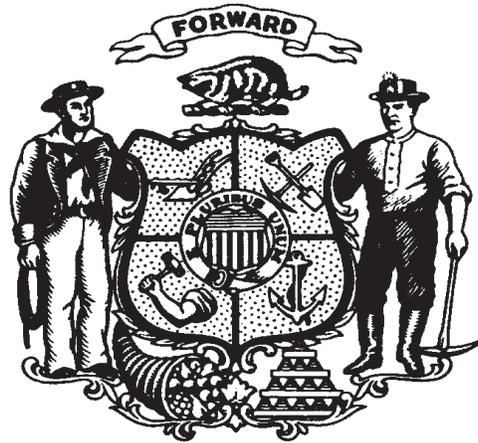


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Emergency rules now in effect

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 and Consumer Protection

Rules adopted revising **Chs. ATCP 10 and 11** relating to chronic wasting disease in cervids.

Finding of emergency

(1) Chronic wasting disease is a contagious disease known to affect several species of the cervid family, including elk, white-tailed deer, black-tailed deer, red deer and mule deer. The disease is always fatal. At the present time, there is no scientific evidence to suggest that chronic wasting disease is transmitted to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(2) The cause of chronic wasting disease is not fully understood. The disease appears to be related to aberrant protein molecules called prions. By an unknown mechanism, prions apparently cause other protein molecules in the cervid brain to take aberrant forms. The disease causes microscopic vacuoles (holes) in the brain. Diseased cervids become emaciated, display abnormal behavior patterns, and experience loss of bodily functions.

(3) Science does not understand how chronic wasting disease is spread. It is thought that infected cervids can transmit the disease to other cervids, either directly or by contaminating their environment. It appears that cervid-to-cervid contact facilitates the spread of the disease.

(4) On February 27, 2002, the national veterinary services laboratory informed Wisconsin that it had confirmed chronic wasting disease for the first time in this state. The laboratory confirmed the disease in test samples collected from 3 free-ranging white-tailed deer killed by hunters during the November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected these samples as part of a statewide disease surveillance program. With the voluntary cooperation of hunters, DNR collected test samples

from deer killed and registered by hunters at selected hunting registration sites around the state. DNR collected a total of 345 samples statewide, including 82 samples at the Mt. Horeb registration station. The 3 deer that tested positive for chronic wasting disease were all registered at the Mt. Horeb station. The 3 deer were shot in close proximity to each other in Vermont Township in Dane County. We do not know how the 3 deer were exposed to chronic wasting disease, nor do we know the extent of infection in the free-ranging herd.

(5) We do not know whether any captive cervids in Wisconsin are infected with chronic wasting disease (there are no findings to date). If captive cervids are infected, the close proximity of cervids within a captive herd may facilitate the spread of disease within the herd. The movement of infected cervids between herds may spread the disease to other herds. Contact between free-ranging and captive cervids may also spread the disease.

(6) Persons importing captive cervids to Wisconsin must obtain an import permit from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Importers must identify the herd of origin and the herd of destination. A veterinarian must certify that the cervids appear to be in good health, and that they have been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing requirement, because there is no way to test live cervids for the disease.

(7) Since 1995, a total of 2,604 captive cervids have been legally imported into Wisconsin. This includes 2,020 elk, 191 whitetail deer, 12 mule deer and 387 other cervids. Chronic wasting disease has been found in free-ranging herds or in some captive herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming. Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from these states. Most other states lack active chronic wasting disease surveillance programs, so the full extent of the disease is not known with certainty.

(8) DATCP currently registers captive cervid herds, other than white-tail deer herds. DNR currently licenses captive white-tail deer herds. Since 1998, DATCP has sponsored a voluntary program to monitor for chronic wasting disease among the captive herds that it registers. Approximately 50 herd owners currently participate in this program.

(9) Since chronic wasting disease was confirmed in this state, there has been widespread public concern about the disease. The public has expressed concern about the health of free-ranging deer and elk, and about potential threats to humans, livestock and deer-related businesses. Hunters and consumers have expressed food safety concerns. There is currently no scientific evidence to suggest that chronic wasting disease is transmissible to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(10) In order to protect the public peace, health, safety and welfare, it is necessary to take immediate steps to prevent and control the spread of chronic wasting disease in this state. Among other things, it is necessary to impose further controls on the import and movement of captive cervids and to implement a mandatory monitoring program. DATCP may adopt rules to implement these measures.

(11) Normal rulemaking procedures require up to a year or more to complete. A temporary emergency rule is needed to protect the public peace, health, safety and welfare, pending

the adoption of longer-term rules. This emergency rule will implement essential prevention and control measures on an immediate, interim basis.

Publication Date: April 9, 2002
Effective Date: April 9, 2002
Expiration Date: September 6, 2002
Hearing Date: May 22, 2002
 [See Notice this Register]

Commerce (2)

(Financial Assistance for Businesses and Communities) (Chs. Comm 105–128)

1. Rules adopted revising **ch. Comm 110** relating to brownfields redevelopment grants.

Finding of emergency

The Department of Commerce finds that an emergency exists and that adoption of the rule is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under section 3628 of 2001 Wis. Act 16, the Department must begin accepting applications from trustees and nonprofit organizations, for brownfields redevelopment grants. And, under section 3630 of the Act, the Department must begin disallowing use of the grant funds to pay either delinquent real estate taxes or lien claims of the Department of Natural Resources or the federal Environmental Protection Agency.

The Department's rules for administering the brownfields grant program are currently contained in ch. Comm 110 Wis. Adm. Code. These current rules do not recognize trustees and nonprofit organizations as eligible applicants, and do not include disallowing grant funds for payments on either back taxes, or on state or federal lien claims.

In November, the Department expects to begin promulgating permanent rules for making ch. Comm 110 consistent with Act 16. Due to the mandatory rulemaking procedures under ch. 227, Stats., the permanent rules are not expected to become effective until July 1, 2002. In order to comply with Act 16 by accepting applications and issuing grants for trustees and nonprofit organizations prior to then, emergency rules reflecting these changes are needed, as included herein. These emergency rules also address the above disallowance for grant proceeds, and include some minor updating of the ch. Comm 110 criteria for submitting grant applications and for filing subsequent financial and program reports.

Pursuant to s. 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

Publication Date: October 27, 2001
Effective Date: October 27, 2001
Expiration Date: March 26, 2002
Hearing Date: January 11, 2002
Extension Through: May 24, 2002

2. Rules adopted creating **ch. Comm 107**, relating to Wisconsin technology zone program.

Finding of emergency

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

Facts constituting the emergency are as follows:

- In accordance with s. 560.02 (4), Stats., the department of Commerce has the responsibility to promulgate rules to provide for the attraction, promotion and expansion of high-technology business in the state.

- Section 560.96, Stats., makes available certain tax benefits for certified businesses within the 8 designated technology zones. Tax benefits are available to certified businesses if their tax year begins on or after January 1, 2002.

- In response to a downturn in the economy and recent economic forecasts, Governor McCallum has prioritized the need to promulgate these rules as part of his economic stimulus package.

- The technology zone program will address several action items identified by the 2000 Wisconsin Economic Summit to ensure Wisconsin's short- and long-term economic vitality and success, including:

1. Combating the state's 'brain drain' by increasing high tech jobs.

2. Linking Wisconsin's research expertise with Wisconsin firms to grow clusters of high-tech jobs.

3. Linking economic strategies across regions for power through collaboration.

- This emergency rule is being created in order that the process of designating the 8 technology zones be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Wisconsin Technology Zone Program.

Publication Date: December 5, 2001
Effective Date: December 5, 2001
Expiration Date: May 4, 2002
Hearing Date: January 11, 2002
Extension Through: July 2, 2002

Health & Family Services

(Health, Chs. HFS 110—)

Rules adopted creating **s. HFS 119.07 (6m)**, relating to prescription drug coinsurance coverage.

Exemption from finding of emergency

These are emergency rules creating s. HFS 119.07 (6m), Wis. Admin. Code to establish for prescription drug coverage a drug benefit separate from the medical benefits for the Health Insurance Risk-Sharing Plan (HIRSP) as authorized by s. 149.14 (5) (e), Stats., as amended by 2001 Wis. Act 16, and s. 149.146 (2) (am) 5., Stats., as created by 2001 Wis. Act 16. Section 9123 (9w) of the Act authorizes the department to use the emergency rulemaking procedures under s. 227.24, Stats., to promulgate these rules, exempts the department from making a finding of emergency, and from providing evidence that promulgating these rules as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare.

The HIRSP Board of Governors on September 13, 2001, approved the coinsurance rate and out-of-pocket limits established in these rules, as required by s. 149.14 (5) (e) Stats., as amended by 2001 Wis. Act 16 and s. 149.146 (2) (am) 5, Stats., as created by 2001 Wis. Act 16.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP health insurance coverage includes prescription drug coverage. Currently, two major issues affect HIRSP prescription drug coverage. The first issue is that pharmacies have difficulty determining the financial liability of HIRSP policyholders. The second issue is that the current system of HIRSP reimbursement to policyholders for prescription drug costs is financially burdensome to HIRSP policyholders. To resolve these issues, the department proposes to implement effective January 1, 2002, new coinsurance provisions for HIRSP's drug benefit that will clarify the financial liability of HIRSP policyholders for covered prescription drug costs and eliminate the process of reimbursing policyholders for prescription drug expenses by establishing policyholders' minimum and maximum out-of-pocket costs for covered prescription drugs.

The proposed rules will affect approximately 12,000 HIRSP policyholders statewide.

Publication Date: December 20, 2001
Effective Date: January 1, 2002
Expiration Date: May 31, 2002
Hearing Date: January 29, 2002

Natural Resources (2)

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

1. Rules adopted revising **ch. NR 20**, relating to sturgeon spearing on the Lake Winnebago system.

Finding of emergency

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

Winter spear harvest of sturgeon has continued to exceed the total allowable harvest goals due to an increase in spearing pressure and the current format of the season, which allows continued spearing for 1 day following the announcement of the season closure (when 80% of the total allowable harvest is reached). Harvest on the final day of the 2001 season resulted in a final harvest that exceeded the total allowable harvest by 52%. An emergency order is needed to protect the sturgeon population by preventing continued overharvest of female sturgeon during the 2002 season while permanent rules are being developed. The early closure should reduce spearing effort by 40%, which should decrease the daily harvest and reduce the risk of exceeding the total allowable harvest on the final day of the season.

Publication Date: December 14, 2001
Effective Date: December 14, 2001
Expiration Date: May 13, 2002
Hearing Date: January 14, 2002

2. Rules adopted revising **s. NR 20.20 (73) (j) 4.**, relating to sport fishing for yellow perch in Lake Michigan and Lake Michigan tributaries.

Finding of emergency

The Department of Natural Resources finds that an emergency exists and that rules are necessary for the

immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Yellow perch reproduction has been poor in Lake Michigan since 1990, leading to the closure of commercial fishing and severe limitations on sport fishing. Reproduction was moderately good in 1998, and reproduction by fish spawned in that year now provides the best hope for an early recovery of the population. This rule is needed to adequately protect fish spawned in 1998 during the 2002 spawning season.

Publication Date: April 15, 2002
Effective Date: April 15, 2002
Expiration Date: September 12, 2002
Hearing Date: April 8, 2002

Pharmacy Examining Board

Rules adopted revising **chs. Phar 1 and 2**, relating to a pharmacy internship program.

Finding of emergency

2001 Wis. Act 16 creates and amends rules relating to a pharmacy internship program.

Section 3608L of Wis. Act 16, Wis. Stats. s. 450.045, which had previously authorized a Pharmacy Internship Board to implement and oversee the practice of pharmacy in this state by pharmacy interns prior to receiving licensure from the Pharmacy Examining Board.

Section 2154 of Wis. Act 16 mandates that effective December 31, 2001, the repeal of Wis. Stats. s. 450.045 becomes effective. As of December 31, 2001, there will currently be pharmacy interns still serving internships in this state and additional pharmacy students beginning January 1, 2001, who will seek to begin an internship program. However, no standards or oversight will be in place by administrative rule of the Pharmacy Examining Board which is now charged with authority for the pharmacy internship process.

The administrative rule-making process will not allow rules to be in place as of January 1, 2002, without the use of the emergency rule procedure. The emergency rule is needed therefore to effect a transfer of oversight from the extinguished Pharmacy Internship Board to the Pharmacy Examining Board as of January 1, 2001.

Publication Date: December 30, 2001
Effective Date: January 1, 2002
Expiration Date: May 31, 2002
Hearing Date: February 12, 2002

Public Instruction

Rules adopted revising **ch. PI 35**, relating to the Milwaukee parental choice program.

Finding of emergency

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

In the past, private schools that intended to participate in the Milwaukee parental choice program were required to submit to the state superintendent a notice of intent to participate by May 1, 2001 Wis. Act 16 changed the

submission date of the notice from May 1 to February 1. The rules allow a private school to choose from a variety of student application periods. The student application period chosen by the private school must be indicated on its notice. Because the notice is due at the department by February 1, emergency rules must be in place as soon as possible.

Publication Date: January 28, 2002
Effective Date: January 28, 2002
Expiration Date: June 27, 2002
Hearing Date: April 9, 2002

Transportation

Rules adopted amending **s. Trans 102.15**, relating to the issuance of driver's licenses and identification cards.

Finding of emergency

This rule is adopted in response to the September 11, 2001, terrorist hijackings in the United States, and are intended to help uncover any possible terrorist attempting to obtain identification documents through the Wisconsin Department of Transportation. On November 21, 2001, the New York Times reported that to support their terrorism, terrorists finance applications for political asylum and thus implant terrorist cells in Western Europe. This rule change could interrupt terrorists who have applied for or received asylum in the United States and who attempt to obtain Wisconsin identification documents.

Because of the urgency of current government efforts directed at taking steps to interrupt terrorist workings, this order adopting an emergency rule shall take effect as provided below.

Publication Date: December 21, 2001
Effective Date: December 21, 2001
Expiration Date: May 20, 2002
Hearing Date: February 15, 2002

State Treasurer

Rules adopted creating **ch. Treas 1** relating to the Wisconsin College Savings Program Board.

Exemption from finding of emergency

Section 15 (1), 2001 Wis. Act 7 provides an exemption from a finding of emergency for the adoption of ch. Treas 1.

Analysis prepared by the Office of the State Treasurer

Statutory authority: Section 14.64 (2) (e), Stats., and section 15, 2001 Wis. Act 7.

Statutes interpreted: s. 14.64 *et seq.*, Stats.

