adviser registration depository on Form ADV–W.

(2) An application for withdrawal from the status of a licensed investment adviser representative shall be filed with the investment adviser registration depository on Form U–5 within 15 days of the termination of the representative's employment pursuant to s. 551.31(4)(c), Stats.

Section 7. DFI–Sec 5.10, 5.11 and 5.12 are created to read:

DFI–Sec 5.10 Electronic Filing. The electronic filing of any particular document and the collection of related processing fees shall not be required until such time as the investment adviser registration depository provides for receipt of such filings and fees and the division provides 30 days notice of the change. Any documents or fees required to be filed with the division that are not permitted to be filed with, or cannot be accepted by, the investment adviser registration depository shall be filed directly with the division.

DFI–Sec 5.11 Federal covered adviser notice filing procedure. (1) The notice filing for a federal covered adviser pursuant to s. 551.32(1m), Stats., shall be filed with the investment adviser registration depository on Form ADV. A notice filing for a federal covered adviser shall be deemed filed when the fee on deposit with the investment adviser registration depository has been allocated to the division. Any documents or fees required to be filed with the division that are not permitted to be filed with, or cannot be accepted by, the investment adviser registration depository shall be filed directly with the division.

(2) A federal covered adviser shall file all amendments to its Form ADV with the investment adviser registration depository according to the instructions to Form ADV.

(3) Prior to January 1, 2002, the notice filing of a federal covered adviser that has filed a notice with the division under s. 551.32(1m)(a), Stats., expires on April 30. Each federal covered adviser seeking renewal of its notice filing shall file with the division a notice accompanied by the notice filing fee pro-rated from May 1 to December 31, 2000. Effective January 1, 2002, each federal covered adviser seeking renewal of its notice filing shall file for renewal with the investment adviser registration depository according to the depository's schedule and instructions. An application for renewal of a notice filing under this paragraph shall be deemed "filed" under s. 551.32(1m), Stats., when the fee on deposit with the investment adviser registration depository has been allocated to the division.

DFI–Sec 5.12 Transition filing. (1) Each investment adviser licensed or required to be licensed in this state shall make its initial transition filing electronically with the investment adviser registration depository not later than June 1, 2001, unless a hardship exemption has been granted by the division.

(2) Each investment adviser licensed or required to be licensed in this state shall resubmit its Part 1 of Form ADV electronically with the investment adviser registration depository not later than August 31, 2001, unless a hardship exemption has been granted by the division.

(3) Amendments to an investment adviser's Form ADV that are made after its transition filing is completed pursuant to subs. (1) and (2) must be filed electronically with the investment adviser registration depository, unless a hardship exemption has been granted by the division.

(4) Each investment adviser representative licensed or required to be licensed in this state shall resubmit its Form U–4 electronically with the investment adviser registration

depository not later than a date prescribed by separate rule or order of the division, unless a hardship exemption has been granted by the division.

Fiscal Estimate

The proposed rules will not have any annualized state fiscal effects. However, there will be a one-time, approximately \$32,000 decrease in Division of Securities licensing revenue. A copy of the full fiscal estimate may be obtained upon request to the Department of Financial Institutions, Division of Securities, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, WI 53703.

Initial Regulatory Flexibility Analysis

There is no particular small business impact to the proposed permanent rules because the provisions that adopt the IARD for use in Wisconsin benefit equivalently all investment adviser licensees and license applicants as well as federal covered advisers, whether or not they fall within the definition of a small business.

Contact Person

For additional information, or if there are questions concerning the rule proposal, contact Randall E. Schumann, Legal Counsel for the Division, Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, WI 53703. Telephone direct-dial (608) 266-3414.

Notice of Hearings Health and Family Services (Health, Chs. HFS 110 –) [CR 01-16]

Notice is hereby given that, pursuant to ss. 254.47 (4) and 254.68, Stats., the Department of Health and Family Services will hold public hearings to consider the amendment of chs. HFS 172, 175, 178 and 195 to 198, Wisconsin Administrative Code, relating to an increase in permit and related fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Hearing Information

The public hearings will be held:

Monday, March 19, 2001, beginning at 1 p.m.

Public Health Regional Office
1853 N. Stevens Street
Rhinelander, WI 54501

Tuesday, March 20, 2001, beginning at 1 p.m.

Green Bay City Hall Room 604
100 N. Jefferson Street
Green Bay, WI

Wednesday, March 21, 2001, beginning at 1 p.m.

DHFS Regional Office Room 123
610 Gibson Street
Eau Claire, WI

Thursday, March 22, 2001, beginning at 1 p.m.

State Office Building Room B145
1 West Wilson Street
Madison, WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The department and agent local health departments regulate all campgrounds, camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations in the state under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with the department's health, sanitation and safety standards set out in administrative rules. The department's rules for these facilities are found in chs. HFS 172, 175, 178, 195, 196, 197 and 198 of the Wisconsin Administrative Code. None of the facilities may operate without having a permit issued by the department or an agent local health department. A permit is evidence that a facility complies with the department's rules. Under the department's rules, facilities are charged permit and related fees. Fee revenue supports the department's expenses in providing statutorily required regulatory oversight of these entities.

This rulemaking order amends the department's rules for operation of these facilities to increase permit fees an average of 40% for all program areas, and to increase the preinspection fee for new hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and vending machine commissaries.

The fee increases will enable the department to fully staff existing position regulatory program vacancies, allowing the department to increase its frequency of routine inspections, ability to promptly respond to public complaints, and undertake necessary enforcement action.

This order does not affect facilities regulated by local health departments granted agent status under s. 254.69(2), Stats. Permit fees for those facilities are established by local health departments pursuant to s. 254.69 (2)(d), Stats.

Contact Person

To find out more about the hearings or to request a copy of the rulemaking order and the full fiscal estimate, write or phone:

Greg Pallaske
Environmental Sanitation Section
Division of Public Health
P. O. Box 2659
Madison, WI 53701-2659

608-266-8351 or, if you are hearing impaired, 608-266-1511 (TTY)

If you are hearing or visually impaired, do not speak English, or have other personal 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 phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules received at the above address no later than March 29, 2001, will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

This order changes the department's fee schedule for the permit of restaurants, hotels, motels, tourist rooming houses, bed and breakfast establishments, camps, campgrounds and food vending operations. Annual permit fees will be

increased to fund the department's food and facility safety programs. It is estimated that the increase in facility permit fees will generate an additional \$693,800 in annual revenues.

The proposed rule change would generate an additional \$393,600 from 5,788 licensed restaurants; the average annual increase in the permit fee would be \$68. It is estimated that increased permit fees would generate \$125,061 additional revenue annually from 3,396 lodging facilities; the average annual increase would be \$37. It is estimated that increase to pre-inspection fees for restaurant and lodging facilities would generate an additional \$44,439 annually; the average pre-inspection fee would increase by approximately \$48. Increased permit fees for camps, campgrounds and swimming pools would generate \$64,966 from 1,828 facilities annually; the average permit fee increase would be \$36. The increased permit fees to food vending commissaries would generate \$3,447 annually; the average permit fee would increase by \$28.

Local public health departments in the state may act as agents for the department. These agents return 10% of the state permit fee for each establishment to the Department for training and technical support services. It is estimated that the proposed changes will increase fees from the agent health departments by \$62,312 per year. Currently there are 32 state agents. As a result the average impact on each local unit of government will be approximately \$1,947 annually.

Initial Regulatory Flexibility Analysis

Many of the 11,000 facilities licensed by the department are small businesses as defined in s. 227.114 (1) (a), Stats. These facilities will be impacted by an increase in annual permit fees. The department has attempted to minimize the economic impact on small businesses by scaling fee increases according to the complexity of the operation and the amount of time required by department staff to perform a safety inspection/consultation. Facilities with greater complexity in food preparation facilities, or greater numbers of lodging rooms or campsites, will experience greater fee increases than smaller facilities.

This rule order does not place additional recordkeeping, reporting or bookkeeping requirements on small business owners. The facilities will benefit by an increase in the number of compliance inspections by department staff; this will result in safer operations for the consuming public.

Notice of Hearing Natural Resources (Fish, Game, etc.) [CR 01-06]

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.09(2), 29.014, 29.192, 29.885 and 227.11(2), Stats., interpreting ss. 29.014, 29.192, 29.885 and 227.11, Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 10, 12 and 19, Wis. Adm. Code, relating to hunting, trapping and nuisance wildlife control. The proposed rule clarifies the language regarding the exclusion of the Burnett County subzone from the early September goose season, eliminates the requirement of having to keep deer hunting back and carcass tags attached prior to harvesting a deer, eliminates the requirement of having both the mink and muskrat seasons open before trappers can use smaller traps, allows landowners to harass birds to relieve a damage or nuisance situation in urban areas and golf courses and updates the allowable hunting hours for participants of the deer damage shooting program by allowing

permittees to follow the new hunting hours which went into effect on November 18, 2000.

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

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

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

Monday, March 12, 2001, at 1:00 p.m.

Room 611A, GEF #2,
101 South Webster Street
Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Pat Beringer at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rules may be submitted to Mr. Pat Beringer, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than March 14, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Beringer.

Fiscal Estimate

We do not estimate that any of these proposed changes will result in an increase or decrease in revenues or expenditures. There are no local government costs anticipated due to the provisions of this bill.

Notice of Hearing Natural Resources (Fish, Game, etc.) [CR 01-12]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014(1), 29.041 and 227.11(2), Stats., interpreting ss. 29.014(1) and 29.041, Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 20 and 21 and the repeal of s. NR 50.20, Wis. Adm. Code, relating to fishing on the inland, outlying and boundary waters of Wisconsin and fish rearing pond grants. The proposed rule contains "housekeeping" and minor, noncontroversial changes to the fishing regulations. The proposed rules simplify existing rules where possible, including revisions to correct cross references and grammatical errors, amend and create definitions, clarify sturgeon spearing regulations, clarify authorized fishing methods and eliminate the fish rearing pond grant program that was repealed by the legislature.

