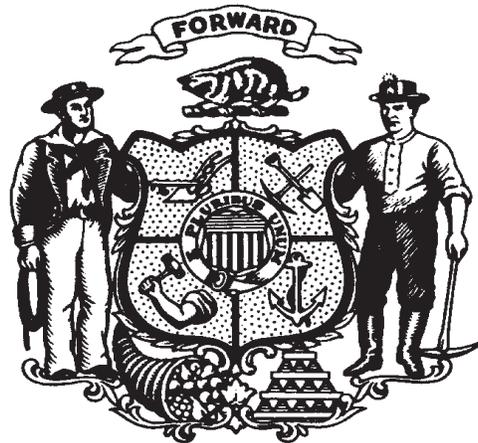


Wisconsin Administrative Register

No. 612



Publication Date: December 14, 2006

Effective Date: December 15, 2006



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

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

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

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

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

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

Administration

Rules adopted revising **ch. Adm 10**, relating to cost benefit analyses of contractual services.

Exemption from Finding of Emergency

Section 8(2) of 2005 Wisconsin Act 89 requires the Department of Administration to promulgate rules required under ss. 16.004 (1), 16.705 (2) and 227.11 Stats., by using the emergency rulemaking procedure under s. 227.24, Stats., except that the department is not required to provide evidence that the emergency rule is necessary for the preservation of public peace, health, safety or welfare and is not required to provide a finding of emergency.

Plain language analysis

The department intends to promulgate a rule as required by Act 89 to require a cost–benefit analysis to be completed for each bid or request for proposal to compare the cost of contracting for services versus providing the services with state employees.

Currently, all state agencies and UW System campuses may contract for services between \$25,000 and \$200,000 if they can show that the services can be performed more economically or efficiently by such a contract than by state employees. Currently, if the contractual services would be greater than \$200,000, the contracting agency must complete a more rigorous and detailed cost/benefit analysis to demonstrate that the services can be performed more economically or efficiently by such a contract than by state employees. This more rigorous and detailed analysis includes

total cost, quality and nature of services required, specialized skills, time factors, risk factors and legal barriers. Act 89 requires agencies to conduct uniform cost–benefit analysis of each proposed contractual service procurement involving an estimated expenditure of more than \$25,000 in accordance with standards prescribed in the rules. Cost benefit–analysis is defined to include total cost, quality, technical expertise and timeliness of a service.

Act 89 also requires agencies to review periodically, and before any renewal, the continued appropriateness of contracting under each services agreement involving an estimated expenditure of more than \$25,000. Act 89 requires the department to complete an annual summary report of the cost benefit–analysis prepared by state agencies in the preceding fiscal year and recommendations for elimination of unneeded contractual service procurements and for the consolidation or resolicitation of existing contractual service procurements.

Publication Date: July 1, 2006

Effective Date: July 1, 2006

Expiration Date: See section 8 (2) of 2005 Wis. Act 89.

Hearing Date: August 11, 2006

Agriculture, Trade & Consumer Protection (2)

1. Rules adopted revising **ch. ATCP 136**, relating to mobile air conditioners; reclaiming or recycling refrigerant.

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers s. 100.45, Stats. DATCP has adopted rules under ch. ATCP 136 to implement s. 100.45, Stats. The current rules regulate the sale and installation of mobile air conditioner refrigerants, including “substitute refrigerants” such as R 134A. Among other things, the current rules prohibit the sale of mobile air conditioner refrigerants in containers holding less than 15 lbs. of refrigerant.

(2) On June 28, 2006, the Legislature’s Joint Committee for Review of Administrative Rules (JCRAR) voted to suspend all current state rules related to the installation and sale of “substitute refrigerants” of any kind. This broad exemption will become effective on July 7, 2006 unless by that date DATCP adopts a narrower alternative exemption by emergency rule. The narrower exemption specified by JCRAR would apply only to the sale of the “substitute refrigerant” R 134A. The exemption would allow the sale of R 134A to the general public in “do–it–yourself” containers holding less than 15 lbs.

(3) DATCP is adopting this emergency rule for the sole purpose of preventing a broader JCRAR suspension of rules that currently prevent the release of mobile air conditioner refrigerant into the environment.

Publication Date: July 12, 2006

Effective Date: July 12, 2006

Expiration Date: December 9, 2006

Hearing Date: August 15, 2006

2. Rules adopted amending **s. ATCP 10.47 (2) (c) and (3) (b) 3.**, relating to minimum acreage requirements for farm–raised deer hunting preserves.

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers state laws related to farm–raised deer. DATCP currently licenses deer farms and issues certificates for deer hunting preserves, pursuant to s. 95.55, Stats., and ch. ATP 10, Wis. Adm. Code.

(2) Current law generally prohibits deer hunting preserves smaller than 80 acres. However, 2005 Wis. Act 359 (enacted effective May 3, 2006) provides a limited “grandfather” exemption for certain white–tailed deer hunting preserves previously licensed by the Department of Natural Resources (“DNR”). Under Act 359, a white–tailed deer hunting preserve is exempt from the 80–acre minimum size requirement if, *among other things*, the acreage of the hunting preserve is “not less than the acreage subject to the deer farm license on December 31, 2002.” This rule clarifies that the “acreage subject to the deer farm license on December 31, 2002” means the *hunting* acreage subject to the deer farm license on December 31, 2002. Without this interpretation, Act 359 would have no practical effect and would be rendered a nullity.

(3) The “grandfather” exemption in Act 359 is limited to hunting preserve operators who apply by November 1, 2006. DATCP must act on applications within 90 business days. Action may affect an operator’s ability to operate during the 2006 hunting season. DATCP is adopting this rule as an emergency rule, in order to facilitate timely action on applications. DATCP could not adopt this rule by normal rulemaking procedures in time to implement Act 359.

Publication Date: October 9, 2006
Effective Date: October 9, 2006
Expiration Date: March 7, 2007
Hearing Date: November 13, 2006

Commerce
(Financial Resources for Businesses and Communities, Chs. Comm 105 to 131)

Rule adopted creating **ch. Comm 131**, relating to diesel truck idling reduction grants.

Exemption from Finding of Emergency

The legislature by Section 9108 (1w) in 2005 Wisconsin Act 25, provides an exemption from a finding of emergency for the adoption of this rule.

The rules specify who is eligible for receiving a grant in this program for purchasing and installing diesel truck idling reduction equipment. Eligible costs are also specified, along with how to apply for the grants. Parameters for awarding the grants are likewise specified. These parameters include (1) disallowing grants to any applicant who is failing to comply with any conditions imposed on any previous grant received in this program; and (2) alerting applicants that the Department may (a) refuse to award grants for idling reduction equipment on truck tractors that do not have a sleeper berth, (b) annually allocate up to 25 percent of the grant funding to applicants who own and operate 50 or fewer truck tractors, and (c) set deadlines for submitting applications, and then prorate the awards to the applicants if the total funding requested in the applications exceeds the available revenue.

Publication Date: June 30, 2006
Effective Date: July 1, 2006
Expiration Date: November 28, 2006
Hearing Date: July 25, 2006

Corrections

A rule was adopted creating **s. DOC 332.19**, relating to a sex offender registration fee.

Finding of Emergency

The department of corrections finds that an emergency exists and that rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is: Under 2005 WI Act 25, the legislature authorized the department to establish a sex offender registration fee. If the rule is not created promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of monitoring probationers, parolees, or persons on extended supervision, which could result in a lessening of supervision due to budget limitations.

The purpose of the emergency rule is to establish an annual sex offender registration fee to partially offset the costs of monitoring persons who are on probation, parole, or extended supervision. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of fees while permanent rules are being developed.

Publication Date: June 8, 2006
Effective Date: June 8, 2006
Expiration Date: November 5, 2006
Hearing Date: July 18, 2006
Extension Through: January 3, 2007

Elections Board

Rules were adopted creating **s. ElBd 3.04**, relating to election day registration and the requirement to provide a driver’s license number or other form of identification to register at the polls.

Finding of Emergency

The Elections Board finds that an emergency exists in the 2002 change in federal law that requires persons who have been issued a current and valid driver’s license to list that number in completing a voter registration application or their registration may not be processed.

In 2002, Congress enacted the Help America Vote Act to address problems and issues that surfaced in the 2000 presidential election. Section 303(a)(5)(A)(i) of the Act provided that “an application for voter registration for an election for Federal office may not be accepted or processed by a state unless the application includes – in the case of an applicant who has been issued a current and valid driver’s license, the applicant’s driver’s license number.” To comply with federal law, but also to avoid disenfranchising those Wisconsin election day registrants who have been issued a current and valid Wisconsin driver’s license but do not provide that number on their registration form, the Board has adopted s. ElBd 3.04, providing for the issuance of a

provisional ballot to those registrants, pursuant to s. 6.97, Stats. Under that statute, the provisional ballot will be counted if the registrant provides, by any means feasible, his or her driver's license number to the clerk of the municipality in which the registrant has voted, not later than 4:00 p.m., on the day following the election.

Previously, the Board's policy had been to process the election day registration of those registrants who failed to list their driver's license number on their registration application, if they had provided, on their registration form, a Wisconsin-issued Identification Card Number or the last four digits of their Social Security Number. Whether that policy complied with federal law had been in issue. Assuring that Wisconsin's practice complies with federal law and obtaining that assurance before election day, by the promulgation of this emergency rule, is found to be in the public interest.

Publication Date: July 31, 2006
Effective Date: July 31, 2006
Expiration Date: December 28, 2006
Hearing Date: October 4, 2006

Financial Institutions – Banking

Rules were adopted revising **ch. DFI—Bkg 77**, relating to pawnbrokers.

Finding of Emergency

The effect of 2005 Wisconsin Act 158 is that pawnbrokers licensed by the department under s. 138.09, Stats., are exempt from s. 138.10, Stats., effective October 1, 2006. Under statutory procedures, however, a permanent rule regulating these pawnbrokers is unlikely to be effective until mid-2007, leaving the public without the safeguards of the permanent rule until that time. Thus the preservation of public safety and welfare necessitates enacting the safeguards of the emergency rule until a permanent rule is in effect.

Publication Date: September 25, 2006
Effective Date: October 1, 2006
Expiration Date: February 28, 2007
Hearing Date: December 13, 2006

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

Rules adopted creating **ch. HFS 137**, relating to prescribing forms for use by physicians, technicians and tissue bank employees when removing organs and tissue, other than cardiovascular tissue from decedents.