The Wisconsin College Savings Program Board establishes a rule for the operation of the College Savings Program. The rule is designed to grant flexibility to program participants wherever possible, while enabling the State and its private-sector partners to administer the program in a manner that protects the program's financial integrity and viability. Maintaining eligibility as a "qualified tuition program" pursuant to section 529 of the Internal Revenue Code [26 USC 529] is another primary objective. "529" programs are eligible for a number of federal tax benefits that are attractive to families saving for future college costs. Significant features of the rule are addressed below:

Sections Treas 1.03, 1.04 and 1.05 describe who may open an account and how to open an account. Section Treas 1.06 discusses designating a successor owner and describes how to change ownership of an account. Sections Treas 1.07 and 1.08 define the account beneficiary and how to change the beneficiary on an account.

Section Treas 1.09 details how to make contributions to an account, including minimum and maximum contribution limits, and how to "rollover" an account balance to another section 529 program. IRS requirements relating to investment direction are also detailed.

Sections Treas 1.11, 1.12 and 1.13 describe account withdrawals, distributions and refunds. Special circumstances are also provided for in these sections, such as the death or disability of the beneficiary or receipt of a scholarship by a beneficiary. Section Treas 1.14 sets forth conditions under which the Board may terminate an owner's account. Sections Treas 1.15 and 1.16 address related fees and penalties.

Publication Date: January 7, 2002
Effective Date: January 7, 2002
Expiration Date: June 6, 2002
Hearing Date: March 5, 2002

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board

Rules adopted creating **ch. VFF-EMT 1**, relating to the length of service award program.

Exemption from finding of emergency

Section 10 (3) (a), 1999 Wis. Act 105.

Analysis prepared by the Department of Administration:

Statutory authority: ss. 16.004 (1) and 16.25 (2), (3), (4) and (5), Stats.

Statutes interpreted: s. 16.25 *et seq.*, Stats.

Pursuant to section 16.25 (2) through (5), Stats., the Volunteer Fire Fighter and Emergency Medical Technician Service Award Board ("Board") is required to establish by rule a program ("Length of Service Awards Program" or "Program") to provide length of service awards, as described in 26 USC 457 (e) (11), to volunteer firefighters ("VFF") and municipalities that operate volunteer fire departments or contract with volunteer fire companies, and to volunteer emergency medical technicians ("EMT"). To the extent permitted by federal law, the Program is to be designed to treat length of service awards as a tax-deferred benefit under the Internal Revenue Code. The rules are to include design features for the Program, the requirements for and the qualifications of private sector entities that are eligible to provide administrative services and investment plans under the Program, and an appeal. Significant features of the rule are addressed below:

Section VFF-EMT 1.04 describes eligibility requirements for municipalities wishing to participate in the program, such as adopting a resolution or ordinance authorizing participation, developing standards for determining the service required of the individuals it sponsors in order to qualify for municipal contributions and providing for circumstances where municipalities wish to jointly operate, or contract with, the same volunteer fire department or volunteer fire company.

Section VFF-EMT 1.05 sets forth requirements and procedures for municipal contributions made on behalf of

eligible volunteers, and for the state's matching contribution (up to \$250 per eligible individual annually).

Section VFF-EMT 1.06 sets forth the parameters for municipal contributions for prior service rendered before the municipality began participating in the Program. The minimum contribution for prior service is set at \$100, and those contributions may spread over a number of years. A separate accounting is required for these prior service payments.

Section VFF-EMT 1.07 sets forth the Program's vesting requirements and the various permutations possible between full and partial vesting periods and the minimum age requirement (age 60) for payout. Section VFF-EMT 1.07 (1) establishes that 20 years service is required to fully vest and, upon reaching age 60, the award must be paid. (This requirement insures that the benefit maintains its tax deferred status.) Section VFF-EMT 1.07 (2) provides that a fully vested individual age 60 or older may continue to provide service toward a new length of service award under a new account but, for IRS rule purposes, contributions must be paid immediately and cannot accumulate. Section VFF-EMT 1.07 (3) provides for partial vesting after 10 years' service. Should the individual perform more than 10 but less than 20 years' service, upon reaching age 60, he or she will receive only 50% of the net asset value of the benefit account for the first 10 years of service rendered, and an additional 5% for each year thereafter, up to 19 years. Section VFF-EMT 1.07 (7) allows an individual to provide simultaneous service to two or more separate municipalities but, in such cases, only one year of service credit may be earned.

Section VFF-EMT 1.09 details the notice and procedure for when a VFF-EMT ceases performing service for one participating municipality and begins performing service for another municipality, which utilizes a different program administrator or vendor. Such a transfer is allowed, but the account will be frozen and a new one started with the new program administrator. However, any accumulated years of credited service will continue to count toward the vesting requirements. Section VFF-EMT 1.10 allows for benefits to be received both upon disability, or to the beneficiaries upon death of the VFF-EMT.

Section VFF-EMT 1.12 sets forth minimum program administrator qualifications. These include five years of experience providing a length of service award program, adequate marketing and enrollment services capabilities, various accounting and record keeping procedures and abilities, membership in good standing in various organizations customary in the program administrator's or investment manager's industry that provides protection against loss, and overall financial strength.

Section VFF-EMT 1.13 provides for the administration of plans offered by a program administrator under a contract with the Board, and standard provisions to be included. These include compliance with all pertinent state and federal statutes, rules and regulations, mandatory full disclosure to the Board of all fees and commissions earned directly and indirectly on the operations of the program, audits, and data processing system failure and administrative service interruption contingency plans. Also important are the required annual statements to participating municipalities and the individuals they sponsor, detailing all contributions made and the fees commissions, and charges paid that affect the individual's account.

Section VFF-EMT 1.17 provides for a two-step appeals process in which a VFF-EMT may first protest service credit issues to the participating municipality, which may consult

with the program administrator. Any decision of the municipality may be reviewed at the Board's discretion. An individual who has a substantial interest affected by a Board decision may appeal directly in writing to the Board. All Board decisions are final.

Publication Date: September 21, 2001

Expiration Date: February 18, 2002

Hearing Date: December 27, 2001

Extension Through: June 17, 2002

Workforce Development (Prevailing Wage Rates, Chs. DWD 290-294)

Rules adopted revising **ch. DWD 290** and creating **ch. DWD 293**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

Finding of emergency

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

The Department of Workforce Development is acting under its statutory authority to adjust thresholds for the application of prevailing wage laws on state or local public works projects and the application of payment and performance assurance requirements for a public improvement or public work. The thresholds are adjusted in proportion to any change in the construction cost index since the statutes were effective or the last adjustment.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process. The department is proceeding with this emergency rule to adjust the thresholds of the application of the prevailing wage rates to avoid imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. The department is proceeding with this emergency rule to adjust the thresholds of the application of the payment and performance assurance requirements in s. 779.14, Stats., to avoid imposing an additional administrative burden on contractors for the same reason. Adjusting the thresholds by emergency rule will also ensure that the adjustments are effective on a date certain that is prior to the time of year that the relevant determinations are generally made.

Publication Date: December 27, 2001

Effective Date: January 1, 2002

Expiration Date: May 31, 2002

Hearing Date: February 27, 2002

Workforce Development (Unemployment Compensation, Chs. DWD 100-150)

Rules adopted amending s. DWD 129.01 (1), relating to extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

Exemption from finding of emergency

Pursuant to 2001 Wis. Act 35, s. 72 (2) (b), the Department is not required to provide evidence that promulgating this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for this rule.

Analysis Prepared by the Department of Workforce Development

Statutory authority: s. 108.08 (1), Stats. and 2001 Wis. Act 35, s. 72 (2) (b).

Statute interpreted: s. 108.08 (1), Stats.

Pursuant to s. 108.08 (1), Stats., a claimant must give notice to the department with respect to a week of unemployment “within such time and in such manner as the department may by rule prescribe” in order to receive benefits for that particular week.

Under the current s. DWD 129.01 (1), a claimant must file his or her initial claim for benefits no later than the close of the week in which the claimant intends the claim to start. For example, a claimant who files two weeks late cannot obtain unemployment benefits retroactively unless the department waives the time limit under the exceptional circumstances provision in s. DWD 129.01 (4). This emergency rule extends the time period for filing an initial claim by seven days beyond the end of the week for which the claimant expects to get the

benefits.

Increasing the time frame within which a claimant may file a timely initial unemployment insurance benefit claim would reduce disparate treatment of claimants in like situations by removing the subjectivity of finding “exceptional circumstances” before allowing late claims and ease an increasing workload for the unemployment insurance division. The institution of this change would eliminate approximately 67% of untimely filing issues. This would translate into savings of 5 to 6 full-time employees (FTEs). These positions would then be able to turn attention and time to resolving other eligibility issues at a time when the unemployment insurance division is currently experiencing a sharp increase in workload and anticipates continued increase over the next three years.

The telephone initial claims system allows the department to be more lenient in proscribing filing deadlines due to its expanded accessibility and speed in identifying and resolving eligibility issues. Programming changes to the telephone initial claims system are estimated to require 50 hours at approximately \$50 to \$60 per hour for a total of \$2500 to \$3000.

Publication Date: April 14, 2002
Effective Date: April 14, 2002
Expiration Date: September 11, 2002

Scope statements

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Subject

Define the requirements for licensure as an architect. Current statutes and administrative rules do not permit the use of an architect-related title prior to formal licensure.

Objective of the Rule. The proposed rule would allow a person in the process of acquiring supervised experience as an architect to use the title "architectural intern."

Policy analysis

The proposed rules would not modify the registration requirements for architects, but would permit use of the term "architectural intern" while a potential licensee is in the process of gaining the required experience.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 443.03 (1) and (2), Stats.

Staff time required

100 hours.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Subject

Temporary permit for the practice of land surveying to applicants who hold a valid land surveying license in another state. Current laws and rules do not specify an expiration date for the temporary permit.

Objective of the Rule. To clarify the expiration date of the temporary permit to be the date the applicant is notified that he or she passed or failed the state jurisdictional examination. If the applicant did not appear to be tested, the temporary permit would expire on the date of the next scheduled state jurisdictional examination.

Policy Analysis

The proposed rules would consist of three sections. The first section would identify the requirements for obtaining a temporary permit. The second section would describe the conditions under which the temporary permit would expire. And the third section would provide for the board to grant an extension of the temporary permit under certain conditions.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 443.06 (3), Stats.

Staff time required

100 hours.

Corrections

Subject

Rule amendment to update ch. DOC 309, relating to resources for inmates.

Objective of the Rule. The portion of these administrative rules relating specifically to inmate accounts and compensation have not been updated since their creation in 1981. With over 20 years experience working with the rules, the department proposes to update the rules to reflect current law as well as current needs of the department.

Policy Analysis

This proposed rule would examine new procedures for the department in processing inmate funds and/or accounts. Prison populations have increased dramatically since these rules were adopted and, therefore, the procedures used today and the policies implemented in these rules may not be functional, practical or efficient in today's prisons. In addition, statutory requirements such as a DNA analysis surcharge have become effective since the origination of this rule. Also, the Prisoner Litigation Reform Act affects such areas of this rule as legal loans to inmates and proper use of release accounts. The proposed rule would make necessary changes in light of statutory updates as well as changes upon evaluation of the rule's current effectiveness.

Statutory authority

Sections 227.11 (2) (a), 301.02, and 301.03, Stats.

Staff time required

It is anticipated that 80 hours of staff time may be necessary to review and revise the administrative rule, including drafting, cost estimates, public hearings and complying with rule making requirements. Other than staff time, it is anticipated that the resources to develop the rule will be minimal.

Corrections

Subject

Rule amendment to update ch. DOC 313, relating to prison industries. *Objective of the Rule.* The administrative rules relating to the prison industries was last updated in 1994. Recent amendments to Wisconsin Statutes and Federal Rules enacted after 1994 require the department to update this rule in order to comply with current law.

Policy Analysis

DOC 313 relates to prison industries in Wisconsin. The rule includes establishment of a prison industry, regulation of inmate employees including performance evaluation, work rules, discipline, termination, and compensation. The department plans to review and revise these existing rules to ensure that they conform to existing law, technology, and terminology. The proposed rule will provide clarification that inmate employees shall be eligible for leave to attend GED or HSED examinations or preparation courses. This change is necessary to comply with the Prison Industries Educational Prerequisites Policy that was modified to require inmates have a GED, HSED or High School Diploma in order to be hired into or promoted to a Range 5 pay. This policy should provide an incentive for inmates to secure a diploma. In addition, the department was given statutory authorization to enter into contracts with private companies to recycle paint or mattresses. This change needs to be referenced in the administrative rule. Lastly, new Prison Industry

Enhancement guidelines, enacted by the Federal Bureau of Justice Assistance, change the requirements for determining comparable wages.

Statutory authority

Sections 227.11 (2) (a), 302.09, and 303.01, and 303.06, Stats.

Staff time required

It is anticipated that 30 hours of staff time may be necessary to review and revise the administrative rule, including drafting, cost estimates, public hearings and complying with rule making requirements. Other than staff time, it is anticipated that the resources to develop the rule will be minimal.

Natural Resources

Subject

Small game and expanded turkey hunting opportunities in state parks

Policy Analysis

There has been an interest in recent years to expand hunting opportunities in state parks. The Department will propose rules initiating a restricted small game hunting framework in selected parks, as well as evaluation criteria that will be used to review the proposed pilot at the end of a 3-year trial period. Policy issues that will arise include the use of park properties for hunting and possible conflicts that may arise with other of the park's non-consumptive users. Other issues include administration of seasons, determination of and agreement on effective evaluation criteria, and requirements of property managers and other department personnel.

Statutory authority

Sections. 29.089 (3) and 29.014, Stats.

Staff time required

Approximately 110 hours will be needed

Public Service Commission

Amendment to Scope Statement originally published December 14, 1999, p. 17. In Section A, Objective of the rules, the first sentence of the third full paragraph of the original statement of scope is withdrawn. In lieu thereof, insert the following sentence.

Insofar as they are relevant to implementation and enforcement of the identified statutes at issue and appropriate substantive rules interpreting those statutes, requirements respecting filing, reporting and record keeping will be also be examined for potential adoption.

Subject:

Ch. PSC 177 – Relating to incumbent local exchange carrier affiliate rules.

Description of policy issues:

Objective of the rules: The objective of these rules is to protect competition through the prohibition of certain types of conduct or arrangements which give preference, discriminate, or provide cross-subsidies between an incumbent local exchange carrier (ILEC) and any affiliate operating in competitive markets. "Affiliates" for purposes of this rulemaking will also include any nonregulated lines of business operated by the ILEC itself, such as inside wire provisioning or Internet access service. The purpose of the rules is to identify conduct or arrangements that are *per se* preferential, discriminatory, or cross-subsidizing, or which,

in certain factual situations, may become preferential, discriminatory, or subsidizing. The objective of the rules is to offer useful interpretation of certain provisions of ch. 196, Stats., at the transactional or operational level:

- Section 196.204, Stats., bars cross-subsidies to competitive market operations;
- Section 196.219 (3) (h), Stats., bars ILEC preference or discrimination in favor of an ILEC affiliate or the affiliate's retail department in the provisioning of ILEC services, products, or facilities;
- Section 196.37 (2), Stats., bars, among other things, unreasonable or preferential ILEC conduct;
- Section 196.604, Stats., prohibits any person, which could include an ILEC affiliate, from seeking any advantage from a utility; and
- Section 196.60 (1) and (3), Stats., which require a utility to treat equally persons who are similarly situated.