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

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

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

Monday, **March 12, 2001** at 2:00 p.m.
Room 611A, GEF #2,
101 South Webster Street,
Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Tim Simonson at (608) 266-5222 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rules may be submitted to Mr. Tim Simonson, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than March 14, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Simonson.

Fiscal Estimate

None

Notice of Hearing Natural Resources (Fish, Game, etc.) [CR 01-13]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014(1), 29.041 and 227.11(2)(a), Stats., interpreting ss. 29.014(1) and 29.041, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 20 and 26, Wis. Adm. Code, relating to sport fishing on the inland, outlying and boundary waters and fish refuges on the inland waters of Wisconsin. The proposed rules:

1. Prohibit the use or possession of artificial lights to shine any waters open to sturgeon spearing during the period from 48 hours before and continuing through the open sturgeon spearing season.
2. Prohibit the use of ice holes larger than 48 square feet for sturgeon spearing.
3. Prohibit the sale of flathead catfish taken by set or bank poles and setlines from the Lake Winnebago system and prohibit the sale of both channel and flathead catfish from the Fox River downstream from Lake Butte des Morts to the DePere dam.
4. Establish a daily bag limit of 2 and a possession limit of 10 for flathead catfish on the Lake Winnebago system, whether taken on hook and line, set or bank poles, or setlines, for 10 years.

5. Establish a protected slot limit from 20" to 28", with only one greater than 28" for walleye, sauger and hybrids on the Wisconsin River from the Prairie du Sac dam, Columbia and Sauk Counties, upstream to the Grandfather dam, Lincoln County and on the Yellow River upstream to the dam at Dexterville, Wood County, and the Lemonier River, for 5 years.

6. Increase the minimum length limit for walleye from 15" to 18" and reduce the daily bag limit from 5 in total to 3 in total for walleye, sauger and hybrids on the lower Wisconsin River downstream from the Prairie du Sac dam, Columbia and Sauk Counties.

7. Increase the minimum length limit from 15" to 18" and reduce the daily bag limit from 5 in total to 3 in total for walleye, sauger and hybrids on Beaver Dam Lake, Dodge County.

8. Reduce the minimum length limit for muskellunge from 34" to 28" on Owl Lake, Iron County.

9. Establish catch-and-release only for brook trout on Graveyard Creek, Iron County for 10 years.

10. Establish catch-and-release only for largemouth and smallmouth bass on the Yellowstone River upstream from CTH F, Lafayette County for 10 years.

11. Eliminate the minimum length limit for bass on McGee Lake, Langlade County.

12. Establish a 26" minimum length limit and a daily bag limit of 2 for northern pike on Post Lake (upper and lower), Langlade County.

13. Establish a 26" minimum length limit and a daily bag limit of 2 for northern pike on Pike Lake, Marathon County.

14. Increase the minimum length limit for muskellunge from 34" to 40" on Buckskin Lake, Oneida County.

15. Establish a 15" minimum length limit and daily bag limit of 5 for walleye, sauger and hybrids on Hat Rapids Flowage, Oneida County, and eliminate the restriction on taking only one over 14".

16. Increase the minimum length limit from 15" to 18" and reduce the daily bag limit from 5 in total to 3 in total for walleye, sauger and hybrids on Maple Lake, Oneida County.

17. Authorize the harvest of one largemouth or smallmouth bass less than 14" on Big Round Lake and Balsam Lake, Polk County for 10 years.

18. Increase the minimum length limit from 14" to 18" and reduce the daily bag limit from 5 in total to one for largemouth and smallmouth bass on the Wisconsin River from Stevens Point Flowage dam to Al-Tech Park Spillway, Portage County.

19. Increase the minimum length limit from 14" to 18" and reduce the daily bag limit from 5 in total to one for largemouth and smallmouth bass on Jacqueline Lake, Portage County.

20. Establish a 32" minimum length limit and a daily bag limit of one for northern pike on Jacqueline Lake, Portage County.

21. Establish a daily bag limit of 10 for bluegill on Chetac and Birch Lakes, Sawyer and Washburn Counties.

22. Increase the minimum length limit from 15" to 28" and reduce the daily bag limit from 5 in total to one in total for

walleye, sauger and hybrids on Sand, Black Dan, Island and Winter Lakes, Sawyer County.

23. Increase the daily bag limit for trout from one to 3, reduce the minimum length limit from 16" to 12" for brown and rainbow trout and from 16" to 8" for brook trout, and eliminate the requirement for artificial lures on the Willow River downstream from Willow Falls including Little Falls Lake and Lake Mallalieu and Race Branch, St. Croix County.

24. Establish restrictive harvest regulations for largemouth and smallmouth bass, muskellunge and walleye on Sparking Lake, Vilas County for 7 years.

25. Increase the minimum length for muskellunge from 34" to 45" on Little Saint Germain Lake, Vilas County, for 10 years.

26. Establish Millpond Park Pond, Walworth County, as an urban fishing water.

27. Create a seasonal fish refuge from March 1 through May 15 on the Yellow River from the dam in Cadott downstream to the Main Street bridge in Cadott, Chippewa County.

28. Extend the year-around fish refuge on the Chippewa River below the Jim Falls Dam from a point 1,000 feet below the dam to the old CTH Y Bridge and create a seasonal fish refuge from the last Sunday in August to the first Saturday in May on the Chippewa River from the old CTH Y Bridge downstream to the new CTH Y Bridge, Chippewa County.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to ss. 23.09(2), 29.014, 29.089 and 227.11(2)(a), Stats., interpreting ss. 23.09(2), 29.089, 29.192 and 29.867, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 1, 10, 11, 16, 17 and 45, Wis. Adm. Code, relating to hunting, trapping and captive wildlife. The proposed rules:

1. Update the Natural Resources Board policy on furbearers by incorporating trap standard improvements into the overall furbearer management program.

2. Define an adult bear and prohibits the shooting of a bear that is accompanied by a bear that is not an adult bear.

3. Restructure the Collins Zone by splitting the season into 3 time periods rather than the current 4 time periods.

4. Establish spring turkey, firearm, muzzleloader and late bow deer seasons at Mill Bluff State Park.

5. Remove the prohibition of using rifles during the first 2 days of the regular 9-day gun deer season in all units where rifles are allowed during the last 7 days of the season.

6. Allow bear hunters to replace tired, young, etc., dogs in the pack should they drop out of a hunt.

7. Increase the overwinter goal in deer management unit 75A from 15 to 20 deer per square mile of deer range.

8. Eliminate the requirement of having to transport deer and bear in an open and exposed manner prior to registration.

9. Allow the use of commercially manufactured, enclosed trigger traps within 15 feet of beaver dams and during closed seasons for muskrat, beaver, mink or otter.

10. Extend the archery deer season in Buckhorn State Park one month (through December).

11. Create 2 turkey management zones and a spring turkey hunting season in those zones.

12. Close Mecan Springs to hunting and trapping during all open waterfowl seasons.

13. Prohibit wild turkey game farms from existing and being established in wild turkey management zones.

14. Require captive wild birds used for dog training to be marked with department leg bands prior to release.

15. Add Brown, La Crosse, Oconto, Outagamie and Winnebago Counties to the list of counties where target shooting on state-owned lands is illegal unless at designated target ranges.

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

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

NOTICE IS HEREBY FURTHER GIVEN that at 7:00 p.m., on April 9, 2001, the County Conservation Congress for each county will hold its election of delegates. Upon completion of the delegate election, the joint spring hearing/Conservation Congress meeting will convene to take comments on the above rule modifications.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on Monday, **April 9, 2001** at 7:00 p.m. in the following locations:

Ashland, Ashland High School, 1900 Beaser Ave., Ashland

Barron, Barron County Courthouse, Lower Level Auditorium, 330 E. LaSalle, Barron

Bayfield, Bayfield Co. Courthouse, 117 E 5th, Washburn

Brown, Southwest High School, Auditorium, 1331 Packerland Dr., Green Bay

Buffalo, Alma Area High School, Auditorium, S1618 STH '35', Alma

Burnett, Burnett County Government Center, Rm. 165, 7410 Co. Rd. K, Siren

Calumet, Calumet County Courthouse, Room 025, 206 Court Street, Chilton

Chippewa, Chippewa Falls Middle School, Auditorium A, 750 Tropicana Blvd., Chippewa Falls