Exemption from Finding of Emergency

The legislature by 2005 Wisconsin Act 230 requires these rules to be promulgated as emergency rules and exempts the Department from making a finding of emergency or providing evidence that these rules as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare.

Plain language analysis:

The Department is required by 2005 Wisconsin Act 230 to appoint an advisory committee to assist the Department in prescribing, by rule, a form for removal of organs and a form for removal of tissue, other than cardiovascular tissue, for use by physicians, technicians, and tissue bank employees under

section 157.06 (4m) (e) of the statutes, as created by Act 230. Section 157.06 (4m) (e), Stats., requires a physician who removes tissue or an organ from a decedent or a technician or tissue bank employee who removes tissue from a decedent under s. 157.06 (4m), Stats., to complete the form created by the Department and transmit the form to the coroner or medical examiner with jurisdiction over the decedent.

As required by section. 12. (1) (b) of Act 230, the Department intends to promulgate permanent rules that are substantially identical to the emergency rules.

Because these rules only prescribe forms, the Department will, as allowed under s. 227.23, Stats., promulgate these rules without adhering to the notice and public hearing requirements set forth under ch. 227, Stats. Also, as allowed under s. 227.23, Stats., the forms prescribed by the proposed rules will not be published in the Wisconsin administrative code or the Wisconsin Administrative Register, but will be listed by title and description with a statement as to how the forms may be obtained.

Publication Date: July 24, 2006
Effective Date: August 1, 2006
Expiration Date: December 29, 2006

Insurance (2)

1. Rules adopted creating **ss. Ins 9.25 (8) and 9.27 (4)**, Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business plan limited exemption.

Finding of Emergency

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

The rule identifies a limited group of policies issued by licensed insurers offering preferred provider plans that do not comply with newly promulgated ch. Ins 9, Wis. Adm. Code. In compliance with the request of the Joint Committee for the Review of Administrative Rules (JCRAR), this rule must be issued as an emergency rule and permanent rule. It is not possible to complete the permanent rule process prior to the effective date of the chapter, January 1, 2007, therefore this emergency rule is necessary.

The commissioner has filed a notice of scope for drafting the permanent rule corresponding to this emergency rule and will continue with the permanent rule making process. It is intended that one rule hearing can be held to comply with both the emergency rule and permanent rule requirements.

Publication Date: August 31, 2006
Effective Date: September 1, 2006
Expiration Date: January 29, 2007
Hearing Date: December 12, 2006

2. Rules adopted revising **s. Ins 6.77**, relating to underinsured and uninsured motorist coverage in umbrella and commercial policies.

Finding of Emergency

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

These changes will modify the rule in light of the recent Supreme Court decisions, *Rebernick v American Family*

Mutual Ins Company, 2006 WI 27 and *Rocker v USAA Casualty Ins Company*, 2006 WI 26. In *Rebernick*, the court held that s. 632.32 (4m), Stats, applies to personal umbrella policies. In *Rocker*, the court held that s. 632.32 (6) (a), Stats, applies to commercial general liability policies and commercial umbrella policies. These interpretations are inconsistent with current insurer practices and OCI's expectation of what would be covered in these types of policies.

Compliance with this interpretation would create significant, if not impossible compliance problems for insurers. Many insurers who write umbrella coverage do not write and are not even licensed to write automobile coverage. A second, difficult issue is that the limits for umbrella coverages are generally very high, \$1,000,000. It is unclear how an umbrella policy would reconcile these limits with the underlying auto policy and underinsured motorist coverage. For this reason, OCI had previously by rule exempted umbrella policies from the similar requirements of the uninsured motorist coverages in s. 632.32, Stats. For similar reasons, the same revision is being made for commercial liability policies.

Publication Date: September 29, 2006
Effective Date: September 29, 2006
Expiration Date: February 26, 2007
Hearing Date: December 11, 2006

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

Rules adopted revising **ch. NR 10**, relating to the 2006 migratory game bird seasons.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid–August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: August 31, 2006
Effective Date: August 31, 2006
Expiration Date: January 28, 2007
Hearing Date: October 11, 2006

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

Rules adopted creating **ss. NR 328.31 to 328.36**, relating to shore erosion control on rivers and streams.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken as exempt from a permit, or under a general permit. There are no statutory exemptions for shore protection on rivers and streams. Without emergency rules to create general permits, all shore protection projects on rivers and streams require an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2006 construction season, with specific standards for shore erosion control structures on rivers and streams.

Publication Date: May 5, 2006
Effective Date: May 8, 2006
Expiration Date: October 4, 2006
Hearing Date: June 13, 2006
Extension Through: December 2, 2006

Natural Resources (Environmental Protection – Hazardous Waste, Chs. NR 600—)

Rules adopted revising **chs. NR 660 to 665**, relating to hazardous waste management.

Exemption from Finding of emergency

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

In 2001, EPA proposed regulations to change the hazardous waste manifest requirements under the federal Resource Conservation and Recovery Act (RCRA) to eliminate all state–specific manifest requirements and to require electronic submittal of the manifests. The EPA's final rule was published March 4, 2005, with correcting amendments published on June 16, 2005, and the effective date is September 5, 2006. The new regulations require the use of standardized manifest forms in all states and require certification from EPA in order to print the manifest forms. (Final action on the e–manifest was postponed.) Unlike most RCRA rules, this federal regulation will take effect, nation–wide, on the effective date. The new federal requirements will apply in all states, including Wisconsin, but will not override or supersede Wisconsin's state–specific hazardous waste manifest requirements. Accordingly, the potential exists for conflicting or additional state manifest requirements to exist beginning on that date, and the advantages of a single, uniform nationwide rule will be lost.

The normal administrative rulemaking process cannot be completed in time to conform Wisconsin's hazardous waste manifest requirements to the new EPA manifest regulations by their September 5, 2006 effective date. However, failure

to adopt the new federal requirements as state rules by this date may cause legal uncertainty and potential confusion among hazardous waste generators, transporters and treatment, storage and disposal facility operators, as well as state regulatory program staff. This could interfere with interstate commerce and the orderly functioning of government, imposing unnecessary regulatory costs on Wisconsin individuals and businesses and out-of-state companies doing business in Wisconsin, to the detriment of the public welfare. More importantly, the potential confusion caused by different state and federal manifest requirements could lead to improper transportation and management of hazardous wastes, resulting in a threat to public health or safety and the environment.

Publication Date: September 2, 2006
Effective Date: September 5, 2006
Expiration Date: February 2, 2007
Hearing Date: September 26, 2006

Optometry Examining Board

A rule Was adopted creating **ch. Opt 8**, relating to continuing education.

Exemption from finding of emergency

2005 Wisconsin Act 297 section 58 states in part:

“(3) Continuing education rules. (b) ...Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the optometry examining board is not required to provide evidence that promulgating a rule under this paragraph as an emergency 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 a rule promulgated under this paragraph.”

Plain language analysis

Chapter Opt 8 is being created to incorporate the continuing education requirements that optometrists must complete in order to renew their registrations. As a result of the changes made to ch. 449, Stats., by 2005 Wisconsin Act 297, all optometrist will now be required to complete 30 hours of continuing education. Previously, only optometrists who were certified to use diagnostic pharmaceutical agents (DPA) and therapeutic pharmaceutical agents (TPA) were required to complete continuing education course work.

Publication Date: November 8, 2006
Effective Date: November 8, 2006
Expiration Date: April 7, 2007
Hearing Date: December 7, 2006

Regulation and Licensing (2)

1. Rules were adopted creating **chs. RL 164 and 165**, relating to a code of conduct and renewal requirements for substance abuse professionals.

Plain language analysis

The purpose of this emergency rule is to create a code of conduct to facilitate assumption of disciplinary proceedings as part of the transfer of the regulation of substance abuse professionals from the Department of Health and Family Services to the Department of Regulation and Licensing. The emergency rule also sets forth the requirements for renewal.

The Department of Regulation and Licensing must promulgate this emergency rule for the period before the effective date of the permanent rules as promulgated under Wis. Stats. s. 440.88 (3). Under the previous regulatory scheme, the Department of Health and Family Services and the Wisconsin Certification Board had established a code of conduct and restrictions on late renewals. This emergency rule continues the applicability of the rules until the department, with the advice of the Advisory Committee, can establish permanent rules.

Exemption from finding of emergency

Section 9140 (1q) of 2005 Wisconsin Act 25 states in part: “Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency 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 a rule promulgated under this subsection.”

Publication Date: April 15, 2006
Effective Date: April 15, 2006
Expiration Date: September 12, 2006
Hearing Date: June 27, 2006
Extension Through: January 9, 2007

2. Rules adopted creating **chs. RL 160 to 168**, relating to substance abuse professionals.

Exemption from finding of emergency

Section 9140 (1q) of 2005 Wisconsin Act 25 states in part: “Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency 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 a rule promulgated under this subsection.”

Plain language analysis

2005 Wisconsin Act 25 created Subchapter VII of chapter 440, Stats., Substance Abuse Counselors, Clinical Supervisors, and Prevention Specialists. This Act transferred the certification and regulation of Alcohol and other Drug Abuse (AODA) counselors from the Department of Health and Family Services to the Department of Regulation and Licensing, effective 2006. This proposed rule-making order creates rules relating to definitions, requirements for certification, supervised practice, scope of practice, education approval and professional liability insurance for substance abuse professionals.

Publication Date: November 27, 2006
Effective Date: December 1, 2006
Expiration Date: April 30, 2007

Transportation (2)

1. Rules adopted creating **ch. Trans 515**, relating to contractual service procurement.

Exemption from finding of emergency

The Legislature, by Section 8 of 2005 Wis. Act 89, provides an exemption from a finding of emergency for the adoption of the rule.

Analysis Prepared by the Department of Transportation

The proposed rule requires a cost benefit analysis before procuring engineering or other specialized services under s.

84.01 (13), Stats., in excess of \$25,000 when those services are normally performed by state employees. The required analysis includes a comparison between the costs of contracting out and performing the services with state employees. The analysis also considers other subjective factors such as timeliness, quality and technical expertise.

Publication Date: July 1, 2006

Effective Date: July 1, 2006

Expiration Date: See section 8 (2) of 2005 Wis. Act 89

Hearing Date: August 8, 2006

- Rules adopted revising **ch. Trans 276**, relating to allowing the operation of certain 2–vehicle combinations on certain highways without a permit.