Preference, discrimination, and cross-subsidization as banned by the statutes inherently requires examination of the particulars of any situation to determine whether a party is unreasonably favored or another is unfairly harmed. Various types of transactions or operational arrangements may be prohibited categorically, others prohibited only in certain situations. Known transactional or operational areas of inquiry include pricing, bundling, network design, customer information, service provisioning, cost allocations, intangibles, and various other services. Other areas will no doubt develop or be identified in the course of the rulemaking.

~~While some overlap may occur, the focus of this rulemaking is on substantive prohibitions or requirements directly affecting ILEC operations and transactions, not general reporting requirements for affiliated interest contracts or arrangements falling within the scope of docket 1-AC-147.~~ This rulemaking will not develop specific technical standards for the outputs for ILEC operational support systems (OSS), but may examine whether preference or discrimination could occur between affiliated and nonaffiliated recipients of the designed system outputs.

B. Existing policies relevant to the proposed rules:

Existing federal rules need to be harmonized with general state statutory requirements. The need for these rules has grown, first with the passage of Wisconsin's "Information Superhighway Act," 1993 Wis. Act 496, and continuing with the federal Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996) codified at various points in 47 U.S.C. §§ 151 *et seq.* (1996 Act). The latter act established interconnection procedures to introduce competition into local exchange telecommunications markets. Some of the competitors seeking entry are affiliates of the ILECs that are required to interconnect to all qualified companies. Sections 251 and 252 of the 1996 Act have several provisions requiring nondiscriminatory conduct on the part of an ILEC with respect to those new competitors, affiliate and nonaffiliate alike. Federal Communications Commission rules implementing these sections need to be harmonized with state statutory requirements respecting the same subject matter.

The Commission has no existing permanent policies directly implementing the above statutes in terms of common transactions or operations occurring between ILECs and their respective affiliates. The Commission does have interim policies in the form of conditions imposed upon the certification of an alternative telecommunications utility, usually a reseller or competitive local exchange carrier (CLEC), that is affiliated with an ILEC. These interim conditions have been imposed on some 40 affiliated providers since 1994, and were developed by staff and adopted by the

Commission on an ad hoc basis. These conditions need to be replaced by permanent rules that, at an operational and transactional level, better balance the statutory prohibitions against discriminations and preferences with the allowance of a reasonable opportunity for an ILEC to provide goods and services to its affiliates based on the benefits of the ILEC's economies of scope and scale.

C. New policies proposed:

The proposed rulemaking does not seek to enact any new policies, but rather to implement the existing statutory prohibitions by identifying with reasonable specificity types of transactions or operational relationships falling within the statutes noted above. While some subject matter areas have been identified, several new discrimination, or subsidy-related, matters are likely to be found within the scope of the rulemaking because of the breadth of the telecommunications industry, the technical complexity and novelty of inter-carrier relationships, and the added requirements derived from the 1996 Act.

D. Analysis of alternatives:

To a limited extent alternatives have been "analyzed" as to both procedure and substance through the comment and generic order process in docket 05-TI-158. The Commission's March 1999 order adopted certain rebuttable presumptions that would have been used in complaint or other proceedings alleging ILEC discrimination in favor of an affiliate. Parts of the industry opposed these presumptions as burdensome and violative of the requirement in s. 196.219 (3) (h), Stats., that the Commission conduct rulemakings to implement that anti-discrimination section. Other parts of the industry, such as interexchange carriers and many independent CLECs, favored the order. Opponents of the order sued. The Commission reconsidered its position and rescinded its final order in docket 05-TI-158, effective July 26, 1999.

The Commission now believes, that in light of s. 196.219 (3) (h), Stats., and surrounding circumstances, the more efficient course of action is a rulemaking proceeding. Extensive litigation would actually slow the development of competition due to a lack of finality as to key competitive ground rules. Moreover, use of complaint or investigation proceedings to develop policy would be reactive, expensive, and provide only minimal guidance. Case-by-case development of policy would tend to slow the development of competitive telecommunication markets as sought by 1993 Wis. Act 496.

Statutory authority:

The Commission has authority in the statutory sections noted in "A. *Objective of the rules*" above, and in ss. 196.02 (3) and 227.11 (2), Stats.

Time estimates for rule development:

The Commission estimates that 12 months will be taken up with industry consultations and workshops, drafting, notice and hearing, and final rule promulgation. The process will take at a minimum 350 staff hours.

Other resources necessary to develop the rules:

No additional staff or other agency resources are anticipated for this rulemaking.

Contact information:

If you have specific questions or comments regarding the proposed rulemaking, please contact:

Peter R. Jahn, Case Coordinator
Telephone (608) 267-2338

Regulation and Licensing

Subject

Real estate education requirements.

Objective of the Rule. To amend existing rules in order to revise the contents of the pre-license education for brokers and salespersons, and to fine-tune any other provisions in Ch. RL 25, Wis. Adm. Code, that need fine-tuning.

Policy Analysis

Section 452.09 (2), Stats., broadly describes the education requirements for a real estate salesperson's license and a real estate broker's license. Ch. RL 25, Wis. Adm. Code, specifies the policies relating to the approval of schools and courses offered by them, the approval of instructors, and the contents of pre-license education courses.

The department, with the advice and counsel of the Real Estate Board, would like to amend the topics in the broker's and salesperson's pre-license education courses. The department has conducted a Job Analysis, relating to the practice of real estate brokers. The department has also convened a committee to review the contents of the real estate salesperson's examination. As a result of the Job Analysis and the committee's review, the department anticipates the need to revise the list of topics in the pre-license education courses. The department will also review all of the provisions in Ch. RL 25, Wis. Adm. Code and will make whatever amendments may be appropriate. No such amendments have been identified at this time.

Statutory authority

Statutory authority. Sections 227.11 (2), 452.04, 452.05, 452.07, 452.09 (2) and (3) and 452.12 (5) (c), Stats.

Staff time required

100 hours.

Regulation and Licensing

Subject

Bidding at an auction by the auctioneer, the auctioneer's employees and the seller of the merchandise at an auction.

Objective of the Rule. To amend existing rules in order to clarify whether or when an auctioneer, an auctioneer's employees or a seller may bid on merchandise included in an auction.

Policy Analysis

Section 402.328 (3) and (4), Stats., distinguish between an auction with reserve (otherwise known as an absolute auction) and an auction without reserve. Section 402.329 (4), Stats., describes the consequences of a bid being received on behalf of the seller or the seller making a bid without a notice having been given that liberty for such bidding is reserved. Section RL 120.02 (1) and (2), Wis. Adm. Code, define "absolute auction" and "auction with reserve." Section RL 120.02 (10), Wis. Adm. Code, defines a "shill" as "an employee or agent who bids against legitimate bidders at an auction to escalate "bidding." Section RL 124.02 (3), Wis. Adm. Code, requires that the contract between the auctioneer or the auction company and the seller shall contain "a general description of the property to be sold at auction, any restrictions relating to conducting the auction and a statement indicating whether the registrant is authorized to purchase at the auction." Section RL 126.02 (3), Wis. Adm. Code, prohibit an auctioneer from advertising an auction as an absolute auction if any item or items are to be sold with reserve or with minimum bids, and from knowingly escalating or attempting to escalate bidding through false bids, shills or through collusion with another.

The department would like to provide clarification of the above-described requirements. One alternative is to prohibit bidding by the seller, the auctioneer or the auctioneer's employees in certain circumstances. Another alternative is to require better notice to persons attending the auction or to require the auctioneer or auction company and the seller to more clearly address this issue in their contract.

Statutory authority

Sections 227.11 (2), 480.06, 480.14, 480.20 and 480.24, Stats.

Staff time required

100 hours.

Workforce Development

Subject

DWD 40, Child support percentage of income standard

Policy Analysis

Description of Policy Issues

DWD 40 sets guidelines to be used by courts in determining child support obligations based on a percentage of the gross income and assets of either or both parents. In the spring of 2001, with input from members of the legislature, the DWD Secretary appointed an advisory committee to provide guidance to the department on revisions to the state policy regarding the standards in ch. DWD 40. The advisory committee included members of the courts, state bar, community-based organizations, county child support agencies, citizens, and the department. The committee recommended changes for guidelines affecting low-income parents, high-income parents, and shared-time parents.

The recommendations affecting low-income parents decrease the presumptive support required from payers with gross monthly incomes below 150% of the federal poverty level. This is proposed because many low-income payers have insufficient income to pay the current ordered amount and still meet their basic needs. The lower percentages may result in improved compliance and increase emotional and financial investment in their children.

The recommendations for high-income parents reduce the percentages for the amount of the annual gross income between \$150,000 and \$200,000. This is proposed because economic data shows that as income rises above certain high-income levels, families spend a lower percentage of their gross income on their children. Under the current guidelines, there is a significant amount of litigation surrounding shared-time and child support. A payment

policy that recognizes the reduced proportion of income spent on children above a given high-income amount may reduce this litigation.

The recommendations affecting shared-time parents propose that the guidelines for shared-time parents apply when both parents have court-ordered periods of placement of 25% or more and each parent is ordered to assume the children's costs in proportion to the time that the parent has placement of the children. The formula will use a cross-credit calculation that sets support based on the costs of shared parenting and takes into account duplicated costs of child rearing in both households. The committee recommends eliminating the "cliff effects" of the current methods of determining shared-time payments under ch. DWD 40 to reduce the potential for litigation.

Statutory authority

Sections 49.22 (9) and 227.11, Stats.

Staff time required

300 hours.

Workforce Development

Subject

DWD 129, Extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

Policy Analysis

Pursuant to s. 108.08 (1), Stats., a claimant must give notice to the department with respect to a week of unemployment "within such time and in such manner as the department may by rule prescribe" in order to receive benefits for that particular week. Under the current s. DWD 129.01 (1), a claimant must file his or her initial claim for benefits no later than the close of the week in which the claimant intends the claim to start. For example, a claimant who files two weeks late cannot obtain unemployment benefits retroactively unless the department waives the time limit under the exceptional circumstances provision in s. DWD 129.01 (4). The proposed rule will extend the time period for filing an initial claim by seven days beyond the end of the week for which the claimant expects to get the benefits. The institution of this change is expected to eliminate approximately 67% of untimely filing issues. This will translate into savings of 5 to 6 full-time employees (FTEs).

Statutory authority

Section 108.08 (1), Stats. and 2001 Wis. Act 35, s. 72 (2) (b).

Staff time required

30 hours.

Submittal of rules to legislative council clearinghouse

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

Commerce

Rule Submittal Date

On April 14, 2002, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 227.14 (4m) and 227.17, Stats.

The proposed rule-making order affects chs. Comm 2 and 8, relating to mine safety fees.

Agency Procedure for Promulgation

A public hearing is scheduled for May 15, 2002.

Contact Person

Ronald Acker at 608-267-7907.

Employee Trust Funds

Rule Submittal Date

Notice is hereby given that on April 12, 2002 the Department of Employee Trust Funds submitted to the Wisconsin Legislative Council Rules Clearinghouse a proposed order affecting ch. ETF 20.25.

Analysis

The subject matter of the proposed rule relates to the annuity dividend effective date and the proration of annuity dividends.

Agency Procedure for Promulgation

A public hearing is scheduled for Thursday, May 16, 2002, at 1:00 p.m. in room 2B, at the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin.

Contact Person

If you have any questions, you may contact Linda Owen, Policy Analyst, Division of Retirement Services, at (608) 261-8164.

Insurance

Rule Submittal Date

On April 8, 2002, the Office of the Commissioner of Insurance submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 227.14 and 227.15, Stats.

The proposed rule-making order relates to publication of health insurance rates for small employers.

Agency Procedure for Promulgation

A public hearing is scheduled for May 17, 2002.

Contact

Stephen Mueller at 608-267-2833 or e-mail at StephenMueller@oci.state.wi.us in the OCI Legal Unit.

Insurance

Rule Submittal Date

In accordance with ss. 227.14 and 227.15, Stats., the Office of the Commissioner of Insurance is submitting a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on April 15, 2002.

Analysis

These changes will affect s. Ins 3.37, Wis. Adm. Code, relating to Transitional Treatment.

Agency Procedure for Promulgation

The date for the public hearing is May 21, 2002.

Contact

A copy of the proposed rule may be obtained from the OCI internet WEB site at:

<http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110. For additional information, please contact Julie E. Walsh at (608) 264-8101 or e-mail at:

Julie.Walsh@oci.state.wi.us in the OCI Legal Unit.

Natural Resources

Rule Submittal Date

On April 9, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to Department procedures for administrative hearings found in ch. NR 2.

Agency Procedure for Promulgation

A public hearing is scheduled for May 14, 2002.

Natural Resources

Rule Submittal Date

On April 9, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to snowmobile rail crossings in ch. NR 6.

Agency Procedure for Promulgation

Public hearings are scheduled for May 16 and 17, 2002.

Natural Resources**Rule Submittal Date**

On April 9, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to annual stumpage values for forest tax law and managed forest law lands found in ch. NR 46.

Agency Procedure for Promulgation

A public hearing is scheduled for May 13, 2002.

Natural Resources**Rule Submittal Date**

On April 9, 2002, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affecting ch. NR 324 relates to the regulation of fishing rafts on the Wolf river and its tributaries.

Agency Procedure for Promulgation

A public hearing is scheduled for June 13, 2002.

Natural Resources**Rule Submittal Date**

On April 9, 2002, the Department of Natural

Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affecting ch. NR 336 relates to the small and abandoned dam removal grant program.

Agency Procedure for Promulgation

A public hearing will be scheduled for June 2002.

Workforce Development**Rule Submittal Date**

On April 15, 2002, the Department of Workforce Development submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: Sections ss. 20.901, 49.143 (2) (c), 49.145 (1), 49.145 (2) (c), 49.145 (2) (f), 49.145 (2) (n), 49.147 (5) (b) 2., 49.33, 103.005 (17), and 227.11, Stats.; ss. 49.145 (3), 49.147 (4) (am), and 49.147 (5) (bm), Stats., as amended by 2001 Wis. Act 16; and s. 49.1473, Stats., as created by 2001 Wis. Act 16.