Clark, Greenwood High School, Cafeteria, 306 W. Central, Greenwood

Columbia, Turner Jr. High School, 2505 New Pinery Rd., Portage

Crawford, Crawford County Courthouse, 220 N. Beaumont Rd., Prairie du Chien

- Dane, Alliant Energy Center (Dane Co. Expo Center), Hall D, John Nolan Dr. & Rimrock Rd., Madison
- Dodge, Horicon Senior High School, 841 Gray St., Horicon
- Door, Door County Courthouse, Room A150, 421 Nebraska, Sturgeon Bay
- Douglas, Superior High School, 2600 Catlin Ave., Superior
- Dunn, Dunn County Fish and Game Club, 1900 Pine Ave., Menomonie
- Eau Claire, South Middle School, Auditorium, 2115 Mitscher, Eau Claire
- Florence, DNR Natural Resources Center, Lower Large Conf. Room, Hwys. 2 & 101, Florence
- Fond du Lac, Theisen Jr. High School, Auditorium, 525 E. Pioneer Rd., Fond du Lac
- Forest, Crandon School, Auditorium, U.S. Hwy. 8 West, Crandon
- Grant, Grant Co. Fairgrounds, Youth & Ag. Center, Main Auditorium, E. Elm St., Lancaster
- Green, Monroe Jr. High School, Auditorium, 1510, 13th Street, Monroe
- Green Lake, Green Lake High School, Small Gym, 612 Mill St., Green Lake
- Iowa, Dodgeville High School, Gymnasium, 912 W. Chapel, Dodgeville
- Iron, Mercer Community Center, 2848 Margaret St., Mercer
- Jackson, Black River Falls Middle School, LG1 Room, 1202 Pierce, Black River Falls
- Jefferson, Jefferson County Fair Grounds, Activity Center, 503 N. Jackson St., Jefferson
- Juneau, Juneau County Courthouse, Courtroom, 220 E. State St., Mauston
- Kenosha, Bristol Grade School, Gymnasium, 20121 83rd St., Bristol
- Kewaunee, Kewaunee County Courthouse, County Board Room, 620 Juneau St., Kewaunee
- La Crosse, Onalaska High School, Auditorium, 700 Hill Top Pl., Onalaska
- Lafayette, Darlington Community High School, Cafeteria, 11838 Center Hill Rd., Darlington
- Langlade, Multipurpose Building, Clover Rm., 1581 Neva Rd., Antigo
- Lincoln, Tomahawk School Complex, 1048 E. King Rd., Tomahawk
- Manitowoc, UW Center-Manitowoc, Room, 705 Viebahn St., Manitowoc
- Marathon, Edgar High School, Gymnasium, 203 Birch St., Edgar
- Marinette, Wausaukee High School, Auditorium, N11941 Hwy. 141, Wausaukee
- Marquette, Montello High School, Community Rm., 222 Forest Ln., Montello
- Menominee, Menominee County Courthouse, Basement Meeting Room, Keshena
- Milwaukee, Wauwatosa West High School, 11400 W. Center St., Wauwatosa
- Monroe, Sparta High School, Auditorium, 506 N. Black River St., Sparta
- Oconto, Suring High School, Cafeteria, 411 E. Algoma, Suring
- Oneida, Rhinelander High School, Auditorium, 665 Coolidge Ave., Rhinelander
- Outagamie, Riverview Middle School, 101 Oak Street, Kaukauna
- Ozaukee, Circle B Recreation Center, 6261 Highway 60, Cedarburg
- Pepin, Pepin County Government Center, County Board Room, 740 7th Ave. W., Durand
- Pierce, Ellsworth Senior High School, Auditorium, 323 Hillcrest, Ellsworth
- Polk, Polk Co. Government Center, 100 Polk Plaza, Balsam Lake
- Portage, Ben Franklin Junior High School, Auditorium, 2000 Polk St., Stevens Point
- Price, Price County Courthouse, County Board Room, Phillips
- Racine, Union Grove High School, 3433 S. Colony Ave., Union Grove
- Richland, Richland County Courthouse, Circuit Court Room, 181 W. Seminary, Richland Center
- Rock, Moose Lodge, 2701 Rockport Rd, Janesville
- Rusk, Ladysmith High School, Auditorium, 1700 Edge wood Ave. E., Ladysmith
- St. Croix, WI Indianhead Tech College, Cashman Auditorium, 1019 S. Knowles Ave., New Richmond
- Sauk, Al Ringling Theater, 136 4th Ave., Baraboo
- Sawyer, Hayward High School, Hayward
- Shawano, Shawano Middle School, 1050 S. Union St., Room LGI, Shawano
- Sheboygan, Sheboygan Falls High School, Auditorium, 220 Amherst Ave., Sheboygan Falls
- Taylor, Taylor County Fairgrounds, Multi-purpose Bldg., Medford
- Trempealeau, Whitehall City Center, Auditorium, 36245 Park St., Whitehall
- Vernon, Viroqua Middle School, Large Lecture Room, Blackhawk Drive, Viroqua
- Vilas, Plum Lake Community Building, Golf Course Rd., Sayner

Walworth, Delavan Darien High School, Auditorium, 150 Cummings St., Delavan

Washburn, Agriculture Research Station, Hwy. 70E, Spooner

Washington, Washington County Fairgrounds, Exhibit Hall, 3000 Hwy. P.V., West Bend

Waukesha, Waukesha County Expo Center, 1000 North View Rd., Waukesha

Waupaca, Waupaca High School, Auditorium, E2325 King Rd., Waupaca

Waushara, Wautoma High School, Performing Arts Center, 514 S. Cambridge, Wautoma

Winnebago, Oshkosh North High School, Auditorium, 1100 W. Smith, Oshkosh

Wood, Pittsville High School, Gymnasium, 5407 1st Ave., Pittsville

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 Candy Knutson at (608) 267-3134 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule revisions for fisheries may be submitted to Mr. Tim Simonson, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707. Written comments on the proposed rule revisions for wildlife may be submitted to Mr. Pat Beringer, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Written comments shall be postmarked no later than April 10, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. Written comments will NOT, however, be counted as spring hearing votes.

A copy of the proposed rules and fiscal estimates may be obtained from Ms. Candy Knutson, Bureau of Legal Services, P.O. Box 7921, Madison, WI 53707 or by calling (608) 267-3134.

Fiscal Estimate

Bureau of Wildlife Management. New turkey management zones. The creation of 2 new management zones would result in an estimated \$3,500 in revenue generated from license and stamp sales.

We do not estimate that the other rule proposed will result in an increase or decrease in revenues or expenditures for Wildlife program.

Bureau of Law Enforcement. For a majority of these issues and rule changes, there will be no net change in FTE hours or expenditure of new funds. The change will only be in terms of method of enforcement tactic used and definition of terms within said rules. Wardens will use existing equipment and existing hours to enforce these rules.

In regards to the issues which may possible result in a change in FTE hours or expenditure of funds, (addition Turkey Zones, Longer Trapping season, etc.), it's expected

that these additional hours and expenditures can be absorbed within our current budgetary allotments.

Notice of Hearings

Natural Resources

**(Environmental Protection—General, Chs. NR 100—)
[CR 00-25 through CR 00-36]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 92.15, 227.11(2)(a), 281.16, 281.19, 281.33(4), 281.41, 281.65, 283.001, 283.11, 283.13, 283.31 and 283.37, Stats., interpreting ss. 29.15, 281.11, 281.12, 281.16, 281.19, 281.20, 281.33, 281.41, 281.65, 281.66, 281.96, 281.97, 281.98, 283.001, 283.11, 283.13, 283.19, 283.31, 283.33, 283.37, 283.53, 283.55, 283.59, 283.63 and 283.83, Stats., the Department of Natural Resources will hold public hearings on the repeal and recreation of ch. NR 120, Wis. Adm. Code, relating to the priority watershed management program, the creation of ch. NR 151, Wis. Adm. Code, relating to runoff management performance standards and prohibitions, the creation of ch. NR 152, Wis. Adm. Code, relating to model ordinances for construction site erosion control and storm water management, the creation of ch. NR 153, Wis. Adm. Code, relating to the targeted runoff management grant program, the creation of ch. NR 154, Wis. Adm. Code, relating to best management practices, conditions and technical standards, the creation of ch. NR 155, Wis. Adm. Code, relating to the creation of the urban nonpoint source and storm water management grant program, revisions to ch. NR 216, Wis. Adm. Code, relating to storm water discharge permits, and the repeal and recreation of ch. NR 243, Wis. Adm. Code, relating to animal feeding operations.

Chapter NR 120 is the rule under which the Department currently administers the nonpoint source water pollution abatement program. Chapter NR 120 as recreated contains changes in three main areas including scope of the chapter, cost-share administration and critical sites administration. There are three main changes in the scope of the rule. The process for selecting priority watershed and lake projects has been eliminated entirely. Provisions dealing with rural local assistance grants have been deleted and moved to ch. ATCP 50 for administration by the Department of Agriculture, Trade and Consumer Protection. Provisions dealing with urban nonpoint source grants are retained in the code to accommodate county administration of urban portions of their priority watershed projects. The section that identifies best management practices eligible for cost sharing and applicable cost share conditions are also retained in ch. NR 120.

Changes in cost share administration include an increase in priority watershed project periods, changes in cost share rates for several best management practices, modified criteria for determining economic hardship and restrictions on cost share reimbursements to rural grantees that exceed the expenditure amounts established by the department. Changes in critical sites administration include added flexibility in the notification schedule and an explicit requirement that grantees cover all critical sites needs provided that adequate cost sharing is made available by the department.

Chapter NR 151 is a new chapter that establishes runoff pollution performance standards for nonagricultural practices, including transportation and performance standards and prohibitions for agricultural facilities and practices. These standards are intended to be minimum standards of performance necessary to achieve water quality standards. The chapter also specifies a process for the development and dissemination of department technical

standards to implement the non-agricultural performance standards. In some areas of the state, where the performance standards may not achieve the desired water quality, the chapter proposes a process to establish, by rule, more site specific targeted performance standards. The code also includes requirements for department review of local livestock operation ordinances that exceed state performance standards and prohibitions for agricultural sources of pollution. The chapter also establishes implementation and enforcement provisions for the performance standards and prohibitions. This section has been expanded to include a more detailed strategy for coordination and sharing responsibility for implementation and enforcement between the state and local government, a revised method for determining economic hardship and a method to achieve better integration of state and local resource management issues through grant allocations.

Additional modifications to proposed ch. NR 151 include substituting riparian buffer options for the previous 0.33 T standard, a change in the way "new" and "expanded" facilities are defined, clarification of water quality management areas in regards to groundwater concerns, a shift in the erosion control performance standard from 80% control of sediment to maximum extent practicable with a goal of 80%, further clarification of when and where the infiltration performance standard is to be met, expansion of the buffer standard to reflect differing water resources, the inclusion of a performance standard on nutrient and pest management for large, nonmunicipal pervious areas and refinement of the transportation subchapter to address unique features of a transportation facility.