Exemption from finding of emergency

The Legislature, by Section 7 of 2005 Wis. Act 363, provides an exemption from a finding of emergency for the adoption of the rule.

Plain language analysis

Section 348.07 (1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65–foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin’s old default 65–foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65–foot restricted routes by the Department. This emergency rule making establishes a preliminary list of such “65–foot restricted routes.”

Prior to Act 363, s. 348.07 (4), Stats., permitted the Department to designate “long truck routes” upon which no overall length limits apply. The Department designates the state’s long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new “default” 75–foot overall length limit applies on state highways that are neither designated as 65–foot restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

In drafting this rule the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department’s view, deserve special legislative attention. First, Act 363 did not grant any authority for 75–foot vehicles using the new 75–foot routes to leave those routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department does not believe this oversight was intentional and, on an emergency basis, has designated the intersection of each 75–foot route and any other highway as a long truck route under its authority in s. 348.07 (4), Stats. This will permit trucks to exceed the 65–foot default length limit on local roads to access such facilities and make deliveries. The Department encourages the legislature to consider statutorily establishing access rights for vehicles using 75–foot restricted routes.

The second consequence of Act 363 the Department has discovered in drafting this emergency rule is that one statute that formerly restricted double–bottom tractor–trailer combinations to the state’s long–truck network was repealed by the deletion of the reference to s. 348.07 (2) (gm), Stats., by the Act’s amendment of s. 348.07 (4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08 (1) (e), Stats., however, continues to provide that double–bottom trucks be restricted to highways designated by the department under s. 348.07 (4). WisDOT believes this provision continues to limit double–bottom operation to long truck routes designated by the Department under s. 348.07 (4), Stats. WisDOT would suggest the deleted reference to (2) (gm) in 348.07 (4), Stats., be re–inserted into the statute to avoid confusion.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

Publication Date: September 15, 2006

Effective Date: September 15, 2006

Expiration Date: See section 7 (2) of 2005 Wis. Act 363

Hearing Date: October 4, 2006

Scope statements

Health and Family Services

Subject

The Department of Health and Family Services proposes to revise ch. HFS 51, and title, relating to adoption of children with special needs to include preadoption training requirements that will apply to private adoptions, foreign adoptions, and adoptions of children with special needs. The Department also proposes to revise ch. HFS 54, relating to child–placing agencies to include requirements relating to adoptions.

Policy Analysis

Effective April 1, 2007, 2005 Wisconsin Act 293 creates s. 48.84, Stats., to require prospective adoptive parents to receive preadoption preparation (i.e., training) in the following instances:

- Before a child may be placed under s. 48.833, Stats., (special needs adoption) for adoption;
- Before a proposed adoptive parent who has not previously adopted a child may petition for placement of a child for adoption under s. 48.837, Stats., (nonrelative adoptions); and
- Before a proposed adoptive parent who has not previously adopted a child may bring a child into Wisconsin for adoption under s. 48.839, Stats., (foreign adoptions).

Under s. 48.84, Stats., preadoption training must be provided by a licensed child welfare agency, a licensed private adoption agency, the state adoption information exchange under s. 48.55, Stats., the state adoption center under s. 48.55, Stats., a state–funded foster care and adoption resource center, or a state–funded postadoption resource center. Also under s. 48.84, Stats., prospective adoptive parents for private adoptions and foreign adoptions are responsible for the cost of the training. The Department is responsible for the cost of training adoptive parents for special needs adoptions of children in the public child welfare system.

Section 48.84, Stats., further requires the Department to establish, by rule, the number of hours of training necessary, and the training content, including information on issues that may confront adoptive parents, generally, and that may confront adoptive parents of special needs and foreign children.

The Department intends to propose rules for preadoption preparation consistent with s. 48.84, Stats. The adoption preparation requirement under s. 48.84, Stats., will become effective on April 1, 2007 and will apply to all adoptive placements made on or after that date.

Comparison with Federal Regulations

The Department knows of no comparable existing or proposed federal regulations relating to preadoptive training.

Entities Affected by the Rule

Entities that may be affected by the proposed rule include proposed adoptive parents and agencies through which adoptive parents adopt children. The state adoption information exchange under s. 48.55, Stats., the state adoption center under s. 48.55, Stats., the state–funded foster care and adoption resource center, or state–funded postadoption

resource center, should they choose to provide preadoption training, will also be affected.

Statutory Authority

Sections 48.84 (2), as created by 2005 Wisconsin Act 293, and 227.11 (2) (a), Stats.

Staff Time Required

It is anticipated that approximately 40 hours of DCFS staff time will be required to develop this rule. This rule will be developed through the Program Enhancement Plan (PEP) Adoption Committee, which is comprised of state staff, county staff, private adoption agency staff, and foster and adoptive parents.

Health and Family Services

Subject

The Department of Health and Family Services proposes to revise chs. HFS 83, Community–Based Residential Facilities; HFS 88, Adult Family Homes; HFS 89, Residential Care Apartment Complexes; HFS 132, Nursing Homes; and HFS 134, Facilities for the Developmentally Disabled, relating to involuntary administration of psychotropic medication.

Policy Analysis

Effective November 1, 2006, 2005 Wisconsin Act 264, creates s. 50.02 (2) (ad), Stats., which directs the Department to promulgate rules that require nursing homes, facilities for the developmentally disabled, community–based residential facilities, adult family homes and residential care apartment complexes to provide, to the Department, information necessary to determine the facilities' compliance with s. 55.14, Stats., relating to involuntary administration of psychotropic medications to an individual pursuant to court ordered protective services. Section 229 subsection (4) of Act 264 requires the Department to submit the rules created under s. 50.02 (2) (ad), Stats., to the Legislative Council Rules Clearinghouse by May 1, 2007.

Comparison with Federal Regulations

There are no comparable federal regulations.

Entities Affected by the Rule

Entities that may be affected by the proposed rule include nursing homes, facilities for the developmentally disabled, community–based residential facilities, adult family homes, residential care apartment complexes, residents who live in these facilities and receive psychotropic medication pursuant to court ordered protective services, counties, and advocacy groups.

Statutory Authority

The Department's authority to promulgate rules is under ss. 50.02 (2) (ad), as created by 2005 Wisconsin Act 264, 55.14, and 227.11 (2) (a), Stats.

Staff Time Required

The Department estimates that it will take 200 hours to draft the rulemaking order. The Department will seek the participation of Disability Rights Wisconsin Inc., the Coalition of Wisconsin Aging Groups, the Wisconsin

Assisted Living Association, the Wisconsin Association of Homes and Services for the Aging, the Wisconsin Association of County Homes, the Wisconsin Health Care Association, and the Board on Aging and Long Term Care.

Health and Family Services

Subject

Parental fees for children's long-term support services and early intervention services for children from birth to 3 with developmental needs.

Policy Analysis

Families with children who have functional needs receive services from a number of programs implemented by county human and social services agencies. These programs include early intervention services for children from birth to 3 with developmental needs; the family support program; the community options program; the children's home and community based services waivers; various locally funded services such as respite care and community inclusion activities for children; and other children's long term support programs. Federal, state, and county funds pay a portion of the costs for these services. Parents of children who receive these services also pay a portion of these costs. Parents of children who receive long-term support services are required to pay a fee based on a schedule established by the Department under 2003 Wisconsin Act 33 and s. HFS 1.03 (13m). Parents of children who receive early intervention services are required to pay a fee assessed by the county providing services under s. 51.44 (5) (a), Stats., and s. HFS 90.06 (2) (i). Counties have determined that implementing the early intervention services and children's long-term support services under two different fee systems is administratively and fiscally burdensome. In addition, the Department has determined that the system for calculating the parental cost share for early intervention services is not equitably distributed in that families are not being assessed a fee in proportion to their incomes and services received.

To decrease the burden on county agencies in implementing early intervention and children's long term support programs, and to ensure that families, in proportion to their incomes, share in the costs of their child's services, the Department will propose to establish in ch. HFS 1, a single fee schedule for use by counties in assessing parental fees for the early intervention program services and children's long-term support services. Except for early intervention core services, such as service coordination and evaluation, the proposed consolidation and revision of fee schedules may result in an increase in costs to families receiving early intervention services due to the change in the process for calculating the parents' share of costs. Currently, the parental cost share for early intervention services is a flat fee based on family annual income and family size relative to federal poverty guidelines. The change in calculation will continue to be based on family annual income and family size relative to federal poverty guidelines, but the fee will be a percentage of actual costs for services based on the family's income and size instead of a flat fee. Under the proposed fee schedule, fees will be assessed beginning at family annual income levels at or above 330% of federal poverty level. The costs will be assessed beginning at 1% of service costs and can progress to 41% of service costs for families at 2000% or greater of federal poverty level.

Comparison with Federal Regulations

The Department knows of no existing or proposed federal rules that are similar to the planned proposed rules.

Entities Affected by the Rule

The proposed rule may affect county social and human service agencies; local public health agencies; families with children who receive early intervention services or children's long-term support services; and providers of children's long-term support and early intervention services.

Statutory Authority

Sections 46.03 (18) and 46.10, 51.44 (5) (a), and 227.11 (2), Stats.

Staff Time Required

The department anticipates that staff will take approximately 24 hours to develop the proposed rules.

Natural Resources

Subject

Objective of the rule. The Bureau of Air Management proposes to proceed with the development of rules to amend the definitions of "major source" and "Part 70 source" for purposes of the air operation permit program (NR 407.02), "fugitive emissions" (NR 400.02) and s. NR 407.12 for minor source revisions, to conform to federal rules.

Section NR 406.15 (3) is to be amended, changing the relocation requirement for Nitrogen Oxide (NO_x) and Volatile Organic Compound (VOC) emissions, eliminating the numerical values for a major source threshold.

Sections NR 406.04 (2m) and 407.10 (4) allow for permit exemptions for replacement sources that are covered under a general permit. These rules are being amended to clarify which sources are exempt.

Chapter NR 439 outlines the requirements for periodic compliance stack testing. This rule is being amended to allow for alternative stack testing requirements for MACT category sources.

Policy Analysis

On November 27, 2001, the U.S. Environmental Protection Agency (U.S. EPA) published changes to the definition of "major source" that is applied in air operation permit programs. Under s. 285.11 (16), Stats., DNR must promulgate rules consistent with, but no more restrictive than, the federal clean air act, that specify which sources are classified as major sources.