The proposed rules affect Chapter DWD 12 and 17, relating to Wisconsin Works.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 13, 2002. The organizational unit responsible for the promulgation of the proposed rules is the DWD Division of Workforce Solutions.

Contact Information

Elaine Pridgen

Telephone: (608) 267-9403

Email: pridgel@dwd.state.wi.us

Rule-making notices

Notice of Hearing

Accounting Examining Board [CR 02-052]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Accounting Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Wis. Stats., and s. 442.08 (3), Wis. Stats., as amended by 2001 Wis. Act 16, and interpreting s. 442.08 (2) and (3), Wis. Stats., the Accounting Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Accy 1.408, relating to the definition of "ownership" for the purpose of determining eligibility of firms for a license as a certified public accounting firm.

Hearing Date, Time and Location

Date: **May 17, 2002**
 Time: 9:30 a.m.
 Location: 1400 East Washington Avenue
 Room 180
 Madison, Wisconsin

Appearance at the Hearing:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 31, 2002 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: Secs. 15.08 (5) (b) and 227.11 (2), Wis. Stats., and s. 442.08 (3), Stats., as amended by 2001 Wis. Act 16.

Statute interpreted: Section 442.08 (2) and (3), Stats.

This proposed rule-making order of the Accounting Examining Board addresses the requirement in s. 442.08 (3), Stats., as amended by 2001 Wis. Act 16, that the board shall promulgate rules that define "ownership interest" for the purposes of determining eligibility for a license as a certified public accounting firm.

Under ch. 442, Stats., as amended by 2001 Wis. Act 16, an applicant for a license as a certified public accounting firm must demonstrate that more than 50% of the ownership interest of the firm is held by individuals who hold certificates or licenses to practice as a certified public accountant issued under the laws of any state or foreign country. s. 442.08 (2) (c) 2.

If any person who holds an ownership interest in the firm is not licensed as a certified public accountant, the firm is required to designate an individual who is licensed as the individual responsible for the firm's compliance with ch. 442, Stats. s. 442.08 (2) (b).

The law requires that each person who holds an ownership interest in the firm, and who does not hold a certificate or license to practice as a certified public accountant, be an

individual who actively participates in the firm or an affiliated entity. s. 442.08 (2) (c) 3.

In promulgating these rules, the board considered the financial interests and voting rights of all members of a firm.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearings

Agriculture, Trade and Consumer Protection [CR 02-036]

(Reprinted from Mid-April Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule to create ch. ATCP 127, relating to a telemarketing "no call" list. The department will hold twelve hearings at the time and places shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until May 30, 2002, for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling 1-800-422-7128. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by **April 20, 2002**, by writing to Jim Rabbitt, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4965. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

Twelve hearings are scheduled:

Monday, May 6, 2002, at 1:00 p.m. & 7:00 p.m.
 Prairie Oaks State Office Building, Board Room
 2811 Agriculture Drive
 Madison, WI 53708

Handicapped accessible

Tuesday, May 7, 2002, at 1:00 p.m. and 6:30 p.m.

Havenwood State Forest
6141 N. Hopkins Street
Milwaukee, WI 53209
Handicapped accessible

Wednesday, May 8, 2002, at 2:00 p.m. and 7:00 p.m.

Wausau City Council Chambers
City Hall
407 Grant Street
Wausau, WI 54403
Handicapped accessible

Thursday, May 9, 2002, at 1:00 p.m. and 6:00 p.m.

Brown County Library, Central Library
515 Pine Street
Green Bay, WI 54301
Handicapped accessible

Monday, May 13, 2002, at 1:00 p.m. and 7:00 p.m.

Department of Agriculture, Trade and Consumer
Protection, Eau Claire Office
3610 Oakwood Hills Parkway
Eau Claire, WI 54701
Handicapped accessible

Tuesday, May 14, 2002, at 1:00 p.m. and 7:00 p.m.

LaCrosse City Council Chambers
400 LaCrosse Street
LaCrosse, WI 54699
Handicapped accessible

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

Statutory authority: ss. 100.20 (2) and 100.52

Statutes interpreted: ss. 100.20 and 100.52

Background

The Wisconsin department of agriculture, trade and consumer protection (DATCP) regulates unfair and deceptive business practices under s. 100.20, Stats. DATCP has adopted rules, under ch. ATCP 127, Wis. Adm. Code, to protect consumers against unfair telemarketing practices. The Legislature has also directed DATCP, under s. 100.52, Stats., to create a “no-call” list of consumers who do not wish to receive telemarketing calls.

Under s. 100.52, Stats., consumers may contact DATCP to sign up for the “no call” list. Telemarketers may not call consumers whose telephone numbers appear on the list. Telemarketers must register with DATCP and pay fees to finance the list compilation and distribution. On a regular periodic basis, DATCP must update the list and distribute it to registered telemarketers. DATCP must adopt rules to implement this program.

This rule creates a telemarketing “no-call” program, as directed by the Legislature. DATCP is adding this rule to DATCP’s current telemarketing rules under ch. ATCP 127, Wis. Adm. Code.

“Telephone Solicitations” Covered

This rule regulates “telephone solicitations” to persons located in this state, regardless of where the calls originate. A “telephone solicitation” means an unsolicited telephone call for the purpose of encouraging the call recipient to buy

property, goods or services, or that is part of a plan or scheme to encourage the call recipient to buy property, goods or services. “Telephone solicitation” does not include any of the following:

- A telephone call encouraging the call recipient to buy property, goods or services from a “nonprofit organization” solely for the benefit of that organization. A “nonprofit organization” means an organization described in section 501(c)(3), (4), (5) or (19) of the United States internal revenue code.
- A telephone call made by the sole individual proprietor of a business, encouraging the call recipient to buy property, goods or services sold by that business.
- A telephone call made in response to the call recipient’s request for that call.
- A telephone call made to a current client of the person selling the property, goods or services promoted by the telephone call.
- A telephone call made to a number listed in the current local business telephone directory.

Telemarketers Must Register

This rule requires telemarketers to register annually with DATCP. A registration expires on December 31 of each year. Under this rule:

- No person may employ or contract with any individual to make telephone solicitations to residential telephone customers unless that person is currently registered with DATCP.
- No individual may make a telephone solicitation to a residential telephone customer unless one of the following applies:
 - The individual is employed by, or acting as the contract agent of, a person currently registered with DATCP.
 - The individual is currently registered with DATCP.

Telemarketer Registration Form

To register with DATCP, a person must complete an annual registration form and pay annual fees. The registration form must include all the following:

- The registrant’s correct legal name, and all trade names under which the registrant does business.
- The registrant’s principal business address and telephone number. The business address shall include street address, zip code, state and nation.
- The registrant’s federal tax identification (FEIN) number.
- The name and address of the registrant’s registered agent in this state, if any.
- The name and address of a person who will accept service of process on behalf of the registrant, if other than a registered agent in this state.
- The name, address and telephone number of a person who may respond, on behalf of the registrant, to DATCP notices and inquiries.
- The number of telephone lines used, by individuals acting as employees or agents of the registrant, to make telephone solicitations. The registrant must provide the telephone number associated with each of these lines.
- The number of individuals who make telephone solicitations as employees or agents of the registrant. The registrant must provide the names of the individuals if DATCP requests those names.
- A statement indicating the form in which the registrant wishes to receive “no-call” lists. A registrant may receive “no-call” lists in one or more of the following forms:

- By e-mail transmission to an e-mail address provided by the registrant.
- As a compact disc, mailed to an address provided by the registrant.
- In hard-copy printed form, mailed to an address provided by the registrant.

Telemarketer Registration Fees

A telemarketer registering with DATCP must pay the following annual fees:

- A basic annual registration fee of \$800 for the first year of registration, and \$600 for each year thereafter.
- A supplementary annual fee of \$100 for each telephone line used by the registrant (or the registrant's employees or individual agents) to make telephone solicitations. This fee does not apply if the registrant uses fewer than 4 telephone lines.
- A supplementary annual fee of \$25 for each e-mail address to which the registrant would like DATCP to send the "no-call" list. This fee does not apply if the registrant asks DATCP to send the "no-call" list to just one e-mail address.
- A supplementary annual fee of \$25 for each address to which the registrant would like DATCP to send the "no-call" list in compact disc form.
- A supplementary annual fee of \$1,000 for each address to which the registrant would like DATCP to send the "no-call" list in hard-copy print form.

The "No-Call" List

DATCP must compile a "no-call" list containing the telephone numbers and ZIP codes of residential telephone customers who sign up for the list. No person may make a telephone solicitation, either directly or through an employee or agent, to a residential customer whose telephone number appears on the current no-call list.

A residential telephone customer may contact DATCP by phone, or at DATCP's website, to sign up for the "no-call" list. A customer's caregiver may sign up on behalf of the customer. The customer or caregiver shall give DATCP all the following information:

- The customer's telephone number including area code.
- The customer's ZIP code.
- The customer's name and address, if requested by DATCP. *DATCP will not include this information on the "no-call" list, but may request it for verification purposes.*
- The caregiver's name and address, if a caregiver contacts DATCP on behalf of the customer. *DATCP will not include this information on the "no-call" list, but requires it for verification purposes.*

Distributing the List

DATCP must distribute the "no-call" list to each telemarketer who is currently registered with DATCP. DATCP must distribute the list in the manner specified by the registrant (assuming that the registrant pays the required fees for that method of delivery). A "no-call" list takes effect on a date specified by DATCP, not sooner than 10 days after DATCP distributes the list.

Updating the List

DATCP must compile and distribute an updated "no-call" list every 3 months. DATCP must distribute updated lists in the same manner as the initial list. DATCP must delete a residential telephone customer from the "no-call" list 2 years

after that customer last signed up for inclusion on the list. A customer may renew a sign-up at any time.

No Unauthorized Release

A registered telemarketer may not redistribute any part of a "no-call" list to any other person, except that the registrant may redistribute the list to an individual making telephone solicitations as the registrant's employee or agent. DATCP may not release a "no-call" list, or any information used to compile the list, except that:

- DATCP may release a "no-call" list to telemarketers currently registered with DATCP.
- DATCP may release a "no-call" list as necessary to enforce this rule, or to comply with a subpoena or judicial process, subject to such protective orders as may be appropriate.
- DATCP may release the "no-call" list to the federal trade commission or other federal agency maintaining a national "no-call" list.

Telephone solicitation practices

Telemarketers must comply with current DATCP telemarketing rules under ch. ATCP 127, Wis. Adm. Code. In addition, this rule prohibits telemarketers from doing any of the following:

- Making telephone solicitations to a residential telephone customer, unless the telemarketer is registered with DATCP or working for a registered telemarketer.
- Making a telephone solicitation to a residential telephone customer whose telephone number appears on the current "no call" list.
- Using an electronically prerecorded message in a telephone solicitation to a residential or nonresidential telephone customer without the prior consent of that telephone customer.
- Failing to disclose, at the request of a residential telephone customer receiving a telephone solicitation, the telemarketer's Wisconsin registration number.
- Making a telephone solicitation to a nonresidential telephone customer (business) if that business has notified the telemarketer by mail that the business does not wish to receive telephone solicitations. A telemarketer must provide a business with the telemarketer's mailing address within 10 days after the business requests it.
- Requiring, instructing or authorizing an employee or agent to make a telephone solicitation in violation of this rule, or facilitating a violation of this rule.
- Using caller-ID blocking when making a telephone solicitation.

Telemarketer Records

Under current DATCP telemarketing rules, telemarketers must keep certain records for at least 2 years and must make those records available to DATCP upon request. Among other things, a telemarketer must keep records related to individuals who make telephone solicitations as employees or agents of the telemarketer, including names, addresses, telephone numbers, job titles, and fictitious names if any (no 2 individuals may use the same fictitious name).

This rule requires telemarketers to comply with current record keeping requirements, and adds one new requirement. Under this rule, a telemarketer must record the time period during which an individual made telephone solicitations as the seller's employee or agent.

Fiscal Estimate (*See p. 13 Mid–April Wis. Adm. Register*)

Initial Regulatory Flexibility Analysis (*See p. 13 Mid–April Wis. Adm. Register*)

Notice of Hearing

Agriculture, Trade and Consumer Protection

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on its emergency rule relating to chronic wasting disease in cervids. The department will hold one hearing at the time and place shown below. The department invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until May 24, 2002, for additional written comments.

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

Hearing impaired persons may request an interpreter for the hearing. Please make reservations for a hearing interpreter by **May 15, 2002**, by writing to Melissa Mace, Division of Animal Health, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4883. Alternatively, you may contact the Department TDD at (608) 224–5058. Handicap access is available at the hearing.

One hearing is scheduled:

Wednesday, May 22, 2002, at 7:00 p.m.

Prairie Oaks State Office Building, Board Room

2811 Agriculture Drive

Madison, WI 53708

Handicapped accessible

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

Statutory Authority: ss. 93.07 (1) and 95.20, Stats.

Statutes Interpreted: ss. 93.07 (10), 95.20, 95.22, and 95.31, Stats.

This emergency rule regulates the import, keeping and movement of cervids, including deer and elk, to prevent the spread of chronic wasting disease. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers this rule. This rule applies to captive cervids, including farm–raised deer and captive white–tail deer. This rule does not apply to free–ranging deer or elk regulated by the Department of Natural Resources (DNR).

Background

Chronic wasting disease was recently discovered in the free–ranging deer population in Wisconsin. Chronic wasting disease is a form of transmissible spongiform encephalopathy, a disease that is always fatal. It is known to affect elk, white–tailed deer, black–tailed deer, mule deer and red deer. Very little is known about the disease, but it appears to be spread by cervid–to–cervid contact. The disease may spread more readily where cervids are concentrated.

Chronic wasting disease has not been diagnosed in captive cervids in this state, but its presence cannot be ruled out. The disease has been diagnosed in some captive herds in other states. This rule establishes a monitoring and testing program for captive cervids in this state. This rule also regulates imports and movement of captive cervids.

Importing Cervids to Wisconsin

Under current rules, no person may import a captive cervid into Wisconsin without a permit from DATCP. The importer, or a veterinarian acting on behalf of the importer, may apply for an import permit. The applicant must identify the herd of origin and the herd of destination.

This rule clarifies that DATCP will not issue a written import permit until DATCP receives a certificate of veterinary inspection completed by a federally accredited veterinarian. The certificate must identify each cervid to be imported, and must certify one of the following:

- The cervid originates from a herd monitored for at least 5 years under a state–approved chronic wasting disease herd certification program that complies with federal uniform methods and rules.
- The cervid originates from a herd that meets all the following criteria:
 - Herd members have all been born in the herd or kept in the herd for at least one year.
 - Herd members have not been added from any outside source, or exposed to cervids from any outside source, in the past year.
 - There have been no signs or symptoms of chronic wasting disease in the herd for the past 5 years.
 - Animal health officials in the state of origin have access to herd records for the past 5 years, including records of cervid deaths and causes of death.