Chapter NR 152 is intended to secure voluntary uniformity of regulations that affect municipalities. It contains, as appendices, model ordinances for both storm water management and for construction erosion control sites exclusive of building construction. The performance standards included in the ordinances are taken from ch. NR 151. Adoption of the ordinances on the part of local units of government is voluntary.

Chapter NR 153 contains policy and procedures for administering the targeted runoff management grant program. The department currently administers priority watershed and priority lake projects under ch. NR 120. The department will select projects for funding by using the competitive scoring system established in ch. NR 153. The department will score and select projects annually with advice from the Wisconsin Land and Water Conservation Board. The scoring system considers fiscal accountability, cost effectiveness, water quality, extent of pollutant control, project evaluation and monitoring, likelihood of success and regulatory storm water management requirements for the City of Racine. Projects can be up to 3 years in duration unless the department grants an extension, limited to one year. Projects will be consistent with county land and water resources management plans prepared under ch. ATCP 50 and department priorities established on a geographic basis. Projects are not limited to implementation of state nonpoint source performance standards in ch. NR 151, but it is expected that many projects will focus on compliance with these standards. Projects may be located anywhere in the state, including areas within and outside of existing priority watershed and priority lake projects.

Chapter NR 154 identifies cost-effective best management practices, cost-sharing eligibility restrictions and technical standards for use with department cost-sharing. The rule specifies the conditions that apply to all best management

practices and the conditions, standards and specifications that apply to cost-shared best management practices. Rural best management practices to comply with performance standards are also contained in ch. ATCP 50.

Chapter NR 155 is a new rule containing policy and procedures for administering the urban nonpoint source and storm water management grant program. The department may make grants under this program to governmental units for practices to control both point and nonpoint sources of storm water runoff from exiting urban areas, and for plans developing urban areas and areas of urban redevelopment. Urban areas include commercial land use, industrial land use (excluding nonmunicipal industrial areas regulated under ch. NR 216) or areas with a population density of at least 1,000 persons per square mile. In order to receive a grant, the governmental unit with jurisdiction over the project area must assure adequate implementation of a comprehensive storm water management program.

The department will select projects for funding by using the competitive scoring system in the rule. The department will score and select projects every other year. The scoring system considers fiscal accountability, cost effectiveness, water quality, extent of pollutant control, project evaluation and monitoring, likelihood of success and regulatory storm water management requirements for the City of Racine. Projects will be consistent with department priorities established on a watershed or other geographic basis. Projects can be up to 2 years in duration unless the department grants an extension, limited to one year.

Chapter NR 216 establishes criteria and procedures for issuance of storm water discharge permits to certain construction sites, industrial facilities and municipalities to limit the discharge of pollutants, carried by storm water runoff into waters of the state. Chapter NR 216 is primarily being revised to incorporate nonagricultural performance standards in proposed ch. NR 151, subchs. III and IV. As revised, components of construction and municipal storm water discharge permits including storm water management programs, pollutant loading assessments, storm water pollution prevention plans, construction erosion control plans, and storm water management plans will need to meet the nonagricultural performance standards. Additional changes to this chapter are also being proposed to clarify the existing requirements of this chapter.

Chapter NR 243 is intended to implement design standards and accepted animal waste management practices for concentrated animal feeding operations that are classified as point sources. It also establishes the criteria under which the department may issue a notice of discharge (NOD) or a permit to other animal feeding operations that discharge pollutants to waters of the state.

One of the proposed changes to ch. NR 243 is to incorporate the agricultural performance standards and prohibitions into the NOD program. In addition, other changes are proposed to clarify or further define department procedures for large permitted animal feeding operations and other animal feeding operations. Some of the proposed changes to large permitted livestock facilities include clarification of manure management requirements, inclusion of requirements for composting and short-term stacking of manure, clarification of requirements for department approval of design structures and groundwater monitoring and clarification of requirements for mixed waste. Other revisions were made to delineate the circumstances under which the department may issue a notice of discharge or a permit. Finally, changes were made to establish procedures

for issuing grants to local units of government to be used as cost sharing to animal feeding operations that receive an NOD.

Initial Regulatory Flexibility Analysis

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

a. Types of small businesses affected: Crop and livestock producers

b. Description of reporting and bookkeeping procedures required: For livestock operations with less than 1,000 animal units or crop producers, the reporting, bookkeeping and other procedures required to achieve compliance with applicable performance standards and prohibitions are dependent on the type of performance standard or prohibition. In general, the required bookkeeping procedures are designed to document that an operation is complying with performance standards and prohibitions. For livestock operators with 1,000 animal units or more, annual reports are required for the land application of manure as well as some reporting requirements for compliance issues and groundwater monitoring. It is not expected that reporting requirements will be any different than those currently used.

c. Description of professional skills required: While the performance standards and prohibitions establish an acceptable level of performance for agricultural operations, the level of professional skills required for compliance with the performance standards depends on the performance standard or prohibition. For permit requirements for large operators, the type of professional skills needed to comply with the rule are not expected to be significantly different from the skills needed to meet existing rules.

The initial regulatory flexibility analysis for nonagricultural small businesses is as follows:

a. Types of small businesses affected: Any small business if constructing a new building where the land disturbance exceeds 5 acres or an industrial facility that requires storm water discharge permit coverage under subch. II of ch. NR 216.

b. Description of reporting and bookkeeping procedures required: A small business must submit a Notice of Intent prior to construction. Part of the submittal includes the development of an erosion and sediment control plan, a storm water management plan. Industrial facilities subject to subch. II of ch. NR 216's permitting requirements must prepare an industrial storm water pollution prevention plan where needed. This is already required in the current ch. NR 216. Both types of facilities will need to comply with the nonagricultural performance standards in proposed ch. NR 151.

c. Description of professional skills required: Depending on the site and size of a facility, the creation of the plans may require the assistance of a licensed professional engineer. The need to hire a consultant already exists under the current ch. NR 216.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 1.11, Stats., and ch. NR 150, Wis. Adm. Code, the Department has prepared an Environmental Assessment for this action. The Department has made a preliminary determination that the proposal will not cause significant adverse environmental effects and that an Environmental Impact Statement will not be required.

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

March 12, 2001 Richland Center Community Center
Monday 600 W. Seminary Street
Richland Center
at 1:00 p.m. and 6:00 p.m.

March 13, 2001 Best Western Midway Hotel
Tuesday 2851 Hendrickson Drive
Eau Claire
at 1:00 p.m. and 6:00 p.m.

March 14, 2001 Fitchburg Community Center
Wednesday 5520 Lacy Road
Fitchburg
at 1:00 p.m. and 6:00 p.m.

March 19, 2001 Room 233, UW-Marathon Center
Monday 518 South 7th Avenue
Wausau
at 1:00 p.m. and 6:00 p.m.

March 20, 2001 Christie Theater
Tuesday UW-Green Bay Union
2420 Nicolet Drive
Green Bay
at 1:00 p.m. and 6:00 p.m.

March 22, 2001 Room BO201/202
Thursday Waukesha Co. Technical College
800 Main Street
Pewaukee
at 1:00 p.m. and 6:00 p.m.

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 Carol Holden at (608) 266-0140 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rules and Environmental Assessment may be submitted to Carol Holden, DNR Runoff Management Section, P.O. Box 7921, Madison, WI 53707 no later than April 6, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings.

A copy of the proposed rules, Environmental Assessment and fiscal estimates may be obtained from Ms. Holden.

Fiscal Estimates

Ch. NR 120 – Many of the changes to ch. NR 120 are mandated by statute. These statutorily mandated changes include: elimination of new project selection (1997 Wis. Act 27); transfer of rural local assistance grant administration to DATCP (1999 Wis. Act 9); elimination of supplemental cost sharing based on match provided by the local governmental unit (1997 Wis. Act 27); and restrictions on reimbursements that can be made to grantees who exceed the annual expenditure amounts established by the Department (1997 Wis. Act 237). In addition, 1999 Wis. Act 9 essentially required the Department to increase its cost share rates to 70% in order to implement agricultural performance standards established under 1997 Wis. Act 27. Under Act 27, at least 70% cost sharing must be made available before the performance standards can be enforced for existing practices

and facilities. There is no net fiscal impact related to the cost share changes because the available funding will simply be distributed among fewer grantees. However, the fiscal impact of transferring rural local assistance grant administration to DATCP – including calculating local assistance grant awards, monitoring spending, and issuing grant documents and award payments – represents a savings of 0.25 FTE and \$9100 in salary-related savings to the Department ($\$17.34/\text{hr} \times 520$ hours).