The U.S. EPA's new definition of "major source", for purposes of the operation permit program, changes which fugitive emissions are counted in determining whether a source is major or not. To ensure that Wisconsin's operation permit program is at least as stringent as the federal requirements, the Bureau of Air Management must, in addition to amending the definition of "major source", amend the definition of "fugitive emissions". The rule amendment will allow an extension to the compliance deadline for sources that become major as a result of the changes.

On December 19, 2005 U.S. EPA excluded several types of small hazardous air pollutant sources from Federal permit requirements. DNR's rules are being amended to reflect this change.

The major source threshold for NO_x emissions in ozone nonattainment areas varies with the removal of NO_x waiver.

Not all portable sources would be considered major if their NO_x emissions now exceed 25 tons per year. Since the threshold may be different for portable sources which are relocated into or within an ozone nonattainment area, the numerical limitation needs is being eliminated. The numerical value for VOC emissions is also being eliminated.

Current regulations regarding the replacement of an air contaminant source that is covered under a general permit are being revised to clarify when a new permit is needed.

The frequency of compliance stack testing under ch. NR 439 conflicts with the requirements under chs. NR 460 through NR 469 (MACT Standards). The proposed amendment would exempt sources required to test under the MACT standards from the requirements currently in place in ch. NR 439.

Current operation permit revisions do not allow for construction permits to be included into an operation permit using the streamlined process. The proposed change to s. NR 407.12 will allow for a minor revision to be used for this purpose.

Comparison with Federal Regulations

Under s. 285.60 (8), Stats., the Department may not promulgate a rule under s. 285.60, Stats., that conflicts with the U.S. EPA regulations.

The Bureau of Air Management is proposing to proceed with the development of rules to amend the definitions of “major source” and “fugitive emissions” in sections NR 407.02 and 400.02 only to the extent necessary to ensure that the state operation permit and nonattainment new source review programs conform to federal rules under 40 CFR Part 70.

Entities Affected by the Rule

Most sources covered under air permits may be affected by the proposed rule changes.

Statutory Authority

Sections 227.11 (2) (a), 285.11 (1) and (16), 285.27 (2) and 285.60 (3), (5) and (8), Stats.

Staff Time Required

Approximately 130 staff hours of time will be needed to develop the rule.

Natural Resources

Subject

Objective of the rule. This action will create appendix JJJ in ch. NR 460 and subchapter III in ch. NR 466 to incorporate national emission standards for hazardous air pollutants (NESHAP) for paper and other web coating. Other chapters may be amended, if germane and appropriate, to accomplish the actions described above.

Policy Analysis

There are no policy issues to be resolved. The US Environmental Protection Agency promulgated the NESHAP for paper and other web coating on December 4, 2002 (67 FR 72330). The NESHAP establishes maximum achievable control technology (MACT) requirements for facilities operating paper and other web coating lines. This action incorporates the paper and other web surface coating NESHAP into the Wisconsin Administrative Code.

Section 285.27 (2), Stats., requires the Department to promulgate NESHAP by rule. In addition, since this NESHAP affects more than ten facilities in Wisconsin,

promulgation into state rule is consistent with the MACT Streamlining Policy approved by the Natural Resources Board in 1996.

Statutory Authority

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

Staff Time Required

About 375 hours of Department staff time will be needed to develop this rule.

Comparison with Federal Regulations

As noted above, the federal NESHAP for paper and other web coating is an existing federal regulation, and all existing affected sources should be in compliance with the federal rule by now. While some changes to the federal rule language and organization may be necessary to accommodate state administrative rule format, no substantial changes will be made, and the state rule will be essentially identical to the federal NESHAP.

Entities Affected by the Rule

The NESHAP for paper and other web coating will affect 17 facilities statewide and may potentially affect an additional 41 facilities. There will be no change in the number or type of sources affected resulting from the incorporation of the NESHAP into Wisconsin administrative code.

Transportation

Subject

Objective of the rule. Ch. Trans 195 establishes fees for searches of vehicle and driver records, and is derived from ss. 19.35, 341.17, 342.09 and 343.24, Stats. The statutory and rule provisions cover both single (individual) driver and vehicle records, and also large volumes of data that include many records, of multiple drivers or vehicles. The rule, however, is not clear in distinguishing between single records and large volumes of records. This rule making will clarify the distinction, and clarify how fees will be charged for the different types of information sales. It will define “records in bulk” to refer to large volumes of vehicle or driver records that are provided at one time (10 or more at one time), and will clarify how the fee for records in bulk will be calculated.

Policy Analysis

The Division of Motor Vehicles charges a fee of \$5 for single or individual vehicle or driver records, or up to \$5 per record for large purchases of vehicle or driver data. This rule making proposes no change to this policy. The rule making clarifies what is meant by records in bulk and how the division of motor vehicles will charge for records in bulk.

Comparison with Federal Regulations

No federal regulation governs the fees which a state may charge for vehicle and driver records. The federal Drivers Privacy Protection Act 18 USC 2721–2725 governs the uses to which any personally identifiable information may be put, and the responsibility of states to assure that data is used in compliance with the Act.

Entities Affected by the Rule

Purchasers of vehicle and driver information data from the Division of Motor Vehicles.

Statutory Authority

ss. 85.16 (1) and 227.11 (2), Stats.

Staff Time Required

Approximately 100 hours.

Submittal of rules to legislative council clearinghouse

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

Agriculture, Trade and Consumer Protection

On November 29, 2006, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule–making order affects ch. ATCP 112, relating to credit report security freezes.

Agency Procedure for Promulgation

The department will hold public hearings. The department's Trade and Consumer Protection Division is primarily responsible for this rule.

Contact Person

Michelle Reinen
(608) 224–5160.

Commerce

On November 27, 2006, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule–making order affects ch. Comm 5, relating to credentials for storage of flammable, combustible, and hazardous liquids and for cleanup of properties contaminated by petroleum–product discharges.

Agency Procedure for Promulgation

A public hearing is required and will be held on January 5, 2007. The organization unit responsible for the promulgation of the rule is the Bureau of Petroleum products and tanks.

Contact Person

Sam Rockweiler
(608) 266–0797

Natural Resources

On November 13, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule–making order affects ch. NR 820, relating to annual reporting of groundwater pumping information from high capacity wells, designation of groundwater management areas, environmental review of high capacity well applications for impacts on groundwater protection areas and springs and evaluation of wells with greater than 95% water loss.

Agency Procedure for Promulgation

Public hearings are required and will be held on December 13, 15, 18, 19 and 20, 2006. The organization unit responsible for the promulgation of the rule is the Bureau of Drinking Water and Groundwater.

Contact Person

Larry Lynch
(608) 267–7553

Natural Resources

On November 13, 2006, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule–making order affects ch. NR 328, subch. III, relating to bank erosion control on rivers and streams.

Agency Procedure for Promulgation

Public hearings are required and will be held on December 11, 12, 13 and 14, 2006. The organization unit responsible for the promulgation of the rule is the Bureau of Watershed Management.

Contact Person

Paul Cunningham
(608) 267–7502

Rule–making notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

[CR 06–130]

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed hearing draft to ch. ATCP 112, Wis. Adm. Code, relating to credit report security freezes.

DATCP will hold two public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until **Friday, February 2, 2007** for additional written comments. Comments may be sent to the Division of Trade and Consumer Protection at the address below, by email to michelle.reinen@datcp.state.wi.us or online at <https://apps4.dhfs.state.wi.us/admrules/public/Home>.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224–5160 or emailing michelle.reinen@datcp.state.wi.us. Copies will also be available at the hearings. To view the proposed rule online, go to:

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

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

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by January 8, 2007, by writing to Michelle Reinen, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–5160. Alternatively, you may contact the DATCP TDD at (608) 224–5058. Handicap access is available at the hearings.

Hearing Dates and Locations

Thursday, January 18, 2007

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

Dept. of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive, Board Room (CR–106)
Madison, Wisconsin, 53718–6777

Friday, January 19, 2007

11:00 a.m. to 1:00 p.m.

Havenwoods State Forest
6141 North Hopkins Street
Milwaukee, Wisconsin 53209–3565

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

This rule implements s. 100.54, Stats. (created by 2005 Wis. Act 140), related to credit report security freezes. This rule clarifies the information that credit reporting agencies may request in order to verify the identity of persons requesting credit report security freezes. Credit reporting

agencies must adopt written procedures to comply with s. 100.54, Stats., and this rule.

Statutory Authority: ss. 93.07 (1), 100.54 (12) and 100.20 (2), Stats.

Statutes Interpreted: ss. 100.54 and 100.20 (1), Stats.

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) has broad general authority, under s. 93.07 (1), Stats., to interpret laws under its jurisdiction. Section 100.54 (12), Stats., specifically requires DATCP to adopt rules related to identification required of consumers requesting credit report security freezes. Under s. 100.20 (2), Stats., DATCP may adopt rules (general orders) to prohibit unfair business practices and require fair practices.

Background

Section 100.54, Stats., created by 2005 Wisconsin Act 140, regulates access to consumer credit reports. The law permits a consumer to create a “security freeze” on his or her consumer credit report. A security freeze limits the release and distribution of the consumer credit report. At any time after creating a security freeze, the consumer may ask the credit reporting agency to release the consumer’s credit report for a specified period of time, or to terminate the security freeze altogether.

A consumer who asks a credit reporting agency to create or release a security freeze must provide information to verify the consumer’s identity. Under s. 100.54(12), Stats., DATCP must adopt rules to define what constitutes proper identification. Under s. 100.20(2), Stats., DATCP may prohibit unfair business practices (including unfair credit reporting practices) and require fair practices.

Rule Contents

This rule defines what constitutes proper identification for a consumer who wishes to place a security freeze on his or her credit report. The rule is consistent with federal law related to proper identification. The rule does all of the following:

- Spells out the information that a credit reporting agency may require of a consumer who asks the agency to create a security freeze, in order to verify the consumer’s identity.
- Spells out the information that a credit reporting agency may require of a consumer who asks the agency to release or terminate a security freeze, in order to verify the consumer’s identity. The agency may require the same information that it required to create the security freeze and may, in addition, require a password assigned to the consumer when the security freeze was created.
- Requires credit reporting agencies to spell out written procedures for complying with this rule and s. 100.54, Stats.