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Moving Live Cervids from Herds in Wisconsin

Under current rules, no person may move a live captive cervid from a herd in this state without a certificate of veterinary inspection. A Wisconsin certified veterinarian must certify that the cervid has tested negative for tuberculosis (there are some exceptions).

Under this rule:

- The veterinarian must also certify that the herd of origin has shown no signs or symptoms of chronic wasting disease in the last 12 months. The veterinarian must be the herd veterinarian for the herd of origin.
- The herd of origin must be enrolled in Wisconsin’s herd monitoring program (see below).
- These requirements do not apply to any of the following:
 - A cervid moved directly to slaughter if the cervid is tested for chronic wasting disease.
 - A cervid moved between 2 locations operated by the same herd owner, and covered by the same farm–raised deer herd registration.
 - A cervid moved by or under the control of DNR.
 - A cervid moved between institutions that are accredited by the American association of zoological parks and aquariums.

Mandatory Testing in Wisconsin

This rule requires chronic wasting disease testing of captive cervids. There is no test available for live cervids. Tests must be conducted on brain tissue collected from dead cervids. Tests are only effective on cervids at least 16 months old. This rule requires herd owners to have all the following tested for chronic wasting disease:

- All captive cervids at least 16 months old that are shipped to slaughter.
- All captive cervids at least 16 months old whose carcasses (or any part of whose carcasses) leave the herd premises.

A herd owner enrolled in Wisconsin’s herd monitoring program (see below) must also test cervids at least 16 months old that die on the herd premises, even if their carcasses do not leave the herd premises. Live cervids may not be shipped

from herds that are not enrolled in the monitoring program (see above).

Test Standards and Reports

This rule spells out standards for official chronic wasting disease testing in this state. Under this rule:

- Test samples must be collected by a DATCP–certified veterinarian, a DATCP employee, an employee of the United States department of agriculture, animal and plant health inspection service (APHIS), or another person approved by DATCP. The person must complete training approved by DATCP.

- Test samples must be collected according to standard veterinary procedure, and tested at a laboratory approved by DATCP or APHIS.

- Veterinarians and others must report to DATCP if test results are positive for chronic wasting disease. This reporting requirement applies to voluntary tests, as well as required tests. Persons receiving positive test results must report within one day, and confirm the report in writing within 10 days.

Quarantine and Condemnation

Under this rule, if a captive cervid tests positive for chronic wasting disease, DATCP must quarantine the herd. DATCP will conduct an epidemiological evaluation to determine the appropriate disposition of the cervids in the herd. DATCP may condemn cervids exposed to the disease, and may direct the disposition of their carcasses. The herd owner may apply for statutory indemnity payments. If a cervid owner is eligible, indemnities will normally cover 2/3 of the appraised value of the condemned cervids, but not more than \$1500 for each animal.

Herd Monitoring Program

This rule establishes a herd monitoring program for chronic wasting disease. This program supplements the mandatory testing requirements described above. Live cervids may not be shipped from herds that are not enrolled in the monitoring program (see above). A herd owner who wishes to enroll in the program must do all the following:

- Complete an application form.
- Provide a report of a herd census completed not more than 30 days before the application date. The census report must include all the following:

- The number, species and sex of cervids in the herd.
- The number of cervids at least one year old.
- The number of cervids less than one year old.
- The official individual identification (ear tag number or other approved identification) of each cervid that is at least one year old.

- Provide a statement from the herd veterinarian. The veterinarian must certify that he or she is the herd veterinarian, and that no cervid in the herd has shown any signs or symptoms of chronic wasting disease in the past 12 months.

DATCP must grant or deny the application within 30 days. A herd is enrolled in the program when DATCP accepts the herd owner's application. The herd owner must do all the following to remain in the program:

- Identify each cervid in the herd, with official individual identification, before the cervid is one year old.

- Test every cervid that dies or is shipped to slaughter, if that cervid is at least 16 months old. This testing requirement applies, regardless of whether the cervid's carcass leaves the herd premises.

- Notify the herd veterinarian within 24 hours after the herd owner observes any signs or symptoms of chronic wasting disease.

- Provide an annual statement from the herd veterinarian. The herd veterinarian must submit the annual statement to DATCP, within 30 days before or after the herd enrollment anniversary date. The veterinarian must certify that he or she is the herd veterinarian, and that no cervid in the herd has shown any signs of chronic wasting disease since the last annual statement.

- File a report of an annual herd census. The herd owner must complete the annual census within 30 days before or after the enrollment anniversary date, and must file the report within 10 days after completing the census. The census report must include all the following:

- The number, species and sex of cervids in the herd.
- The number of cervids at least one year old, and the number of cervids less than one year old.
- The official individual identification of each cervid that is at least one year old.
- The number, species and sex of cervids added to the herd since the last reported herd census. The report must indicate whether these new cervids were born into the herd or added from another source. If cervids were added from another source, the report must identify the source from which the cervids were obtained.

- The number of cervids that left the herd since the last reported herd census. The report must explain how each cervid left the herd, including all the following:

- * Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.

- * If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.

- * If the cervid died on the premises, the cervid's age and the disposition of its carcass. If the carcass left the premises, the report must identify the carcass destination or recipient. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.

- * If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.

- Maintain all the following records for at least 5 years, and make those records available to DATCP for inspection and copying upon request:

- A record of each cervid added to the herd from another source, including:

- * The species, age and sex of the cervid.

- * The name and address of the person from whom the cervid was obtained.

- * The address of the herd from which the cervid was obtained.

- A record of each cervid leaving the herd, including all the following:

- * Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.

- * If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.

- * If the cervid died on the premises, the apparent cause of death, the cervid's age, and the disposition of the cervid's

carcass. If the carcass left the premises, the record must identify the carcass destination or recipient.

* If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment.

– A copy of all records received from the herd veterinarian related to veterinary services provided to the herd.

Fiscal Estimate

This emergency rule establishes a monitoring and testing program for captive cervids in this state. This rule also regulates imports and movement of captive cervids. DATCP will need additional staff to:

- Investigate and monitor movement of cervids into and around the state of Wisconsin.
- Compile evidence and enforce the rules, as necessary.
- Create and maintain complete files for all captive cervid farms.
- Collect samples for testing, and train individuals to collect samples.
- Create a data management system to track and monitor chronic wasting disease and herd data.

These costs will be ongoing. Only a portion of the costs will be incurred during the temporary duration of the emergency rule. DATCP is proposing a "permanent" rule which will incorporate similar provisions. The short-term annual costs during the term of the emergency rule will be approximately \$2,401,504.00. Long-term costs will be much greater, but have not yet been fully analyzed.

Regulatory Flexibility Analysis

The department will prepare a regulatory flexibility analysis on its proposed permanent rule relating to chronic wasting disease in cervids.

Notice of Hearing

Agriculture, Trade and Consumer Protection

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces it will hold a public hearing on an emergency rule relating to milk producer security. The department invites the public to attend and comment on the emergency rule. Following the public hearing, the hearing record will remain open until June 16, 2002 to receive additional written comments.

You may obtain a free copy of this emergency rule by contacting Kevin LeRoy, Division of Trade and Consumer Protection, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4928. Copies will also be available at the hearing.

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by May 9, 2002 either by writing to Kevin LeRoy, Division of Trade and Consumer Protection, PO Box 8911, Madison, WI 53708-8911 (telephone 608-224-4928) or by calling the Department TDD at 224-5058.

The hearing is scheduled at:

Thursday, May 16, 1:30 p.m.

Wisconsin Department of Agriculture, Trade and Consumer Protection

Board Room

2811 Agriculture Drive

Madison, WI 53718

Handicapped accessible

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

Statutory Authority: ss. 93.07 (1), 126.51, 126.81 (1) and (2), and 227.24, Stats.

Statutes Interpreted: Ch.126, Stats.

This emergency rule implements Wisconsin's new agricultural producer security law (ch. 126, Stats.), as it applies to milk contractors. The new law is designed to protect milk producers against catastrophic financial defaults by milk contractors who procure producer milk in this state. The Legislature enacted the new law in 2001 Wis. Act 16.

The new law applies to milk contractors, including dairy plant operators, producer agents and other milk handlers. Among other things, the new law creates an agricultural producer security fund, financed by milk contractor fees. The Department of Agriculture, Trade and Consumer Protection (DATCP) administers this law. The law takes effect, for milk contractors, on May 1, 2002.

This emergency rule:

- Clarifies the treatment of dairy plant operators who provide custom processing services for milk producers, without marketing or taking title to milk or processed dairy products.
- Clarifies the treatment of producer agents who market milk and collect milk payments on behalf of producers, without taking title to the milk.
- Clarifies the treatment of persons who market only processed dairy products for producers, without procuring, marketing or processing any raw producer milk.
- Clarifies the method by which milk contractors calculate and report milk payment obligations, for the purpose of calculating fund assessments and security requirements.
- Requires milk contractors to disclose their security and fund contribution status to producers.

Background

Under the agricultural producer security law, a milk contractor who procures producer milk in this state must be licensed by DATCP. To be licensed, a contractor must do one of the following:

- Contribute to the agricultural producer security fund ("fund"). If a contributing milk contractor defaults on payments to producers, the fund may partially compensate those producers. Producer agents (who market milk and collect milk payments for producers without taking title to the milk) may have lower fund participation requirements than other milk contractors. If a producer agent defaults, the fund may also make smaller payments to producers.
- File security with DATCP, to secure a portion of the contractor's milk payment obligations to producers. Producer agents may file a smaller amount of security than other milk contractors, so there may be less security if a producer agent defaults.
- File financial statements with DATCP, showing that the milk contractor meets minimum financial standards. If a milk contractor is licensed on the basis of the contractor's financial statement, the contractor is not required to contribute to the fund or file security with DATCP. The fund will not pay producers if the contractor defaults, nor will DATCP have any security to pay producers.

Custom Processing for Milk Producers

This emergency rule clarifies that ch. 126, Stats., does not apply to a dairy plant operator who takes temporary custody of producer milk for the sole purpose of providing custom processing services to milk producers, provided that all the following apply:

- The producers retain title to the milk and to the processed dairy products made from that milk.

- The operator does not market the milk or processed dairy products, but promptly delivers the processed dairy products to the producers or their agent for consumption or marketing.

- The operator does not commingle producer-owned milk or dairy products with other milk or dairy products.

- The operator provides the custom processing services under a written contract with each producer or the producer's agent. The contract must clearly and conspicuously disclose that:

- The producer retains title to the milk and dairy products.

- The producer's milk shipments are not secured under ch. 126, Stats.

Producer Agents

This emergency rule clarifies that a milk contractor does not qualify as a producer agent, for purposes of ch. 126, Stats., unless all the following apply:

- The milk contractor procures producer milk in this state solely as the agent of the milk producers.

- The milk contractor does not take title to the producer milk, or to any dairy products made from the producer milk.

- The milk contractor markets the producer milk under a written contract with each milk producer. The contract must clearly and conspicuously disclose all the following:

- That the milk contractor does not take title to the producer's milk, or any dairy products made from that milk.

- That the milk contractor receives payments on behalf of the producer, and holds them in trust for the producer.

- The terms and conditions of payment to the producer.

- The procedure by which the milk contractor will receive payment on behalf of the producer and make payments to the producer, including any trust fund arrangement.

- The milk contractor's compensation for serving as the producer's agent, and the method by which the milk contractor will receive that compensation from the milk producer.

- A milk security disclosure statement (see below).

- The milk contractor does not process, as a producer agent, more than 5 million pounds of producer milk in any month.

- The milk contractor gives, to each recipient of producer milk marketed by the contractor, a written invoice stating that the milk is producer milk not owned by the milk contractor.

- The milk contractor files a monthly report with DATCP. The milk contractor must file the report on or before the 25th day of the month. The report must include all the following:

- The name and address of each person to whom the milk contractor marketed, in the preceding month, producer milk procured in this state.

- The total pounds of producer milk that the milk contractor marketed to each person in the preceding month.

- The milk contractor's total milk payment obligation to milk producers for producer milk that the contractor marketed in the preceding month.

Persons Marketing Processed Dairy Products for Milk Producers

This emergency rule clarifies that ch. 126, Stats., does not apply to a person who markets only processed dairy products for milk producers, provided that the person does not procure, market or process any raw producer milk.

Milk Payment Report by License Applicant

Under the new law, an applicant for an annual milk contractor license must report (1) the applicant's total annual payment obligation to milk producers, and (2) the largest obligation incurred at any time during the applicant's last fiscal year. The reported amounts are used to determine fund assessments and security requirements, if any. This rule clarifies that the applicant must report (1) the total amount paid for milk procured during the applicant's last fiscal year, and (2) the largest amount paid for milk procured in any single month during the last fiscal year.

Milk Security Disclosure Statement

This emergency rule requires milk contractors to make milk security disclosures to milk producers, pursuant to s. 126.81 (4), Stats., so that producers understand the extent to which milk payments are backed by the agricultural producer security program. The milk contractor must give the disclosure when the milk contractor first procures milk from the producer, and again in June of each year. The disclosure must consist of one of the following written statements:

- The following statement if the milk contractor contributes to the fund (and is not a producer agent who also files security):

IMPORTANT NOTICE

[Name of milk contractor] contributes to Wisconsin's Agricultural Producer Security Fund. This fund helps ensure that milk producers will be paid for the milk they ship to contributing contractors. If a contributing contractor fails to pay a producer, the fund may pay up to 80% of the first \$60,000 of the producer's unpaid milk payment claim, and up to 75% of any additional unpaid milk payroll claim.

- The following statement if the milk contractor is required to file security with DATCP and is not a producer agent:

IMPORTANT NOTICE

[Name of milk contractor] does not participate in Wisconsin's Agricultural Producer Security Fund. We have filed security with the State of Wisconsin to cover part, but not all, of our milk payment obligations to milk producers. The security equals at least 75% of the largest amount that we owed producers at any time during our last completed fiscal year. The security is in the following form(s): [specify forms of security].

- The following statement if the milk contractor does not contribute to the fund or file security with DATCP, but is licensed solely on the basis of the contractor's financial statement:

IMPORTANT NOTICE

[Name of milk contractor] does not participate in Wisconsin's Agricultural Producer Security Fund, and has not filed security with the State of Wisconsin to secure payments to milk producers. Our financial statement shows positive equity, a current ratio of at least 1.25 to 1.0, and a debt-to-equity ratio of no more than 2.0 to 1.0.

- The following statement if the milk contractor is a producer agent who does not contribute to the fund and is required to file security with DATCP:

IMPORTANT NOTICE

[Name of milk contractor] does not participate in Wisconsin's Agricultural Producer Security Fund. We have filed security with the State of Wisconsin to cover part, but not all, of our milk payment obligations to milk producers. The security equals 15% of the largest amount that we owed to producers at any time during our last completed fiscal year.