Ch. NR 151 – State impacts – Ch. NR 151 performance standards will primarily be implemented through existing programs in ch. NR 216 (Storm Water Discharge Permits) and ch. NR 243 (Animal Waste Management), and also through chs. NR 153 and 155 (Runoff Management Grants Program). The Department estimates an increased workload of 10.0 FTE annually related to implementing the ch. NR 151 performance standards, detailed as follows:

Agricultural Performance Standards (Subchapter II of ch. NR 151):

a. Implementing these standards will require approximately 0.5 FTE per region for evaluation, guidance and information and education—or 2.5 FTE statewide. These water resource engineer positions will assist with field investigations, provide guidance to Department and county staff on implementing agricultural performance standards and prohibitions, and conduct outreach efforts to inform and educate landowners and the public on agricultural performance standards and prohibitions. These positions would also provide support to modeling efforts and in-field evaluations designed to determine the effectiveness of agricultural performance standards and prohibitions. This would be an ongoing work effort with approximately 1040 hours per year per region. Salary-related costs associated with these positions equal ($1040 \text{ hours} \times \$28.36/\text{hr} \times 5 \text{ regions} = \$147,500$).

b. Implementing these standards will also require approximately 0.5 FTE per region for enforcement – or 2.5 FTE statewide. These positions would be water resource management specialists working on enforcement actions associated with implementation of agricultural performance standards for crop producers (performance standards and prohibitions for livestock producers will be handled through ch. NR 243). These positions would work with counties in enforcing county ordinances and serve as the lead in enforcement in counties not enacting ordinances. This would be an ongoing work position requiring about 1040 hours annually per region. Salary-related costs associated with these positions equal ($1040 \text{ hours} \times \$23.29/\text{hr} \times 5 \text{ regions} = \$121,100$).

c. Implementing these standards will also require approximately 0.5 FTE statewide for reviewing ordinances. This water resource management specialist position would most likely be located in the Department's central office, responsible for reviewing local livestock operation ordinances that exceed statewide performance standards and prohibitions. In consultation with the Department of Agriculture, Trade and Consumer Protection, this position would be responsible for determining if local ordinances exceeding state wide performance standards and prohibitions are justified based on water quality concerns. Given the number of local governments that can enact ordinances and the fact that local ordinances regarding livestock operations are likely to be dynamic in nature as farming practices and the nature of local communities change, it is expected that this would be an ongoing position requiring about 1040 hours per

year. The salary-related costs associated with this position are ($1040 \text{ hours} \times \$23.29/\text{hr} = \$24,200$).

Non-Agricultural Performance Standards, BMPs and Technical Standards (Subchapters II, IV and V of ch. NR 151):

a. Implementing these standards will also require a water resource management specialist FTE for developing and revising technical standards for BMPs. This position would be the primary (lead) person working on items such as revising the Wisconsin Construction Site Best Management Practice Handbook and developing an infiltration technical standard. There are over 2080 hours of work to be done on the BMP handbook and infiltration standard and this does not include other technical standards that should be developed. Technical standard revisions will continue to be needed annually in the foreseeable future. The salary-related costs associated with this position are ($2080 \text{ hours} \times \$23.29/\text{hr} = \$48,400$).

b. Implementing these standards will also require a water resource management engineer FTE for modeling support and developing tools to measure BMP effectiveness. This position would be expected to become an expert at the different runoff models available such as P8 and SLAMM. This position would give support and training to consultants and other Department staff and would be modeling projects to evaluate the effectiveness of BMPs and give recommendations on BMP technical standards development. This is an ongoing position that would require approximately 2080 hours annually. The salary-related costs associated with this position are ($2080 \text{ hours} \times \$28.36/\text{hr} = \$59,000$).

c. Implementing these standards will also require a 0.50 FTE water resource management specialist per region for evaluation, guidance, and information and education – or 2.5 FTE statewide. This position would conduct field investigations to evaluation project implementation and give the general public and private consultants guidance, training, and education on the performance standards, BMPs, and technical standards. This ongoing work will require approximately 1040 hours annually per region. The salary-related costs associated with these positions are ($1040 \text{ hours} \times \$23.29/\text{hr} \times 5 \text{ regions} = \$121,100$).

Ch. NR 152 – Ch. NR 152 has no significant fiscal impact on either state or local governments. The only state fiscal impact is that associated with printing, distribution and information/education activity attendant to distributing the ordinances. It is anticipated that this can be done as part of the workload identified in the fiscal estimate for ch. NR 153. There is no impact to local units of government, as adoption of the ordinance is not required by this rule.

Ch. NR 153 – The Department anticipates increased workload totaling 2.0 FTE and increased annual costs of \$112,500 associated with implementing ch. NR 153. The Department expects any local fiscal impacts to be minimal – if any – because the Department will maximize consistency between the administrative requirements of chs. NR 153, 155 and 120. There are a limited number of cases where the ch. NR 153 grant program will be the only way to honor existing grant obligations created under ch. NR 120 for non-county, non-urban grantees such as lake districts. These situations will be given top priority in the scoring system so that the Department can honor those commitments and the local governments can rely on the funding promised in the past.

Ch. NR 154 – Although there may be fiscal impacts associated with implementing the proposed changes to chs. NR 120, 151, and 243 (see related fiscal notes), there are no

fiscal impacts to state or local government directly related to ch. NR 154).

Ch. NR 155 – The Department anticipates increased workload totaling 4.0 FTE and increased annual costs of \$225,600 associated with implementing ch. NR 155. The Department expects any local fiscal impacts to be minimal – if any – because the Department will maximize consistency between the administrative requirements between chs. NR 153, 155 and 120. The Department has also assured grantees that existing priority watershed grant commitments created under ch. NR 120, and that will now be administered under ch. NR 155, will be given top priority in the scoring system so that the Department can honor those commitments and the local governments can rely on the funding promised in the past.

Ch. NR 216 – There will not be any additional financial costs to either state or local governments to implement the proposed changes to ch. NR 216, except those costs associated with meeting the performance standards of ch. NR 151. Since the additional fiscal impacts to state or local governments are due to implementation of ch. NR 151, the changes proposed to ch. NR 216 are assumed to have no cost to state or local governments. The frequency of reviewing erosion and sediment control plans and storm water management plans will continue at the same frequency. There will be no additional time spent on reviewing plans that will now be required to meet the performance standards under ch. NR 151. **Note:** See the fiscal estimate for ch. NR 151 for the fiscal effects of implementing the performance standards of ch. NR 151.

Ch. NR 243 – The fiscal impact on DNR will be an increase of 0.8 FTE in workload. This increase is the result of a shift in responsibility for administration of cost–share grants from DATCP to DNR for notices of discharge (NODs). This shift is the result of legislation contained in 1999 Wis. Act 9. The Department will continue to issue NODs to livestock feeding operations with unacceptable practices (practices that impact water quality or fail to comply with statewide performance standards and prohibitions in draft NR 151 Wis. Adm. Code). Cost–sharing is provided to livestock feeding operations who receive NODs to assist them financially in correcting unacceptable practices associated with manure management.

The Department has historically been only responsible for ensuring compliance with the NODs. The Department will now also handle grant administration functions including determining grant eligibility, preparing grants, reviewing grants and grant forms; tracking projects; developing and maintaining policy and procedures; and fiscal management functions including recording contracts, balancing accounts, maintaining files and dispersing funds.

DATCP staff currently handle the workload associated with cost–share grant administration for NODs. DATCP estimates that the decrease in staff workload associated with the shift of this responsibility to DNR is 7% of 10 grant management and policy FTEs and 10% of 1 fiscal management FTE.

Assuming that 7% of 10 FTEs + 10% of 1 FTE will be sufficient to address this workload:

$$\begin{aligned} 7\% \times 1820 \text{ hrs.} \times 10 \text{ FTEs} &= 1274 \text{ hrs.} \\ 10\% \times 1820 \text{ hrs.} \times 1 \text{ FTE} &= \underline{182} \text{ hrs.} \\ \text{Total} &= 1456 \text{ hrs.} = 0.8 \text{ FTE.} \end{aligned}$$

0.8 FTE x \$65,000 (salaries, fringe and supplies and services) = \$52,000

Some land conservation department staff may elect to assist in the administration of NODs in their county. It is estimated that approximately 1/3 of the counties in the state (24) will decide to participate. NOD activities are further estimated to entail an average of .10 FTE annually, or a total of 2.4 FTE statewide. Based on estimates of \$50,000 per county FTE for salaries, fringe benefits and supplies and services, this will total \$120,000 annually in local costs.

Notice of Hearings

Natural Resources

(Environmental Protection—General, Chs. NR 100—) [CR 01–14]

NOTICE IS HEREBY GIVEN that pursuant to ss. 281.665 and 227.11(2)(a), Stats., interpreting s. 281.665, Stats., the Department of Natural Resources will hold a public hearing on the creation of ch. NR 199, Wis. Adm. Code, relating to the municipal flood control and riparian restoration grant program. The grant program provides 70% cost–sharing grants to cities, villages, towns and metropolitan sewerage districts to acquire or floodproof structures, purchase easements, restore riparian areas or construct flood control structures. Applications would be ranked based on avoided flood damages, restoration or protection of natural and beneficial functions of water bodies, use of natural flood storage techniques or environmentally sensitive detention ponds and enhanced recreation opportunities. The proposed rule establishes the eligibility, requirements and procedures for filing applications and awarding grants.

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

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

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

March 13, 2001

Tuesday
10:00 a.m.

Video conference participation will

be available at:

Room 021, GEF #2 Building
101 S. Webster Street
Madison

Room 542, State Office Building
819 North 5th Street
Milwaukee

Room 618, State Office Building
200 North Jefferson Street
Green Bay

Room 139, State Office Building
718 North Clairemont Avenue
Eau Claire

Room B29, State Office Building
3550 Mormon Coulee Road
La Crosse

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 Gary Heinrichs at (608) 266-3093 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Gary Heinrichs, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than March 23, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WT 10-01] and fiscal estimate may be obtained from Mr. Heinrichs.

Fiscal Estimate

There is no fiscal impact.

Notice of Hearings

Natural Resources

(Environmental Protection—Remediation, etc.),

Chs. NR 700—)

[CR 01-09]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11(2)(a), Stats., interpreting ss. 292.11 and 292.31 and ch. 160, Stats., the Department of Natural Resources will hold a public hearing to revise ss. NR 714.05 and 714.07, Wis. Adm. Code, relating to notification of affected landowners when off-site contamination is detected, and notification to the public when an environmental investigation is required at a leaking underground storage tank site. The proposed rule requires persons who are responsible for hazardous substance discharges to notify affected property owners if the hazardous substance contamination migrates off of the source property onto neighboring properties. The proposed rule also includes the requirement that, for leaking underground storage tank sites, responsible persons are to notify the general public, not just neighboring property owners, whenever a site investigation is required at a site, in addition to providing notice to property owners whose property has been affected by migrating contamination.