Fiscal Impact

This rule will have no significant fiscal impact on DATCP or local units of government.

Business Impact

This rule only affects credit reporting agencies by regulating how the agency may identify consumers who request security freezes or changes to their security freeze status. The rule has no effect on a business that is not a credit reporting agency. Currently, there are only 3 credit reporting agencies operating in the United States. None of these are small businesses.

Federal Regulations

The federal Fair Credit Reporting Act of 2003 allows consumers who are victims of identity theft to freeze their credit reports. If a consumer is not a victim of identity theft, they have no option under federal law to place a freeze on their credit report. For victims of identity theft, federal rules under 16 CFR § 614.1 spell out the information that a credit reporting agency may use to verify the identity of consumers who ask the agency to create or release a security freeze. Federal standards are consistent with the standards in s. 100.54, Stats., and this rule.

Regulation in Surrounding States

Approximately 17 states have enacted laws that require consumer credit reporting agencies to freeze consumer credit reports upon request. Under all of those laws, credit reporting agencies may require requesting consumers to submit information to verify their identity. Most states allow credit reporting agencies to demand “information generally deemed sufficient to identify a person.” If that information is insufficient, some states allow the consumer reporting agency to request “additional information concerning the consumer’s employment and personal or family history in order to verify his or her identity.”

Of the states surrounding Wisconsin, Illinois and Minnesota have enacted security freeze legislation. Security freeze legislation has been introduced, but not yet enacted, in Iowa and Michigan.

The Minnesota law took effect on August 1, 2006 and the Illinois law will take effect on January 1, 2006. The Minnesota and Illinois laws, like most other state laws on the subject, allow credit reporting agencies to demand “information generally deemed sufficient to identify a person.” If that information is insufficient, Illinois law allows the consumer reporting agency to request “additional information concerning the consumer’s employment and personal or family history in order to verify his or her identity.”

Notice of Hearing

Commerce

[CR 06–127]

NOTICE IS HEREBY GIVEN that pursuant to sections 101.09 (3), 101.143 (2) (g), and 227.11 (2) (a) of the Statutes, the Department of Commerce will hold a public hearing on proposed rules under chapter Comm 5, relating to credentials for storage of flammable, combustible, and hazardous liquids and for cleanup of properties contaminated by petroleum–product discharges.

The public hearing will be held as follows: credentials for storage of flammable, combustible, and hazardous liquids and for cleanup of properties contaminated by petroleum–product discharges.

Date and Time: Friday, January 5, 2007, at 10:00 a.m.

Location: Thompson Commerce Center
Third Floor, Room 3B
201 West Washington Avenue
Madison, Wisconsin

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing, via e–mail. Persons submitting comments will not receive individual responses. The hearing record on this

proposed rulemaking will remain open until January 10, 2007, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. All written comments should be submitted by e–mail to srockweiler@commerce.state.wi.us. If e–mail submittal is not possible, written comments may be mailed to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708–0427.

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (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 a request from a person with a disability.

Analysis

1. Statutes Interpreted.

Sections 101.02 (1), (20), and (21), 101.09 (3), 101.143 (2) (g), and 227.51.

2. Statutory Authority.

Sections 101.02 (1) and (15), 101.09 (3), 101.19 (1), 101.143 (2) (g), and 227.11 (2) (a).

3. Explanation of Agency Authority.

Section 101.02 (1) of the Statutes requires the Department to adopt reasonable rules relative to the exercise of the Department’s powers and authorities. Section 101.02 (15) (j) requires the Department to protect public safety by promulgating reasonable rules for construction, repair and maintenance of places of employment and public buildings, Section 101.09 (3) (a) requires the Department to promulgate rules for protecting the waters of the State from improper storage, handling and use of flammable or combustible liquids or federally regulated hazardous substances; and requires those rules to include construction and maintenance requirements related to the prevention of leaks. Section 101.09 (3) (c) authorizes the Department to promulgate rules that require certification of persons who install or inspect tanks which are used for storing these liquids or substances. Section 101.143 (2) (g) authorizes the Department to promulgate requirements for the registration of persons who provide consulting services relating to cleanup of properties contaminated by petroleum–product discharges. Section 101.19 (1) requires the Department to fix and collect fees for offsetting the cost of determining and certifying the competency of inspectors. Section 227.11 (2) (a) authorizes the Department to promulgate rules interpreting the provisions of the statutes that the Department enforces or administers.

4. Related Statute or Rule.

Chapter Comm 10 of the *Wisconsin Administrative Code* provides fire and life safety, and environmental protection, by regulating the storage, display, installation, operation, use, maintenance and transportation of flammable, combustible and hazardous liquids; and by regulating the equipment, facilities and buildings that are used to store, transfer and dispense those liquids. Chapter Comm 47 contains requirements for reimbursing eligible costs that are incurred because of a petroleum–product discharge from a storage system.

5. Plain Language Analysis.

Chapter Comm 5 contains the Department’s rules for issuing numerous credentials that businesses and individuals are either mandated or permitted to obtain. These credentials include certifications and registrations that relate to safe

storage of flammable, combustible, and hazardous liquids, and to cleanup of properties contaminated by petroleum–product discharges.

The proposed rules would primarily modify chapter Comm 5 by creating (1) a certification category for individuals who conduct cathodic protection testing of any tank system that will hold flammable, combustible, or hazardous liquids which are regulated by chapter Comm 10; and (2) a certification category for individuals who design or install cathodic protection systems for those tank systems. The proposed rules would also limit this testing, design, and installation to individuals who are certified under these rules.

Other substantive changes relating to chapter Comm 10 in the proposed rules would (1) modify several specialty credential responsibilities by deleting outdated activities, and adding activities that have proven to better reflect the nature of the work; (2) remove references to past dates that have no relationship to current–day credential qualifications or administration; (3) eliminate continuing–education requirements from three specialties because the corresponding technical aspects do not change appreciably, and continuing–education opportunities within the industry are limited; (4) shorten the approval duration for continuing–education courses, from five years to three, unless otherwise specified in an approval letter; (5) require departmental notification if an approved, continuing education course is discontinued or modified; (6) no longer allow renewal of credentials after they expire, except by complying with all of the requirements for new applicants; (7) expand the reasons for denial, suspension or revocation of a credential to include failure to maintain required records, denial of Departmental access to requested records, failure to submit a required notice or report to the Department within a required time period, and submittal of false reports to the Department; (8) directly link all credentials for storage of flammable, combustible, and hazardous liquids to the corresponding requirements in chapter Comm 10; (9) modify the site assessor specialty credential terminology to better reflect the scope of the credential; and (10) require contractor liability insurance coverage for firms that install, remove, test, line, clean, or perform assessment, for tank systems.

The only proposed change that relates to chapter Comm 47 is expanding the reasons for denial, suspension or revocation of a credential to include (1) submittal of false reports to the Department, and (2) performance of activities that result in both exceeding a cost cap established by the department, and submittal of a claim to the department for the cost in excess of that cost cap.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations.

In Title 40 of the Code of Federal Regulations, under Section 20 of Part 280, a corrosion expert must design and oversee installation of field–installed cathodic protection systems for underground steel storage tanks and piping for flammable, combustible, and federally regulated hazardous liquids. Section 31 of 40 CFR 280 requires that a qualified Note: Complaint forms are available from the Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department’s website at: <http://drl.wi.gov>.

7. Comparison With Rules in Adjacent States.

In Michigan, corresponding cathodic protection professionals are required to be so certified by the National Association of Corrosion Engineers (NACE). Illinois requires the contractor to be State–certified to perform cathodic protection testing activities, and a NACE–certified individual must perform any design activity. Minnesota

requires either Steel Tank Institute (STI) or NACE certification for cathodic protection testing activities, and a NACE–certified individual must perform any design activity. Iowa is revising their code to require certification from a recognized program, such as NACE or STI.

8. Summary of Factual Data and Analytical Methodologies.

Cathodic protection has proven to be highly effective for protecting underground metal tanks and piping from corrosion, provided the protection system is properly designed, installed, operated, maintained, and tested. Over the past several years, the Department has become aware of a significant number of cathodic protection systems that have not provided adequate protection or have caused interference with adjacent protection systems or structures.

Factory–installed, galvanic, cathodic protection systems are relatively simple in construction and operation. They include anodes that are sacrificed or consumed in the process of generating a protective current which is required to prevent corrosion. However, for older, existing underground storage tank systems, impressed current is often needed, because any dielectric coating provided on the tank is usually deteriorated or nonexistent, and a bare–metal or poorly coated tank system needs significantly more protective current than can be generated by a reasonable number of sacrificial anodes. An effective cathodic protection system must be engineered to provide the correct amount of protection – too little or too much protection can potentially be as defective as no protection.

Testing of cathodic protection systems is an important part of assuring the integrity of an underground storage tank system. However, soil and seasonal conditions affect the accuracy of cathodic protection testing methods, and site–specific factors can result in false and otherwise misleading indicators that a tank system is or is not adequately protected against corrosion. Improper interpretation of the test measurements has led to many false conclusions about whether a tank system is adequately protected or unprotected. Also, because no standard currently accounts for every situation and site–specific environmental and soil conditions, experience and training in corrosion control is warranted.

Requiring Wisconsin–based certification of cathodic protection professionals would enable Wisconsin to directly enforce the associated requirements, rather than depend on federal enforcement. This direct enforcement would provide further assurance that cathodic protection activities are performed at a minimum level of competency, following nationally established and accepted standards. In addition, Wisconsin certification would establish a database of certified individuals that could be used to communicate to the general public those individuals who are qualified to perform the work. The Department could also use this database for communicating new or proposed requirements or informational announcements to certified individuals.

The proposed changes for ch. Comm 5 were developed with assistance from the Department’s advisory committee for flammable, combustible and hazardous liquids. The members of that advisory committee are as follows:

<u>Name</u>	<u>Representing</u>
Randy Sharvey	Wisconsin Fire Inspectors Association
Erin Roth	Wisconsin Petroleum Council
Tim Clay	Wisconsin Federation of Cooperatives
Paul Knower	WI Petroleum Equip. Contractors Assn.
Steve Danner	Wisconsin Aviation Trades Association
Elizabeth Hellman	Wisconsin Utilities Association
Gary Pate	Wisconsin Insurance Alliance

Bill Noel	Wisconsin Paper Council
Dale Safer	Wisconsin Innkeepers
Bob Bartlett	WI Petroleum Marketers & Convenience Store Association

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Report.