The security is in the following form(s): [specify forms of security].

- The following statement if the milk contractor is a producer agent who contributes to the fund and files security with DATCP:

IMPORTANT NOTICE

[Name of milk contractor] contributes to Wisconsin's Agricultural Producer Security Fund as a producer agent. If we fail to pay a producer, the fund may pay up to 15% of the producer's allowed claim.

Fiscal Estimate

The department does not expect this emergency rule to have any material fiscal effect.

Regulatory Flexibility Analysis

The department will prepare and publish its proposed regulatory flexibility analysis permanent rule to create ch. ATCP 96, Wis. Adm. Code.

Notice of Hearing

**Commerce
(Fees, Ch. Comm 2)
[CR 02-042]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.15 (2) (e) and 101.19 (1) (h), Stats., the Department of Commerce will hold a public hearing on proposed rules relating to mine safety fees.

The public hearing will be held as follows:

Date and Time:	Location:
Wednesday, May 15, 2002	Room 3C, Thompson Commerce Center 201 West Washington Avenue Madison
1:00 p.m.	

Analysis Prepared by the Department of Commerce

Statutory Authority: Sections 101.15 (2) (e) and 101.19 (1) (h), Stats.

Statutes Interpreted: Sections 101.15 (2) (e) and 101.19 (1) (h), Stats.

Section 101.19, Stats., requires the Department to fix and collect fees by rule which shall, as closely as possible, equal the cost of providing services. The Department's current fees for the mine safety program in chapter Comm 2 basically consist of an annual safety service fee based on aggregate production and do not accurately relate to the level of services provided. The proposed rules reduce the production-based fees approximately 25% and create a more equitable fee-for-service mechanism. A fee of \$330 per course for the mine safety training courses conducted by the Department is created in the proposed rules.

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **May 24, 2002**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Ronald Acker, Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make

communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division web site at:

www.commerce.state.wi.us/SB/SB-HomePage.html. Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, Email rward@commerce.state.wi.us, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

Initial Regulatory Flexibility Analysis

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

The proposed rules will affect any business that operates a mine, pit or quarry in Wisconsin.

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

There are no reporting or bookkeeping procedures required for compliance with the proposed rules.

3. Types of professional skills necessary for compliance with the rules.

There are no types of professional skills necessary for compliance with the proposed rules.

Fiscal Estimate

The Department proposes lowering the safety service fee currently charged to mine operators. This fee is based on the annual production of mines. The annual costs associated with the programs this fee funds (Explosive Materials, Fireworks Manufacture, and Mine Safety) have been re-estimated and reduced from \$270,700 to \$194,900. The re-estimate of costs results in less revenue needed to fund the programs.

The Department proposes lowering the safety service fee by 25%, resulting in revenues collected more closely matching the costs of the programs funded by the revenue.

<u>Annualized Items</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Mine Safety Training			
Course Revenue	\$50,000	\$50,000	\$0
Blasters Certification			
Fee Revenue	\$24,000	\$24,000	\$0
Safety Service Fee			
Revenue	\$238,000	\$178,500	-\$59,500
Total	\$312,000	\$252,500	-\$59,500
Program Costs	\$194,900	\$194,900	\$0

Environmental Analysis

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

Notice of Hearing

Employee Trust Funds [CR 02-049]

The Wisconsin Department of Employee Trust Funds will hold a public hearing to review this proposed rule, which amends ss. ETF 20.25 (1) (a) and (2), Wis. Adm. Code, relating to the annuity dividend effective date and proration of annuity dividends in accordance with the provisions of s. 227.16 (1), Stats.

Hearing Information

The public hearing will be held on Thursday, **May 16, 2002** at 1:00 p.m. in room 2B, 801 West Badger Road, Madison, Wisconsin.

The public record on this proposed rule making will be held open until 4:30 p.m. on Friday, May 17, 2002 to permit the submission of written comments from persons unable to attend the public hearing in person, or who wish to supplement testimony offered at the hearing. Any such written comments should be addressed to Linda Owen, Department of Employee Trust Funds, 801 West Badger Road, P.O. Box 7931, Madison, Wisconsin 53707-7931.

Analysis Prepared by the Wisconsin Department of Employee Trust Funds

Current administrative rule under s. ETF 20.25 specifies that the Wisconsin Retirement System (WRS) fixed annuity dividends and variable annuity adjustments based on surpluses and/or deficiencies in the annuity reserve shall be effective on April 1 of each year. The proposed rulemaking would change the effective date of these annuity changes to March 1 of each year. The April 1 effective date for annuitant dividends was established as a date that was administratively feasible at that time. However, due to improved automation of both calculating and distributing the fixed and variable dividends, it is now administratively feasible to make the annuitant dividend adjustments a month earlier.

The proposed rulemaking also would change how dividends are prorated by reducing the minimum percentage by which a prorated annuity can be paid. Under current law, annuitants that retire in 2001 will receive a prorated dividend based upon the number of full months they were retired in 2001. If their dividend based upon the investment results would be less than 1%, no dividend is granted. The rule change would permit a dividend as low as .1% to be paid. Automation has provided the mechanism to calculate and distribute dividends in smaller increments.

Authority for Rule

Sections 40.03 (1) (m), (2) (i), (7) (d) and (8) (d), 40.27 (2) (b) and 40.28 (2), Stats.

Fiscal Estimate

The proposed rule has no fiscal impact on county, city, village, town, school district, technical college district or sewerage district fiscal liabilities and revenues. The rule itself has no anticipated state fiscal effect during the current biennium and no future side effect on state funds.

Initial Regulatory Flexibility Analysis

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

Copies of Rule and Contact Persons

Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53707, telephone (608) 266-1071. For questions about this rule making, please call Linda Owen, Policy Analyst, at (608) 261-8164.

Notice of Hearing

Insurance [CR 02-043]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting s. Ins 8.52 (4), Wis. Adm. Code, relating to publication of health insurance rates for small employers.

Hearing Information

Date: May 17, 2002

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: Room 6, OCI, 121 East Wilson Street, Madison, WI

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Stephen Mueller, OCI, PO Box 7873, Madison WI 53707.

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41, 635.05 (7) and 635.12, Stats.

Statutes interpreted: ss. 600.01, 635.05 (7) and 635.12, Stats.

Analysis: Section 635.12, Stats. (2001 Wis. Act 16) requires every small employer insurer to annually publish current new business premium rates in the manner and according to categories required by rule of the commissioner. The purpose of this proposed rule is to comply with this legislative mandate. The commissioner has determined that the most practical method of accomplishing this is to require small employer insurers to annually report their rates to the commissioner based on uniform criteria reported in a consistent format. Therefore the commissioner will provide a form for the small employer insurers to report rates. The form will follow the reporting criteria specified in this rule. The commissioner will publish the information gathered from all small employer insurers in a manner that will assist small employers to readily compare the rates. Small employer insurers who file rates with the commissioner as described in this rule will be in compliance with the requirements of s. 635.12, Stats. and need not publish the rates themselves.

Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

To Obtain a Copy of the Rule

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or

by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

Notice of Hearing

Insurance [CR 02-051]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the proposed rulemaking order affecting s. Ins 3.37, Wis. Adm. Code, relating to transitional treatment.

Hearing Information

Date: **Tuesday May 21, 2002**

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: Room 6, OCI, 121 East Wilson Street, Madison, WI

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 600.01 (2), 601.41 (3), 632.89 (4), Stats.

Statutes interpreted: ss. 632.89 (4), Stats.

Section 632.89 (4), Stats., requires the Office of the Commissioner of Insurance to define services for which insurance coverage applies to various transitional treatment of mental health and alcohol and other drug abuse treatment services. Due to recent changes in regulations issued by the Department of Health and Family Services (DHFS), several cross reference cites within s. Ins 3.37, Wis. Admin. Code, are invalid and require amendment and modification.

In addition, developments in mental health treatment options have created additional transitional treatment options, including crisis intervention, that should be incorporated within the scope of services covered under transitional treatment. Coordinated emergency mental health intervention provides immediate treatment options to persons experiencing a mental health crisis or are in a situation that if left untreated would likely become a crisis if proper support is not provided. These coordinated emergency mental health treatment services are not provided within a hospital setting, rather the treatment and intervention occurs where the crisis is occurring. If the person is at risk for repeated need for intervention, intervention plans would be developed with the goal of decreasing the frequency and intensity of future crises. Coordinated emergency mental health programs also known as crisis intervention programs, have been found to be effective both in terms of care to consumers and as a cost efficient alternative to traditional urgent or emergency treatment.

Crisis intervention programs must be certified by the Department of Health and Family Services and may be utilized by insurers as an alternate transitional treatment program.

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Julie E. Walsh, OCI, PO Box 7873, Madison WI 53707.

Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

Contact Person

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

Notice of Hearing

Natural Resources (Fish, Game, etc.)

[CR 02-046]

NOTICE IS HEREBY GIVEN that pursuant to s. 227.11 (2), Stats., interpreting ss. 30.03, 227.12, 227.41, 227.42, 227.44, 227.45, 227.47, 281.17 (3) and (5), 281.19, 281.20, 285.83 (1), 289.95, 289.97 (1), 291.87, 291.89, 291.95 (1), 292.11 (4) and (7) (c), 293.15 (3), 293.83, 299.21 and 299.91, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 2, Wis. Adm. Code, relating to procedures for obtaining and conducting both contested case and noncontested case administrative hearings.

The proposed rules modify the procedures for petitioning the Department for a hearing. Under the proposed modifications, petitions submitted by facsimile is being added. The date petitions are considered to have been made is being proposed to be the date received by the Department. While this approach is legally acceptable, it is less common than – for mailed petitions – the date the petition was mailed. With present technology and the internal Departmental practice of stamp dating mail on receipt, this procedure should reduce disputes regarding when service on the Department was accomplished. Service of pleadings in contested case hearings tracks the Division of Hearings and Appeals preference of using the day of mailing unless the postmark is illegible.

Two provisions are proposed with respect to contested case hearing procedures. One clarifies the responsibilities of parties with respect to burdens of proof and the order of providing evidence. The second places limitations on the extent of discovery in normal situations, but allows for additional discovery at the discretion of the administrative law judge who is presiding over the case.

Finally, the Department is proposing changes in the procedures for making confidential determinations. The proposed changes mostly relate to elimination of a preliminary determination. That procedure is administratively cumbersome while having engendered almost no public interest since first appearing in the code.

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:

Tuesday, May 14, 2002 at 1:30 p.m.

Room 027, GEF #2,

101 South Webster Street, Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Charles Hammer at (608) 266-0911 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The proposed revisions to ch. NR 2, Wis. Adm. Code leave much of the existing provisions in place and should result in no discernable change in fiscal impacts.

Written comments on the proposed rule may be submitted to Mr. Charles Hammer, Bureau of Legal Services, P.O. Box 7921, Madison, WI 53707 no later than May 24, 2002. 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 is available from Mr. Hammer.

Notice of Hearings

Natural Resources (Fish, Game, etc.)

[CR 02-044]

NOTICE IS HEREBY GIVEN that pursuant to ss. 350.137 (1) and 227.11 (2) (a), Stats., interpreting ss. 350.137 to 350.139 and 350.1395, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 6, Wis. Adm. Code, relating to snowmobile rail crossings. The proposed rules include:

1. Distinctions in the areas of responsibility for construction and maintenance between the snowmobile organization and the rail authority.
2. Repeal major sections on construction materials and their installation.
3. Establish sign specifications and posting distances for signs used at the crossing and prior to the crossing.
4. Describe construction scheduling and supervision responsibilities for both a snowmobile organization and a rail authority.
5. Further clarify the obligations of a snowmobile authority regarding the purchase of liability insurance to indemnify a rail authority.

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

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

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

Thursday, May 16, 2002 at 1:00 p.m.

Prairie Room, Portage County Courthouse

1001 Main Street

Stevens Point

Friday, May 17, 2002 at 10:00 a.m.

Room 511, GEF #2

101 South Webster Street

Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Larry Freidig at (608) 266-5897 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

A previous fiscal note was prepared in 1995. From a fiscal standpoint, there are several changes that will occur as a result of the modifications to the law and rule. First, for permitted crossings, the snowmobile organization will no longer be responsible for the actual cost of construction of the crossing between the rails and extending 4 feet outward from each outer rail. The snowmobile organization will be responsible for the costs of installing approaches, signs and gates. This will result in a reduction in the estimates of cost to snowmobile organizations from an average of \$6,000 per crossing to an estimate of \$500 per crossing. In addition, the snowmobile organization will have to pay the railroad a one-time fee of \$1,500 for the construction and use of the crossing. The previous fiscal note estimated a total of 3 permitted crossings will be constructed each year and that the funding will likely come from the snowmobile trail aids appropriations. This will reduce the estimate of aids to organizations from \$18,000 (in the 1995 estimate) to \$6,000.

Secondly, the Department will no longer be reviewing plans for crossing detail since that engineering task will belong to the rail authority. Additionally the involvement of the Community Services Specialist 3 will be reduced in scope to maintaining a listing of permitted and established crossings and consulting with snowmobile organizations regarding applications and interpretation of administrative rules. On an annual basis this will take less than 40 hours and result in less than \$1,500 for salary and fringe. It is not known what impact on Department staff time the potential for contested cases hearing will yield. In the 1995 estimate, the Department assumed that 1.0 FTE and \$43,500 would be needed to cover the work of the plan reviews and the application process. Now the workload will be absorbed in the Department's budget. The cost of maintaining permitted and established crossings will be absorbed within the \$250 per mile of maintenance funds awarded to counties sponsoring miles of public snowmobile trail.

As the previous fiscal note pointed out, there will be a limited source of revenue to the Department. A fee of \$150 is required for an application for a crossing permit. Based on the estimate of 3 permit applications, this will generate \$450 annually.

Written comments on the proposed rule may be submitted to Mr. Larry Freidig, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than May 22, 2002.

Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Freidig.

Notice of Hearings

Natural Resources (Fish, Game, etc.)

[CR 02-047]

NOTICE IS HEREBY GIVEN that pursuant to ss. 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats., interpreting ss. 77.06 (2) and 77.91 (1), Stats., the Department of Natural Resources will hold public hearings on revisions to s. NR 46.30 (2) (a) to (c), Wis. Adm. Code, relating to stumpage values of wood products cut from Forest Crop Law and Managed Forest Law lands during the period from November 1, 2002 through October 31, 2003. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average price change for sawtimber is a 2.85% increase over current rates. The pulpwood prices are, on the average, increased 8.63%.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 277.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Small private forest landowners and forest industries enrolled under the Forest Crop Law and Managed Forest Law.