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

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental

analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

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

March 21, 2001

Wednesday

1:00 p.m.

Video conference participation will

be available at:

Room 021, GEF #2 Building

101 S. Webster Street

Madison

Room 139, State Office Building

718 W. Clairemont Avenue

Eau Claire

Room 618, State Office Building

200 N. Jefferson Street

Green Bay

Room 542, State Office Building

819 North 5th Street

Milwaukee

Lower Level Conference Room

DNR Headquarters

810 W. Maple Street

Spooner

Room 3

DNR Regional Headquarters

107 Sutliff Avenue

Rhinelander

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 Terry Evanson at (608) 266-0941 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rules may be submitted to Ms. Laurie Egre, Bureau for Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than March 30, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [RR 39-00] and fiscal estimate may be obtained from Ms. Egre.

Fiscal Estimate

There is no fiscal impact.

Submission of proposed rules to the legislature

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

Agriculture, Trade and Consumer Protection
(CR 00-145)

Ch. ATCP 11 – Relating to importing bovine animals, goats or cervids from tuberculosis “non-modified accredited” states.

Agriculture, Trade and Consumer Protection
(CR 00-146)

Chs. ATCP 10 and 11 – Relating to the reimbursement of Johne’s disease testing costs. It also makes minor technical changes to current equine rules.

Dentistry Examining Board
(CR 00-143)

Ch. DE 2 – Relating to a system of remediation for applicants who have failed the clinical and laboratory examinations more than 3 times.

Health and Family Services (CR 00-151)

Ch. HFS 133 – Relating to home health licensure.

Natural Resources (CR 98-198)

Ch. NR 233 – Relating to the regulation of effluent limitations and pretreatment standards for the pesticide chemicals industry.

Natural Resources (CR 98-199)

Ch. NR 252 – Relating to the regulation of effluent limitations and pretreatment standards for the leather tanning and finishing industry.

Natural Resources (CR 00-088)

Ch. NR 19 – Implementing the department’s authority to void local hunting, fishing and trapping ordinances.

Natural Resources (CR 00-110)

Chs. NR 19 and 64 – Relating to ATV, snowmobile, bowhunter and hunter education fees.

Natural Resources (CR 00-154)

Chs. NR 1, 10, 12 and 19 – Relating to deer hunting and the wildlife damage abatement and claims program.

Public Service Commission (CR 00-138)

Ch. PSC 167 – Relating to the modification of rules on extended area telephone service.

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the February 28, 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 00-104)

An order affecting ch. ATCP 136 relating to reclaiming and recycling refrigerant for mobile air conditioners.

Effective 3-1-01

Summary of final regulatory flexibility analysis

Businesses Affected. The department currently licenses more than 3,100 businesses that service and repair motor vehicle air conditioners and trailer refrigeration equipment. Most of these businesses are small businesses, as defined in s. 227.114(1)(a), Stats.

Business Registration Fee Increase. The proposed amendments increase the annual registration fee from \$80 to \$120 for each business that repairs or services mobile air conditioners or trailer refrigeration equipment. The division does not expect this \$40 per year registration fee increase to have a significant impact on small business.

Sales of Refrigerants—Record-keeping. The proposed rule requires buyers and sellers of refrigerants to keep sales records that clearly identify the legal name and complete address of the buyer and seller. This is a minor change to the current record-keeping requirements. This change should have no impact on small business.

Substitute Refrigerants. The proposed rule expands the definition of "refrigerants" covered by the rule to include all substitute refrigerants. This change clarifies that the rule applies to ozone-depleting substitute refrigerants, as well as substitutes that are not ozone-depleting. This change should have no impact on small business.

The current rule requires businesses to disclose certain information when they replace the existing refrigerant in a motor vehicle air conditioner or trailer refrigeration equipment with a substitute refrigerant. The proposed rule adds a few more disclosures to those already required and requires the business to comply with EPA installation restrictions. These changes should have minimal impact on small business.

The proposed rule prohibits deceptive advertising and sales claims for substitute refrigerants. A seller may not claim that a refrigerant is an effective substitute for an ozone-depleting refrigerant, if that claim is not true. This change should have no impact on small business.

Flexibility. 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

No comments were received.

Athletic Trainers Affiliated Credentialing Board (CR 00-131)

An order to create chs. AT 1 to 5 relating to the licensure and regulation of athletic trainers.

Effective 3-1-01

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 received.

Commerce (CR 00-130)

An order affecting ch. Comm 46 relating to risk screening and closure criteria for petroleum product contaminated sites, and agency roles and responsibilities.

Effective 3-1-01

Summary of final regulatory flexibility analysis

The rule provides an increased amount of flexibility for all businesses and owners of property contaminated by petroleum products. The rule establishes risk criteria that will allow sites to close after a site investigation, if risk screening and closure criteria are satisfied. Ch. Comm 46 will allow site owners to make maximum use of the current flexible closure provisions contained in the Department of Natural Resource's Chapter NR 726, Wis. Adm. Code.

During the hearing process no unique small business issues were raised. The issues responded to were generally on the technical provisions of the rule. The overall purpose and impact of the rule is to provide more options and risk-based decision making for sites where remediations of petroleum contaminations are required. This will benefit small and large businesses.

The rule does not increase the number of reports required from small businesses. The rule does, however, eliminate the need for many owners to prepare a remedial action report. The rule also will eventually decrease the number and scope of progress reporting required from environmental consultants.

The rule will not require additional costs or investments on the part of small businesses.

Comments

No comments were received.

Health and Family Services (CR 99-157)

An order to repeal and recreate ch. HFS 175 relating to recreational and educational camps.

Effective 3-1-01

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 where 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 the 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 recordkeeping 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 received.

**Health and Family Services
(CR 00-92)**

An order to repeal and recreate ch. HFS 110 relating to licensing of ambulance service providers and licensing of emergency medical technicians-basic.

Effective 3-1-01

Summary of final regulatory flexibility analysis

These rules apply to the following organizations: the Department of Health and Family Services, the Division of Hearings and Appeals in the Department of Administration, ambulance service providers and emergency medical technicians.

About 81 of the 460 licensed ambulance service providers in Wisconsin may be "small businesses" as defined in s. 227.114 (1) (a), Stats. Moreover, these rules implement new training requirements for these small businesses. However, any additional costs associated with the additional basic training course will be covered by the Department through a funding assistance program and, consequently, there should be no additional expenses for businesses to comply with these revised rules.

Comments

No comments were received.

**Natural Resources
(CR 00-089)**

An order to repeal chs. NR 161, 162, and 163 and to create ch. NR 162 relating to clean water fund program financial assistance.

Effective 3-1-01

Summary of final regulatory flexibility analysis

Since only municipalities are eligible for clean water fund program assistance, there is no direct effect on small businesses. Therefore, a final regulatory flexibility analysis is not required.

Comments

The proposed rules were reviewed by the Assembly Committee on Environment and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

**Pharmacy Examining Board
(CR 00-107)**

An order affecting ch. Phar 8 relating to the dispensing of controlled substances.

Effective 3-1-01

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 received.

**Public Service Commission
(CR 98-190)**

An order to create ch. PSC 179, relating to telecommunications dispute resolution and whether an alleged failure to comply with an interconnection agreement has a significant adverse effect on another party to the agreement.

Effective 3-1-01

Summary of final regulatory flexibility analysis

This rule may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. These small telecommunications utilities, of which there are 76 in Wisconsin, like other telecommunications providers (both large and small) may be parties to interconnection agreements about which dispute arise.

The statute implemented by this rule provides an expedited process for resolving such disputes where "significant adverse effect" is alleged. The statute does not allow for different treatment of small telecommunications utilities. This rule outlines the factors the Commission will consider in determining whether "significant adverse effect" exists.

Any adverse impact on small telecommunications utilities is expected to be minimal. In fact, this rule and the statute it implements were intended to expedite the resolution of disputes and therefore will benefit small telecommunications utilities involved in such disputes.

The agency has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small businesses. However, this rule does not impose any new compliance requirements or any new reporting, bookkeeping, or other procedural compliance requirements. Therefore, the impact reduction methods are not really applicable.

Comments

No comments were received.

Public Service Commission
(CR 00-113)

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

Effective 3-1-01

Summary of final regulatory flexibility analysis

The proposed rule amendments apply only to “sewerage system operators”, which are municipal entities rather than small businesses. Because the rules will apply only to municipalities, there will be no financial burden of these proposed rules on small businesses. The rule will not have “a significant economic impact on a substantial number of small businesses.” Section 227.19 (3m), Stats.

Comments

As indicated in the clearinghouse report, the Legislative

Council made three suggestions of a technical (nonsubstantive) nature designed to improve and clarify the proposed rules. All of the suggested changes have been made.

Workforce Development
(CR 00-127)

An order affecting chs. DWD 22 and HSS 205, 206, 207, 225, and 244 relating to obsolete public assistance policies and procedures.

Effective 3-1-01

Summary of final regulatory flexibility analysis

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

Comments

No comments were received.