The primary document that was used to determine the effect of the proposed rules on small business was Part 280 of Title 40 of the *Code of Federal Regulations*. As noted in the above summary of federal regulations, the proposed Wisconsin credential requirements for corrosion experts and cathodic protection testers are essentially the same as the federal credential requirements in 40 CRF 280. Federal guidelines produced by the Small Business Administration's Office of Advocacy were also used in considering the potential effects on small business. The analysis for the expected effect of the new requirement for contractor liability insurance coverage was particularly based on outreach to current contractors.

10. Effect on Small Business.

The proposed rules are not expected to impose significant costs or other impacts on small businesses because the included requirements for performing cathodic protection activities, and the corresponding certifications, would not be significantly more restrictive than current, applicable federal requirements. Although the deletion of continuing–education requirements for three certification categories would reduce costs and impacts for individuals in those categories, that reduction may be offset by codifying a common practice of tank specialty firms, to have contractor liability insurance coverage. Outreach efforts to firms currently performing these activities indicate that this insurance is readily available, beneficial, and reasonably priced.

11. Agency Contact Person.

Sheldon Schall, Wisconsin Department of Commerce, Bureau of Petroleum Products and Tanks, P.O. Box 7837, Madison, WI, 53707–7837; telephone (608) 266–0956; e–mail sheldon.schall@commerce.state.wi.us.

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

Comments on the proposed rules may be submitted by e–mail to srockweiler@commerce.state.wi.us, no later than January 10, 2007. If e–mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708–0427.

The proposed rules and an analysis of the rules are available on the Internet, by entering “Comm 5” in the search engine at the following Web site:

<http://adminrules.wisconsin.gov>. Paper copies may be obtained without cost from Linda Hahn at the Department of Commerce, Bureau of Petroleum Products and Tanks, P.O. Box 7837, Madison, WI, 53707–7837; telephone (608) 266–0762; e–mail lhahn@commerce.state.wi.us or (608) 264–8777 (TTY). Copies will also be available at the public hearing.

Environmental Assessment

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a

Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Initial Regulatory Flexibility Analysis

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

Businesses that design, install, or test cathodic protection systems for underground steel storage tank systems; or businesses which currently do not have contractor liability insurance coverage and which install, remove, test, line, clean, or perform closure assessment, for tank systems regulated by chapter Comm 10. The proposed rules may also affect some individuals and firms during renewal of credentials related to storage of flammable, combustible and hazardous liquids; and may affect some providers of the continuing education courses that are utilized in conjunction with those renewals.

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

Each applicant for becoming certified as a cathodic protection tester or corrosion expert must (1) complete and submit a Department–supplied application; and (2) complete and submit a Department–supplied application for recertification, for continuation of the certification beyond each two–year certification period.

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

No new professional skills would be necessary for compliance with the proposed rules.

4. Rules have a significant economic impact on small businesses.

No Rules not submitted to Small Business Regulatory Review Board

Fiscal Estimate

Although the proposed rules newly require submittal of fees for Departmental certification of corrosion experts and cathodic protection testers, the number of these individuals who are expected to receive these certifications is too small to result in significant changes in the Department's revenues and costs for administering and enforcing chapter Comm 5. Therefore, the proposed rules are not expected to have any significant fiscal effect on the Department.

The proposed rules are not expected to impose significant costs on the private sector because the included requirements for performing cathodic protection activities, and the corresponding certifications, would not be significantly more restrictive than current, corresponding federal requirements. Although the proposed deletion of continuing–education requirements for three certification categories would reduce costs for individuals in those categories, that reduction may be offset by codifying a common practice of tank specialty firms, to have contractor liability insurance coverage. Outreach efforts to firms currently performing these activities indicate that this insurance is readily available, commonly held, beneficial, and reasonably priced.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267–0297, or by e–mail at carol.dunn@wisconsin.gov.

Notice of Hearing Transportation [CR 06–128]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16, 343.02, 343.05 (4) (c), 343.06, 343.14 and 343.50, Stats., and interpreting ss. 340.01 (37) and (40), 343.01 (2) (g), 343.05 (4) (b) and (c), 343.06 (1) (k), 343.14 and 343.50 (2), Stats., the Department of Transportation will hold a public hearing in Room 254 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **8th day of January, 2007**, at 1:30 PM, to consider the amendment of ch. Trans 102, Wisconsin Administrative Code, relating to proof of identity.

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

Parking for persons with disabilities and an accessible entrance are available.

Analysis Prepared by the Department of Transportation

Statutes interpreted: ss. 340.01 (37) and (40), 343.01 (2) (g), 343.05 (4) (b) and (c), 343.06 (1) (k), 343.14 and 343.50 (2), Stats.

Statutory authority: ss. 85.16, 343.02, 343.05 (4) (c), 343.06, 343.14 and 343.50, Stats.

Explanation of agency authority: 2005 Wisconsin Act 126 requires that a person applying for a driver's license (DL) or identification card (ID) provide documentary proof of citizenship or legal presence in the United States. Altering the list of documents acceptable as proof of name and date of birth, identity, residency, and Social Security number will serve two purposes:

1. Making documents that could be used by persons without legal presence in this country unacceptable.
2. Conforming the list of acceptable documents to what is used other states and American Association of Motor Vehicle Administrator (AAMVA) standards. The federal government will likely use AAMVA standards to determine state compliance with REAL ID.

Current law also prohibits the Department from issuing a driver's license or identification card to any person who is not a resident. It should be noted that any nonresident of the United States may operate on an international driving permit, and a resident of another state may operate on a license issued by that other state for up to one year, and are exempt from licensing requirements of Chapter 343, Stats.

Related statute or rule: ss. 343.05, 343.06, 343.14 and 343.20, Stats., and ch. Trans 102.

Plain language analysis: This proposed rule making limits the list of acceptable documents for proof of name and date of birth, identity, residency, and Social Security number to be consistent with other states and standards established by the American Association of Motor Vehicle Administrators (AAMVA). The rule making establishes a minimum duration stay for temporary visitors of one year for a driver's license or six months for an identification card and those applicants must have at least six or three months, respectively, of that authorized stay remaining to be eligible; temporary visitors are immediately eligible for those documents if their minimum legal stay is equal to or longer than those minimum durations.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Adopting the AAMVA list of acceptable documents for proof of name and date of birth, identity, residency, and Social Security number

moves Wisconsin towards compliance with the federal REAL ID Act (Public Law 109–013). REAL ID also requires that DL/IDs issued to temporary visitors expire on the date their authorized stay ends (i.e., a “temporary license”).

Comparison with Rules in Adjacent States: All states will be required to comply with REAL ID by May 11, 2008 or their citizens will not be able to use their driver's license (DL) or identification card (ID) for any federal purpose such as boarding airplanes or entering federal buildings. For temporary visitors, surrounding states have the following requirements for minimum length of stay and temporary licenses:

Michigan: No legal presence required (no minimum length of stay or temporary license requirement). Michigan presumes that any person who obtains employment intends to remain in the state. MCLS 257.51a. Michigan law prohibits issuing a driver's license to a “foreign exchange student.” MCLS 257.303(1)(h).

Minnesota: No minimum length of stay required to be eligible for a driver's license. Licenses for temporary visitors are issued for the same amount of time as citizens (i.e., four years), with an end date included on the license for the end of the authorized stay. If a person's authorized stay ends before the regular expiration date of the license, the license is cancelled when the authorized stay ends.

Illinois: Temporary visitor's driver's licenses may be issued to any foreign national authorized to be in the country for at least one year and having at least six months of the authorized stay remaining. 625 ILCS 5/6–105.1, 92 Ill. Adm. Code 1030.11(d).

Iowa: Temporary visitors must be authorized to be in the country for at least 30 days to be eligible for a driver's license. The term of the DL/ID is limited to the length of authorized stay, not to exceed two years. Iowa Code 321.196.

Summary of factual data and analytical methodologies: N/A

Analysis and supporting documentation used to determine effect on small businesses: This is not expected to have any significant impact on small businesses, as the list of acceptable documents for proof of name and date of birth, identity, residency, and Social Security number is being changed to align with the upcoming legal presence requirements. In addition, temporary visitors may operate for up to one year on an International Driving Permit, so the minimum length of stay requirement will not impact drivers licensed in their home countries. Any temporary visitor whose length of stay goes beyond one year would be eligible for a driver's license.

Effect on Small Business

This rule making will have no effect on small businesses. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438–4585.

Fiscal Effect and Costs incurred by Private Sector

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities or any costs incurred by the private sector.

Agency Contact Person and Submission of Comments

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at

the hearing. Any such comments should be submitted to Gary Guenther, Department of Transportation, Bureau of Field Services, Room 266, P. O. Box 8917, Madison, WI 53708–8917. You may also contact Mr. Guenther by phone at (608) 266–2743 or via e–mail: gary.guenther@dot.state.wi.us.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e–mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Notice of Hearing Transportation [CR 06–129]

NOTICE IS HEREBY GIVEN that pursuant to s. 348.07, Stats., as amended by 2005 Wis. Act 363, and interpreting s. 348.07, Stats., as amended by 2005 Wis. Act 363, the Department of Transportation will hold a public hearing in **Room 501 (Eau Claire Room)** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **11th day of January, 2007, at 10:00 AM**, to consider the amendment of ch. Trans 276, Wisconsin Administrative Code, relating to allowing the operation of certain 2–vehicle combinations on certain highways without a permit.

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

Parking for persons with disabilities and an accessible entrance are available.

Analysis Prepared by the Department of Transportation

Statutes interpreted: s. 348.07, Stats., as amended by 2005 Wis. Act 363

Statutory authority: s. 348.07, Stats., as amended by 2005 Wis. Act 363

Explanation of agency authority: Section 7 of 2005 Wis. Act 363 requires the Department to adopt rules for purposes of implementing that Act.

Related statute or rule: s. 348.07, Stats., and ch. Trans 276, Wis. Admin. Code

Plain language analysis: Section 348.07(1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65–foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin’s old default 65–foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65–foot restricted routes by the Department. This proposed rule making establishes a preliminary list of such “65–foot restricted routes.”