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

c. Description of professional skills required: No new skills.

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

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

Monday, May 13, 2002 at 11:00 a.m.

Birch Room, Wausau City Hall

407 Grant Street

Wausau, 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 Ken Hujanen at (608) 266-3545 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. Ken Hujanen, Bureau of Forestry, P.O. Box 7921, Madison, WI 53707 no later than May 17, 2002. 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 is available from Mr. Hujanen.

Fiscal Estimate

The new 2003 stumpage rate schedule includes an average 2.85% increase in sawtimber prices and an increase of 8.63% in cordwood prices. The severance and yield tax collection in CY 2001 was \$1,173,746.76. Of this, about 20% of the gross revenue is from sawtimber harvests. Eighty percent of the revenue was related to cordwood harvests. As a result, a 2.85% increase in sawtimber prices will produce an increase in gross revenue of about \$6,690. An 8.63% increase in cordwood values will generate an increase of \$81,035 in revenue. The net result would be an increase of \$87,725. The gross receipts are shared between the municipality and state, with each receiving approximately 50%. The municipality in turn shares 20% of their receipts with the county.

The net fiscal effect of the rule change will be about \$43,863 increase in state revenue and a \$43,863 increase in local revenue. The state revenue received from severance and yield taxes are deposited in the Forestry account of the Conservation Fund.

Notice of Hearing

Workforce Development (Workforce Solutions, Chs. DWD 11-59)

[CR 02-050]

NOTICE IS HEREBY GIVEN that pursuant to ss. 20.901, 49.143 (2) (c), 49.145 (1), 49.145 (2) (c), 49.145 (2) (f), 49.145 (2) (n), 49.147 (5) (b) 2., 49.33, 103.005 (17), and 227.11, Stats.; ss. 49.145 (3), 49.147 (4) (am), and 49.147 (5) (bm), Stats., as amended by 2001 Wis. Act 16; and s. 49.1473, Stats., as created by 2001 Wis. Act 16, the Department of Workforce Development proposes to hold a public hearing to consider rules relating to Wisconsin works.

Hearing Information

Monday, May 13, 2002 at 1:00 p.m.

GEF 1 Building, Room B103

201 E. Washington Avenue

Madison

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

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

Analysis Prepared by the Department of Workforce Development

Domestic abuse screening and training. The proposed rule implements the requirement in 2001 Wis. Act 16 that W-2 agencies screen W-2 applicants and participants for domestic abuse and train W-2 agency employees in domestic abuse issues. The domestic abuse screening will be implemented as part of a comprehensive screening of each applicant and participant for mental health, learning disabilities, substance abuse, traumatic brain injury, and domestic abuse.

For the purposes of the screening and training provision, "domestic abuse" includes acts that affect the individual or the

individual's dependent child and are engaged in by a spouse or former spouse, an adult with whom the individual has or had a dating relationship, an adult with whom the person has a child in common, an adult or minor family member, or an adult or minor with whom the person resides or formerly resided. The acts include physical acts that result in injury; sexual abuse; threats of, or attempts at, physical or sexual abuse; emotional abuse; verbal abuse; deprivation or destruction of physical or economic resources; neglect or deprivation of medical care; forced isolation; and stalking or harassment. The W-2 agency will use the screening instrument to assess the potential that the individual or the individual's dependent child is or has been a victim of domestic abuse or is at risk of further domestic abuse. The screening will occur during the initial employability planning process for applicants and during the next review or change of employment placement for current participants. A W-2 agency may also administer a domestic abuse screening to a W-2 participant if the agency worker has reason to believe that the participant may need domestic abuse services. A W-2 agency employee shall attend the department's 12-hour training on domestic abuse prior to administering a domestic abuse screening instrument to a W-2 applicant or participant.

If a W-2 agency identifies an individual as a past or present victim of domestic abuse or determines that the individual is at risk of domestic abuse or if the individual identifies himself or herself as a past or present victim of domestic abuse or as an individual who is at risk of further abuse, the W-2 agency shall provide the individual with information on community-based domestic abuse services. The information that a W-2 agency gives to an individual on community-based domestic abuse services shall be provided orally and in writing; current and updated as necessary; culturally appropriate for the individual participant; and provided in languages other than English as appropriate, in accordance with the W-2 contract requirements under s. 49.143 (2), Stats. The information shall include information on local providers of shelters or programs for battered individuals, sexual assault provider services, medical services, sexual assault nurse examiners services, domestic violence and sexual assault hotlines, legal and medical counseling and advocacy, mental health care, counseling, and support groups. If the individual elects to receive counseling or supportive services, the W-2 agency shall provide appropriate community-based referrals. A W-2 participant may refuse to be screened for domestic abuse or may refuse information on or referrals to community-based domestic abuse services without sanction. Participation in the domestic abuse screening and information and referral process may not be a condition of eligibility for a W-2 participant.

W-2 transitions extensions. The proposed rule specifies the criteria for an extension of the 24-month time limit for W-2 transitions placement. Section 49.147 (3) (c) and (4) (b), Stats., provide criteria for determining eligibility for an extension for trial job and community service job placements, but s. 49.147 (5) (b) 2., Stats., provides no criteria for determining eligibility for an extension for a W-2 transitions placement. The department proposes that the W-2 transitions time limit may be extended on a case-by-case basis by the department or by the Wisconsin works agency with the approval of the department if the participant has made all appropriate efforts to find unsubsidized employment by participating in all assigned activities and significant barriers prevent advancement to a higher W-2 employment position or unsubsidized employment.

Qualified alien. The definition of qualified alien for purposes of W-2 nonfinancial eligibility is amended to reflect changes in federal law. The federal statutory scheme provides that to be eligible for a program funded by a Temporary Assistance to Needy Families (TANF) grant an individual must be a U.S. citizen, a national of the United States, or a qualified alien. Under federal law certain categories of aliens may be eligible for TANF, certain categories of aliens may not be eligible for TANF, and a state may choose to serve certain categories of aliens but may not use federal money. The department has chosen to use state maintenance of effort funds to serve as many categories of qualified aliens as are permitted under federal law. Relevant federal law may be found at 8 USC 1611, 8 USC 1612, 8 USC 1613, 8 USC 1641(b), 22 USC 7105, and 8 CFR 289.2.

Training rules. Chapter DWD 17 is amended to reflect the deletion of Wisconsin Works from the statutory definition of income maintenance program at s. 49.33, Stats., pursuant to 2001 Wis. Act 16. Under s. 49.33 (3), Stats., the department retains authority for the promulgation of rules establishing standards of competency, including training requirements, for income maintenance workers. With the transfer of the food stamp program to the Department of Health and Family Services that will be effective July 2002, there will be no income maintenance programs otherwise within the authority of DWD. Pursuant to s. 20.901, Stats., the department proposes to cooperatively share authority for the training of workers in the income maintenance programs under the responsibility of the Department of Health and Family Services and delegate authority to promulgate rules establishing standards of competency and training requirements for income maintenance workers to the Department of Health and Family Services. The rules promulgated by the Department of Health and Family Services would supercede the provisions affecting income maintenance workers in ch. DWD 17 upon their effective date.

Chapter DWD 17 is also amended to create a training requirement for W-2 resource specialists who perform application entry, provide an initial assessment of a potential W-2 applicant's needs, make referrals to service providers, or evaluate an individual's need for W-2. Training for resource specialists will include 6 hours on domestic abuse awareness.

The definition of financial and employment planner (FEP) is clarified to state that for purposes of the training requirements a FEP means a case manager employed by a W-2 agency who determines eligibility, assists in the process of determining eligibility, or performs case management functions.

Miscellaneous statutory updates. Other amendments made to reflect statutory changes include:

- Addition of employer-sponsored training to the education or training activities allowed under W-2 community service job and W-2 transitions placements.
- Exclusion of student financial aid in determining W-2 financial eligibility.
- Amendment of s. 49.145 (2) (n), Stats., on extending the 60-month TANF time limit.
- Extension of child support cooperation requirements to noncustodial parents.
- Repeal of language referring to s. 49.21, 1997 Stats., regarding fair hearings.

References to ch. DWD 11 in ch. DWD 12, relating to the Aid to Families with Dependent Children program, have been deleted because that chapter has been repealed.

Initial Regulatory Flexibility Analysis

Privately-run W-2 agencies may be affected by the rule in the same manner as described for counties under the screening and training subparts of the "fiscal impact" heading.

Fiscal Impact

1. Screening. The department is contracting with the UW-Milwaukee Center for Addiction and Behavioral Health Research for development of the comprehensive screening tool for a cost of \$45,000. There will also be some costs associated with changes to the CARES automation system that are not known at this time.

The comprehensive screening tool may result in an increased number of referrals for assessments and increased need for special services, resulting in increased cost to county W-2 agencies.

2. Qualified alien. The department estimates that the expansion of eligibility for W-2 and child care to aliens who are legally present and authorized to work by the INS will result in a monthly increase in each program of 8 cases. This is an annual cost of \$64,608 for W-2 and \$70,000 for child care. The cost for qualified aliens receiving W-2 or child care is covered by state maintenance of effort funds.

3. Training. Under the statutory framework in place when the current ch. DWD 17 was promulgated, W-2 was considered an income maintenance program and workers in W-2 agencies were "income maintenance workers." The current chapter DWD 17 relies on the statutory definitions of "income maintenance worker" and "financial and employment planner" to determine which W-2 workers are required to receive training under ch. DWD 17. Section 49.33 (1) (c), Stats., defined an "income maintenance worker" as a person "whose duties include determinations or redeterminations of income maintenance program eligibility" and s. 49.141, Stats., defines a "financial and employment planner" as a caseworker "who provides financial or employment counseling services to a participant."

Under 2001 Wis. Act 16, W-2 is no longer an income maintenance program and the statutory definition of income maintenance worker has been repealed. The proposed rule

defines the training requirements for W-2 workers based on important job duties performed in W-2 agencies. The rule specifies a training requirement for resource specialists, who are defined as workers who perform application entry, provide an initial assessment of a potential W-2 applicant's needs, make referrals to service providers, or evaluate an individual's need for W-2. It is currently unclear whether resource specialists are covered by the rule with the "income maintenance worker" definition as the determining criteria. The proposed rule also creates a definition of "financial and employment planner" based on job duties for which the department believes it is critical that W-2 workers receive the training designed for the financial and employment planners. The rule defines a "financial and employment planner" as a case manager "who determines eligibility, assists in the process of determining eligibility, or performs case management functions." It has been difficult to apply the current statutory definition of "financial and employment planner" to determine who should receive training in agencies where workers have other job titles.

The rule specifies new criteria that determine which workers are covered by the training requirements. This may result in some increased costs for counties that will be required to train workers who would not be clearly covered by the current rule.

Contact Information

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

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
201 E. Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
pridgel@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than May 15, 2002, will be given the same consideration as testimony presented at the hearing.

Submittal of proposed rules to the legislature

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

Natural Resources

(CR 01-127)

Relating to falconry.

Pharmacy Examining Board

(CR 01-154)

Ch. Phar 8, relating to requirements for the dispensing of prescription orders for schedule II controlled substances.

Public Defender

(CR 02-031)

Ch. PD 6, relating to the repayment of cost of legal representation.

Public Service Commission

(CR 00-180)

Ch. PSC 116, relating to the cost of fuel.

Social Workers, Marriage and Family Therapists and Professional Counselors

(CR 01-153)

Ch. SFC 3, relating to pre-certification supervised practice for independent social workers and independent clinical social workers.

Workforce Development

(CR 02-010)

Ch. DWD 59, relating to grants supporting community child care initiatives.

Rule orders filed with the revisor of statutes bureau

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

**Commerce
(CR 01-110)**

An order affecting ch. Comm 70, relating to historic buildings.
Effective 7-1-02

**Commerce
(CR 01-111)**

An order affecting ch. Comm 18, relating to elevators and ch. Comm 62, relating to buildings and structures.
Effective 7-1-02

**Health and Family Services
(CR 01-148)**

An order creating s. HFS 119.07 (6m) and table, to establish a separate prescription drug coinsurance benefit relating to the Health Insurance Risk-Sharing Plan (HIRSP) with limits on HIRSP policyholder out-of-pocket expenses for covered prescription drugs.
Effective 6-1-02

**Pharmacy Examining Board
(CR 00-157)**

An order affecting chs. Phar 2, 4, 12 and 13, relating to consultation programs and licensure requirements.
Effective 6-1-02

**Public Instruction
(CR 01-119)**

An order affecting ch. PI 25, relating to the children at risk program.
Effective 6-1-02

**Public Instruction
(CR 01-131)**

An order repealing chs. PI 23, 33, 39 and 43, relating to the elimination of obsolete rules.
Effective 6-1-02

**Public Instruction
(CR 01-132)**

An order affecting ch. PI 37, relating to technical modifications to chs. PI 10, 12, 20 and 37 pursuant to statutory changes made under 1999 Wis. Act 9 and 2001 Wis. Act 16.
Effective 6-1-02

**Transportation
(CR 02-005)**

An order affecting ch. Trans 102, relating to the issuance of driver's licenses and identification cards.
Effective 6-1-02

**Workforce Development
(CR 01-138)**

An order creating ch. DWD 44, relating to child support incentive payments.
Effective 6-1-02

**Workforce Development
(CR 02-007)**

An order affecting ch. DWD 55, relating to day care certification.
Effective 6-1-02

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the April 30, 2002, 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.

Employment Relations (CR 00-140)

An order affecting chs. ER 29 and 30, relating to career executive employment and various technical changes to bring the rules into consistency with the statutes and compensation plan.

Effective 5-1-02

Summary of Final Regulatory Flexibility Analysis

Rules affect state employees and do not impact small business.

Summary of Comments of Legislative Standing Committees

No comments were received.

Employment Relations – Merit Recruitment and Selection (CR 01-141)

An order affecting ch. ER-MRS 30, relating to certification for employment consideration, probationary periods, transfers of career executive employees and various technical changes to bring the rules into consistency with the statutes and compensation plan.

Effective 5-1-02

Summary of Final Regulatory Flexibility Analysis

Rules affect state employees and do not impact small business.

Summary of Comments of Legislative Standing Committees

No comments were received.

Financial Institutions – Banking (CR 02-001)

An order affecting ch. DFI-Bkg 80, relating to registration fees under the Wisconsin Consumer Act.

Effective 5-1-02

Summary of Final Regulatory Flexibility Analysis

Pursuant to s. 227.19 (3m), a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

No comments were received.

Natural Resources (CR 00-110)

An order affecting chs. NR 19 and 64, relating to ATV and snowmobile education fees.