Sections affected by rule revisions and corrections

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

Athletic Trainers Affiliated Credentialing Board:

Chs. AT 1 to 5 (entire code)

Commerce:

(Risk Screening and Closure Criteria for Petroleum Product Contaminated Sites, Ch. Comm 46)

Ch. Comm 46 (entire chapter)

Health and Family Services:

(Health, Chs. HFS 110--)

Ch. HFS 110 (entire chapter)

Health and Social Services:

(Economic Support, Chs. HSS 200--)

Chs. HSS 205 to 207 (entire chapters)

Ch. HSS 225 (entire chapter)

Ch. HSS 244 (entire chapter)

Natural Resources:

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

Chs. NR 161 to 163 (entire chapters)

Pharmacy Examining Board:

Ch. Phar 8

S. Phar 8.05 (1), (6) and (7)

Public Service Commission:

Ch. PSC 132

S. PSC 132.02 (3)

Ch. PSC 179 (entire chapter)

Workforce Development:

(Economic Support, Chs. DWD 11-59)

Ch. DWD 22 (entire chapter)

Editorial corrections

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

Administration:

Ch. Adm 65

S. Adm 65.07 (entire section) had a correction made under s. 13.93 (2m) (b) 6., Stats.

S. Adm 65.15 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Adm 65.17 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Agriculture, Trade and Consumer Protection:

Ch. ATCP 70

S. Adm 70.07 (1) (c), (2) (c) and (3) (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 80

- S. Adm 80.08 (8) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Adm 80.28 (1) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Health and Social Services:

(Economic Support, Chs. HSS 200—)

Ch. HSS 211

- S. HSS 211.03 (6) and (7) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. HSS 230

- S. HSS 230.03 (1) and (8) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Natural Resources:

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

Ch. NR 710

- SS. NR 710.01 and 710.02 (entire sections) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 710.03 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 710.13 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 710.15 (2) (b) and (5) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 710.25 (4) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
Comm 27.30	218.14	101.95
Comm 32.01	101.01 (2) (f)	101.01 (11)
Comm 47.51 (1)	15.227 (18)	15.157 (11)
Comm 81.01 (152)	66.058 (1) (d)	66.0435 (1) (d)
Comm 81.01 (154)	66.058 (1) (e)	66.0435 (1) (e)
DOC 302.145 (3) (b) 6.	53.11 (1)	302.11 (1)
DOC 328.07 (1)	973.09 (1m) (b) 973.09 (1r) and (8)	Note inserted: 1987 Wis. Act 398 repealed s. 973.09 (1m), (1r), and (9) and created similar provisions in s. 973.20.
DOC 328.07 (2)	973.09 (1m) (a)	Note inserted: Same as above
DOC 328.07 (8)	973.09 (1m) (e)	Note inserted: Same as above
DOC 331.01 (1)	46.03 (6), 53.11, 53.19, 53.31, 57.06, 57.072, 161.47	301.025, 302.11, 302.19, 302.31, 304.06, 304.072, 961.47 Note inserted: 1995 Wis. Act 27 repealed s. 46.03 (6), Stats., and created a successor provision in s. 301.025, Stats.
DOC 331.11 (intro.) and (1)	161.47	961.47
DOC 331.15 (2)	57.072	304.072
DOC 331 Appendix – Note for DOC 331.11	161.47 161.47 (1)	961.47 961.47 (1)
DOC 332.02 (7)	301.45 (1)	301.45 (1g)
DOC 332.03	301.45 (1)	301.45 (1g)
DOC 332.04 (3) (a)	301.45 (7) (c) 1. and 2.	301.45 (7) (d) 1. and 2.
DOC 333.04 (1) (a)	301.048 (2) (a)	301.048 (2) (am) 1.
DOC 333.04 (1) (c)	301.048 (2) (d)	301.048 (2) (am) 4.
DOC 333.04 (1) (d)	301.048 (2) (b)	301.048 (2) (am) 2.
DOC 333.09 (2)	301.048 (2) (d) 301.048 (2) (c)	301.048 (2) (am) 4. 301.048 (2) (am) 3.
DOC 333.13 (6) (b) 2.	161.01 (4)	961.01 (4)

Location of invalid cross-reference	Invalid cross-reference	Correction
DOC 346.01	48.22 (2) (a)	Note inserted: Section 48.22, Stats., was repealed by 1995 Wis. Act 77.
DOC 346.03 (9)	48.18	Note inserted: Section 48.18, Stats., was repealed by 1995 Wis. Act 77.
DOC 346.03 (17) (a)	48.22 (3) (a) 48.22 (3) (b)	Note inserted: Section 48.22, Stats., was repealed by 1995 Wis. Act 77.
DOC 346.04 (1) and (3)	48.22 (2) (a)	Note inserted: Section 48.22, Stats., was repealed by 1995 Wis. Act 77.
DOC 346.07 (2)	48.17	Note inserted: Section 48.22, Stats., was repealed by 1995 Wis. Act 77.
DOC 346.09 (2)	161.01 (19)	961.01 (19)
DOC 346.10 (1) and (2)	143.05 (6) (b)	252.06 (6) (b)
DOC 346.33 (4) (c)	48.22 (3) (c)	938.22 (3) (c)
DOC 346.39 (2) (intro.)	HFS 145.03 (2)	HFS 145.03 (4)
DC 1.01 (8)	655.06	Note inserted: Section 655.06, Stats., was repealed by 1985 Wis. Act 340.
EIBd 4.01 (1) and (2) (b)	7.39	Note inserted: Section 7.39, Stats., was repealed by 1999 Wis. Act 182.
ER 18.01 (2) (b) ER 18.02 (2) (b) 6. (twice), (3) (c) 3., (4) (b) 18.03 (5) (b)	20.923 (4m)	Delete (4m)
ER-MRS 22.10 (6)	ER-MRS 15.04 (2)	ER-MRS 15.04
ETF 50.50 (4)	25.156 (7) (a)	Note inserted: Section 25.156, Stats., was repealed by 1999 Wis. Act 9.
NR 5.19 (1)	30.69 (1m) (c)	30.69 (1) (c)
NR 5.22	30.681 (5) (a) and (b)	30.684 (5) (a) and (b)
NR 13.04 (1) (a) 17.	29.02	29.011
NR 13.04 (1) (a) 18.	29.03	29.927
NR 13.04 (1) (a) 19.	29.06	29.934
NR 13.04 (1) (a) 20.	29.08	29.043
NR 13.04 (1) (a) 21.	29.085	29.041
NR 13.04 (1) (a) 22.	29.09	29.024 and 29.193
NR 13.04 (1) (a) 24.	29.092 (5) (a)	29.512 (5) (a)
NR 13.04 (1) (a) 32.	29.093	29.569
NR 13.04 (1) (a) 33.	29.137 (2) (a)	29.509 (1) (a)
NR 13.04 (1) (a) 34.	29.137 (5)	Note inserted: Section 29.137 (5), Stats., was repealed by 1997 Wis. Act 248.
NR 13.04 (1) (a) 35.	29.137 (7)	29.509 (5)
NR 13.04 (1) (a) 36.	29.137 (8)	29.509 (6)

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 13.04 (1) (a) 39.	29.175	29.039
NR 13.04 (1) (a) 40.	29.225	29.591
NR 13.04 (1) (a) 41.	29.24	29.337
NR 13.04 (1) (a) 42.	29.255	29.321
NR 13.04 (1) (a) 44.	29.336	29.522
NR 13.04 (1) (a) 45.	29.42 (3)	29.354 (3)
NR 13.04 (1) (a) 46.	29.49 (1) (b)	29.541 (1) (b)
NR 13.04 (1) (a) 47.	29.50	29.701
NR 13.04 (1) (a) 48.	29.51 (1)	29.709 (1)
NR 13.04 (1) (a) 49.	29.51 (2)	29.709 (2)
NR 13.04 (1) (a) 50.	29.54 (1)	29.741 (1)
NR 13.04 (1) (a) 51.	29.544 (1) and (2)	29.607 (1) and (2)
NR 13.04 (1) (a) 52.	29.55	29.857
NR 13.04 (1) (a) 53.	29.555	29.617
NR 13.04 (1) (a) 54.	29.579	29.873
NR 13.04 (1) (a) 55.	29.59	29.885
NR 13.04 (1) (a) 57.	29.605	29.881
NR 13.04 (1) (a) 58.	29.62	29.421
NR 13.04 (1) (a) 59.	29.623	29.424
NR 13.04 (1) (a) 60.	29.625	29.417
NR 13.04 (2) (a) 8.	29.288	Note inserted: Section 29.288, Stats., was repealed by 1989 Wis. Act 335.
NR 13.04 (2) (a) 9.	29.29 (3)	29.601 (3)
NR 13.04 (2) (a) 10.	29.64	29.951
NR 13.04 (2) (a) 11.	29.641	29.954
NR 13.04 (2) (a) 12.	29.642	29.961
NR 13.04 (2) (a) 13.	29.643	29.964
NR 13.04 (2) (a) 14.	29.644	29.957
NR 13.04 (2) (a) 15.	29.645	29.969
NR 13.04 (3) (g)	29.01	29.001
NR 13.04 (3) (h)	29.05	29.921, 29.924, 29.931 and 29.944
NR 13.04 (3) (i)	29.07	29.941
NR 13.04 (3) (j)	29.65	29.977
NR 13.04 (3) (k)	29.99	29.971
NR 13.04 (3) (L)	29.995	29.974