Prior to Act 363, s. 348.07 (4), Stats., permitted the Department to designate “long truck routes” upon which no overall length limits apply. The Department designates the state’s long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new “default” 75–foot overall length limit applies on state highways that are neither designated as 65–foot

restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

In drafting this rule the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department’s view, deserve special legislative attention. First, Act 363 did not grant any authority for 75–foot vehicles using the new 75–foot routes to leave those routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department does not believe this oversight was intentional and, on an emergency basis, designated the intersection of each 75–foot route and any other highway as a long truck route under its authority in s. 348.07(4), Stats. The existing emergency rule permits trucks to exceed the 65–foot default length limit on local roads to access such facilities and make deliveries. The Department has not attempted to continue that emergency provision in this rule making and encourages the legislature to consider statutorily establishing access rights for vehicles using 75–foot restricted routes.

The second consequence of Act 363 the Department has discovered in drafting this proposed rule is that one statute that formerly restricted double–bottom tractor–trailer combinations to the state’s long–truck network was repealed by the deletion of the reference to s. 348.07(2)(gm), Stats., by the Act’s amendment of s. 348.07(4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08(1)(e), Stats., however, continues to provide that double–bottom trucks be restricted to highways designated by the department under s. 348.07 (4). WisDOT believes this provision continues to limit double–bottom operation to long truck routes designated by the Department under s. 348.07(4), Stats. WisDOT would suggest the deleted reference to (2)(gm) in 348.07(4), Stats., be re–inserted into the statute to avoid confusion.

This permanent rule making proposes to repeal s. Trans 276.075. That regulation permitted an 11–mile stretch of U.S.H. 12 from its intersection with S.T.H. 128 east of Hersey to S.T.H. 79 Northwest of Menomonie to be used as an access route for food, fuel, and access to points of loading and unloading, notwithstanding the fact that it was longer than the 5–mile former limit for access routes used for such purposes. The provision is not needed because the length of the route is less than the 15–mile access now permitted by statute. Moreover, because this section of highway is a designated alternate to I–94, the Department believes it is appropriate to simply designate this stretch of highway as a long truck route. Accordingly, s. 276.07(3) is amended to extend U.S.H. 12’s long truck route that currently runs from STH 79 to STH 25 in Menomonie through the intersection of U.S.H. 12 with S.T.H. 128 east of Hersey.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

Comparison with Existing Emergency Rule. This rule making differs from the Department’s existing emergency rule in that it removes the following highway segments from the 65 foot route system, thereby making them 75 foot routes:

Route	From	To
USH 10	IH 43 N. of Manitowoc	Car Ferry Dock in Manitowoc
STH 11	USH 51 in Janesville	IH 90 E. of Janesville
STH 11	USH 14–STH 89, 5 miles W. of Delavan	IH 43 E. of Elkhorn
STH 11	STH 31 in Racine	Junction STH 32 in Racine
USH 12	IH 90 at STH 35 E of Hudson	STH 79 N.W. of Menomonie
USH 12	STH 25 in Menomonie	IH 94–CTH “EE” W. of Eau Claire
USH 12	USH 27 at Black River Falls	IH 90–94 at Lake Delton
STH 13	STH 23	STH 82 S. of Adams
STH 15	Jct. USH 41 at Appleton	Jct. STH 45 at New London
STH 16	MN State Line in La Crosse	CTH J N. of Rockland
STH 16	IH 90/94, W. of Wisconsin Dells	STH 33 in Portage
USH 18	STH 89 W. of Jefferson	STH 164 E. of Waukesha
USH 18	IH 94 E. of Waukesha	Michigan St. and N. Lincoln Memorial Dr. in Milwaukee
STH 20	STH 36	STH 31 in Racine
STH 24	Milwaukee/Waukesha County Line	STH 241 in Milwaukee
STH 25	STH 29 S of Menomonie	STH 29 N of Menomonie
STH 26	US 151 SE of Waupun	US 151 NE of Waupun
STH 27	STH 40 in Radisson	Douglas CTH A
STH 28	IH 43 in Sheboygan	STH 23/42 in Sheboygan
STH 28	Taylor Drive	STH 23/42 in Sheboygan
STH 29	STH 35 in River Falls	Note: Complaint forms are available from the Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department’s website at: http://drl.wi.gov in Menomonie
STH 29	North Jct 12/ 29	IH 94 W. of Elk Mound
STH 29	USH 41 in Green Bay	USH 141 at Bellevue
STH 31	STH 20 in Racine	STH 32
STH 32	IL State Line	IH 43 in River Hills
STH 32	IH 43 E. of Grafton	IH 43 N. of Port Washington
STH 32	Fond du Lac Rd	STH 23
STH 32	STH 57 in De Pere	USH 41 N. of De Pere
STH 35	IL State Line	STH 11 N.E. of E. Dubuque
STH 35	IH 94 E. of Hudson	STH 243 in Osceola
STH 36	STH 120 in Springfield	STH 11 at Burlington
STH 36	USH 45 in Franklin	STH 241 in Milwaukee
STH 37	STH 35 N. of Alma	USH 10 at Mondovi
STH 38	STH 32 in Racine	STH 59 in Milwaukee
USH 41	IH 94 S.W. of Oak Creek	National Avenue in Milwaukee
USH 41	Garfield Avenue in Milwaukee	107th St. in Milwaukee
STH 42	STH 23/28 in Sheboygan	IH 43 N.W. of Sheboygan
STH 42	STH 32 at Howards Grove	IH 43 at Manitowoc
STH 44	USH 41 S.W. of Oshkosh	USH 45 in Oshkosh
USH 45	West of Menasha	STH 76 at Greenville
STH 46	USH 8 S. of Balsam Lake	STH 35 in Milltown
STH 47	STH 114 in Menasha	USH 10 in Appleton
STH 48	STH 35 S in Luck	STH 63 W of Cumberland
STH 48	STH 87 S. of Grantsburg	STH 35 in Frederic
STH 50	STH 11 in Delavan	USH 12 W. of Lake Geneva
STH 50	45 th Ave in Kenosha	STH 32 in Kenosha
US 51	IL State Line in Beloit	STH 11 in Janesville
US 51	US 14 at Janesville	I–39/90 E of Stoughton
USH 53	USH 10 in Osseo	IH 94 S.E. of Eau Claire
USH 53	USH 53/STH 93 E. of Galesville	STH 71 at Melrose
STH 54	USH 41 at Green Bay	IH 43 in Green Bay
STH 55	USH 151 N. of Brothertown	USH 41 in Kaukauna
STH 55	STH 29	MI State Line

Route	From	To
STH 56	STH 35 in Genoa	STH 80 N. of Richland Center
STH 57	STH 59 in Milwaukee	IH 43 /STH 32 in Mequon
STH 57	STH 172 S. of Green Bay	IH 43 in Green Bay
STH 58	US 14 E of Richland Center	STH 80 S of Necedah
STH 59	USH 164 E. of Waukesha	STH 32 in Milwaukee
STH 60	US 12 E of Sauk City	STH 113 in Lodi
USH 61	STH 129 S.E. of Lancaster	STH 129 N.E. of Lancaster
STH 67	IL State Line	IH 94 S. of Oconomowoc
STH 67	STH 28 in Mayville	CTH B S. of St. Cloud
STH 69	CTH PB at Paoli	US 18/151 E of Verona
STH 70	USH 53–63 in Spooner	STH 40 at Radisson
STH 70	Loretta	STH 13 in Fifield
STH 72	USH 10/63 at CTH C E. of Ellsworth	CTH S
STH 72	CTH P	STH 25
STH 74	CTH VV in Sussex	USH 41/45 in Menomonee Falls
STH 75	STH 50	STH 20
STH 76	STH 21/USH 45 Oshkosh	USH 41 N. of Oshkosh
STH 76	USH 45 at Greenville	STH 22/USH 45 at Bear Creek
STH 77	MN State Line	USH 53 in Minong
STH 80	IL State Line	STH 11 at Hazel Green
STH 82	IA State Line	STH 80 W. of Hillsboro
STH 83	IL State Line	STH 50
STH 83	STH 50 E. of Munster	STH 11 in Burlington
STH 83	STH 20 in Waterford	STH 167 S. of Hartford
STH 83	STH 60 in Hartford	STH 175
STH 91	STH 49 (Berlin)	USH 41 (Oshkosh)
STH 92	STH 69 W of Belleville	STH 78 in Mt. Horeb
STH 96	STH 47	IH–43
STH 100	STH 32 (Oak Creek)	IH 94 (Oak Creek)
STH 108	Jackson County Line	STH 71 S of Melrose
STH 114	USH 41	STH 32/57 (Hilbert)
STH 120	IL State Line	IH 43 (East Troy)
STH 125	USH 41 in Appleton	STH 47 in Appleton
STH 128	STH 72 at Village of Elmwood	STH 29
STH 131	STH 60 E of Wauzeka	US 61 at Soldiers Grove
STH 137	US 2 W of Ashland	STH 13 in Ashland
STH 142	STH 11 at Burlington	IH 94
STH 144	STH 175 at Slinger	STH 33
STH 145	USH 41/45	USH 41 in Washington County
STH 147	STH 42 at Two Rivers	IH 43
USH 151	USH 41 in Fond du Lac	STH 23 in Fond du Lac
STH 157	STH 35 at Onalaska	STH 16 at La Crosse
STH 158	STH 31 in Kenosha	52 ND Street & 6 TH Avenue in Kenosha
STH 164	STH 190 E. of Pewaukee	CTH VV in Sussex
STH 164	CTH Q W. of Colgate	STH 60
STH 165	STH 31 in Kenosha	STH 32 in Kenosha
STH 167	STH 83	STH 32/IH 43
STH 170	STH 79 in Boyceville	STH 25
STH 172	STH 54 in Brown County	USH 41
STH 175	USH 41/45/STH 100 in Milwaukee	CTH P S. of Theresa
STH 175	STH 67 in Lomira	USH 45 in Winnebago County
STH 178	STH 124 in Chippewa Falls	CTH S in Chippewa Falls
STH 178	Jim Falls	CTH R
STH 179	At Eastman	STH 131 at Steuben
STH 180	At Marinette	USH 141 in Wausaukee
STH 181	STH 59 in West Allis	STH 60, Ozaukee County

Route	From	To
STH 187	STH 54 at Shiocton	STH 156 in Shawano County
STH 190	STH 100 in Wauwatosa	STH 32 in Shorewood
STH 193	STH 60 N. of Muscoda	STH 80 in Richland County
STH 241	USH 41/IH 94	STH 24 in Milwaukee
STH 243	MN State Line, Polk County	STH 35 in Osceola
STH 253	USH 53 N. of Sarona	USH 63 S. of Spooner
STH 312	IH 94 in Eau Claire	USH 53 and Bypass USH 53
STH 341	STH 59 at Miller Park	I–94 and US 41 in Milwaukee
STH 441	STH 47 in Menasha	USH 41 N. of Appleton
STH 794	IH 794/Carferry Drive	College Avenue in Cudahy
B 41	US 41	STH 32 DePere
X 51	US 51 in Beloit	STH 213 in Beloit

In addition, the emergency rule currently in effect designated the intersection of any 75-foot restricted route and another highway as a “long truck route” in order to provide access from the 75-foot routes to points of loading and unloading, food, fuel, and other services. This permanent rule making does not propose such a provision. The Department believes that the creation or designation of access from 75-foot routes should be determined by the legislature.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Federal regulations are intended to identify a National Network of highways available to vehicles authorized by provisions of the Surface Transportation Act of 1982 as amended, and to prescribe national policies that govern truck and bus size and weight. The objective of those federal regulations, found in Part 658 of 23 CFR Chapter I, is to provide a safe and efficient network of highways that can safely and efficiently accommodate the large vehicles authorized in federal law. The network includes the Interstate system and other qualifying primary highways. The federal regulation seeks to assure there is reasonable access to the National Network for commercial motor vehicles and to preserve the national network in order to accommodate large vehicles.