Effective 5-1-02

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

The proposed rule was reviewed by the Senate Committee on Environmental Resources and the Assembly Committee on Natural Resources. On February 28, 2001, the Assembly Committee on Natural Resources held a public hearing. As a result of that hearing the Assembly Committee on Natural Resources notified the Department that the Committee believed that it was in the best interest of the future of ATV, snowmobile, bowhunter and hunter education program for the DNR to provide free training. As a result, 2001 Wis. Act 16 removed the requirement for the Department to charge for bowhunter and hunter education programs.

The revised rule now establishes a \$10.00 fee for ATV and snowmobile course.

Natural Resources (CR 01-011)

An order affecting ch. NR 45, relating to public use of department lands.

Effective 5-1-02

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

The proposed rule was reviewed by the Senate Committee on Environmental Resources and the Assembly Committee on Natural Resources. On November 7, 2001, the Assembly Committee on Natural Resources adopted a motion asking the Department to modify the proposed rule as it related to the possession of paint balls or paint ball equipment on Department lands. At its December 2001 meeting the Natural Resources Board revised the rule to remove the prohibition on the possession of paint balls or paint ball equipment. On January 2, 2002, the Assembly Committee on Natural Resources held a public hearing on the proposed revisions. At that hearing, it was questioned as to why certain

Department lands could not be made available for paint ball activities. The Assembly Committee on Natural Resources requested further modifications to the rule. On January 23, 2002, the Natural Resources Board deleted that portion of the proposed rule. The Department may initiate rulemaking in the future regarding the use of paint ball guns and other paint ball equipment on Department lands.

**Public Instruction
(CR 01-130)**

An order affecting ch. PI 27, relating to the

commencement of a school term.

Effective 5-1-02

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **April 2002**, 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.

Revision

Employment Relations:

Ch. ER 29

S. ER 29.04 (10)

Ch. ER 30 (entire chapter)

Employment Relations – Merit Recruitment and Selection:

Ch. ER–MRS 30

S. ER–MRS 30.03 (3)

S. ER–MRS 30.05

S. ER–MRS 30.06 (3)

S. ER–MRS 30.08

S. ER–MRS 30.10 (3)

S. ER–MRS 30.105

S. ER–MRS 30.99 (1) and (2)

Financial Institutions – Banking:

Ch. DFI–Bkg 80

S. DFI–Bkg 80.90

Natural Resources:

Ch. NR 1

S. NR 1.33

Ch. NR 19

S. NR 19.50

Ch. NR 45

S. NR 45.03 (8f), (16m)

S. NR 45.04 (1) (e), (3) (p), (r) and (s)

S. NR 45.05 (3) (e)

S. NR 45.06 (4) (f)

S. NR 45.08 (5)

S. NR 45.10 (1) (k), (n), (2m) (f), and (4) (a)

S. NR 45.12 (1) (b) and (c)

S. NR 45.13 (1) (e), (8m), (22) and (23)

Ch. NR 64

S. NR 64.09 (3) and (4)

Public Instruction

PI 27 (entire chapter)

Editorial corrections

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

Employment Relations:

Ch. ER 18

S. ER 18.01 (2) (b)

S. ER 18.02 (2) (b), (3) (c) and (4) (b)

S. ER 18.03 (5) (b)

Ch. ER 34

S. ER 34.05 (8)

Ch. ER 47

S. ER 47.05 (3)

Employment Relations – Merit Recruitment and Selection:

Ch. ER–MRS 22

S. ER–MRS 22.10 (6)

Financial Institutions – Banking:

Ch. DFI–Bkg 80

S. DFI–Bkg 80.221

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
DOC 302.31 (3) (b)	sub. (1) (b)	sub. (2) (b)
HFS 38.08 (1) (h)	HFS 56.06 (8)	HFS 38.08 (1) (h)
NR 120.02 (29)	20.370 (6) (aq)	Delete the reference
NR 120.16 (3)	Ch. ILHR 20, 21, 50 or 52	Ch. Comm 20, 21, 50 or 52
NR 128.42 (1) (intro.)	NR 2.195 (5) (b) 5.	NR 2.195 (2) (b) 5.
NR 133.06 (1) (b)	NR 133.04 (2) (h) 2.	NR 133.04 (2) (b) 2.
NR 133.07 (1) (b)	NR 133.04 (2) (b) 3.	NR 133.04 (2) (b) 1. c.
NR 133.09 (3)	NR 150.11	NR 150.40
NR 169.11 (3) (a) 11.	NR 169.11 (2) (a) 14.	sub. (2) (a)
NR 182.075 (1x) (b)	subd. 1.	par. (a)
NR 182.075 (2) (a)	196.01 (1) (d)	196.01 (5)
NR 209.06 (1)	ch. NR 3, subch. III	ch. NR 203
NR 209.06 (2)	ch. NR 3, subch. II	ch. NR 203
NR 210.05 (1) (intro.)	NR 102.02 (3)	NR 102.04 (3)
NR 213.02 (2) (b)	ch. NR 550	Delete the reference
NR 214.03 (9)	140.22 (5)	140.22 (3)
NR 410.03 (2) (g)	ch. NR 483	ch. NR 469
NR 425.03 (7m) (b)	NR 420.04 (2) (c) 2.	Delete reference
NR 508.02 (1)	295.01 (9)	293.01 (9)
NR 590.04 (2) (c)	Ch. NR 522	Ch. NR 524
NR 600.03 (75)	NR 635.12 (10) (c)	NR 635.12 (12) (c)
NR 635.04 (1)	Ch. NR 522	Ch. NR 524
NR 635.15 (9)	NR 289.41	289.41, Stats.
NR 635.18 (19)	NR 140.22 (5) (3 places)	NR 140.22 (3) (3 places)
NR 636.04 (1)	Ch. NR 522	Ch. NR 524
NR 640.04 (5)	Ch. NR 522	Ch. NR 524
NR 640.06 (1) (intro.)	NR 680.34	NR 680.32
NR 645.06 (1) (intro.)	NR 680.34	NR 680.32

Location of invalid cross-reference	Invalid cross-reference	Correction
NR 645.06 (1) (intro.)	NR 645.04 (1) to (8)	NR 645.04 (1) to (7)
NR 656.06 (intro.)	NR 680.34	NR 680.32
NR 656.06 (3) (p)	NR 660.16 (1) (a) and 660.17 (2)	NR 660.21 (1) (a) and 660.22 (2)
NR 660.04 (2)	Ch. NR 522	Ch. NR 524
NR 665.09 (13) (b)	NR 665.08 (13) (a)	par. (a)
NR 670.11 (1)	NR 630.04 (27) to (34)	NR 630.04
NR 680.22 (17)	NR 660.15 (3)	NR 660.20 (3)
NR 680.22 (17)	NR 660.16 (5)	NR 660.21 (5)
NR 680.22 (17)	NR 660.19 (14)	NR 660.24 (14)
NR 680.22 (18)	NR 660.17, 660.19 (15)	NR 660.22, 660.24 (15)
NR 680.22 (24)	NR 660.13 (3)	NR 660.18 (3)
NR 680.22 (25)	NR 660.12	NR 660.17
NR 680.22 (25)	NR 660.13	NR 660.18 (3 places)
NR 680.22 (31)	NR 660.19	NR 660.24
NR 680.22 (31)	NR 660.13	NR 660.18
NR 680.24 (5)	NR 660.19 (4)	NR 660.24 (4)
NR 680.24 (7) (a)	NR 660.19 (4)	NR 660.124 (4)
NR 680.50 (2) (d) 7.	NR 660.107	NR 660.15
NR 809.61 (3)	subchs. I, II, and V of ch. NR 149	ch. NR 149
NR 809.932 (6)	NR 811.13 (3m)	NR 811.13 (4)
NR 812.07 (71)	NR 145	NR 845
NR 812.09 (6)	NR 145	NR 845
PSC 114.210 (1)	PSC 114.01 to 114.07	PSC 114.001 to 114.007
PSC 114.310	PSC 114.01 to 114.07	PSC 114.001 to 114.007
PSC 114.402	PSC 114.01 to 114.07	PSC 114.001 to 114.007
PSC 134.01 (2)	196.62	Delete the reference
PSC 135.195 (4w) (ii) to (v)	PSC 135.211	PSC 135.195
PSC 135.199 (2) (iw)	PSC 135.213 (2) (hw)	PSC 135.199 (2) (hw)
PSC 136.10	PSC 113.132	PSC 113.0301
PSC 165.01 (2)	196.62	Delete the reference
PSC 185.17 (3)	182.0175 (1) (m)	182.0175 (1m)
PSC 186.12 (17)	196.01 (3t)	101.91 (8)
RL 25.03 (3) (L) 5.	66.432	66.1011
RL 31.03 (1) (b)	sub. (4)	sub. (1m)
RL 31.035 (1) (b)	sub. (4)	sub. (1m)

Location of invalid cross-reference	Invalid cross-reference	Correction
RL 31.036 (1) (b)	sub. (5)	sub. (1m)
RL 70.01	451.04 (1) (d)	451.04 (2) (d)
RL 90.02 (3)	39.51	45.54
RL 92.01 (3)	39.51	45.54
RL 92.02	39.51	45.54
RL 116.01 (3) (f)	111.355	111.335
RL 134.01	440.999	440.979
Tax 2.956 (1) and (2)	71.09 (12p) and (12q)	71.07 (9m) and (9r)
Tax 3.095 (4) (a) 4.	66.40 (14) (a)	66.1201 (14) (a)
Tax 3.095 (4) (a) 5.	66.431 (5) (a) 4. c.	66.1333 (5) (a) 4. c.
Tax 6.40 (3) (a) 1.	281.01 (1)	285.01 (1)
Tax 11.05 (4) (a)	66.47	66.0927
Tax 11.05 (4) (a)	66.20	200.01
Tax 11.05 (4) (a)	66.26	200.15
Tax 11.05 (4) (a)	66.88	200.21
Tax 11.05 (4) (a)	66.918	200.65
Tax 11.05 (4) (a)	66.0735	66.0823
Tax 11.29 (6) (d) 2.	66.058 (1) (d)	66.0435 (1) (d)
Tax 11.48 (1) (d)	66.058 (1) (d)	66.0435 (1) (d)
Tax 11.53 (1) (a)	77.52 (10)	Delete (10) from string
Tax 11.83 (8) (a)	218.01	218.0101 to 218.0163
Tax 11.83 (14)	218.015 (2) (f)	218.0171 (2) (f)
Tax 11.88 (3) (c)	66.058 (1) (e)	66.0435 (1) (e)
Tax 11.88 (6) (a)	218.10 (3)	218.10 (1g)
Tax 11.91 (3) (c) (intro.)	77.52 (18) (a)	77.52 (18) (bm)
Tax 11.96 (2) (a)	66.307	66.1113
Tax 13.03 (5)	79.39	70.39
Tax 13.03 (11) (a)	144.85	293.37
Tax 13.06 (3) (b)	subd. 1.	par. (a) 1.
Tax 14.04 (3) (c) and (4) (c)	66.058 (3) (c)	66.0435 (3) (c)
Tax 14.05 (3) (c)	66.058 (3) (c)	66.0435 (3) (c)
TCB 1.06 (1) (c)	16.75 (a) and (b)	16.75 (6) (b)
Trans 105.035 (1)	343.64 (4)	343.64 (1) (d)
Trans 138.01 (1)	343.16 (1m)	Delete (1m) from string
Trans 142.02 (7) (a) 1.	Adm 67.02 (7)	Com 97.02 (7)

Location of invalid cross-reference	Invalid cross-reference	Correction
Trans 195.02 (4)	943.70 (1) (a)	943.70 (1) (am)
Trans 233.01	20.305 (9) (qx)	20.395 (9) (qx)
Trans 275.05 (1)	275.03 (2) (c)	275.03 (2) (b)
Trans 313.01	347.413 (2)	110.10
Trans 330.11	330.10 (19) (a)	330.10 (19)
VA 1.10 (1)	(4) to (14)	(4) to (13)
DWD 12.09 (2) (n) (intro.)	DWD 11.19 (2) or (2m)	Delete the reference
DWD 221.02 (9)	106.52 (9)	106.53 (3)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 41. Relating to the proclamation of law enforcement status for the Wisconsin National Guard Drug Control Program for Asset Sharing Purposes.

Public notice

Public Instruction

NOTICE IS HEREBY GIVEN That pursuant to section 9304 (a) (7) of the Elementary and Secondary Education Act (ESEA), the Department of Public Instruction invites public comment on the department's consolidated state plan to seek funding from 14 federal programs authorized under the Act. The hearings will be held as follows:

DATE AND TIME	LOCATION
May 14, 2002 2:30 – 3:30 p.m.	Green Bay Comfort Suites 1951 Bond Street East Windsor Room
May 14, 2002 4:00 – 5:00 p.m.	West Salem CESA 4 923 East Garland Street Video Conference Room
May 14, 2002 4:00 – 5:00 p.m.	Ashland CESA 12 618 Beaser Avenue Video Conference Room
May 15, 2002 2:30 – 3:30 p.m.	Pewaukee Country Inn 2810 Golf Road Grand Ballroom North

The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Michael Thompson, Director, Student Services/Prevention and Wellness, at (608) 266-3584 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Analysis by the Department of Public Instruction

The ESEA of 1965, as reauthorized by the No Child Left Behind Act of 2001 (Public Law 107-110, NCLB), allows the department to submit a consolidated plan to obtain funds under many federal programs through a single application rather than through separate applications for each program. In order to reduce the state's administrative burden and meld the various federal programs into a more coherent strategy for improving education in Wisconsin, the department will submit a consolidated plan application to seek funds under the following programs:

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies.

Title I, Part B, Subpart 3: Even Start Family Literacy.

Title I, Part C: Education of Migrant Children.

Title I, Part D: Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk.

Title I, Part F: Comprehensive School Reform.

Title II, Part A: Teacher and Principal Training and Recruiting Fund.

Title II, Part D: Enhancing Education through Technology.

Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement.

Title IV, Part A, Subpart 1: Safe and Drug-Free Schools and Communities.

Title IV, Part A, Subpart 2: Community Service Grants.

Title IV, Part B: 21st Century Community Learning Centers.

Title V, Part A: Innovative Programs.

Title VI, Part A, Improving Academic Achievement.

Title VI, Part B, Subpart 2: Rural and Low-Income Schools.

The department's consolidated plan must be received by the U.S. Department of Education no later than May 28, 2002. Written comments on the proposed consolidated state plan received by Mr. Thompson at the following address no later than May 17, 2002, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

Copies of the Consolidated Plan and Contact Person

The consolidated plan will be available May 13, 2002. The plan may be viewed on the internet at <http://www.dpi.state.wi.us/dpi/esea/pdf/wiplan.pdf> or a copy may be obtained by sending an email request to michael.thompson@dpi.state.wi.us or by writing to:

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