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 13.04 (3) (m)	29.996	29.981
NR 13.04 (3) (n)	29.997	29.987
NR 13.04 (3) (o)	29.998	29.989
NR 13.04 (4) (a) 2.	29.134	29.501
NR 13.04 (4) (a) 3.	29.135	29.503
NR 13.04 (4) (a) 4.	29.136	29.506
NR 13.04 (4) (a) 5.	29.137 (9)	29.509 (7)
NR 13.04 (4) (a) 6.	29.165	29.512
NR 13.04 (4) (a) 7.	29.39	29.055
NR 13.04 (4) (a) 8.	29.395	29.057
NR 13.04 (4) (a) 9.	29.415	29.604
NR 13.04 (4) (a) 10.	29.42 (1)	29.354 (1)
NR 13.04 (4) (a) 11.	29.42 (2)	29.354 (2)
NR 13.04 (4) (a) 12.	29.425	29.334 and 29.853
NR 13.04 (4) (a) 13.	29.427	29.855
NR 13.04 (4) (a) 14.	29.43 (1), (4) and (5)	29.357 (1), (4) and (5)
NR 13.04 (4) (a) 15.	29.44	29.047
NR 13.04 (4) (a) 16.	29.47	29.407
NR 13.04 (4) (a) 17.	29.475	29.071
NR 13.04 (4) (a) 18.	29.48	29.539
NR 13.04 (4) (a) 19.	29.49	29.541
NR 13.04 (4) (a) 20.	29.513	29.737
NR 13.04 (4) (a) 21.	29.515	29.713
NR 13.04 (4) (a) 23.	29.535	29.745
NR 13.04 (4) (a) 24.	29.56	29.091
NR 13.04 (4) (a) 25.	29.57	29.621
NR 13.04 (4) (a) 26.	29.572	29.863
NR 13.04 (4) (a) 27.	29.573	29.865
NR 13.04 (4) (a) 28.	29.574	29.867
NR 13.04 (4) (a) 29.	29.575	29.869
NR 13.04 (4) (a) 30.	29.578	29.871
NR 13.04 (4) (a) 31.	29.585	29.877
NR 13.04 (4) (a) 32.	29.586	29.879
NR 13.05 (2)	29.43 (1)	29.357 (1)
NR 13.05 (2)	29.44	29.047

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 13.05 (3)	29.475	29.071
NR 13.05 (4) (a)	29.03	29.927
NR 13.05 (4) (b)	29.42 (1)	29.354 (1)
NR 13.05 (6) (b) (intro.)	29.475	29.071
NR 13.05 (11) (a)	29.134	29.501
NR 13.05 (11) (1)	29.135	29.503
NR 13.05 (11) (a)	29.136	29.506
NR 13.05 (11) (a)	29.48	29.539
NR 13.05 (11) (a)	29.49	29.541
NR 13.05 (11) (b) (intro.)	29.48	29.539
NR 13.05 (11) (b) (intro.)	29.49	29.541
NR 13.05 (11) (b) 8.	29.48	29.539
NR 13.10 (1) (a)	29.137 (5m)	29.509 (4)
NR 13.10 (1) (b)	29.148 (4)	29.237 (4)
NR 13.10 (1) (c)	29.283 (3)	29.404 (1)
NR 13.10 (1) (e)	29.30 (2) (e)	29.516 (2) (e)
NR 13.10 (1) (f)	29.36	29.531
NR 13.10 (1) (g)	29.37 (3) and (4)	29.533 (3) and (4)
NR 13.10 (1) (h)	29.38	29.537
NR 13.10 (1) (i)	29.47 (6)	29.407 (4)
NR 13.10 (1) (j)	29.51 (4)	29.705 (5)
NR 13.12 (1) (b)	29.30	29.516
NR 13.12 (10)	29.38	29.537
NR 13.30 (1) (a)	29.101	29.311
NR 13.30 (1) (b)	29.104 (4) (b)	29.171 (4) (b)
NR 13.30 (1) (c)	29.107	29.177
NR 13.30 (1) (d)	29.1085	29.184
NR 13.30 (1) (e)	29.109 (2)	Note inserted: Section 29.109 (2), Stats., was repealed by 2997 Wis. Act 1.
NR 13.30 (1) (f)	29.125	29.059
NR 13.30 (1) (g)	29.13 (1) (d)	29.331 (1)
NR 13.30 (1) (h)	29.13 (2)	29.331 (2)
NR 13.30 (1) (i)	29.13 (3)	29.331 (3)
NR 13.30 (1) (j)	29.13 (5)	29.331 (5)
NR 13.30 (1) (k)	29.22	29.301

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 13.30 (1) (L)	29.221	29.341
NR 13.30 (1) (m)	29.222	29.345
NR 13.30 (1) (n)	29.226	29.593
NR 13.30 (1) (o)	29.227	29.304
NR 13.30 (1) (p)	29.23	29.307
NR 13.30 (1) (q)	29.245	29.314
NR 13.30 (1) (r)	29.256	29.317
NR 13.30 (1) (s)	29.27	29.327
NR 13.30 (1) (t)	29.29 (1) and (2)	29.601 (1) and (2)
NR 13.30 (1) (u)	29.40	29.347
NR 13.30 (1) (v)	29.405	29.324
NR 13.30 (1) (w)	29.41	29.351
NR 13.30 (1) (x)	29.45 (2), (4) and (5)	29.361 (2), (4) and (5)
NR 555.03 (11)	84.076	289.55 (1) (c)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 415. Relating to the amendment of Executive Order No. 411.

Executive Order 416. Relating to a statement of direction regarding proper software license compliance.

Executive Order 417. Relating to winter heating season energy conservation measures for facilities owned by the State of Wisconsin.

Public notices

Workforce Development

(Temporary Assistance for Needy Families)

Background

The Wisconsin Department of Workforce Development (DWD), through the Division of Economic Support, administers the Temporary Assistance for Needy Families (TANF) block grant program. As part of the TANF program, Congress created a caseload reduction credit. The credit was created to give States credit for families that have become self-sufficient and left the welfare rolls; it reduces the required work participation rate that a State must meet for a fiscal year. It reflects the reduction in the State's caseload in the prior year compared to its caseload under the Aid to Families with Dependent Children Program State Plan in effect in federal fiscal year 1995 (10/1/94–9/30/95), excluding reductions due to Federal law or to State changes in eligibility criteria.

To receive the caseload reduction credit, Wisconsin must submit data to the Administration for Children and Families, federal Department of Health and Human Services, by February 15, 2001. Under the federal regulations implementing the TANF program, 45 CFR 261.41(a)(8), Wisconsin must certify that it has provided the public an appropriate opportunity to comment on the estimates and methodology used to determine the caseload reduction credit, that it considered the public comments it received on the methodology, and incorporated all net reductions resulting from Federal and State eligibility changes. In addition, it must include a summary of all public comments.

Opportunity for Public Comment

Through this notice the Department is announcing that the caseload reduction credit methodology is available for public comment on the Department's Website, <http://www.dwd.state.wi.us>. Copies of the methodology may also be obtained by contacting Sheryl Otto, by phone at 608/261-8087 or e-mail, ottosh@dwd.state.wi.us. Comments on the methodology may be sent to Sheryl Otto, Bureau of Division-wide Services, 212 E. Washington Avenue, P.O. Box 7935, Madison, WI 53707-7935, fax 608/266-9693 or e-mail, ottosh@dwd.state.wi.us. Comments must be received by Monday, March 12, 2001.

Contact Person

For more information about the TANF caseload reduction credit methodology, e-mail: korbros@dwd.state.wi.us or write:

Robert R Korb
Bureau of Division-wide Services
Division of Economic Support
Department of Workforce Development
P.O. Box 7935
Madison, WI 53707-7935

Department of Transportation

Section 85.515, Stats., permits the Secretary of the Department of Transportation to implement provisions of 1997 Wis. Act 84 as the Department's computerized information systems become operational.

Public Notice of April 9, 2001, effective date for all provisions of 1997 Wis. Act 84 as the Department's computerized information systems become operational.

Whereas, the Secretary of the Wisconsin Department of Transportation, by order dated May 26, 2000 made the following provisions of 1997 Wis. Act 84, 1999 Wis. Acts 9 and 143 effective as of August 1, 2000: sections 7, 12, 14, 15, 18, 39, 40, 43, 49, 50, 51, 52, 53, 64, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, and 80 of 1997 Wis. Act 84, sections 2750 and 2751 of 1999 Wis. Act 9, and all sections of 1999 Wis. Act 143 as of August 1, 2000; and

Whereas, the Secretary of the Wisconsin Department of Transportation, by order dated November 11, 1999 made the following provisions of 1997 Wis. Act 84 effective as of January 1, 2000: sections 2, 3, 4, 5, 17, 19, 25, 26, 27, 28, 29, 30, 31, 32, 33, 38, 54, 56, 148, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165 and 166; and

Whereas, the Secretary of the Wisconsin Department of Transportation, by order dated June 15, 1998 made sections 58 and 151 of 1997 Wisconsin Act 84 effective as of August 1, 1998; and

Whereas, the Department's computerized information systems will be ready to fully implement the remaining provisions of 1997 Wisconsin Act 84 on April 9, 2001,

Now, therefore, by this public notice, and under the authority of s. 85.515, Stats., Terrence D. Mulcahy, Secretary of the Wisconsin Department of Transportation, declares that all remaining sections and provisions of 1997 Wis. Act 84 not previously made effective shall become effective as of April 9, 2001.

Contact Person

For Information regarding this notice, contact: Compliance and Restoration Section of the Division of Motor Vehicles, Phone: (608) 266-2261, FAX: (608) 267-3812, Mailing address: P.O. Box 7917, Madison, WI 53707.

Notice of nonacquiescence

Tax Appeals Commission

EFREM V. FUDIM,	:	
Petitioner,		NOTICE OF NONACQUIESCENCE
v.	:	Docket No. 00-1-126
WISCONSIN DEPARTMENT OF REVENUE,		
Respondent.	:	

Pursuant to s. 73.01 (4) (e) 2. of the Wisconsin Statutes, the respondent hereby gives notice that although it is not appealing the decision and order reversing the oral decision of the Tax Appeals Commission rendered in the above captioned matter under date of February 1, 2001, it has adopted a position of nonacquiescence in regard to that decision or order. The effect of this action is that, although the decision or order is binding on the parties for the instant case, the Commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the respondent in other cases.

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