States are required to allow the following vehicles on the national network subject to the criteria listed:

(1) A semitrailer operating in a truck tractor–semitrailer combination may not be subject to a length limitation of less than 48 feet. 23 CFR 658.13(b)(1).

(2) Any semitrailer or trailer operating in a truck tractor–semitrailer–trailer combination may not be subject to a length limitation of less than 28 feet. 23 CFR 658.13(b)(2).

(3) Commercial vehicles operating in truck tractor–semitrailer or truck tractor–semitrailer–trailer combinations may not be subjected to an overall length limitation. 23 CFR 658.13(b)(3).

(4) Commercial motor vehicles operating in truck tractor–semitrailer–trailer combinations (“double–bottoms”) may not be prohibited. 23 CFR 658.13(b)(4).

(5) Some vehicle types that were in use in 1982, and various specialized vehicles must be permitted to operate on the national network. 23 CFR 658.13.

This proposed rule making is consistent with federal regulation in that the objective is to provide a safe and efficient system for accommodating large vehicles that integrates with the national network. The rule making is intended to provide reasonable access while applying size limits to other highways as needed to preserve safety and efficiency in system operations. None of the changes made by 2005 Wis. Act 363 nor this rule making are in conflict with the federal length limitations.

Comparison with Rules in Adjacent States:

Michigan: Allows 53 ft. semi–trailers on designated highways only approved by the state transportation department or a local authority. Maximum length from kingpin to axle is 37.5 ft. to 40.5 ft. There is no restriction on maximum overall tractor–semitrailer length. Allows 5–mile access provision on state highways for food, fuel, repairs or rest.

Minnesota: Allows 53 ft. semi–trailers on any road with an overall length restriction of 75 ft. No restriction on divided highways. Commissioner may designate other than divided highways, subject to local approval, for the purpose of providing reasonable access between divided highways.

Illinois: Allows 53 ft. semi–trailers on designated highways on Class I, II and III highways. Maximum length from kingpin to axle is 45.5 ft. There is no restriction on maximum overall tractor–semitrailer length for Class I and II highways, but a 65 ft. restriction on Class III highway, and a 55 ft. restriction on non–state highways. Allows a 5–mile access provision off a state route.

Iowa: Allows 53–ft. semi–trailers on any highway and no maximum overall semi–trailer length restriction.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The process for identifying routes of importance for commerce has been in place for many years. Most routes of importance have been reviewed for adequacy to accommodate long trucks based on requests from shippers or receivers. As a result, there is a reasonable basis for identifying those routes where 53–foot trailers may not be appropriate and require further consideration through the permanent rule making process. Department traffic engineers and law enforcement personnel familiar with the routes have been involved in these decisions, along with input from local county highway officials and county elected officials. Of primary concern to local units of government was abuse of the 15–mile access provision for food and fuel. County authorities agree that permitting 15–mile access to points of loading and unloading would promote commerce and be enforceable. Food and fuel, they point out, was reachable under the old 5–mile rule. They further contend the 15–mile limit for food and fuel leads to serious enforcement problems. Because the 15–mile access provision is statutory, the Department believes any changes to that limit must be made by the legislature.

Analysis and supporting documentation used to determine effect on small businesses: There has been no analysis to determine the effect on small business as the statutory change has provided significant additional opportunities to use longer trailers when accessing businesses that are not located on routes designated for long trucks, both on and off the state highway system, and therefore the impact

is assumed to be positive for small businesses. This would not be the case had the Department not included in the emergency rule the provision to allow access by the designation of intersections of each 75-foot route as a designated long truck route. Since the majority of shipping points or destinations will be accessible based on the expanded access provision, these benefits are assumed to be substantially greater than the impacts of any remaining restrictions on routes that may be reconsidered for designation during the permanent rule making. If the 75-foot access provision is not legislatively adopted, the effect on small business will still be positive, but less so than if the ability to travel off of 75-foot routes were permitted.

Effect on Small Business

The rule expands freight access for small businesses by allowing delivery with 53-foot trailers when located within 15 miles of a designated route. The expanded freight opportunities are expected to benefit small businesses. There is no expectation that enforcement of the rule provisions will change. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal Effect and Costs incurred by Private Sector

The fiscal effect of the rule is negligible. The Department

is obligated to provide maps as deemed necessary, and those maps and materials require periodic updating. The results of this rule making will be incorporated in a routine update. The Department will take into consideration the potential impacts to infrastructure in determining those routes that are appropriate for specific truck lengths and types. Costs to be incurred by the private sector are voluntary. The rule change will not mandate any equipment changes, but rather will allow expanded use of certain types of existing equipment.

Agency Contact Person and Submission of Comments

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Ashwani Sharma, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986. You may also contact Mr. Sharma by phone at (608) 266-1273.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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.

**Administration
(CR 06-090)**

An order affecting ch. Adm 10, relating to cost benefit analyses of contractual services.
Effective 1-1-07.

**Commerce
(CR 06-034)**

An order affecting ch. Comm 131, relating to diesel truck idling reduction grants.
Effective 1-1-07.

**Natural Resources
(CR 06-038)**

An order affecting ch. NR 320, relating to the regulation of bridges and culverts in or over navigable waterways.
Effective 2-1-07.

**Natural Resources
(CR 06-074)**

An order affecting ch. NR 10, relating to the 2006

migratory game bird seasons.
Effective 1-1-07.

**Workforce Development
(CR 04-081)**

An order affecting ch. DWD 290, relating to prevailing wage rates on public works projects.
Effective 1-1-07.

**Workforce Development
(CR 06-072)**

An order affecting ch. DWD 127, relating to the unemployment insurance work search.
Effective 1-1-07.

**Workforce Development
(CR 06-073)**

An order affecting ch. DWD 129, relating to unemployment insurance benefit claiming procedures.
Effective 1-1-07.

Public notices

Agriculture, Trade and Consumer Protection

Notice of Dollar Amount Adjustments for Repair Charges Subject to Mechanic's Liens

Under Wis. Stat. § 779.41 (1), mechanics or repair businesses who transport, repair or perform any work on personal property at the request of the owner have a statutory lien on the property for the just and reasonable charges associated with the work, and may retain possession of the property until the charges are paid.

Generally, a mechanic's lien under Wis. Stat. § 779.41, has priority over any previously recorded security interest in the personal property but only for the appropriate charges at the specified dollar amounts below.

Under Wis. Stat. § 779.41 (1m), the Department is required to annually publish adjusted dollar amounts for charges on repairs to personal property subject to mechanic's liens. The adjustments are based on the annual change in the consumer price index, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

The Department has determined that current dollar amounts specified under Wis. Stats. §§ 779.41 (1), (1) (a), (1) (b), and (1) (c) shall be increased by 3.4%, according to the prior year annual change in the consumer price index. Thus, the dollar amounts for charges under the mechanic's lien law are adjusted as follows:

Under Wis. Stat. § 779.41 (1), mechanic's liens generally, \$1,905.

Under Wis. Stat. § 779.41 (1) (a), mechanic's liens on a trailer or semi-trailer designed for use with a road tractor, \$5,705.

Under Wis. Stat. § 779.41 (1) (b), mechanic's liens on road machinery, including mobile cranes, trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment, \$9,500.

Under Wis. Stat. § 779.41 (1) (c) 1. to 4. mechanic's liens on vehicles:

1. More than 10,000 and less than 20,000 pounds, \$3,800.
2. 20,000 pounds or more, but less than 40,000 pounds, \$7,505.
3. 40,000 pounds or more, but less than 60,000 pounds, \$11,405.
4. 60,000 pounds or more, \$14,755.

These revised dollar amounts under the mechanic's lien law shall apply to work commenced on or after January 1, 2007 for which a lien is claimed. These revised dollar amounts shall remain in effect until the first day of the first month following publication of new adjusted dollar amounts in the *Wisconsin Administrative Register*.

Contact Information:

Paul Dingee, Section Chief
Trade Practices Bureau
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708–8911
Telephone: (608) 224–4925

Financial Institutions – Banking

Notice of Interest Rate on Required Residential Mortgage Loan Escrow Accounts For 2007

Under Section 138.052 (5) (a), Stats., with some exceptions, a bank, credit union, savings bank, savings and loan association, or mortgage banker, which originates a residential mortgage loan requiring an escrow account to assure the payment of taxes or insurance, shall pay interest on the outstanding principal of the escrow.

Section 138.052 (5) (am) 2., Stats., directs the division of banking to determine annually the required interest rate. The rate is based on the average of interest rates paid on regular passbook deposit accounts by institutions under the division of banking's or office of credit unions' jurisdiction.

The Department of Financial Institutions, Division of Banking, has calculated the interest rate required to be paid on escrow accounts under Section 138.052 (5), Stats., to be **0.94%** for 2007. This interest rate shall remain in effect through December 31, 2007.

Contact Person:

Mr. Michael J. Mach, Administrator
Department of Financial Institutions
Division of Banking
Telephone (608) 261-7578

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